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Contents

Federal Register

Vol. 89, No. 169

Friday, August 30, 2024

Agency for Healthcare Research and Quality

NOTICES

Hearings, Meetings, Proceedings, etc., 70651

Agricultural Marketing Service

NOTICES

Hearings, Meetings, Proceedings, etc.:

National Organic Standards Board, 70591–70592

Agriculture Department

See Agricultural Marketing Service

See Forest Service

Alcohol and Tobacco Tax and Trade Bureau

RULES

Establishment of Viticultural Area:

San Luis Rey, 70487–70490

Bureau of Safety and Environmental Enforcement

RULES

Oil and Gas and Sulfur Operations in the Outer Continental Shelf:

High Pressure High Temperature and Subpart B Revisions, 71076–71121

NOTICES

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

Oil and Gas Production Safety Systems, 70664–70665

Oil-Spill Response Requirements for Facilities Located Seaward of the Coastline, 70665–70666

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70652

Civil Rights Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:

Florida Advisory Committee, 70594

Iowa Advisory Committee, 70595

Pennsylvania Advisory Committee, 70593–70594

Texas Advisory Committee, 70594–70596

U.S. Virgin Islands Advisory Committee, 70595–70596

Coast Guard

RULES

Special Local Regulation:

Find Your Way Home Swim; Detroit River, Grosse Ile, MI, 70494–70496

Marine Event on the Willamette River, Portland, OR, 70496

PROPOSED RULES

Safety and Security Zone:

Pilgrim Nuclear Power Plant, Plymouth, MA, 70587–70589

NOTICES

Policy Letter for the Application of Fishing Vessel Construction Requirements, 70654–70655

Commerce Department

See Industry and Security Bureau

See International Trade Administration

See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement List; Additions and Deletions, 70603–70604

Copyright Office, Library of Congress

RULES

Termination Rights, Royalty Distributions, Ownership

Transfers, Disputes, and the Music Modernization Act, 70496–70497

Corporation for National and Community Service

RULES

AmeriCorps Seniors Regulation Updates, 70536–70545

Education Department

NOTICES

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

Education Act of 2006 Consolidated Annual Report for the Carl D. Perkins Career and Technical, 70617

Applications for New Awards:

College Assistance Migrant Program, 70610–70616

High School Equivalency Program, 70604–70610

Energy Department

See Federal Energy Regulatory Commission

See Southwestern Power Administration

See Western Area Power Administration

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

California; Motor Vehicle Inspection and Maintenance Program, 70497–70500

Wisconsin; Infrastructure State Implementation Plan Requirements for the 2015 Ozone National Ambient Air Quality Standards, 70500–70505

National Emission Standards for Hazardous Air Pollutants:

Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting, 70505–70525

Pesticide Tolerance; Exemptions, Petitions, Revocations, etc.:

Phenol, 70525–70527

PROPOSED RULES

Air Plan Approval:

Ohio; Regional Haze Plan for the Second Implementation Period, 71124–71151

Air Quality State Implementation Plans; Approvals and Promulgations:

Missouri; Interstate Transport of Air Pollution for the 2015 8-hour Ozone National Ambient Air Quality Standards, 70589

Texas; Attainment Plan for the Rusk and Panola Counties 2010 Sulfur Dioxide Primary NAAQS Nonattainment Area; Finding of Failure to Attain the Primary 2010 One-Hour Sulfur Dioxide Standard for Rusk and Panola Counties, 70590

NOTICES

Environmental Impact Statements; Availability, etc., 70632
Hearings, Meetings, Proceedings, etc.:

Local Government Advisory Committee, 70631–70632
Proposed Settlement Agreement, Stipulation, Order, and
Judgment, etc.:
CERCLA Cost Recovery for the Lake Erie Smelting Corp.
Superfund Site, Buffalo, Erie County, NY, 70632

Federal Aviation Administration**RULES**

Airspace Designations and Reporting Points:
Akiachak, AK, 70471–70472
Ambler, AK, 70472–70473
Anchorage, AK, 70474–70476
Clear, AK, 70473–70474
Deer Park, WA, 70469–70471
Standard Instrument Approach Procedures, and Takeoff
Minimums and Obstacle Departure Procedures, 70476–
70479

PROPOSED RULES

Airspace Designations and Reporting Points:
Zanesville, OH, 70585–70587
Airworthiness Directives:
Airbus Defense and Space S.A. (Formerly Known as
Construcciones Aeronauticas, S.A.) Airplanes,
70582–70585
Schempp-Hirth Flugzeugbau GmbH Gliders, 70580–70582

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Aircraft Registration, 70681–70682
Part 121 Operating Requirements: Domestic, Flag, and
Supplemental Operations, 70681

Federal Communications Commission**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 70632–70633

Federal Deposit Insurance Corporation**NOTICES**

Privacy Act; Systems of Records, 70634–70636

Federal Energy Regulatory Commission**NOTICES**

Authorization for Continued Project Operation:
Beaver Falls Municipal Authority, 70626
Central Rivers Power NH, LLC, 70623–70624
Eagle Creek Schoolfield, LLC, City of Danville, 70617–
70618
Energy Stream, LLC, 70619–70620
Great Lakes Hydro America, LLC, 70620, 70622–70623,
70627
Kaukauna Utilities, 70626
Combined Filings, 70618–70622, 70626–70627
Request under Blanket Authorization:
WBI Energy Transmission, Inc., 70624–70625

Federal Housing Finance Agency**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 70636–70650

Federal Motor Carrier Safety Administration**NOTICES**

Exemption Application:
Qualification of Drivers; Epilepsy and Seizure Disorders,
70685–70687

Qualification of Drivers; Hearing, 70682–70685

Fish and Wildlife Service**RULES**

Migratory Bird Hunting:
2024–25 Seasons for Certain Migratory Game Birds,
70545–70579

Food and Drug Administration**RULES**

Prohibition of Sale of Tobacco Products to Persons Younger
than 21 Years of Age, 70483–70486

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Survey on the Occurrence of Foodborne Illness Risk
Factors in Selected Restaurant and Retail Foodservice
Facility Types, 70652–70654

Forest Service**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Northwest Forest Plan Area Advisory Committee, 70592–
70593
Proposed Recreation Fee Site, 70592

General Services Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Data Collection for a National Evaluation of the American
Rescue Plan, 70650–70651

Health and Human Services Department

See Agency for Healthcare Research and Quality
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Indian Health Service

Homeland Security Department

See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Mortgagee's Application for Partial Settlement, 70657–
70658
State Community Development Block Grant Program,
70658–70659

Indian Affairs Bureau**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Law and Order on Indian Reservations—Marriage and
Dissolution Applications, 70659–70660

Indian Health Service**RULES**

Catastrophic Health Emergency Fund, 70527–70536

Industry and Security Bureau**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Transportation and Related Equipment Technical
Advisory Committee, 70596–70597

Interior Department

See Bureau of Safety and Environmental Enforcement
 See Fish and Wildlife Service
 See Indian Affairs Bureau
 See Land Management Bureau
 See Ocean Energy Management Bureau

Internal Revenue Service**RULES**

Statutory Disallowance of Deductions for Certain Qualified Conservation Contributions Made by Partnerships and S Corporations; Correction, 70486–70487

PROPOSED RULES**Guidance:**

Elections Relating to Foreign Currency Gains and Losses, 70587

International Trade Administration**NOTICES**

Fee Schedule for the Data Privacy Framework Program, 70597–70600

International Trade Commission**NOTICES**

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

Certain Semiconductor Devices and Products Containing the Same, 70667–70668

Certain Vaporizer Devices, Cartridges Used Therewith, and Components Thereof, 70668–70669

Tungsten Shot from China, 70666–70667

Justice Department**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 School Crime Supplement to the National Crime Victimization Survey, 70669–70670

Labor Department

See Occupational Safety and Health Administration
 See Wage and Hour Division

Land Management Bureau**NOTICES**

Environmental Impact Statements; Availability, etc.:

Grand Staircase-Escalante National Monument in Utah; Proposed Resource Management Plan, 70662–70663

Utility-Scale Solar Energy Development and Proposed Resource Management Plan Amendments, 70660–70662

Hearings, Meetings, Proceedings, etc.:

Sierra Front-Northern Great Basin Resource Advisory Council, 70663–70664

Library of Congress

See Copyright Office, Library of Congress

National Highway Traffic Safety Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Crash Injury Research and Engineering Network, 70687–70690

National Oceanic and Atmospheric Administration**NOTICES**

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

Social, Behavioral, and Economic Science Studies for Weather, Water, and Climate, 70602–70603

Hearings, Meetings, Proceedings, etc.:

Mid-Atlantic Fishery Management Council, 70600–70602

New England Fishery Management Council, 70600, 70602

Pacific Island Fisheries:

Marine Conservation Plan for American Samoa; Western Pacific Sustainable Fisheries Fund, 70601

Nuclear Regulatory Commission**RULES**

American Society of Mechanical Engineers 2021 2022 Code Editions, 70449–70469

NOTICES**Guidance:**

Implementation of Training and Experience Requirements, 70672–70673

Meetings; Sunshine Act, 70671

Occupational Safety and Health Administration**PROPOSED RULES**

Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, 70698–71073

Ocean Energy Management Bureau**RULES**

Adjustment of Service Fees for Outer Continental Shelf Activities, 70490–70494

Postal Regulatory Commission**NOTICES**

Service Standard Changes, 70673–70674

Securities and Exchange Commission**RULES**

Qualifying Venture Capital Funds Inflation Adjustment, 70479–70483

NOTICES**Application:**

Gladstone Alternative Income Fund and Gladstone Management Corp., 70679

Self-Regulatory Organizations; Proposed Rule Changes:
 The Nasdaq Stock Market LLC, 70674–70679

Southwestern Power Administration**NOTICES****Rate Order:**

No. SWPA–84, Sam Rayburn Dam, 70627–70629

State Department**NOTICES**

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

Training/Internship Placement Plan, 70680

Culturally Significant Objects Imported for Exhibition:
 Art and War in the Renaissance: The Battle of Pavia
 Tapestries, 70679–70680

Design Agendas: Modern Architecture in St. Louis, 1930s–1970s, 70680–70681

Transportation Department

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

See National Highway Traffic Safety Administration

Treasury Department

See Alcohol and Tobacco Tax and Trade Bureau

See Internal Revenue Service

NOTICES

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

Clean Energy Storytelling Program, 70692

Customer Identification Program Regulatory

Requirements for Certain Financial Institutions, 70690–70692

U.S. Customs and Border Protection**NOTICES**

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

Create/Update Importer Identity Form, 70656–70657

Crewman's Landing Permit, 70655–70656

Crew's Effects Declaration, 70657

Veterans Affairs Department**NOTICES**

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

Applications for Ordinary Life Insurance Age 65 and 70, 70695–70696

CHAMPVA Benefits—Application, Claim, Other Health Insurance, Potential Liability and Miscellaneous Expenses, 70692–70694

Hearings, Meetings, Proceedings, etc.:

Advisory Committee on Tribal and Indian Affairs, 70694–70695

Geriatric and Gerontology Advisory Committee, 70694

Veterans Rural Health Advisory Committee, 70695

Wage and Hour Division**NOTICES**

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

Davis-Bacon Certified Payroll, 70670–70671

Western Area Power Administration**NOTICES**

Boulder Canyon Project, 70629–70631

Separate Parts In This Issue**Part II**

Labor Department, Occupational Safety and Health Administration, 70698–71073

Part III

Interior Department, Bureau of Safety and Environmental Enforcement, 71076–71121

Part IV

Environmental Protection Agency, 71124–71151

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

10 CFR

50 70449

14 CFR

71 (5 documents) 70469,

70471, 70472, 70473, 70474

97 (2 documents) 70476,
70478

Proposed Rules:

39 (2 documents) 70580,

70582

71 70585

17 CFR

270 70479

21 CFR

1140 70483

26 CFR

1 70486

Proposed Rules:

1 70587

27 CFR

9 70487

29 CFR**Proposed Rules:**

1910 70698

1915 70698

1917 70698

1918 70698

1926 70698

1928 70698

30 CFR

250 71076

550 70490

556 70490

33 CFR

100 (2 documents) 70494,

70496

Proposed Rules:

165 70587

37 CFR

210 70496

40 CFR

52 (2 documents) 70497,

70500

60 70505

63 70505

180 70525

Proposed Rules:

52 (3 documents) 70589,

70590, 71124

42 CFR

136 70527

45 CFR

2551 70536

2552 70536

2553 70536

50 CFR

20 70545

Rules and Regulations

Federal Register

Vol. 89, No. 169

Friday, August 30, 2024

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2018–0289]

RIN 3150–AK21

American Society of Mechanical Engineers 2021–2022 Code Editions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the 2021 Edition of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code and the 2022 Edition of the American Society of Mechanical Engineers Operation and Maintenance of Nuclear Power Plants, Division 1, OM Code: Section IST, for nuclear power plants. This action is in accordance with the NRC's policy to periodically update the regulations to incorporate by reference new editions of the American Society of Mechanical Engineers Codes and is intended to maintain the safety of nuclear power plants and to make NRC activities more effective and efficient. This amendment also incorporates editorial changes that do not change the technical information.

DATES: This final rule is effective on September 30, 2024. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of September 30, 2024.

ADDRESSES: Please refer to Docket ID NRC–2018–0289 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0289. Address questions about NRC dockets to Helen

Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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FOR FURTHER INFORMATION CONTACT:

Tyler Hammock, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1381, email: Tyler.Hammock@nrc.gov; or Michael Benson, Office of Nuclear Reactor Regulation, telephone: 301–415–2425, email: Michael.Benson@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Need for the Regulatory Action

The NRC is amending its regulations to incorporate by reference the 2021 Edition of the American Society of

Mechanical Engineers (ASME) *Boiler and Pressure Vessel Code* (BPV Code) and the 2022 Edition of the ASME *Operation and Maintenance of Nuclear Power Plants*, Division 1, OM Code: Section IST (OM Code), for nuclear power plants.

The ASME periodically revises and updates its Codes for nuclear power plants by issuing new editions; this final rule is in accordance with the NRC's practice to incorporate those new editions into the NRC's regulations. This rule maintains the safety of nuclear power plants, makes NRC activities more effective and efficient, and allows nuclear power plant licensees and applicants to take advantage of the latest ASME BPV and OM Codes (ASME Codes). The ASME is a voluntary consensus standards organization, and the ASME Codes are voluntary consensus standards. The NRC's use of the ASME Codes is consistent with applicable requirements of the National Technology Transfer and Advancement Act (NTTAA). See also Section XIV of this document, "Voluntary Consensus Standards."

B. Major Provisions

Major provisions of this final rule include the incorporation by reference with conditions of the following ASME Codes into NRC regulations and delineation of NRC requirements for the use of these Codes:

- The 2021 Edition of the BPV Code
- The 2022 Edition of the OM Code

C. Costs and Benefits

The NRC prepared a regulatory analysis to determine the expected costs and benefits of this final rule. The regulatory analysis identifies costs and benefits in both a quantitative fashion as well as in a qualitative fashion.

Based on the analysis, the NRC concludes that this final rule results in a net quantitative averted cost to the industry and a net cost to the NRC. This final rule, relative to the regulatory baseline, results in a net averted cost for industry of \$0.65 million based on a 7-percent net present value (NPV) and \$0.72 million based on a 3-percent NPV. This final rule, relative to the regulatory baseline, results in a net cost to the NRC of \$44 thousand based on a 7-percent NPV to \$10 thousand based on a 3-percent NPV. Qualitative factors that were considered include regulatory

stability and predictability, regulatory efficiency, and consistency with the NTTAA. The regulatory analysis shows that the rulemaking is justified because the total quantified benefits of the regulatory action exceed the costs of the action. When the qualitative benefits (including the safety benefit and improvement in knowledge) are considered together with the quantified benefits, the benefits outweigh the identified quantitative and qualitative costs.

The NRC has had a decades-long practice of approving and/or mandating the use of certain parts of editions and addenda of these ASME Codes in § 50.55a. Continuing this practice in this final rule ensures regulatory stability and predictability. This practice also provides consistency across the industry and provides assurance to the industry and the public that the NRC will continue to support the use of the most updated and technically sound techniques developed by the ASME to provide adequate protection to the public. In this regard, the ASME Codes are voluntary consensus standards developed by technical committees composed of mechanical engineers and others who represent the broad and varied interests of their industries, from manufacturers and installers to insurers, inspectors, distributors, regulatory agencies, and end users. The standards undergo extensive external review before the NRC considers whether to incorporate them by reference. Finally, the NRC's use of the ASME Codes is consistent with the NTTAA, which directs Federal agencies to adopt voluntary consensus standards instead of developing "government-unique" (i.e., Federal agency-developed) standards, unless inconsistent with applicable law or otherwise impractical.

For more information, please see the final regulatory analysis (ML24053A051) in the NRC's ADAMS.

Table of Contents

- I. Background
- II. Discussion
 - A. ASME BPV Code, Section III
 - B. ASME BPV Code, Section XI
 - C. ASME OM Code
 - D. Editorial Correction
- III. Opportunities for Public Participation
- IV. Public Comment Analysis
- V. Section-by-Section Analysis
- VI. Generic Aging Lessons Learned Report
- VII. Regulatory Flexibility Certification
- VIII. Regulatory Analysis
- IX. Backfitting and Issue Finality
- X. Plain Writing
- XI. Environmental Assessment and Final Finding of No Significant Environmental Impact
- XII. Paperwork Reduction Act

- XIII. Congressional Review Act
- XIV. Voluntary Consensus Standards
- XV. Incorporation by Reference—Reasonable Availability to Interested Parties
- XVI. Availability of Guidance
- XVII. Availability of Documents

I. Background

The ASME develops and publishes the ASME BPV Code, which contains requirements for the design, construction, and inservice inspection (ISI) of nuclear power plant components, and the ASME OM Code,¹ which contains requirements for inservice testing (IST) of nuclear power plant components. Until 2012, the ASME issued new editions of the ASME BPV Code every 3 years and addenda to the editions annually, except in years when a new edition was issued. Similarly, the ASME periodically published new editions and addenda of the ASME OM Code. Starting in 2012, the ASME decided to issue editions of its BPV and OM Codes (no addenda) every 2 years with the BPV Code to be issued on the odd years (e.g., 2013, 2015, etc.) and the OM Code to be issued on the even years² (e.g., 2012, 2014, etc.). The new editions typically revise provisions of the ASME Codes to broaden their applicability, add specific elements to current provisions, delete specific provisions, and/or clarify them to narrow the applicability of the provision. The revisions to the editions of the ASME Codes do not significantly change code philosophy or approach.

The NRC's practice is to establish requirements for the design, construction, operation, ISI (examination), and IST of nuclear power plants by approving the use of editions of the ASME BPV and OM Codes (ASME Codes) in § 50.55a of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC approves or mandates the use of certain parts of editions of these ASME Codes in § 50.55a through the rulemaking process of "incorporation by reference." Upon incorporation by reference of the ASME Codes into § 50.55a, the provisions of the ASME Codes are legally binding NRC requirements as delineated in § 50.55a, and subject to the conditions on certain specific ASME Codes' provisions that are set forth in § 50.55a. The editions of the ASME BPV and OM Codes were last incorporated by

¹ The editions and addenda of the ASME *Operation and Maintenance of Nuclear Power Plants* have had different titles from 2005 to 2019 and are referred to collectively in this rule as the "OM Code."

² The 2014 Edition of the ASME OM Code was delayed and was designated the 2015 Edition. Similarly, the 2016 Edition of the OM Code was delayed and was designated the 2017 Edition.

reference into the NRC's regulations in a final rule dated October 27, 2022 (87 FR 65128).

The ASME Codes are consensus standards developed by participants, including the NRC and licensees of nuclear power plants, who have broad and varied interests. The ASME's publication of new editions of the ASME Codes does not mean that there is unanimity on every provision in the ASME Codes. There may be disagreement among the technical experts, including the NRC's representatives on the ASME Code committees and subcommittees, regarding the acceptability or desirability of a particular code provision included in an ASME-approved Code edition. If the NRC believes that there is a significant technical or regulatory concern with a provision in an ASME-approved Code edition being considered for incorporation by reference, then the NRC conditions the use of that provision when it incorporates by reference that ASME Code edition into its regulations. In some instances, the condition increases the level of safety afforded by the ASME Code provision, or addresses a regulatory issue not considered by the ASME. In other instances, where research data or experience has shown that certain code provisions are unnecessarily conservative, the condition may provide that the code provision need not be complied with in some or all respects. The NRC's conditions are included in § 50.55a, typically in paragraph (b) of that section. In a Staff Requirements Memorandum dated September 10, 1999 (ML003755050), the Commission indicated that NRC rulemakings adopting (incorporating by reference) a voluntary consensus standard must identify and justify each part of the standard that is not adopted. For this final rule, the provisions of the 2021 Edition of Section III, Division 1; the 2021 Edition of Section XI, Division 1, of the ASME BPV Code; and the 2022 Edition of the ASME OM Code that the NRC are not adopting, or are only partially adopting, are identified in the "Discussion," "Regulatory Analysis," and "Backfitting and Issue Finality" sections of this document. The provisions of those specific editions and Code Cases that are the subject of this final rule that the NRC finds to be conditionally acceptable, together with the applicable conditions, are also identified in the "Discussion," "Regulatory Analysis," and "Backfitting and Issue Finality" sections of this document.

The ASME Codes are voluntary consensus standards, and the NRC's incorporation by reference of these Codes is consistent with applicable requirements of the NTTAA. Additional discussion on the NRC's compliance with the NTTAA is set forth in Section XIV of this document, "Voluntary Consensus Standards."

II. Discussion

The NRC regulations incorporate by reference ASME Codes for nuclear power plants. This final rule is the latest in a series of rulemakings to amend the NRC's regulations to incorporate by reference revised and updated ASME Codes for nuclear power plants. This final rule is intended to maintain the safety of nuclear power plants and make NRC activities more effective and efficient.

The NRC follows a three-step process to determine acceptability of new provisions in new editions of the Codes and the need for conditions on the uses of these Codes. This process was employed in the review of the Codes that are the subjects of this rule. First, the NRC actively participates with other ASME committee members with full involvement in discussions and technical debates in the development of new and revised Codes. This includes a technical justification of each new or revised Code. Second, the NRC's committee representatives discuss the Codes and technical justifications with other cognizant staff to ensure an adequate technical review. Third, the NRC position on each Code is reviewed and approved by NRC management as part of this rule amending § 50.55a to incorporate by reference new editions of the ASME Codes and conditions on their use. This regulatory process, when considered together with the ASME's own process for developing and approving the ASME Codes, assures that the NRC approves for use only those new and revised code editions, with conditions as necessary, that provide reasonable assurance of adequate protection to the public health and safety, and that do not have significant adverse impacts on the environment.

The NRC reviewed changes to the Codes in the editions identified in this final rule. The NRC concluded, in accordance with the process for review of changes to the Codes, that these editions of the Codes are technically adequate, consistent with current NRC regulations, and approved for use with the specified conditions.

The NRC is amending its regulations to incorporate by reference:

- The 2021 Editions of the ASME BPV Code, Section III, Division 1 and

Section XI, Division 1, with conditions on their use.

- The 2022 Edition of Division 1 of the ASME OM Code, with conditions on its use.

The current regulations in § 50.55a(a)(1)(i) incorporate by reference ASME BPV Code, Section III, 1963 Edition through the 1970 Winter Addenda; and the 1971 Edition (Division 1) through the 2019 Edition (Division 1), subject to the conditions identified in current § 50.55a(b)(1)(i) through (xiii). This final rule revises § 50.55a(a)(1)(i) to incorporate by reference the 2021 Edition (Division 1) of the ASME BPV Code, Section III.

The current regulations in § 50.55a(a)(1)(ii) incorporate by reference ASME BPV Code, Section XI, 1974 Edition through the 1975 Summer Addenda, the 1995 Edition (Division 1) through the 1997 Addenda (Division 1), and the 2001 Edition (Division 1) through the 2019 Edition (Division 1), subject to the conditions identified in current § 50.55a(b)(2)(i) through (xlili). This final rule revises § 50.55a(a)(1)(ii) to incorporate by reference the 2021 Edition (Division 1) of the ASME BPV Code, Section XI. It also clarifies the wording and adds, removes, or revises some of the conditions as explained in this rule.

The current regulations in § 50.55a(a)(1)(iv) incorporate by reference ASME OM Code, 1995 Edition through the 2020 Edition (with some omissions of specific editions and addenda), subject to the conditions currently identified in § 50.55a(b)(3)(i) through (xi). This final rule revises § 50.55a(a)(1)(iv) to incorporate by reference the 2022 Edition of Division 1 of the ASME OM Code.

In the introductory discussion of its Codes, ASME specifies that errata to those Codes may be posted on the ASME website under the Committee Pages to provide corrections to incorrectly published items, or to correct typographical or grammatical errors in those Codes. Users of the ASME BPV Code and ASME OM Code should be aware of errata when implementing the specific provisions of those Codes. Applicants and licensees should monitor errata to determine when they might need to submit a request for an alternative under § 50.55a(z) to implement provisions specified in errata to their ASME Code of Record.

The NRC reviewed changes to the Codes in the editions identified in this final rule and published a proposed rule in the **Federal Register** setting forth the NRC's proposal to incorporate by reference the ASME Codes, together

with proposed conditions on their use (88 FR 53384; August 8, 2023). The NRC also proposed to correct minor editorial and administrative errors, including spacing and typos. After consideration of the public comments received on the proposed rule (public comments are discussed in Section IV of this document, "Public Comment Analysis"), the NRC concludes, in accordance with the process for review of changes to the Codes, that these editions of the Codes are technically adequate, consistent with current NRC regulations, and approved for use with the specified conditions set forth in this final rule. Each of the NRC conditions and the reasons for each condition are discussed in the following sections of this document. The discussions are organized under the applicable ASME Code and Section.

A. ASME BPV Code, Section III

Section 50.55a(a)(1)(i)(E) Rules for Construction of Nuclear Facility Components-Division 1.

The NRC is revising § 50.55a(a)(1)(i)(E) to incorporate by reference the 2021 Edition of the ASME BPV Code, Section III, including Subsection NCA and Division 1 Subsections NB through NG and Appendices. As stated in § 50.55a(a)(1)(i), the Nonmandatory Appendices are excluded and not incorporated by reference. The Mandatory Appendices are incorporated by reference because they include information necessary for Division 1. However, the Mandatory Appendices also include material that pertains to other Divisions that have not been reviewed and approved by the NRC. Although this information is included in the sections and appendices being incorporated by reference, the NRC notes that the use of Divisions other than Division 1 has not been approved, nor are they required by NRC regulations and, therefore, such information is not relevant to NRC applicants and licensees. The NRC is not taking a position on the non-Division 1 information in the appendices and is including it in the incorporation by reference only for convenience. Therefore, this final rule revises the introductory text to § 50.55a(a)(1)(i)(E) to reference the 2021 Edition of the ASME BPV Code, Section III, including Subsection NCA and Division 1 Subsections NB through NG and Appendices.

Users of Section III of the ASME BPV Code are reminded that ASME has relocated certain overpressure protection requirements for safety and relief valves to Section XIII, "Rules for

Overpressure Protection,” of the ASME BPV Code, such as Part 9, “Capacity and Flow Resistance Certification.” ASME prepared Section XIII of the BPV Code to consolidate the overpressure protection requirements into one BPV Code Section to benefit all stakeholders by advancing the technology with participation from a broader group of subject matter experts. This relocation collects overpressure protection requirements into a single location rather than specifying them in various sections and divisions of the ASME BPV Code. ASME stated that it did not intend a technical change by this relocation of the overpressure protection requirements. Where appropriate, Section III of the ASME BPV Code specifies a direct citation to the relocated overpressure protection requirements in Section XIII of the ASME BPV Code.

Section 50.55a(b)(1)(iv) Section III Condition: Quality Assurance

The NRC is incorporating by reference Subsection NCA of 2021 Edition BPV Code, ASME Section III with the exception that Subpart 2.19 in NQA-1-2017, NQA-1-2019, and NQA-1-2022 is not approved for use.

With regards to the implementation of NCA-3126, NCA-3127, NCA-4255.3, and NCA-4254.3 for the procurement of calibration and testing services, the NRC reminds the users of the ASME Code that the procurement of commercial grade calibration and testing services remains subject to NRC requirements in 10 CFR part 21 and in appendix B to 10 CFR part 50.

For implementation of procurement of calibration and testing services, the NRC published a Regulatory Guide (RG), RG 1.28 Rev. 6, “Quality Assurance Program Criteria (Design and Construction),” (ML23177A002) that, among other things, endorsed Nuclear Energy Institute (NEI) 14-05A, “Guidelines for the Use of Accreditation in Lieu of Commercial Grade Surveys for Procurement of Laboratory Calibration and Test Services,” Revision 1, issued November 2020 (88 FR 62292). As described in the RG, licensees and suppliers of basic components can take credit for the International Laboratory Accreditation Cooperation accreditation process as described in NEI 14-05A, Revision 1, in lieu of performing on-site commercial grade surveys as part of the commercial grade dedication of calibration and testing services. The NRC’s endorsement is for use of NEI 14-05A, Revision 1, in lieu of Subpart 2.19 in NQA-1-2017, NQA-1-2019, and NQA-1-2022, which RG 1.28 found to not incorporate the controls and

conditions necessary for use. Specifically, Subpart 2.19 allows the laboratory accreditation to be performed remotely, which the NRC has determined is not adequate to meet the requirements of appendix B to 10 CFR part 50. Therefore, the NRC is adding a condition to prohibit the use of Subpart 2.19 in NQA-1-2017, NQA-1-2019, and NQA-1-2022.

Section 50.55a(b)(1)(vi) Section III Condition: Subsection NH

The NRC is revising this condition to change the word “sleeves” to “sheaths” and to note that this condition is not applicable to the 2015 Edition and later editions as Subsection NH has been deleted from Section III Division 1.

Section 50.55a(b)(1)(xi) Section III Condition: Mandatory Appendix XXVI

The NRC is revising this condition. When applying the 2015 and 2017 Editions of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the first provision, as noted in § 50.55a(b)(1)(xi)(A). When applying the 2015 through 2021 Editions of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the second provision, as noted in § 50.55a(b)(1)(xi)(B). When applying the 2017 Edition of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the third provision, as noted in § 50.55a(b)(1)(xi)(C).

As a result of a public comment received, the NRC has modified the second provision, § 50.55a(b)(1)(xi)(B), to provide more clarity in the first sentence, and replaced the second sentence to clarify that, in the event of breakage in a specimen that is away from the fusion zone, a retest may be required only if the base material failed at less than the minimum required base material yield strength.

Section 50.55a(b)(1)(xiii) Section III Condition: Preservice Inspection of Steam Generator Tubes

The NRC is revising § 50.55a(b)(1)(xiii) including the first provision, § 50.55a(b)(1)(xiii)(A), and second provision, § 50.55a(b)(1)(xiii)(B), to extend the applicability of the conditions through the latest edition of the ASME BPV Code, Section III incorporated by reference in paragraph (a)(1)(i). The 2021 Edition of Section III

was not updated to include the provisions of this condition. Therefore, the NRC is revising this condition to apply to the latest edition incorporated by reference.

Section 50.55a(b)(1)(xiv) Section III Condition: Repairs to Stamped Components

The NRC is adding a condition that if Nonmandatory Appendix NN is used for the elimination of surface defects and repairs of stamped components prior to the completion of Form N-3 Data Report, all applicable requirements of Nonmandatory Appendix NN shall be met. The 2021 Edition included Nonmandatory Appendix NN and stated in the provisions of NCA-8151 and NCA-8500 in the 2021 Edition of Section III that guidance for the elimination of surface defects and repairs of stamped components prior to the completion of Form N-3 Data Report is contained within Nonmandatory Appendix NN.

The section titled “Organization of Section III” within Section III and the “Introduction” to Section III Appendices state that “Mandatory Appendices are referred to in the Section III rules and contain requirements that must be followed in construction. Nonmandatory Appendices provide additional information or guidance when using Section III.” In addition, Nonmandatory Appendix NN states, “This Appendix provides guidance for the removal of external surface defects from piping, pumps, and valves and performing repairs to stamped components after certification and prior to completion of the N-3 Data Report.”

Since this Nonmandatory Appendix is not required to be followed by the ASME Code, all or none of the requirements in this Appendix may be performed and the certificate holder or owner potentially could make repairs that do not meet the code requirements, introduce flaws or retain defects, or not disposition defects that can compromise the structural integrity of the component and not properly document the repair. It should be noted that Nonmandatory Appendix NN was developed by combining Code Cases N-801-3 and N-870-1 into the Nonmandatory Appendix NN. The NRC-approved Code Cases N-801-3 and N-870-1 in RG 1.84, Revision 39. Licensees that used Code Cases N-801-3 and N-870-1 were required to meet all the requirements in the applicable Code Cases. The NRC considers the information in Nonmandatory Appendix NN as requirements, consistent with the Code Cases, that are necessary to ensure

certificate holders make satisfactory repairs to stamped ASME Code, Section III components. Therefore, the NRC is adding § 50.55a(b)(1)(xiv) to condition the provision of NCA-8151, NCA-8500, and Nonmandatory Appendix NN to require that all the requirements in Nonmandatory Appendix NN shall be met when used.

B. ASME BPV Code, Section XI

Section 50.55a(a)(1)(ii) ASME BPV Code, Section XI

The NRC is amending the regulations in § 50.55a(a)(1)(ii)(C) to incorporate by reference the 2021 Edition (Division 1) of the ASME BPV Code, Section XI. The current regulations in § 50.55a(a)(1)(ii)(C) incorporate by reference ASME BPV Code, Section XI, the 1974 Edition through the 1975 Summer Addenda, the 1995 Edition (Division 1) through the 1997 Edition (Division 1), and the 2001 Edition (Division 1) through the 2019 Edition (Division 1), subject to the conditions identified in § 50.55a(b)(2).

Section 50.55a(b)(2) Conditions on ASME BPV Code Section XI

The NRC is revising the definition of Section XI in § 50.55a(b)(2) to refer to the editions of the ASME BPV Code, Section XI incorporated by reference in paragraph (a)(1)(ii).

Section 50.55a(b)(2)(viii) Section XI Condition: Concrete Containment Examinations

The NRC is limiting the existing conditions in § 50.55a(b)(2)(viii)(H) and § 50.55a(b)(2)(viii)(I), the eighth and ninth provisions for concrete containment examinations, to prior Editions of the ASME Code. Revisions to IWA-6230 require the information described in the existing § 50.55a(b)(2)(viii)(H) condition be included in the required Owner's Activity Report (OAR). Revisions to IWL-2512 require the technical evaluation discussed in IWL-2512(b) be completed every 5 years. Since these new Section XI provisions in the 2021 Edition address the requirement in the existing NRC condition, it is appropriate for the NRC to limit the applicability of the existing conditions to the prior editions.

Section 50.55a(b)(2)(ix) Section XI Condition: Metal Containment Examinations

The NRC is limiting the applicability of the existing condition in § 50.55a(b)(2)(ix)(A)(2), the first provision for metal containment examinations, to prior Editions of the ASME Code. Revisions to IWA-6230

require the information described in the existing § 50.55a(b)(2)(ix) condition be included in the required OAR. Since this new Section XI provision in the 2021 Edition addresses the requirement in the existing NRC condition, it is appropriate for the NRC to limit the applicability of the existing condition to the earlier editions.

Section 50.55a(b)(2)(xv) Section XI Condition: Appendix VIII Specimen Set and Qualification Requirements

The NRC is eliminating this condition as it is no longer applicable to any licensee. This condition only applied to the use of the 1995 through the 2001 Editions of ASME Code Section XI, Appendix VIII. Additionally, § 50.55a(b)(2)(xv) requires licensees using ASME Code Section XI Editions later than the 2001 Edition through the 2006 Addenda to use the 2001 Edition of Appendix VIII. This condition therefore only applied to licensees using the 1995 to the 2006 Addenda of ASME Code Section XI.

The 2007 edition of ASME Code Section XI was incorporated by reference in § 50.55a in the rulemaking dated June 21, 2011 (76 FR 36231). Given the requirement to update ISI programs every 120 months, no licensee is still using the 2001 Edition of Appendix VIII. This condition is therefore unnecessary.

Section 50.55a(b)(2)(xxxiv) Section XI Condition: Nonmandatory Appendix U

The NRC is amending § 50.55a(b)(2)(xxxiv) to prohibit the use of Nonmandatory Appendix U, Supplement U-S1 in the 2021 Edition of Section XI. Nonmandatory Appendix U, Supplement U-S1 provides licensees with a methodology for temporary acceptance of flaws in moderate energy Class 2 and 3 piping. However, Code Case N-513 provides the same rules. The NRC position is that licensees should use the more frequently updated Code Case N-513 when seeking to temporarily accept flaws in moderate energy Class 2 and 3 piping. As the ASME continues to update Code Case N-513, there can be different requirements between the version allowed by Nonmandatory Appendix U and the NRC-approved version of the Code Case. Furthermore, duplicative rules may create regulatory confusion both for licensees and NRC inspection staff, as well as impose a burden on the NRC to review and compare the two documents to ensure reasonable assurance of safety under all potential combinations of alternatives. Therefore, this condition clarifies that the appropriate reference for temporary

acceptance of flaws in moderate energy Class 2 and 3 piping is Code Case N-513, as dispositioned in the latest version of RG 1.147 incorporated by reference in § 50.55a(a)(3)(ii).

The NRC is modifying the existing condition in § 50.55a(b)(2)(xxxiv)(A)(2) to update the version of ASME BPV Code Case N-513 to the latest version approved in RG 1.147 at the time the case was incorporated into the licensee's inservice inspection program. The NRC is renumbering this existing condition to § 50.55a(b)(2)(xxxiv)(A)(2) and revising § 50.55a(b)(2)(xxxiv)(B) to reflect the added condition on Nonmandatory Appendix U, Supplement U-S1. The purpose of this change is for regulatory efficiency to minimize changes to this condition in future rulemakings and maintain the requirement consistent with the latest NRC-approved version of Code Case N-513.

Section 50.55a(b)(2)(xxxvi) Section XI Condition: Fracture Toughness of Irradiated Materials

The NRC is amending § 50.55a(b)(2)(xxxvi), to require determination of the Master Curve parameters T_0 and RT_{T0} as prescribed in ASME BPV Code, Section III, NB-2331, subparagraph (a)(5). This change eliminates the requirement to submit such determinations to the NRC for review and replaces that submittal requirement with an acceptable method for determining these fracture toughness parameters.

Although this specific change to § 50.55a(b)(2)(xxxvi) was not in the proposed rule, the proposed rule requested comments on the NRC's proposal to condition the 2021 Edition of the ASME Code, Section XI to require that analytical evaluation reports continue to be submitted to the NRC. The proposed rule noted that analytical reports provide the NRC operating experience data to monitor degradation trends across the industry to ensure public health and safety and that similar reporting requirements can be found in 50.55a, including § 50.55a(b)(2)(xxxii). In the proposed rule, the NRC specifically asked for comments on how the NRC could effectively leverage the information provided in such reports in a way that is transparent to stakeholders and ensures structural integrity of nuclear components without incurring excessive administrative burden for plant owners.

The NRC is making this change in response to a public comment that reviewed the history of the codification of Master Curve methods and NRC's regulatory treatment of those

requirements. The NRC determined that use of the NB-2331(a)(5) is a consistent, technically justified regulatory approach to the Master Curve under § 50.55a(z).

Section 50.55a(b)(2)(xlili) Section XI Condition: Regulatory Submittal Requirements

The NRC is modifying § 50.55a(b)(2)(xlili)(A), to clarify that the analysis for an out-of-limit condition described in Section XI, IWB-3720(a) is not subject to NRC review and approval.

Although this specific modification was not in the proposed rule, the proposed rule requested comments on the NRC's proposal to condition the 2021 Edition of the ASME Code, Section XI to require that analytical evaluation reports continue to be submitted to the NRC. The proposed rule noted that analytical reports provide the NRC and operating experience data to monitor degradation trends across the industry to ensure public health and safety and that similar reporting requirements can be found in 50.55a, including 50.55a(b)(2)(xlili).

The NRC agreed in part with a public comment stating that Nonmandatory Appendix E has been reviewed and approved by the NRC through incorporation by reference. The NRC agreed that the original submission requirement in IWB-3720 was not clear on whether review and approval by the regulatory authority was needed. The immediate safety impacts of a pressure-temperature limit excursion on vessel integrity are assessed through the NRC's reactor oversight process, so there is no need to specify NRC review and approval of the analysis in § 50.55a. While NRC review and approval is no longer required, licensees are still be required to submit the analysis to the NRC.

The NRC also is deleting the conditions at § 50.55a(b)(2)(xlili)(B) and (C). This change eliminates the requirement to submit determination of T_0 and RT_{T0} under Nonmandatory Appendix A, A-4200(c) and Nonmandatory Appendix G, G-2110(c) to NRC for review and approval. The NRC is replacing that submittal requirement with an acceptable method for determining these fracture toughness parameters in new condition § 50.55a(b)(2)(l). The NRC is making this change due to a public comment that reviewed the history of the codification of Master Curve methods and NRC's regulatory treatment of those requirements. The NRC determined that use of the ASME BPV Code, Section III, NB-2331, subparagraph (a)(5) referenced in new condition § 50.55a(b)(2)(l) is a consistent,

technically justified regulatory approach to the Master Curve.

Section 50.55a(b)(2)(xliv) Section XI Condition: Nonmandatory Appendix Y

The NRC is adding § 50.55a(b)(2)(xliv) to prohibit the use of Y-2200, Y-2420, and Y-3200 in the 2021 Edition of Section XI. These articles provide three crack growth laws for use in Section XI flaw evaluations. However, Code Cases N-809, N-889, and N-643 respectively provide the same crack growth laws. The NRC's position is that licensees must use the more frequently updated Code Cases when seeking to use these crack growth laws in Section XI flaw evaluations. Furthermore, duplicative rules may create regulatory confusion for licensees and additional burden on the NRC to review and compare the two documents to provide reasonable assurance of safety when using the curves and defined variables. Therefore, this condition clarifies that the appropriate references for crack growth laws are the respective Code Cases as dispositioned in the latest edition of RG 1.147 incorporated by reference in § 50.55a(a)(3)(ii).

Section 50.55a(b)(2)(xlv) Section XI Condition: Pressure Testing of Containment Penetration Piping After Repair/Replacement Activities

The NRC is adding § 50.55a(b)(2)(xlv) to require that when applying the provisions of IWA-4540(a) and (e) of the 2021 Edition of the ASME Code, Section XI, a VT-2 (*i.e.*, visual examination during system walkdown) of the area affected by the repair/replacement activity shall be conducted during the Type C test in appendix J to 10 CFR part 50. The 2021 Edition of the ASME Code, Section XI, revised IWA-4540(a) and (e) by incorporating the requirements of Code Case N-751. The NRC conditioned Code Case N-751 in RG 1.147, Revision 19, to require that nondestructive examination must be performed in accordance with IWA-4540(a)(2) of the 2002 Addenda of Section XI. This includes a VT-2 in accordance with IWA-5211.

Upon incorporating Code Case N-751 and the NRC condition in RG 1.147, the revised IWA-4540(a) and (e) did not fully address the NRC condition in RG 1.147 concerning performing the VT-2. The revised IWA-4540(a) moved the pressure testing requirements for "[R]epair/replacement activities performed by welding or brazing on piping, including isolation valves, designated Class 2, that penetrates a containment vessel and where the balance of the piping system inside and outside the containment is not within

the scope of Section XI" to IWA-4540(e). Therefore, the specific requirement in IWA-4540(a) to require a VT-2 during pressure testing is not required. In addition, IWA-4540(e) in the 2021 Edition of ASME Code, Section XI states that for pressure testing of these locations, a Type C test in appendix J to 10 CFR part 50, system leakage test in accordance with IWA-5211(a), or pneumatic test in accordance with IWA-5211(c), shall be performed. The NRC notes that IWA-5211 requires the VT-2, while neither IWA-5211(a) or (c) require a VT-2. IWA-4540(e) also states that if "there is detectable leakage during the Type C test in appendix J to 10 CFR part 50, the brazed joints or welds shall be tested to confirm there is no leakage through the brazed joints or welds." The NRC notes that the Type C test in appendix J to 10 CFR part 50 does not require a VT-2 of the piping to verify the leakage or absence thereof, but only a decrease in pressure.

Therefore, the NRC is adding § 50.55a(b)(2)(xlv) to condition provisions IWA-4540(a) and (e) of the 2021 Edition of the ASME Code, Section XI, to require that a VT-2 of the area affected by the repair/replacement activity be conducted during the Type C test in appendix J to 10 CFR part 50 to be consistent with the previous NRC condition for Code Case N-751.

Section 50.55a(b)(2)(xlvi) Section XI Condition: Contracted Repair/Replacement Organization Fabricating Items Offsite of the Owner's Facilities

The NRC is adding § 50.55a(b)(2)(xlvi) to prohibit a contracted Repair/Replacement Organization, when applying the provisions of IWA-4143 in the 2021 Edition of the ASME Code, Section XI, from fabricating an item offsite of the Owner's facility (*e.g.*, vendor facility) without an ASME Certificate of Authorization and without applying an ASME Stamp/Certification Mark.

IWA-4143 in the 2021 Edition of the ASME Code, Section XI, allows an Owner to procure ASME Code, Section III parts, appurtenances, piping subassemblies, and supports (hereinafter referred to as items) with no ASME Stamp/Certification Mark from a Repair/Replacement Organization that does not have an ASME Certificate of Authorization and conducts fabrication activities offsite of the Owner's facility. Therefore, a contracted Repair/Replacement Organization would have been able to fabricate an item offsite (at a vendor facility) without an ASME Certificate of Authorization and not apply a Stamp/Certification Mark on the item. This contradicts NCA-8330 in

ASME Code, Section III, which only allows an item with no ASME Stamp/Certification Mark applied to the item for an organization with an ASME Certificate of Authorization, since the organization with an ASME Certificate of Authorization is required to follow additional controls of the part in NCA-8330(a)(1) through (3). IWA-4131 in the 2021 Edition of the ASME Code, Section XI, does not provide controls of these items through completion of installation for an organization that does not have an ASME Certificate of Authorization. IWA-4131 in the 2019 Edition of the ASME Code, Section XI, has a restriction that fabrication (of parts) by the Owner or the Owner's contracted Repair/Replacement Organization (not possessing an ASME Certificate of Authorization) may occur only at the Owner's facility. The condition is consistent with IWA-4143 of the 2019 Edition of the ASME Code, Section XI, which allowed a Repair/Replacement Organization with a quality assurance program that complies with IWA-4142 to fabricate parts, appurtenances, piping assemblies, and supports at the Owner's facilities without application of an ASME Stamp/Certification Mark.

Therefore, the NRC is adding § 50.55a(b)(2)(xlvi) to condition the provision of IWA-4143 of the 2021 Edition of the ASME Code, Section XI, by prohibiting a contracted Repair/Replacement Organization from fabricating a part offsite of the Owner's facility (e.g., vendor facility) without an ASME Certificate of Authorization and without applying an ASME Stamp/Certification Mark.

Section 50.55a(b)(2)(xlvii) Section XI Condition: Weld Overlay Design Crack Growth Analysis

The NRC is adding § 50.55a(b)(2)(xlvii) to require stress corrosion crack growth analysis of the weld overlay material in Nonmandatory Appendix Q of ASME Code, Section XI. In the 2021 Edition, a change was made to Subparagraph Q-3000(a) to specifically note that stress corrosion crack growth analysis is not required within the weld overlay material. While these overlay materials are expected to be more stress corrosion crack resistant, Article Q-2000 does not require all overlay materials to be impervious to potential cracking. If the licensee can justify that the material would not experience stress corrosion cracking growth expected over design life of the overlay, the licensee should document this conclusion in the design. The NRC therefore adds this condition to require the analysis of a hypothetical flaw in determining the design and design life

of a weld overlay under Nonmandatory Appendix Q.

Section 50.55a(b)(2)(xlviii) Section XI Condition: Analytical Evaluations of Degradation

The NRC is adding § 50.55a(b)(2)(xlviii) to require that analytical evaluations performed in accordance with IWB-3132.3 and IWC-3132.3 be submitted to the NRC. The 2019 Edition of the ASME BPV Code, Section XI, IWB-3134, *Review by Authorities*, requires that "[a]nalytical evaluation of examination results as required by IWB-3132.3 shall be submitted to the regulatory authority having jurisdiction at the plant site." IWC-3125, *Review by Authorities*, requires that "[t]he analytical evaluation of examination results as required by IWC-3122.3 shall be submitted to the regulatory authority having jurisdiction at the plant site." The 2021 Edition of the ASME Code, Section XI, eliminates the provisions of IWB-3134 and IWC-3125 in their entirety. The NRC finds that flaw evaluations provide significant regulatory information in the following areas: the condition of the degradation of the affected component, the cause of the degradation, operating experience, methodology used, performance monitoring, and regulatory oversight. For example, the flaw evaluation predicts the flaw size with growth during a certain time period. The final flaw size should not exceed the allowable flaw size, and the affected component would need to be inspected prior to the final flaw size exceeding the allowable flaw size. The NRC needs to monitor the safety of plant operation, considering the flaw may grow during the plant operation. The flaw evaluation provides key information for the NRC's oversight. Accordingly, the NRC is adding § 50.55a(b)(2)(xlviii) to retain the requirement from the 2019 Edition of the ASME BPV Code, Section XI, that analytical evaluations performed in accordance with IWB-3132.3 and IWC-3132.3 be submitted to the NRC.

Section 50.55a(b)(2)(xlix) Section XI Condition: Analytical Evaluations of Flaws in Cladding

The NRC is adding § 50.55a(b)(2)(xlix) to prohibit the use of IWB-3600(b)(1) in the 2021 Edition of ASME BPV Code, Section XI (Division 1), for the inlay and onlay that are subject to the augmented inspection requirements in paragraph § 50.55a(g)(6)(ii)(F).

IWB-3600(b)(1) in the 2021 Edition of the Code addresses the provision that a flaw, which lies entirely in the cladding of Class 1 components, need not be analytically evaluated. In the 2021

Edition of the Code, this provision has been relocated from IWB-3610 to IWB-3600. In the code editions and addenda prior to the 2021 Edition since the 1988 Addenda, this provision in IWB-3610 for Class 1 vessels has not been applicable to the analytical evaluation for piping that is separately addressed in IWB-3640. Based on the relocation of the provision to IWB-3600, the 2021 Edition of the Code without a condition would have allowed that a flaw, which lies entirely in the cladding of piping, need not be analytically evaluated.

In comparison, paragraph § 50.55a(g)(6)(ii)(F) addresses the augmented inspection requirements for Class 1 pressurized water reactor (PWR) piping and vessel nozzle butt welds. As part of the requirements, paragraph § 50.55a(g)(6)(ii)(F)(7) describes the examination evaluation and acceptance standards for the inlay and onlay of the butt welds. Specifically, the condition in the paragraph requires that, for Inspection Items G, H, J, and K of Code Case N-770, when applying the acceptance standards of IWB-3514 for planar flaws contained within the inlay or onlay, the thickness "t" in IWB-3514 be the thickness of the inlay or onlay.

Accordingly, when a flaw lies entirely in the inlay or onlay subject to the augmented inspections in paragraph § 50.55a(g)(6)(ii)(F)(7), the flaw is required to be evaluated in accordance with IWB-3514 by using the thickness of the inlay or onlay as the thickness "t" in IWB-3514. Based on paragraph § 50.55a(g)(6)(ii)(F)(7), if a flaw in the inlay or onlay is not acceptable in accordance with IWB-3514 as conditioned by the paragraph, analytical evaluation of the flaw must be performed in accordance with IWB-3600 or repair/replacement activities must be performed in accordance with IWA-4000.

As discussed above, the use of IWB-3600(b)(1) in the 2021 Edition of ASME BPV Code, Section XI (Division 1) for the inlay and onlay is not consistent with paragraph § 50.55a(g)(6)(ii)(F)(7) and the related provisions of analytical evaluation that are specified in IWB-3600 in the code editions and addenda prior to the 2021 Edition. Therefore, the NRC is adding a condition to prohibit the use of IWB-3600(b)(1) in the 2021 Edition of the Code for the inlay and onlay that are subject to the augmented inservice inspection requirements for Class 1 piping and nozzle dissimilar-metal butt welds in paragraph § 50.55a(g)(6)(ii)(F).

Section 50.55a(b)(2)(l) Section XI
Condition: Determination of Master
Curve T_0

The NRC is adding § 50.55a(b)(2)(l), which was not in the proposed rule, to require T_0 and RT_{T_0} applied under Nonmandatory Appendix A, A-4200(c) and Nonmandatory Appendix G, G-2110(c) be determined as prescribed in ASME BPV Code, Section III, NB-2331, subparagraph (a)(5). The NRC is adding this condition to replace the previous conditions § 50.55a(b)(2)(xlili)(B) and (C), which required licensees to submit the determination of T_0 and RT_{T_0} for NRC review and approval. The NRC is making this change due to a public comment that reviewed the history of the codification of Master Curve methods and NRC's regulatory treatment of those requirements. The NRC determined that use of the NB-2331(a)(5) is a consistent, technically justified regulatory approach to the Master Curve.

Section 50.55a(g)(4)(ii) Section XI
Applicable ISI Code: Successive 120-
Month Intervals

The NRC is updating § 50.55a(g)(4)(ii), which was not in the proposed rule, to allow licensees to delay the update of their Appendix VIII program by up to 18 months after the effective date of this final rule. The NRC recognizes that updating an Appendix VIII program is a complex and time-consuming process. Allowing licensees to delay the update is consistent with previous final rules that incorporated the ASME Codes by reference. The NRC is making this change due to a public comment. A public comment was received that indicated that the NRC mistakenly did not update this provision in the final rule incorporating by reference the 2019 and 2020 Editions of the ASME Code or the proposed rule to incorporate by reference the 2021 and 2022 Editions of the ASME Code.

Section 50.55a(g)(6)(ii)(D)(9) Section XI
Condition: Volumetric Qualifications

The NRC is adding § 50.55a(g)(6)(ii)(D)(9) to allow licensees the option to utilize Supplement 15 of Mandatory Appendix VIII in the 2021 Edition of Section XI, incorporated by reference in § 50.55a, for volumetric qualification of examinations required by Table 1 of ASME Code Case N-729-6. The ASME in combination with the Electric Power Research Institute Nondestructive Evaluation Center developed expanded qualifications similar to other volumetric qualification requirements in Mandatory Appendix VIII to replace the requirements

described in ASME Code Case N-729-6. The NRC found these qualification requirements acceptable, in addition to the current requirements of ASME Code Case N-729-6. Therefore, to reduce the burden of requiring an update to all programs immediately, the NRC is adding a condition to allow either qualification program to be used. In future § 50.55a rulemakings, in which N-729 is further revised or incorporated into the ASME Code, the NRC expects that the Supplement 15 requirements of Mandatory Appendix VIII will be required. Additionally, as licensees adopt the 2021 Edition as an ISI Code of Record for their ISI Interval, Supplement 15 of Mandatory Appendix VIII will be a requirement. The NRC expects that with this transitional time, that has no immediate impact or burden, licensees will be able to update their programs as necessary in as efficient manner as possible.

Section 50.55a(g)(6)(ii)(F) Augmented
ISI Requirements: Examination
Requirements for Class 1 Piping and
Nozzle Dissimilar-Metal Butt Welds

The NRC is updating the requirements for the augmented inspection of dissimilar-metal butt welds in U.S. PWRs from ASME Code Case N-770-5 to N-770-7. This change will require condition § 50.55a(g)(6)(ii)(F)(1) to be updated, and condition § 50.55a(g)(6)(ii)(F)(8) to be modified to retain an inspection frequency for optimized butt welds consistent with ASME Code Case N-770-5.

The NRC is updating NRC condition § 50.55a(g)(6)(ii)(F)(1) Implementation by changing the reference of ASME Code Case N-770-5 to N-770-7. Additionally, the implementation requirement will be changed from no later than 1 year after June 3, 2020, to no later than 1 year after the rule effective date.

The NRC is modifying the existing condition § 50.55a(g)(6)(ii)(F)(8) to retain, in part, the volumetric examination frequency of ASME Code Case N-770-5, which was changed in N-770-6. In N-770-5, the Frequency of Examination for Inspection Item C-2 welds (uncracked butt welds reinforced by optimized weld overlay of Alloy 52/152 material) is "100% of these welds shall be examined once each inspection interval. For any overlays that have an analyzed life of less than 10 [years], the inspection interval shall be less than or equal to the analyzed life."

In N-770-5, the Frequency of Examination for Inspection Item F-2 welds (cracked butt weld reinforced by optimized weld overlay of Alloy 52/152 material) is "[o]nce during the first or

second refueling outage following overlay. Examination volumes that show no indication of crack growth or new cracking shall be examined once each inspection interval. For any overlays that have an analyzed life of less than 10 years, the inspection interval shall be less than or equal to the analyzed life."

The current NRC condition § 50.55a(g)(6)(ii)(F)(8) states that initial inservice examination of Inspection Item C-2 welds shall be performed between the third refueling outage and no later than 10 years after application of the overlay. In N-770-7, the Frequency of Examination for Inspection Item C-2 welds is—

[e]xamine all welds no sooner than the third refueling outage and no later than 10 years following optimized weld overlay. After the first interval, examination volumes that show no indication of cracking shall be placed into a population to be examined on a sample basis. Twenty-five percent of this population shall be added to the ISI Program in accordance with -2410 and shall be examined once each inspection interval [Note (10)]. For any optimized weld overlays that have an analyzed life of less than 10 years, the inspection interval shall be less than or equal to the analyzed life.

In N-770-7, the Frequency of Examination for Inspection Item F-2 welds is—

[o]nce during the first or second refueling outage following optimized weld overlay. Weld overlay examination volumes that show no indication of crack growth or new cracking shall be placed into a population to be examined on a sample basis. Twenty-five percent of this population shall be added to the ISI Program in accordance with -2410 and shall be examined once each inspection interval [Note (10)]. For any optimized weld overlays that have an analyzed life of less than 10 years, the inspection interval shall be less than or equal to the analyzed life.

The NRC continues to find that the long-term frequency for examination of optimized weld overlays shall be 100 percent of the welds each inspection interval, consistent with N-770-5 and the current regulation. Optimized weld overlays still structurally rely upon 25 percent of the primary water stress corrosion cracking material of the original butt weld to provide structural integrity for the weld. Further, the deposition of a more crack resistant material such as Alloy 52/152 acts as a crack growth restriction, allowing growth along the susceptible original weld material rather than through the more crack resistant material that would provide leakage as a defense-in-depth measure to identify cracking. A 25-percent sample inspection could allow optimized weld overlaid welds to have cracks develop into the structural

retaining material of an ASME Class 1 butt weld in the reactor coolant system. This condition is not true of full structural weld overlays, which the NRC has found can utilize a long-term examination frequency of a 25-percent sample. Because the design of the optimized weld overlay reduces the effectiveness of the defense-in-depth leak initiation method of identifying potential cracking, a volumetric examination of each weld is required to provide reasonable assurance of structural integrity for these optimized weld overlays. Therefore, the NRC is modifying the condition to state that after initial examination for Inspection Items C-2 and F-2 welds, optimized weld overlay examination volumes that show no indication of crack growth or new cracking shall be examined once each inspection interval.

ASME Code Case N-770-7 also creates a new Inspection Item category for auxiliary head adapter (AHA) butt welds, B-3. Some Westinghouse 4-loop plants have AHA butt welds connected to the upper reactor vessel closure head. The new Inspection Item B-3 carries the same inspection requirements of B-1, which the AHA butt welds fall under currently. The update to a new Inspection Item category was made to facilitate a change to the scope expansion requirements in the event that a crack was found in an AHA butt weld.

The purpose of a scope expansion examination is if a crack is found in one weld, examinations of similar welds should be performed to ensure no generic issues are identified with that type of location or operating condition. The Inspection Item category that AHA butt welds currently fall under, B-1, could trigger scope expansion examinations in any, and potentially all, unmitigated reactor coolant system welds. The AHA butt welds are approximately 6-inches in diameter and are located on top of the reactor pressure vessel head in a low or no flow area. This location, while being of the same weld material, is not generally operating under the same conditions as the rest of the reactor coolant butt welds in the primary system of a Westinghouse PWR. Therefore, the ASME Code revised and issued Code Case N-770, Revision 7, to include the new category and modify the scope expansion rules to reflect this change. The NRC agrees with the change to address the intent of scope expansion if a flaw were to be identified in an AHA butt weld. Therefore, the NRC is updating the augmented inservice inspection requirements of

§ 50.55a(g)(6)(ii)(F)(1) to mandate the use of N-770-7 in lieu of N-770-5.

C. ASME OM Code

Section 50.55a(a)(1)(iv), ASME Operation and Maintenance Code

The NRC is amending the regulations in § 50.55a(a)(1)(iv)(C) to incorporate by reference the 2022 Edition of the ASME OM Code for nuclear power plants. The NRC is streamlining § 50.55a wherever possible to provide clearer IST regulatory requirements for nuclear power plant licensees and applicants. In the following paragraphs, the NRC includes certain changes that are part of the § 50.55a streamlining efforts.

Section 50.55a(b)(3)(ii) OM Condition: Motor-Operated Valve (MOV) Testing

The NRC is modifying § 50.55a(b)(3)(ii) by removing conditions (A), (B), and (C) where licensees are implementing the 2022 Edition of the ASME OM Code as incorporated by reference in § 50.55a, because Appendix III, “Preservice and Inservice Testing of Active Electric MOV Assemblies in Water-Cooled Reactor Nuclear Power Plants,” to the 2022 Edition of the ASME OM Code appropriately incorporates the requirements specified in those conditions. Condition (D) has not been incorporated into the 2022 Edition of the ASME OM Code. Therefore, condition (D) in § 50.55a(b)(3)(ii) will continue to apply to all editions and addenda of the ASME OM Code incorporated by reference in § 50.55a.

Section 50.55a(b)(3)(iii) OM Condition: Check Valves

The NRC is revising § 50.55a(b)(3)(iii) by removing condition (B), “Check valves,” which states that licensees must perform bi-directional testing of check valves within the IST program where practicable. New reactors are applying more recent editions of the ASME OM Code that require bi-directional testing of check valves. Therefore, condition (B) is not needed in § 50.55a(b)(3)(iii). The NRC is reserving condition (B) in § 50.55a(b)(3)(iii) for possible future use.

Section 50.55a(b)(3)(iii) OM Condition: Flow-Induced Vibration

The NRC is revising § 50.55a(b)(3)(iii) by removing condition (C), “Flow-induced vibration,” which states that licensees shall monitor flow-induced vibration from hydrodynamic loads and acoustic resonance during preservice testing or inservice testing to identify potential adverse flow effects on components within the scope of the IST program. Based on regulatory

experience with new reactor licensing, the NRC considers that flow-induced vibration is appropriately addressed during the licensing phase and initial testing program at each new reactor nuclear power plant. Therefore, condition (C) is not needed in § 50.55a(b)(3)(iii). The NRC is reserving paragraph (C) in § 50.55a(b)(3)(iii) for possible future use.

Section 50.55a(b)(3)(vii) OM Condition: Snubber Visual Examination Interval Extension

The NRC is adding § 50.55a(b)(3)(vii) to clarify use of ASME OM Code, Subsection ISTD, “Preservice and Inservice Requirements for Dynamic Restraints (Snubbers) in Water-Cooled Reactor Nuclear Power Plants,” paragraph ISTD-4253, “Additional Requirements for 10-year Interval,” and Note 7 of the Table ISTD-4252-1, “Visual Examination Table,” with ASME OM Code Case OMN-15, Revision 2, “Performance-Based Requirements for Extending the Snubber Operational Readiness Testing Interval at LWR Power Plants.” OM Code Case OMN-15, Revision 2, Section 3.4, “Code Case OMN-13,” states that “this Code Case [OMN-15] shall not be used in conjunction with Code Case OMN-13, ‘Performance-Based Requirements for Extending Snubber Inservice Visual Examination Interval at LWR Power Plants.’” OM Code Case OMN-13 is incorporated in paragraph ISTD-4253 and Note 7 of Table ISTD-4252-1 of the 2022 Edition of the ASME OM Code. The use of OM Code Case OMN-13 is prohibited in conjunction with the use of OM Code Case OMN-15. However, the specific language of paragraph ISTD-4253 and Note 7 of Table ISTD-4252-1 does not clarify that the use of paragraph ISTD-4253 and Note 7 of Table ISTD-4252-1 is optional. The NRC is clarifying the language in the ASME OM Code by stating that when implementing Subsection ISTD, paragraph ISTD-4253, and Note 7 of Table ISTD-4252-1, in the 2022 Edition of the ASME OM Code, incorporated by reference in paragraph (a)(1)(iv) of this section, to extend snubber visual examination beyond two refueling cycles (48 months), the licensee is prohibited from applying OM Code Case OMN-15, Revision 2.

Section 50.55a(b)(3)(x) OM Condition: Class 1 Pressure Relief Valve Sample Expansion

The NRC is adding § 50.55a(b)(3)(x) to clarify subparagraph (1) in paragraph (c), *Requirements for Testing Additional Valves*, of Section I-1320, “Test Frequencies, Class 1 Pressure Relief

Valves,” in the ASME OM Code, Appendix I, “Inservice Testing of Pressure Relief Devices in Water-Cooled Reactor Nuclear Power Plants,” which states that for each valve tested for which the as-found set-pressure (first test actuation) exceeds the greater of either the plus/minus tolerance limit of the Owner-established set-pressure acceptance criteria of I-1310(e) or ± 3 percent of valve nameplate set-pressure, two additional valves shall be tested from the same valve group. The expansion of the test sample provides reasonable assurance that a degradation mechanism that might cause multiple Class 1 Pressure Relief Valves to be incapable of performing their safety functions will be identified. Typically, it is expected that variations in actual valve performance will result in an Owner-established set-pressure acceptance criteria for Class 1 Pressure Relief Valves exceeding the default 3-percent valve nameplate set-pressure. The NRC has no concerns with the language of paragraph I-1320(c)(1) where the Owner-established set-pressure acceptance criteria are greater than the 3-percent default value. Based on plant-specific valve performance, the Owner might need to establish set-pressure acceptance criteria for Class 1 Pressure Relief Valves lower than the default 3-percent value. The failure of a Class 1 Pressure Relief Valve to meet the Owner-established set-pressure acceptance criteria can signify that the valve is incapable of performing its safety function. In such cases, it is important to determine whether other Class 1 Pressure Relief Valves also have performance problems that could cause them to be unable to perform their safety functions. However, the specific language of paragraph I-1320(c)(1) might be interpreted to not require an expansion of the test sample where the default 3-percent value is greater than the Owner-established set-pressure acceptance criteria. This might lead in an unsafe situation where the licensee is unaware that multiple Class 1 Pressure Relief Valves are incapable of performing their safety functions. To resolve this concern, the NRC is clarifying the language in paragraph I-1320(c)(1).

Based on a public comment requesting to clarify the proposed rule language, the NRC revised 10 CFR 50.55a(b)(3)(x) to specify two additional valves to be tested from the same group if expanding the test sample is required. If the Owner has not established design set-pressure acceptance criteria, then for each valve tested for which the as-found set-pressure (first actuation) exceeds ± 3

percent of valve nameplate set-pressure, two additional valves shall be tested from the same valve group. The specification of the Owner-established “design” set-pressure acceptance criteria allows the licensee to establish specific criteria for testing purposes.

D. Editorial Correction

Section 50.55a(d) Quality Group B Components

The NRC is making an editorial correction to § 50.55a(d), “Quality Group B components,” by replacing the colon at the end of the second sentence of the introductory paragraph with a period. When the introductory paragraph of § 50.55a(d) was expanded to include a reference to 10 CFR part 52, the new second sentence of the introductory paragraph incorrectly placed a colon at the end of the sentence rather than a period. The use of a colon implies that items (1) and (2) in § 50.55a(d) only apply to 10 CFR part 52 plants. However, item (1) of § 50.55a(d) specifies a requirement for applicants under 10 CFR part 50.

III. Opportunities for Public Participation

The proposed rule was published on August 8, 2023, for a 75-day comment period (88 FR 53384). The public comment period closed on October 23, 2023.

During the public comment period, the NRC held a public meeting on September 6, 2023, to discuss the proposed rule, to answer questions on specific provisions of the proposed rule, and to encourage public input on the proposed rule. The public meeting summary is available in ADAMS as provided in the “Availability of Documents” section of this document.

IV. Public Comment Analysis

The NRC published the proposed rule for public comment in the **Federal Register**. A *comment submission* is a communication or document submitted to the NRC by an individual or entity, with one or more individual comments addressing a subject or issue. The NRC received three comment submission(s) in response to the opportunity for public comment on the proposed rule, with an individual comment total of 22. These comment submissions were submitted by the following commenters (listed in order of receipt):

1. Inservice Testing Owners’ Group (ISTOG)
2. American Society of Mechanical Engineers (ASME)
3. Electric Power Research Institute (EPRI)

Due to the large number of comments received and the length of the NRC’s response, a summary of the NRC’s response to comments in areas of particular interest to stakeholders is included in this final rule. This includes comments that prompted the NRC to make more than editorial changes in this final rule from what the NRC had proposed. The public comment submittals are available from the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2018–0289. A discussion of all comments and complete NRC responses are presented in a separate document, “Final Rule—Comment Response Document ASME 2021–2022 Code Editions Update,” as provided in the “Availability of Documents” section of this document.

V. Section-by-Section Analysis

This section describes the primary revisions made by this final rule; minor editorial and administrative corrections to correct spacing, administrative errors, and typos are not identified in this analysis.

Paragraph (a)(1)(i)(E)

This final rule revises paragraphs (a)(1)(i)(E)(19) and (20) and add new paragraph (a)(1)(i)(E)(21) to include the 2021 Edition of the ASME BPV Code.

Paragraph (a)(1)(ii)(C)

This final rule revises paragraphs (a)(1)(ii)(C)(55) and (56) and adds new paragraph (a)(1)(ii)(C)(57) to include the 2021 Edition.

Paragraph (a)(1)(iii)(D)

This final rule revises paragraph (a)(1)(iii)(D) to update ASME BPV Code Case N–770–5 to N–770–7 and to update the approval date to December 4, 2020.

Paragraph (a)(1)(iv)(C)

This final rule revises paragraph (a)(1)(iv)(C) to add the 2022 Edition of the ASME OM Code.

Paragraph (b)(1)(iv)

This final rule revises and redesignates existing paragraph (b)(1)(iv) as paragraph (b)(1)(iv) introductory text, adds new paragraphs (b)(1)(iv)(A) and (B), and removes and reserves paragraph (b)(1)(iv)(B).

Paragraph (b)(1)(vi)

This final rule revises paragraph (b)(1)(vi) to revise “sleeves” to “sheaths” and adds a new sentence that this condition is not applicable to 2015 and later Editions.

Paragraph (b)(1)(xi)

This final rule revises the introductory text to paragraph (b)(1)(xi) to clarify the applicable conditions and adds two new conditions specific to polyethylene pressure piping when applying the 2015 through 2021 Editions. The rule also revises paragraph (b)(1)(xi)(B) to add the 2015 to 2021 Editions of BPV Code Section III. In response to a public comment, the NRC has modified the language from the proposed paragraph (b)(1)(xi)(B) to provide more clarity. See Section II of this document, “Discussion,” for more information.

Paragraph (b)(1)(xiii)

This final rule revises the introductory text to paragraph (b)(1)(xiii) and paragraphs (b)(1)(xiii)(A) and (B) to update the applicability of the latest edition and addenda incorporated by reference in § 50.55a(a)(1).

Paragraph (b)(1)(xiv)

This final rule adds new paragraph (b)(1)(xiv) to require that Nonmandatory Appendix NN be used in its entirety.

Paragraph (b)(2)

This final rule revises the introductory text of paragraph (b)(2) to clarify the editions incorporated by reference in paragraph (a)(1)(ii).

Paragraph (b)(2)(viii)

This final rule revises paragraph (b)(2)(viii) to update the applicability of paragraphs (b)(2)(viii)(H) and (b)(2)(viii)(I) through the 2019 Edition.

Paragraph (b)(2)(ix)

This final rule revises paragraph (b)(2)(ix) to update the applicability of paragraph (b)(2)(ix)(A)(2).

Paragraph (b)(2)(xv)

This final rule eliminates and reserves the condition at paragraph (b)(2)(xv).

Paragraph (b)(2)(xxxiv)

This final rule removes the introductory text to paragraph (b)(2)(xxxiv), leaving only the heading; redesignates paragraphs (b)(2)(xxiv)(A) and (B) to (b)(2)(xxiv)(A)(1) and (b)(2)(xxiv)(A)(2); revises paragraph (b)(2)(xxxiv)(A)(1) and (b)(2)(xxxiv)(A)(2) to require use of the latest version of ASME BPV Code Case N-513 approved in RG 1.147 at the time the case was incorporated into the licensee’s inservice inspection program; and adds new paragraph (b)(2)(xxxiv)(B) to prohibit the use of Nonmandatory Appendix U, Supplement U-S1 in the 2021 Edition of Section XI. In response to a public comment, the NRC has

modified the language from the proposed paragraph (b)(2)(xxxiv)(A)(2), to provide more clarity. See Section II of this document, “Discussion,” for more information.

Paragraph (b)(2)(xxxvi)

This final rule revises this condition in paragraph (b)(2)(xxxvi) to require that T_0 and RT_{T0} be determined as specified in the 2021 Edition of ASME BPV Code, Section III, NB-2331, subparagraph (a)(5). In response to a public comment, the NRC has modified the language in (b)(2)(xxxvi), which was not in the proposed rule, to allow the use of Master Curve methods, as specified in NB-2331(a)(5) without obtaining approval from the NRC under § 50.55a(z). See Section II of this document, “Discussion,” for more information.

Paragraph (b)(2)(xliii)

This final rule revises the introductory text to include language from paragraph (b)(2)(xliii)(A), removes paragraphs (A) through (C), and removes the requirement for NRC review and approval. In response to a public comment, the NRC has modified the language from paragraph (b)(2)(xliii), which was not in the proposed rule. See Section II of this document, “Discussion,” for more information.

Paragraph (b)(2)(xliv)

This final rule adds new paragraph (b)(2)(xlv) to prohibit the use of Y-2200, Y-2440, and Y-3200 in the 2021 Edition of Section XI.

Paragraph (b)(2)(xlv)

This final rule adds new paragraph (b)(2)(xlv) to condition the provision of IWA-4540(a) and (e) of the 2021 Edition of the ASME Code, Section XI, to require that a VT-2 examination of the area affected by the repair/replacement activity be conducted during the Type C test in appendix J to 10 CFR part 50.

Paragraph (b)(2)(xlvi)

This final rule adds new paragraph (b)(2)(xlvii) to prohibit a contracted Repair/Replacement Organization without an ASME Certificate of Authorization and not applying an ASME Stamp/Certification Mark from fabricating ASME Code, Section III parts, appurtenances, piping subassemblies, and supports offsite of the Owner’s facility (e.g., vendor facility) when applying the provisions of IWA-4143 in the 2021 Edition of the ASME Code, Section XI.

Paragraph (b)(2)(xlvii)

This final rule adds new paragraph (b)(2)(xlvii) to require stress corrosion crack growth analysis of the weld overlay material under subparagraph Q-3000(a) of Nonmandatory Appendix Q in the 2021 Edition of the ASME Code, Section XI.

Paragraph (b)(2)(xlviii)

This final rule adds new paragraph (b)(2)(xlviii) to require that analytical evaluations performed in accordance with IWB-3132.3 and IWC-3132.3 be submitted to the NRC.

Paragraph (b)(2)(xlix)

This final rule adds new paragraph (b)(2)(xlix) to prohibit the use of IWB-3600(b)(1) in the 2021 Edition of ASME BPV Code, Section XI (Division 1) for the inlay and onlay that are subject to the augmented inspection requirements in paragraph (g)(6)(ii)(F).

Paragraph (b)(2)(l)

This final rule adds new paragraph (b)(2)(l) to require users of the 2017 Edition of Section XI through the latest Edition and implementing Nonmandatory Appendix A, A-4200(c) and Nonmandatory Appendix G, G-2110(c) to determine T_0 and RT_{T0} as specified in the 2021 Edition of the ASME BPV Code, Section III, NB-2331, subparagraph (a)(5). In response to a public comment, the NRC has added new paragraph (b)(2)(l), which did not appear in the proposed rule, to allow the use of Master Curve methods, including NB-2331(a)(5), and to align with changes in paragraph (b)(2)(xliii) of this section. See Section II of this document, “Discussion,” for more information.

Paragraph (b)(3)(ii)

This final rule revises the introductory text to paragraph (b)(3)(ii) to exclude conditions (A), (B), and (C) from being applicable to the 2022 Edition of the ASME OM Code because those conditions have been incorporated into that edition of the ASME OM Code.

Paragraph (b)(3)(iii)

This final rule revises paragraph (b)(3)(iii) to remove and reserve for future use the conditions in paragraphs (b)(3)(iii)(B) and (C) because those conditions are required by other regulations for new reactors.

Paragraph (b)(3)(vii)

This final rule replaces reserved paragraph (b)(3)(vii) with a new condition on ASME OM Code, Subsection ISTD, paragraph ISTD-4253, and Note 7 of the Table ISTD-4252-1

related to snubbers to be consistent with the accepted provisions in OM Code Case OMN-15.

Paragraph (b)(3)(x)

This final rule creates a new paragraph (b)(3)(x) to clarify the requirement for expanding the test sample for Class 1 Pressure Relief Valves specified in ASME OM Code, Appendix I, paragraph I-1320(c)(1). In response to a public comment, the NRC has modified the language from the proposed paragraph (b)(3)(x) for clarity regarding inservice valve testing. See Section II of this document, "Discussion," for more information.

Paragraph (d)

This final rule revises the introductory text of paragraph (d) by correcting an editorial error. The colon is replaced with a period, at the end of the second sentence.

Paragraph (g)(4)(ii)

This final rule revises paragraph (g)(4)(ii) to update the dates to conform with this rule. In response to a public comment, the NRC has modified the language in paragraph (g)(4)(ii), which was not in the proposed rule, to allow licensees to delay the update of their Appendix VIII program by up to 18 months after the effective date of this final rule. See Section II of this document, "Discussion," for more information.

Paragraph (g)(6)(ii)(D)(9)

This final rule adds new paragraph (g)(6)(ii)(D)(9) to allow licensees the option to utilize Supplement 15 of Mandatory Appendix VIII, in the 2021 Edition of Section XI incorporated by reference in § 50.55a, for volumetric qualification of examinations required by Table 1 of ASME Code Case N-729-6.

Paragraph (g)(6)(ii)(F)(1)

This final rule revises paragraph (g)(6)(ii)(F)(1) to update the requirements for the augmented inspection of dissimilar-metal butt welds in U.S. PWRs from ASME Code Case N-770-5 to N-770-7 and updates the dates to conform with this rule.

Paragraph (g)(6)(ii)(F)(8)

This final rule modifies the existing condition in paragraph (g)(6)(ii)(F)(8) to retain, in part, the volumetric examination frequency of ASME Code Case N-770-5, which was changed in N-770-6.

VI. Generic Aging Lessons Learned Report

Background

In December 2010, the NRC issued "Generic Aging Lessons Learned (GALL) Report," NUREG-1801, Revision 2 (ML103490041), for applicants to use in preparing license renewal applications. The GALL Report provides aging management programs (AMPs) that the NRC has concluded are sufficient for aging management in accordance with the license renewal rule, as required in § 54.21(a)(3). In addition, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants," NUREG-1800, Revision 2 (ML103490036), was issued in December 2010, to ensure the quality and uniformity of NRC reviews of license renewal applications and to present a well-defined basis on which the NRC evaluates the applicant's AMPs and activities. In April 2011, the NRC also issued "Disposition of Public Comments and Technical Bases for Changes in the License Renewal Guidance Documents NUREG-1801 and NUREG-1800," NUREG-1950 (ML11116A062), which describes the technical bases for the changes in Revision 2 of the GALL Report and Revision 2 of the standard review plan (SRP) for review of license renewal applications.

Revision 2 of the GALL Report, in Sections XI.M1, XI.S1, XI.S2, XI.M3, XI.M5, XI.M6, XI.M11B, and XI.S3, describes the evaluation and technical bases for determining the sufficiency of ASME BPV Code Subsections IWB, IWC, IWD, IWE, IWF, or IWL for managing aging during the period of extended operation (*i.e.*, up to 60 years of operation). In addition, many other AMPs in the GALL Report rely, in part but to a lesser degree, on the requirements specified in the ASME BPV Code, Section XI. Revision 2 of the GALL Report also states that the 1995 Edition through the 2004 Edition of the ASME BPV Code, Section XI, Subsections IWB, IWC, IWD, IWE, IWF, or IWL, as modified and limited by § 50.55a, were found to be acceptable editions and addenda for complying with the requirements of § 54.21(a)(3), unless specifically noted in certain sections of the GALL Report. The GALL Report further states that future **Federal Register** documents that amend § 50.55a will discuss the acceptability of editions and addenda more recent than the 2004 Edition for their applicability to license renewal. In a final rule issued on June 21, 2011 (76 FR 36232), subsequent to Revision 2 of the GALL Report, the NRC also found that the 2004 Edition with

the 2005 Addenda through the 2007 Edition with the 2008 Addenda of Section XI of the ASME BPV Code, Subsections IWB, IWC, IWD, IWE, IWF, or IWL, as subject to the conditions in § 50.55a, are acceptable for the AMPs in the GALL Report and the conclusions of the GALL Report remain valid with the augmentations specifically noted in the GALL Report. In a final rule issued on July 18, 2017 (82 FR 32934), the NRC further found that the 2009 Addenda through the 2017 Edition of Section XI of the ASME BPV Code, Subsections IWB, IWC, IWD, IWE, IWF, or IWL, as subject to the conditions in § 50.55a, are acceptable for the AMPs in the GALL Report. In a final rule issued on May 4, 2020 (85 FR 26540), the NRC further found that Subsections IWB, IWC, IWD, IWE, IWF, or IWL of Section XI of the 2015 Edition and the 2017 Edition of the ASME BPV Code, as subject to the conditions in § 50.55a, are acceptable for the AMPs in the GALL Report. In a final rule issued on October 27, 2022 (87 FR 65128), the NRC further found that Subsections IWB, IWC, IWD, IWE, IWF, or IWL of Section XI of the 2019 Edition of the ASME BPV Code, as subject to the conditions in § 50.55a, are acceptable for the AMPs in the GALL Report.

In July 2017, the NRC issued "Generic Aging Lessons Learned for Subsequent License Renewal (GALL-SLR) Report," NUREG-2191 (ML17187A031 and ML17187A204), for applicants to use in preparing applications for subsequent license renewal. The GALL-SLR Report provides AMPs that are sufficient for aging management for the subsequent period of extended operation (*i.e.*, up to 80 years of operation), as required in § 54.21(a)(3). The NRC also issued "Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants" (SRP-SLR), NUREG-2192, in July 2017 (ML17188A158). In a similar manner as the GALL Report, the GALL-SLR Report, in Sections XI.M1, XI.S1, XI.S2, XI.M3, XI.11B, and XI.S3, describes the evaluation and technical bases for determining the sufficiency of ASME BPV Code Subsections IWB, IWC, IWD, IWE, IWF, or IWL for managing aging during the subsequent period of extended operation. Many other AMPs in the GALL-SLR Report rely, in part but to a lesser degree, on the requirements specified in the ASME BPV Code, Section XI. The GALL-SLR Report also indicates that the 1995 Edition through the 2013 Edition of the ASME BPV Code, Section XI, Subsections IWB, IWC, IWD, IWE, IWF, or IWL, as subject to the conditions in

§ 50.55a, are acceptable for complying with the requirements of § 54.21(a)(3), unless specifically noted in certain sections of the GALL–SLR Report.

Evaluation With Respect to Aging Management

As part of this final rule, the NRC evaluated whether those AMPs in the GALL Report and GALL–SLR Report that rely upon Subsections IWB, IWC, IWD, IWE, IWF, or IWL of Section XI in the editions and addenda of the ASME BPV Code incorporated by reference into § 50.55a, in general continue to be acceptable if the AMP relies upon these Subsections in the 2021 Edition. The NRC finds that the 2021 Edition of Section XI of the ASME BPV Code, Subsections IWB, IWC, IWD, IWE, IWF, or IWL, as subject to the conditions of this rule, are acceptable for the AMPs in the GALL Report and GALL–SLR Report with the exception of augmentation, as specifically noted in those reports, and the NRC finds that the conclusions of the GALL Report and GALL–SLR Report remain valid. Accordingly, an applicant for license renewal (including subsequent license renewal) may use, in its plant-specific license renewal application, Subsections IWB, IWC, IWD, IWE, IWF, or IWL of Section XI of the 2021 Edition of the ASME BPV Code, as subject to the conditions in this final rule, without additional justification. Similarly, a licensee approved for license renewal that relied on the AMPs may use Subsections IWB, IWC, IWD, IWE, IWF, or IWL of Section XI of the 2021 Edition of the ASME BPV Code. However, applicants must assess and follow applicable NRC requirements with regard to licensing basis changes and evaluate the possible impact on the elements of existing AMPs.

Some of the AMPs in the GALL Report and GALL–SLR Report recommend augmentation of certain Code requirements in order to ensure adequate aging management for license renewal. The technical and regulatory aspects of the AMPs for which augmentations are recommended also apply if the 2021 Edition of Section XI of the ASME BPV Code is used to meet the requirements of § 54.21(a)(3). The NRC evaluated the changes in the 2021 Edition of Section XI of the ASME BPV Code to determine if the augmentations described in the GALL Report and GALL–SLR Report remain necessary; the NRC's evaluation has concluded that the augmentations described in the GALL and GALL–SLR Reports are necessary to ensure adequate aging management.

For example, GALL–SLR Report AMP XI.S3, “ASME Section XI, Subsection IWF,” recommends that volumetric examination consistent with that of the ASME BPV Code, Section XI, Table IWB–2500–1, Examination Category B–G–1 should be performed to detect cracking for high strength structural bolting (actual measured yield strength greater than or equal to 150 kilopound per square inch (ksi)) (1034 megapascals (MPa)) in sizes greater than 1-inch nominal diameter. The GALL–SLR Report also indicates that this volumetric examination may be waived with adequate plant-specific justification. This guidance for aging management in the GALL–SLR Report is the augmentation of the visual examination specified in Subsection IWF of the 2021 Edition of the ASME BPV Code, Section XI.

A license renewal applicant may either augment its AMPs as described in the GALL Report and GALL–SLR Report (for operation up to 60 and 80 years respectively) or propose alternatives for the NRC to review as part of the applicant's plant-specific justification for its AMPs.

VII. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC certifies that this rule does not have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

VIII. Regulatory Analysis

The NRC has prepared a final regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The regulatory analysis is available as indicated in the “Availability of Documents” section of this document.

IX. Backfitting and Issue Finality

Introduction

The NRC's Backfit Rule in § 50.109 states that the NRC shall require the backfitting of a facility only when it finds the action to be justified under specific standards stated in the rule. Section 50.109(a)(1) defines backfitting as the modification of or addition to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization

required to design, construct, or operate a facility. Any of these modifications or additions may result from a new or amended provision in the NRC's rules or the imposition of a regulatory position interpreting the NRC's rules that is either new or different from a previously applicable NRC position after issuance of the construction permit or the operating license or the design approval.

Section 50.55a requires nuclear power plant licensees to—

- Construct ASME BPV Code Class 1, 2, and 3 components in accordance with the rules provided in Section III, Division 1, of the ASME BPV Code (“Section III”).
- Inspect, examine, and repair or replace Class 1, 2, 3, Class MC, and Class CC components in accordance with the rules provided in Section XI, Division 1, of the ASME BPV Code (“Section XI”).
- Test Class 1, 2, and 3 pumps and valves in accordance with the rules provided in the ASME OM Code.
- Inspect, examine, repair, or replace, and test Class 1, 2, and 3 dynamic restraints (snubbers) in accordance with the rules provided in either the ASME OM Code or Section XI, depending on the Code edition.

This rulemaking incorporates by reference the 2021 Edition of the ASME BPV Code, Section III, Division 1, and ASME BPV Code, Section XI, Division 1, as well as the 2022 Edition of the ASME OM Code.

The ASME BPV and OM Codes are national consensus standards developed by participants with broad and varied interests, in which all interested parties (including the NRC and utilities) participate. A consensus process involving a wide range of stakeholders is consistent with the NTTAA, inasmuch as the NRC has determined that there are sound regulatory reasons for establishing regulatory requirements for design, maintenance, ISI, and IST by rulemaking. The process also facilitates early stakeholder consideration of backfitting issues. Therefore, the NRC finds that the NRC need not address backfitting with respect to the NRC's general practice of incorporating by reference updated ASME Codes.

Overall Backfitting Considerations: Section III of the ASME BPV Code

Incorporation by reference of more recent editions and addenda of Section III of the ASME BPV Code does not affect a plant that has received a construction permit or an operating license or a design that has been approved. This is because the edition and addenda to be used in constructing

a plant are, under § 50.55a, determined based on the date of the construction permit or combined license, and are not changed thereafter, except voluntarily by the licensee. The incorporation by reference of more recent editions and addenda of Section III ordinarily applies only to applicants after the effective date of the final rule incorporating these new editions and addenda. Therefore, incorporation by reference of a more recent edition and addenda of Section III does not constitute “backfitting” as defined in § 50.109(a)(1).

Overall Backfitting Considerations: Section XI of the ASME BPV Code and the ASME OM Code

Incorporation by reference of more recent editions and addenda of Section XI of the ASME BPV Code and the ASME OM Code affects the ISI and IST programs of operating reactors. However, the Backfit Rule generally does not apply to incorporation by reference of later editions of the ASME BPV Code (Section XI) and OM Code. As previously mentioned, the NRC’s longstanding regulatory practice has been to incorporate later versions of the ASME Codes into § 50.55a. Under § 50.55a, licensees must periodically update their ISI and IST programs to the latest edition of Section XI of the ASME BPV Code and the ASME OM Code incorporated by reference into § 50.55a 18 months before the start of a new code of record interval. Therefore, when the NRC approves and requires the use of a later version of the Code for ISI and IST, it is implementing this longstanding regulatory practice and requirement.

Other circumstances where the NRC does not apply the Backfit Rule to the approval and requirement to use later Code editions are as follows:

1. When the NRC takes exception to a later ASME BPV Code or OM Code provision but merely retains the current existing requirement, prohibits the use of the later Code provision, limits the use of the later Code provision, or supplements the provisions in a later Code, the Backfit Rule does not apply because the NRC is not imposing new requirements. However, the NRC explains any such exceptions to the Code in the preamble to and regulatory analysis for the rule.

2. When an NRC exception relaxes an existing ASME BPV Code or OM Code provision but does not prohibit a licensee from using the existing Code provision, the Backfit Rule does not apply because the NRC is not imposing new requirements.

3. Modifications and limitations imposed during previous routine updates of § 50.55a have established a

precedent for determining which modifications or limitations are backfits, or require a backfit analysis (e.g., final rule dated September 10, 2008 (73 FR 52731), and a correction dated October 2, 2008 (73 FR 52735)). The application of the backfit requirements to modifications and limitations in the current rule are consistent with the application of backfit requirements to modifications and limitations in previous rules.

The incorporation by reference and adoption of a requirement mandating the use of a later ASME BPV Code or OM Code may constitute backfitting in some circumstances. In these cases, the NRC would perform a backfit analysis or documented evaluation in accordance with § 50.109. These include the following:

1. When the NRC endorses a later provision of the ASME BPV Code or OM Code that takes a substantially different direction from the existing requirements, the action is treated as a backfit (e.g., 61 FR 41303; August 8, 1996).

2. When the NRC requires implementation of a later ASME BPV Code or OM Code provision on an expedited basis, the action is treated as a backfit. This applies when implementation is required sooner than it would be required if the NRC simply endorsed the Code without any expedited language (e.g., 64 FR 51370; September 22, 1999).

3. When the NRC takes an exception to an ASME BPV Code or OM Code provision and imposes a requirement that is substantially different from the existing requirement as well as substantially different from the later Code (e.g., 67 FR 60529; September 26, 2002).

Detailed Backfitting Discussion: Changes Beyond Those Necessary To Incorporate by Reference the New ASME BPV and OM Code Provisions

This section discusses the backfitting considerations for all the changes to § 50.55a that go beyond the minimum changes necessary and required to adopt the new ASME Code edition into § 50.55a.

ASME BPV Code, Section III

1. Revise § 50.55a(b)(1)(iv) to not approve Subpart 2.19 in NQA-1-17, NQA-1-19, and NQA-1-22 for use. This revision clarifies current requirements and is consistent with the meaning and intent of current requirements. The condition does not constitute a new or changed NRC position. Therefore, this condition is not a backfit.

2. Revise § 50.55a(b)(1)(vi) to change the word “sleeves” to “sheaths” and to note that this condition is not applicable to 2015 and later Editions. This condition is not applicable to 2015 and later Editions as Subsection NH is deleted from Section III Division 1. The revisions to clarify a word and clarification of Code edition applicability do not constitute a change in NRC position. Therefore, this is not a backfit.

3. Revise § 50.55a(b)(1)(xi) to revise this condition regarding the applicability to specific Code editions. When applying the 2015 and 2017 Editions of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the first provision, as noted in § 50.55a(b)(1)(xi)(A). When applying the 2015 through 2021 Editions of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the second provision, as noted in § 50.55a(b)(1)(xi)(B). When applying the 2017 Edition of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the third provision, as noted in § 50.55a(b)(1)(xi)(C). The revision is only for Code editions applicability and does not constitute a new or changed NRC position. Therefore, this change is not a backfit.

4. Revise § 50.55a(b)(1)(xiii) including the first provision, § 50.55a(b)(1)(xiii)(A), and second provision, § 50.55a(b)(1)(xiii)(B), to extend the applicability of the conditions through the latest edition of the ASME BPV Code, Section III incorporated by reference in paragraph (a)(1)(i). The NRC is revising this condition to apply to the latest edition incorporated by reference, which is not a change to NRC position and, therefore, is not a backfit.

5. Add § 50.55a(b)(1)(xiv) to condition the use of the provisions of NCA-8151, NCA-8500, and Nonmandatory Appendix NN in the 2021 Edition of Section III, to require that when Nonmandatory Appendix NN is used for the elimination of surface defects and repairs of stamped components prior to the completion of Form N-3 Data Report, all applicable requirements of Nonmandatory Appendix NN shall be met. The condition on Nonmandatory Appendix NN does not constitute a new or changed NRC position. Therefore, the

addition of this condition is not a backfit.

ASME BPV Code, Section XI

1. Revise § 50.55a(b)(2)(viii), to remove the applicability of § 50.55a(b)(2)(viii)(H) and (I) from the 2021 Edition. This change to § 50.55a(b)(2)(viii) removes conditions that are no longer applicable to the 2021 Edition due to updates to the BPV Code that addressed the condition. Since this change accepts the relevant code provisions in the 2021 Edition as-is, it is not a backfit.

2. Revise § 50.55a(b)(2)(ix), to remove the applicability of § 50.55a(b)(2)(ix)(A)(2) from the 2021 Edition. This change to § 50.55a(b)(2)(ix) removes a condition that is no longer applicable to the 2021 Edition due to updates to the BPV Code that addressed the condition. Since this change accepts the relevant code provisions in the 2021 Edition as-is, it is not a backfit.

3. Remove and reserve § 50.55a(b)(2)(xv). This condition was applicable to older Editions of Section XI that are no longer in use by licensees. Removing this condition does not modify current licensee inservice inspection requirements and, therefore, is not a backfit.

4. Revise § 50.55a(b)(2)(xxxiv)(A) to modify the cited version of ASME Code Case N-513 to the latest version approved in RG 1.147 at the time the case was incorporated into the licensee's program. The new conditions at paragraphs (b)(2)(xxxiv)(A)(1) and (A)(2) are the existing conditions with an added clarification of which version of Code Case N-513 licensees must use when complying with the conditions. This clarification is a restatement of the requirements in § 50.55a(b)(5) and is therefore not a backfit.

5. Add § 50.55a(b)(2)(xxxiv)(B) to prohibit the use of Nonmandatory Appendix U, Supplement U-S1. Supplement U-S1 of Nonmandatory Appendix U is obsolete relative to Code Case N-513, as included in the latest revision of RG 1.147 incorporated by reference in § 50.55a(a)(3)(ii). Licensees have adopted the updated rules in Code Case N-513 for temporary acceptance of flaws in moderate energy Class 2 and 3 piping. This revision does not modify the current inservice inspection regulatory requirements and, therefore, is not a backfit.

6. Revise § 50.55a(b)(2)(xxxvi) to delete the requirement to submit the analyses for NRC approval and instead follow the requirements of NB-2331, subparagraph (a)(5). The revision to this condition allows licensees to use T_0 and RT_{T0} in licensing basis calculations by

application of a specific method without NRC review and approval under paragraph (z). Licensees retain the option of obtaining approval under paragraph (z) to implement alternative methods. Therefore, this change is not a backfit.

7. Revise § 50.55a(b)(2)(xliii)(A) to clarify that NRC review and approval is not required for out-of-limit evaluation submissions. This revision only clarifies that NRC approval of the analysis is not a prerequisite for licensee activities. This revision does not result in a change to licensee requirements and is, therefore, not a backfit.

The submittal requirements of § 50.55a(b)(2)(xliii)(B) and (C) are removed because they are replaced by new condition § 50.55a(b)(2)(I). The new condition states that licensees must follow the requirements of NB-2331, subparagraph (a)(5) when calculating T_0 and RT_{T0} . With this revision, licensees now have the option to implement an acceptable method for determining T_0 and RT_{T0} without NRC review and approval. Therefore, this change is not a backfit.

8. Add § 50.55a(b)(2)(xlv) to prohibit the use of Article Y-2200, Subarticle Y-2440, and Article Y-3200 in Nonmandatory Appendix Y. These articles have corresponding Code Cases, which have been included in the latest revision of RG 1.147 incorporated by reference in § 50.55a(a)(3)(ii). Licensees have adopted the crack growth laws in the corresponding Code Cases: Cases N-809, N-889, and N-643, respectively. The condition on Nonmandatory Appendix Y does not constitute a new or changed NRC position. Therefore, the addition of this condition is not a backfit.

9. Add § 50.55a(b)(2)(xlv) to condition the provision of IWA-4540(a) and (e) of the 2021 Edition of the ASME Code, Section XI, to require that a VT-2 examination be performed of the area affected by the repair/replacement activity during the Type C test in appendix J to 10 CFR part 50. The condition on IWA-4540(a) and (e) does not constitute a new or changed NRC position. Therefore, the addition of this condition is not a backfit.

10. Add § 50.55a(b)(2)(xlvi) to condition the provision of IWA-4143 of the 2021 Edition of the ASME Code, Section XI, by prohibiting a contracted Repair/Replacement Organization from fabricating a part offsite of the Owner's facility (e.g., vendor facility) without an ASME Certificate of Authorization and without applying an ASME Stamp/Certification Mark. The condition on IWA-4143 does not constitute a new or changed NRC position. Therefore, the

addition of this condition is not a backfit.

11. Add § 50.55a(b)(2)(xlvii) to prevent a new exemption in the 2021 Edition of subparagraph Q-3000(a) of the requirement to remove stress corrosion crack growth analysis of the overlay material. This is a new condition that retains the previous requirements and allowances of the previous approved version of Nonmandatory Appendix Q, and accordingly, is not a new or changed position. Therefore, the addition of this condition is not a backfit.

12. Add § 50.55a(b)(2)(xlviii) to require submission of analytical evaluations performed under IWB-3132.3 and IWC-3122.3 to the NRC. This is a new condition that retains the requirements of the previous approved version of Section XI, and accordingly, is not a new or changed position. Therefore, the addition of this condition is not a backfit.

13. Add § 50.55a(b)(2)(xlix) to prohibit the use of IWB-3600(b)(1) in the 2021 Edition of the Code for the inlay and onlay that are subject to the augmented inspections specified in paragraph (g)(6)(ii)(F) of this section. The condition on the analytical evaluation of a flaw in the inlay or onlay does not constitute a new or changed NRC position. Therefore, the addition of this condition is not a backfit.

14. Add § 50.55a(b)(2)(l) to require licensees using Nonmandatory Appendix A, A-4200(c) and Nonmandatory Appendix G, G-2110(c) to determine T_0 and the associated RT_{T0} according to the requirements of NB-2331, subparagraph (a)(5). This condition replaces the former condition § 50.55a(b)(2)(xliii)(B) and (C), which required licensees to submit determination of T_0 and RT_{T0} to the NRC for review and approval. Licensees retain the option of obtaining approval under paragraph (z) to implement alternative methods. Therefore, the new condition is not a backfit.

15. Add § 50.55a(g)(6)(ii)(D)(9) to allow licensees the option to utilize Supplement 15 of Mandatory Appendix VIII in the 2021 Edition or later of Section XI, incorporated by reference in § 50.55a, for volumetric qualification of examinations required by Table 1 of ASME Code Case N-729-6. Providing licensees the option of using either the qualification program in ASME Code Case N-729-6 or Supplement 15 of Mandatory Appendix VIII does not constitute a new or changed NRC position. Therefore, this addition is not a backfit.

16. Modify § 50.55a(a)(1)(iii)(D) and § 50.55a(g)(6)(ii)(F) to update the

requirements for the augmented inspection of dissimilar-metal butt welds in U.S. PWRs from ASME Code Case N-770-5 to N-770-7. This change requires one condition to be updated, § 50.55a(g)(6)(ii)(F)(1), and one condition modified to retain an inspection frequency for optimized butt welds consistent with ASME Code Case N-770-5. The current regulatory requirements for the examination frequency of Inspection Items C-2 and F-2 welds have not changed. The change in examination categorization for B-3 provides no change to inspection frequency or requirements. The change in scope expansion requirements is a reduction in the requirements if a flaw is identified in an AHA butt weld consistent with the regulatory purpose of examination scope expansion. Therefore, the update and modification of previous conditions are not backfits.

ASME OM Code

1. Revise § 50.55a(b)(3)(ii) by removing conditions (A), (B), and (C) where licensees are implementing the 2022 Edition of the ASME OM Code as incorporated by reference in § 50.55a, because Appendix III to the 2022 Edition of the ASME OM Code appropriately incorporates the requirements specified in those conditions. The revisions do not modify the current IST regulatory requirements and, therefore, are not backfits.

2. Delete condition (B) in § 50.55a(b)(3)(iii), which states that licensees of new reactors must perform bi-directional testing of check valves within the IST program where practicable. The licensees of new reactors are required to apply more recent editions of the ASME OM Code that require bi-directional testing of check valves. Therefore, condition (B) is not needed in § 50.55a(b)(3)(iii). This change does not modify the current IST regulatory requirements and, therefore, is not a backfit.

3. Delete condition (C) in § 50.55a(b)(3)(iii), which states that licensees of new reactors shall monitor flow-induced vibration from hydrodynamic loads and acoustic resonance during preservice testing or inservice testing to identify potential adverse flow effects on components within the scope of the IST program. Based on regulatory experience with new reactor licensing, the NRC considers that flow-induced vibration is appropriately addressed during the licensing phase and initial testing program at each new reactor nuclear power plant. Therefore, condition (C) is not needed in § 50.55a(b)(3)(iii). This

change does not modify the current IST regulatory requirements and, therefore, is not a backfit.

4. Create a new § 50.55a(b)(3)(vii) to clarify use of ASME OM Code, Subsection ISTD, paragraph ISTD-4253, and Note 7 of the Table ISTD-4252-1, with the ASME OM Code Case OMN-15, Revision 2. This modification reflects a clarification of ASME OM Code, Subsection ISTD, paragraph ISTD-4253 and Table ISTD-4252-1, is not a new or changed NRC position, and therefore, is not a backfit.

5. Create a new § 50.55a(b)(3)(x) to clarify ASME OM Code, Appendix I, paragraph I-1320(c)(1), which states that for each valve tested for which the as-found set-pressure (first test actuation) exceeds the greater of either the plus/minus tolerance limit of the Owner-established design set-pressure acceptance criteria of paragraph I-1310(e) or ± 3 percent of valve nameplate set-pressure, two additional valves shall be tested from the same valve group. The expansion of the test sample provides reasonable assurance that a degradation mechanism that might cause multiple Class 1 Pressure Relief Valves to be incapable of performing their safety functions will be identified. However, the specific language of paragraph I-1320(c)(1) might be interpreted to not require an expansion of the test sample where the default 3-percent value is greater than the Owner-established set-pressure acceptance criteria. This modification reflects a clarification of ASME OM Code, Appendix I, paragraph I-1320(c)(1), is not a new or changed NRC position, and, therefore, is not a backfit.

ASME Editorial Correction

1. Replace the colon at the end of the second sentence of the introductory paragraph of § 50.55a(d) with a period. This is an editorial correction and, therefore, not a backfit.

Conclusion

The NRC finds that incorporation by reference into § 50.55a of the 2021 Edition of Section III, Division 1, of the ASME BPV Code subject to the identified conditions; the 2021 Edition of Section XI, Division 1, of the ASME BPV Code, subject to the identified conditions; and the 2022 Edition of the ASME OM Code subject to the identified conditions, does not constitute backfitting or represent an inconsistency with any issue finality provisions in 10 CFR part 52.

X. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to

write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885).

XI. Environmental Assessment and Final Finding of No Significant Environmental Impact

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

This final rule is in accordance with the NRC's policy to incorporate by reference in § 50.55a new editions of the ASME BPV and OM Codes to provide updated rules for construction and inspecting components and testing pumps, valves, and dynamic restraints (snubbers) in light-water nuclear power plants. The ASME Codes are national voluntary consensus standards and are required by the NTTAA to be used by Government agencies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The rule does not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in public radiation exposure. This rule does not involve non-radiological plant effluents and has no other environmental impact. Therefore, no significant non-radiological impacts are associated with this action.

The determination of this environmental assessment is that there is no significant effect on the quality of the human environment from this action.

XII. Paperwork Reduction Act

This final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget (OMB), approval number 3150-0264.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the

collection displays a currently valid OMB control number.

XIII. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the OMB has not found it to be a major rule as defined in the Congressional Review Act.

XIV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this rule, the NRC is continuing to use the ASME BPV and OM Codes by incorporating by reference the 2021 Edition of the BPV Code and the 2022 Edition of the OM Code. The ASME Code editions constitute voluntary consensus standards, in which all interested parties (including the NRC and licensees of nuclear power plants) participate.

XV. Incorporation by Reference—Reasonable Availability to Interested Parties

The NRC is incorporating by reference two recent editions to the ASME Codes for nuclear power plants: 2021 Edition of the American Society of Mechanical Engineers *Boiler and Pressure Vessel Code* and the 2022 Edition of the American Society of Mechanical Engineers *Operation and Maintenance of Nuclear Power Plants*, Division 1, OM Code: Section IST, for nuclear power plants. As described in the “Background” and “Discussion” sections of this document, these materials contain standards for the design, fabrication, and inspection of nuclear power plant components.

The NRC is required by law to obtain approval for incorporation by reference from the Office of the Federal Register (OFR). The OFR’s requirements for incorporation by reference are set forth in 1 CFR part 51. On November 7, 2014, the OFR adopted changes to its regulations governing incorporation by reference (79 FR 66267). The OFR regulations require an agency to discuss, in the preamble of the final rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials. The discussion in this section complies with the requirement for final rules as set forth in § 51.5(b)(2).

The NRC considers “interested parties” to include all potential NRC

stakeholders, not only the individuals and entities regulated or otherwise subject to the NRC’s regulatory oversight. These NRC stakeholders are not a homogenous group but vary with respect to the considerations for determining reasonable availability. Therefore, the NRC distinguishes between different classes of interested parties for the purposes of determining whether the material is “reasonably available.” The NRC considers the following to be classes of interested parties in NRC rulemakings with regard to the material to be incorporated by reference:

- Individuals and small entities regulated or otherwise subject to the NRC’s regulatory oversight (this class also includes applicants and potential applicants for licenses and other NRC regulatory approvals) and who are subject to the material to be incorporated by reference by rulemaking. In this context, “small entities” has the same meaning as a “small entity” under § 2.810.
- Large entities otherwise subject to the NRC’s regulatory oversight (this class also includes applicants and potential applicants for licenses and other NRC regulatory approvals) and who are subject to the material to be incorporated by reference by rulemaking. In this context, “large entities” are those that do not qualify as a “small entity” under § 2.810.
- Non-governmental organizations with institutional interests in the matters regulated by the NRC.
- Other Federal agencies, States, local governmental bodies (within the meaning of § 2.315(c)).
- Federally recognized and State-recognized³ Indian Tribes.
- Members of the public (*i.e.*, individual, unaffiliated members of the public who are not regulated or otherwise subject to the NRC’s regulatory oversight) who may wish to gain access to the materials that the NRC is incorporate by reference by rulemaking in order to participate in the rulemaking process.

The 2021 Edition of the ASME BPV Code and the 2022 Edition of the ASME OM Code may be viewed, by appointment, at the Technical Library, which is located at Two White Flint, 11545 Rockville Pike, Rockville, Maryland 20852. You may submit your request to the Technical Library via email at Library.Resource@nrc.gov

³ State-recognized Indian Tribes are not within the scope of § 2.315(c). However, for purposes of the NRC’s compliance with 1 CFR 51.5, the term “interested parties” includes a broad set of stakeholders, including State-recognized Indian Tribes.

between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays. In addition, as described in Section XVII of this document, documents related to this final rule are available online in the NRC’s ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>.

Interested parties may purchase a copy of the ASME materials from ASME at Three Park Avenue, New York, NY 10016, or at the ASME website <https://www.asme.org/shop/standards>. The materials are also accessible through third-party subscription services such as Accuris IHS (15 Inverness Way East, Englewood, CO 80112; <https://store accuristech.com> (formerly <https://global.ihs.com>)) and Thomson Reuters Techstreet (3916 Ranchero Dr., Ann Arbor, MI 48108; <https://store accuristech.com> (formerly <https://www.techstreet.com>)). The purchase prices for individual documents range from \$325 to \$720, and the cost to purchase all documents is approximately \$9,000.

For the class of interested parties constituting members of the public who wish to gain access to the materials to be incorporated by reference in order to participate in the rulemaking, the NRC recognizes that the \$9,000 cost may be so high that the materials could be regarded as not reasonably available for purposes of commenting on this rulemaking, despite the NRC’s actions to make the materials available at the NRC’s PDR. Accordingly, the NRC requested that ASME consider enhancing public access to these materials during the public comment period. On March 2, 2023, the ASME agreed to make the materials available online in a read-only electronic access format during the public comment period (ML23068A033).

During the public comment period, the ASME made publicly available the two editions of the ASME Codes for nuclear power plants that the NRC proposed to incorporate by reference. These materials were available publicly in a read-only format at the ASME website, <https://go.asme.org/NRC-ASME>.

The materials are available to all interested parties in multiple ways and in a manner consistent with their interest in this final rule. Therefore, the NRC concludes that the materials the NRC is incorporating by reference in this final rule are reasonably available to all interested parties.

XVI. Availability of Guidance

The NRC will not be issuing guidance for this final rule. The ASME BPV Code and OM Code provide direction for the

performance of activities to satisfy the Code requirements for design, inservice inspection, and inservice testing of nuclear power plant structures, systems, and components. In addition, the NRC provides guidance in this document for the implementation of the new conditions on the ASME BPV Code and OM Code, as necessary. The NRC has a number of SRPs that provide guidance to NRC reviewers and make communication and understanding of NRC review processes available to members of the public and the nuclear power industry. NUREG-0800, "Review of Safety Analysis Reports for Nuclear Power Plants," has numerous sections

which discuss implementation of various aspects of the ASME BPV Code and OM Code (e.g., Sections 3.2.2, 3.8.1, 3.8.2, 3.9.3, 3.9.6, 3.9.7, 3.9.8, 3.13, 5.2.1.1, 5.2.1.2, 5.2.4, and 6.6). The NRC also publishes regulatory guides and generic communications (*i.e.*, regulatory issue summaries and information notices) to communicate and clarify NRC technical or policy positions on regulatory matters which may contain guidance relative to this final rule.

Revision 3 of NUREG-1482, "Guidelines for Inservice Testing at Nuclear Power Plants," provides guidance for the development and implementation of IST programs at

nuclear power plants (ML2020A473). With direction provided in the ASME BPV and OM Codes, and guidance in this document, the NRC has determined that preparation of a separate guidance document is not necessary for this update to § 50.55a. However, the NRC will consider preparing a revision to NUREG-1482 in the future to address the latest edition of the ASME OM Code incorporated by reference in § 50.55a.

XVII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

AVAILABILITY OF DOCUMENTS

Document	ADAMS Accession No./web link/ Federal Register citation
Final Rule Documents	
Final Rule—Regulatory Analysis ASME 2021–2022 Code Editions Update, July 2024	ML24053A051.
Final Rule—Public Comment Response Document ASME 2021–2022 Code Editions Update, July 2024	ML24053A058.
Annotated Comment Submissions for the ASME 2021–2022 Code Editions Update, July 2024	ML24053A089.
Proposed Rule Documents	
Proposed Rule—Federal Register Notice for American Society of Mechanical Engineers 2021–2022 Code Editions, August 2023.	88 FR 53384.
Proposed Rule—Regulatory Analysis for American Society of Mechanical Engineers 2021–2022 Code Editions Update, July 2023.	ML23032A316.
Proposed Rule—Unofficial Redline Strikeout of the NRC's Proposed Rule: Proposed Rule to Incorporate by Reference American Society of Mechanical Engineers Codes, July 2023.	ML23032A318.
Proposed Rule—Summary of the Public Meeting on the ASME 2021–2022 Code Editions Rulemaking, September 6, 2023.	ML23265A245.
Related Documents	
Regulatory Guide (RG), RG 1.28, Revision 6, "Quality Assurance Program Criteria (Design and Construction)," September 2023.	ML23177A002.
Rulemaking: Proposed Rule: Email from Kathryn Hyam (ASME) to Louise Lund (NRC), Request for Limited Public Access of Code for Public Comment Period, March 2, 2023.	ML23068A033.
Staff Requirements—Affirmation Session, 11:30 a.m., Friday, September 10, 1999, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance).	ML003755050.
Regulatory Guide 1.147, Revision 20, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," December 2021.	ML21181A222.
NUREG-1482, Revision 3, "Guidelines for Inservice Testing at Nuclear Power Plants," July 2020	ML2020A473.
NUREG-1800, Revision 2, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants," December 2010.	ML103490036.
NUREG-1801, Revision 2, "Generic Aging Lessons Learned (GALL) Report," December 2010	ML103490041.
NUREG-1950, "Disposition of Public Comments and Technical Bases for Changes in the License Renewal Guidance Documents NUREG-1801 and NUREG-1800," April 2011.	ML11116A062.
NUREG-2191, Volumes 1 and 2, "Generic Aging Lessons Learned for Subsequent License Renewal (GALL-SLR) Report," July 2017.	ML17187A031
NUREG-2192, "Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants," July 2017.	ML17187A204.
Final Rule—American Society of Mechanical Engineers 2019–2020 Code Editions, October 27, 2022 ...	ML17188A158.
Final Rule—American Society of Mechanical Engineers (ASME) Codes and New and Revised ASME Code Cases, June 21, 2011.	87 FR 65128.
Final Rule—Incorporation by Reference, November 7, 2014	76 FR 36232.
Final Safety Evaluation Enclosure for NEI 14-05A, Revision 1, November 23, 2020	79 FR 66267.
Nuclear Energy Institute (NEI) 14-05A, "Guidelines for the Use of Accreditation in Lieu of Commercial Grade Surveys for Procurement of Laboratory Calibration and Test Services," Revision 1, May 2020.	ML20322A019.
Final Guide—Regulatory Guide: Quality Assurance Program Criteria (Design and Construction), September 11, 2023.	ML20135H229.
ASME Codes, Standards, and Code Cases	
American Society of Mechanical Engineers	88 FR 62292.
Accuris IHS (formerly IHS)	https://www.asme.org/shop/standards .
	https://store.accuristech.com .

AVAILABILITY OF DOCUMENTS—Continued

Document	ADAMS Accession No./web link/ Federal Register citation
Thomson Reuters Techstreet	https://store.accuristech.com .

List of Subjects in 10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 50:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

- 1. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

- 2. In § 50.55a:

- a. In paragraph (a)(1)(i)(E)(19), remove the word “and”;
- b. Revise paragraph (a)(1)(i)(E)(20);
- c. Add paragraph (a)(1)(i)(E)(21);
- d. In paragraph (a)(1)(ii)(C)(55), remove the word “and”;
- e. Revise paragraph (a)(1)(ii)(C)(56);
- f. Add paragraph (a)(1)(ii)(C)(57);
- g. Revise paragraphs (a)(1)(iii)(D), (a)(1)(iv)(C), (b)(1)(iv) and (vi), (b)(1)(xi) introductory text, (b)(1)(xi)(B), and (b)(1)(xiii);
- h. Add paragraph (b)(1)(xiv);
- i. Revise paragraphs (b)(2) introductory text and (b)(2)(viii) and (ix);
- j. Remove and reserve paragraph (b)(2)(xv);
- k. Revise paragraphs (b)(2)(xxxiv), (xxxvi), and (xliii);

- l. Add paragraphs (b)(2)(xlv) through (l);
- m. Revise paragraph (b)(3)(ii) introductory text;
- n. Remove and reserve paragraphs (b)(3)(iii)(B) and (C);
- o. Add paragraphs (b)(3)(vii) and (x);
- p. At the end of paragraph (d) introductory text, remove the colon and add in its place a period;
- q. In paragraph (g)(4)(ii), remove the date “June 3, 2020” wherever it appears and add its place “September 30, 2024”;
- r. Add paragraph (g)(6)(ii)(D)(9); and
- s. Revise paragraphs (g)(6)(ii)(F)(1) and (8).

The revisions and additions read as follows:

§ 50.55a Codes and standards.

- (a) * * *
- (1) * * *
- (i) * * *
- (E) * * *

(20) 2019 Edition (including Subsection NCA; and Division 1 subsections NB through NG and Appendices); and

(21) 2021 Edition (including Subsection NCA; and Division 1 subsections NB through NG and Appendices).

- (ii) * * *
- (C) * * *
- (56) 2019 Edition; and
- (57) 2021 Edition.
- (iii) * * *

(D) ASME BPV Code Case N–770–7.

ASME BPV Code Case N–770–7, “Alternative Examination Requirements and Acceptance Standards for Class 1 PWR Piping and Vessel Nozzle Butt Welds Fabricated with UNS N06082 or UNS W86182 Weld Filler Material With or Without Application of Listed Mitigation Activities Section XI, Division 1” (Approval Date: December 4, 2020), with the conditions in paragraph (g)(6)(ii)(F) of this section.

- * * * * *
- (iv) * * *

(C) Operation and Maintenance of Nuclear Power Plants, “Division 1: OM Code: Section IST”:

- (1) 2012 Edition;
- (2) 2017 Edition;
- (3) 2020 Edition; and
- (4) 2022 Edition.

* * * * *

- (b) * * *
- (1) * * *

(iv) *Section III condition: Quality Assurance.* When applying editions and addenda later than the 1989 Edition of Section III, an applicant or licensee may use the requirements of NQA–1, “Quality Assurance Requirements for Nuclear Facility Applications,” that is both incorporated by reference in paragraph (a)(1)(v) of this section and specified in either NCA–4000 or NCA–7000 of that Edition and Addenda of Section III, with the exceptions in paragraph (b)(1)(iv)(A) of this section, provided that the administrative, quality, and technical provisions contained in that Edition and Addenda of Section III are used in conjunction with the applicant’s or licensee’s appendix B to this part quality assurance program; and that the applicant’s or licensee’s Section III activities comply with those commitments contained in the applicant’s or licensee’s quality assurance program description. Where NQA–1 and Section III do not address the commitments contained in the applicant’s or licensee’s appendix B quality assurance program description, those licensee commitments must be applied to Section III activities.

(A) Subpart 2.19 in NQA–1–2017, NQA–1–2019, and NQA–1–2022 is not approved for use.

(B) [Reserved]

* * * * *

(vi) *Section III condition: Subsection NH.* The provisions in Subsection NH, “Class 1 Components in Elevated Temperature Service,” 1995 Addenda through all editions and addenda up to and including the 2013 Edition incorporated by reference in paragraph (a)(1) of this section, may only be used for the design and construction of Type 316 stainless steel pressurizer heater sheaths where service conditions do not cause the components to reach temperatures exceeding 900 °F. This condition is not applicable to the 2015 Edition and later editions.

* * * * *

(xi) *Section III condition: Mandatory Appendix XXVI.* When applying the 2015 and 2017 Editions of Section III, Mandatory Appendix XXVI, “Rules for Construction of Class 3 Buried Polyethylene Pressure Piping,” applicants or licensees must meet the first provision in paragraph (b)(1)(xi)(A)

of this section. When applying the 2015 through 2021 Editions of Section III, Mandatory Appendix XXVI, "Rules for Construction of Class 3 Buried Polyethylene Pressure Piping," applicants or licensees must meet the second provision in paragraph (b)(1)(xi)(B) of this section. When applying the 2017 Edition of Section III, Mandatory Appendix XXVI, "Rules for Construction of Class 3 Buried Polyethylene Pressure Piping," applicants or licensees must meet the third provision in paragraph (b)(1)(xi)(C) of this section.

* * * * *

(B) *Mandatory Appendix XXVI: Second provision.* When performing procedure qualification for high speed tensile impact testing of butt fusion joints in accordance with XXVI-2300 or XXVI-4330 of the 2015 through 2021 Editions of BPV Code Section III, breaks in the specimen that are away from the fusion zone require the test plot yield strength to be evaluated to confirm sound base material. If the base material failed (broke) at less than minimum required base material yield strength, a retest is required.

* * * * *

(xiii) *Section III condition: Preservice Inspection of Steam Generator Tubes.* Applicants or licensees applying the provisions of NB-5283 and NB-5360 in the 2019 Edition of Section III through the latest edition and addenda incorporated by reference in paragraph (a)(1)(i) of this section, must apply paragraphs (b)(1)(xiii)(A) and (B) of this section.

(A) *Preservice Inspection of Steam Generator Tubes: First provision.* When applying the provisions of NB-5283 in the 2019 Edition of Section III through the latest edition and addenda incorporated by reference in paragraph (a)(1)(i) of this section, a full-length preservice examination of 100 percent of the steam generator tubing in each newly installed steam generator must be performed prior to plant startup.

(B) *Preservice Inspection of Steam Generator Tubes: Second provision.* When applying the provisions of NB-5360 in the 2019 Edition of Section III through the latest edition and addenda incorporated by reference in paragraph (a)(1)(i) of this section, flaws revealed during preservice examination of steam generator tubing performed in accordance with paragraph (b)(1)(xiii)(A) of this section must be evaluated using the criteria in the design specifications.

(xiv) *Section III condition: Repairs to Stamped Components.* Applicants or licensees applying the provisions of

NCA-8151, NCA-8500 and Nonmandatory Appendix NN in the 2021 Edition of Section III, are required to meet all of the requirements in Nonmandatory Appendix NN.

(2) *Conditions on ASME BPV Code, Section XI.* As used in this section, references to Section XI refer to Section XI, Division 1, in the editions and addenda of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section, subject to the following conditions:

* * * * *

(viii) *Section XI condition: Concrete containment examinations.* Applicants or licensees applying Subsection IWL, 2001 Edition through the 2004 Edition, up to and including the 2006 Addenda, must apply paragraphs (b)(2)(viii)(E) through (G) of this section. Applicants or licensees applying Subsection IWL, 2007 Edition up to and including the 2008 Addenda must apply paragraph (b)(2)(viii)(E) of this section. Applicants or licensees applying Subsection IWL, 2007 Edition with the 2009 Addenda through the 2019 Edition, must apply paragraphs (b)(2)(viii)(H) and (I) of this section.

(ix) *Section XI condition: Metal containment examinations.* Applicants or licensees applying Subsection IWE, 2001 Edition up to and including the 2003 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) and (B), (F) through (I), and (K) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition, up to and including the 2005 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) and (B), (F) through (H), and (K) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition with the 2006 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(2) and (b)(2)(ix)(B) and (K) of this section. Applicants or licensees applying Subsection IWE, 2007 Edition through the 2015 Edition, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(2) and (b)(2)(ix)(B), (J), and (K) of this section. Applicants or licensees applying Subsection IWE, 2017 Edition, through the 2019 Edition, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(2) and (b)(2)(ix)(B) and (J) of this section. Applicants or licensees applying Subsection IWE, 2021 Edition, through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section must satisfy the requirements of paragraphs (b)(2)(ix)(B) and (J) of this section.

* * * * *

(xxxiv) *Section XI condition: Nonmandatory Appendix U.* (A) When using Nonmandatory Appendix U of the ASME BPV Code, Section XI, 2013 Edition through the 2019 Edition, the following conditions apply:

(1) The repair or replacement activities temporarily deferred under the provisions of Nonmandatory Appendix U must be performed during the next scheduled refueling outage.

(2) In lieu of the appendix referenced in paragraph U-S1-4.2.1(c) of Appendix U, an approved version of the ASME BPV Code Case N-513 must be used in accordance with NRC Regulatory Guide 1.147 at the time the case was incorporated into the licensee's program.

(B) Use of Nonmandatory Appendix U, Supplement U-S1 of the ASME BPV Code, Section XI, 2021 Edition is prohibited.

* * * * *

(xxxvi) *Section XI condition: Fracture toughness of irradiated materials.* When using the 2013 Edition through the latest edition incorporated by reference in paragraph (a)(1)(ii) of this section of the ASME BPV Code, Section XI, Appendix A paragraph A-4400, the licensee shall determine irradiated T_0 and the associated RT_{T0} as specified in the 2021 Edition of ASME BPV Code, Section III, NB-2331, subparagraph (a)(5).

* * * * *

(xlili) *Section XI condition: Regulatory Submittal Requirements.* Licenses shall submit to the NRC the analytical evaluation determining the effects of an out-of-limit condition on the structural integrity of the Reactor Coolant System, as described in IWB-3720(a).

(xliv) *Section XI condition: Nonmandatory Appendix Y.* When using Nonmandatory Appendix Y of the ASME BPV Code, Section XI, 2021 Edition, the following conditions apply:

(A) Use of Nonmandatory Appendix Y, Article Y-2200 is prohibited.

(B) Use of Nonmandatory Appendix Y, Subarticle Y-2440 is prohibited.

(C) Use of Nonmandatory Appendix Y, Article Y-3200 is prohibited.

(xlv) *Section XI condition: Pressure Testing of Containment Penetration Piping After Repair/Replacement Activities.* Applicants or licensees applying the provision of IWA-4540(a) and (e) of the 2021 Edition of the ASME Code, Section XI, are required to perform a VT-2 examination of the area affected by the repair/replacement activity during the Type C test in appendix J to this part.

(xlvi) *Section XI condition: Contracted Repair/Replacement*

Organization Fabricating Items Offsite of the Owner's Facility. When applicants or licensees apply the provision of IWA-4143 in the 2021 Edition of Section XI of the ASME Code, a contracted Repair/Replacement Organization fabricating ASME Code, Section III parts, appurtenances, piping subassemblies, and supports offsite of the Owner's facility (e.g., vendor facility) without an ASME Certificate of Authorization and without applying an ASME Stamp/Certification Mark is prohibited.

(xlvii) *Section XI condition: Weld Overlay Design Crack Growth Analysis.* Under Subparagraph Q-3000(a) stress corrosion crack growth analysis is required within the weld overlay material.

(xlviii) *Section XI condition: Analytical Evaluations of Degradation.* Applicants or licensees using the 2021 Edition of Section XI must submit analytical evaluations performed as required by IWB-3132.3 and IWC-3132.3 to the Nuclear Regulatory Commission.

(xlix) *Section XI condition: Analytical Evaluations of Flaws in Cladding.* The use of IWB-3600(b)(1) in the 2021 Edition of ASME BPV Code, Section XI (Division 1) is prohibited for the inlay and onlay that are subject to the augmented inspection requirements in paragraph (g)(6)(ii)(F) of this section.

(l) *Section XI condition: Determination of the Master Curve T_0 .* When using the 2017 Edition of Section XI through the latest Edition incorporated by reference in this section and implementing Nonmandatory Appendix A, A-4200(c) and Nonmandatory Appendix G, G-2110(c), the licensee shall determine T_0 and the associated RT_{T_0} as specified in the 2021 Edition of ASME BPV Code, Section III, NB-2331, subparagraph (a)(5).

(3) * * *
(ii) *OM condition: Motor-Operated Valve (MOV) testing.* Licensees must comply with the provisions for testing MOVs in ASME OM Code, ISTC 4.2, 1995 Edition with the 1996 and 1997 Addenda, or ISTC-3500, 1998 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, and must establish a program to ensure that MOVs continue to be capable of performing their design basis safety functions. Licensees implementing ASME OM Code, Mandatory Appendix III, "Preservice and Inservice Testing of Active Electric Motor-Operated Valve Assemblies in Water-Cooled Reactor Nuclear Power Plants," of the 2009 Edition, through the latest edition and addenda of the ASME OM Code

incorporated by reference in paragraph (a)(1)(iv) of this section shall comply with the following conditions (with the exception of conditions in paragraphs (b)(3)(ii)(A) through (C) of this section when implementing the 2022 Edition of the ASME OM Code):

* * * * *
(vii) *OM condition: Snubber visual examination interval extension.* When implementing Subsection ISTD, paragraph ISTD-4253, and Note 7 of Table ISTD-4252-1, in the 2022 Edition of the ASME OM Code, incorporated by reference in paragraph (a)(1)(iv) of this section, to extend snubber visual examination beyond 2 refueling cycles (48 months), the licensee is prohibited from applying OM Code Case OMN-15, Revision 2, to extend the operational readiness testing interval of snubbers.

* * * * *
(x) *OM condition: Class 1 Pressure Relief Valve Sample Expansion.* When implementing paragraph I-1320(c)(1) in Appendix I, "Inservice Testing of Pressure Relief Devices in Water-Cooled Reactor Nuclear Power Plants," of the editions and addenda of the ASME OM Code, incorporated by reference in paragraph (a)(1)(iv) of this section, the requirement for sample expansion of Class 1 Pressure Relief Valves shall be implemented such that for each valve tested for which the as-found set-pressure (first test actuation) exceeds the plus/minus tolerance limit of the Owner-established design set-pressure acceptance criteria of paragraph I-1310(e), two additional valves shall be tested from the same group. If the Owner has not established design set-pressure acceptance criteria, then for each valve tested for which the as-found set-pressure (first actuation) exceeds ± 3 percent of valve nameplate set-pressure, two additional valves shall be tested from the same valve group.

* * * * *
(g) * * *
(6) * * *
(ii) * * *
(D) * * *

(9) *Volumetric Qualifications.* Volumetric examinations of Table 1 of ASME Code Case N-729-6 may be qualified in accordance with Section XI, Division 1, Mandatory Appendix VIII, Supplement 15, in the 2021 Edition, in lieu of subparagraphs (a) through (j) of 2500 of ASME Code Case N-729-6.

* * * * *
(F) * * *

(1) *Implementation.* Holders of operating licenses or combined licenses for pressurized water reactors as of or after September 30, 2024, shall implement the requirements of ASME

BPV Code Case N-770-7 instead of ASME BPV Code Case N-770-5, subject to the conditions specified in paragraphs (g)(6)(ii)(F)(2) through (16) of this section, by no later than one year after September 30, 2024. All NRC authorized alternatives from previous versions of paragraph (g)(6)(ii)(F) of this section remain applicable.

* * * * *
(8) *Optimized weld overlay examination.* Following initial inservice volumetric inspection for Inspection Items C-2 and F-2 of Table 1 of ASME Code Case N-770-7, for weld overlay examination volumes that show no indication of crack growth or new cracking, in lieu of sample population, 100 percent of these optimized weld overlaid welds shall be added to the ISI program in accordance with -2410 of ASME Code Case N-770-7 and shall be examined once each inspection interval.

* * * * *

Dated: August 7, 2024.

For the Nuclear Regulatory Commission.

Andrea Veil,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2024-19235 Filed 8-29-24; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-2086; Airspace Docket No. 23-ANM-64]

RIN 2120-AA66

Amendment of United States Area Navigation (RNAV) Routes T-328 in the Vicinity of Deer Park, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends United States Area Navigation (RNAV) Routes T-328 by changing the name of the DAINA, WA, waypoint (WP) to the ZAGGS, WA, WP. The FAA is taking this action due to a similarly pronounced fix (DIANN) being located within five miles of the DAINA, WP. This action is an administrative change and does not affect the airspace boundaries or operating requirements.

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

Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA identified a safety issue with similar sounding route point names, the DAINA, WA, WP and the DIANN, WA, Fix, located within five miles of each other, have contributed to communications errors resulting from the similar-sounding route point names in radio communications. To remedy this, the FAA is changing the name of the DAINA, WA, WP to the ZAGGS, WA, WP. As a result, the FAA is

amending the description of T-328 to incorporate the name change.

Incorporation by Reference

United States Area Navigation routes (T-routes) are published in paragraph 6001 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending RNAV route T-328, changing the name of the DAINA, WA, WP to the ZAGGS, WA, WP in the description of RNAV Route T-328.

This action is an administrative change and does not affect the airspace boundaries or operating requirements; therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this airspace action of amending RNAV Routes T-328 by changing the name of the DAINA, WA, WP, to the ZAGGS, WA, WP qualifies for categorical

exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T-328 ORCUS, WA to KARSH, MT [Amended]

ORCUS, WA	FIX	(Lat. 48°20'39.54" N, long. 123°07'44.01" W)
BOCAT, WA	FIX	(Lat. 48°20'32.01" N, long. 122°09'44.74" W)
CREEB, WA	FIX	(Lat. 48°13'00.00" N, long. 121°20'24.00" W)
ROZSE, WA	WP	(Lat. 48°13'22.57" N, long. 121°01'45.71" W)

KRUZR, WA	FIX	(Lat. 48°04'38.90" N, long. 120°34'40.72" W)
KLSEY, WA	WP	(Lat. 48°00'48.36" N, long. 119°33'35.71" W)
SINGG, WA	WP	(Lat. 47°59'30.00" N, long. 119°00'00.00" W)
ROZTY, WA	WP	(Lat. 48°03'46.12" N, long. 117°56'38.05" W)
PRRKS, WA	WP	(Lat. 48°08'48.19" N, long. 117°31'08.00" W)
ZAGGS, WA	WP	(Lat. 48°08'43.44" N, long. 117°07'27.78" W)
INOBE, ID	FIX	(Lat. 48°04'54.58" N, long. 116°45'47.03" W)
RNDDY, ID	WP	(Lat. 48°09'16.26" N, long. 116°15'12.45" W)
KAPPN, MT	WP	(Lat. 48°09'23.04" N, long. 115°28'13.84" W)
KARSH, MT	WP	(Lat. 48°08'52.72" N, long. 115°07'55.44" W)

* * * * *

Issued in Washington, DC, on August 23, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–19339 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1076; **Airspace**
Docket No. 23–AAL–55]

RIN 2120–AA66

Establishment of Class E Airspace; Akiachak Airport, Akiachak, AK

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Akiachak Airport, Akiachak, AK, to support the airport's transition from visual flight rules (VFR) to instrument flight rules (IFR).

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

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

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

FOR FURTHER INFORMATION CONTACT:

Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2024–1076 in the **Federal Register** (89 FR 46041; May 28, 2024), proposing to establish Class E airspace at Akiachak Airport, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E5 airspace areas are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace beginning at 700 feet above the surface at Akiachak Airport, AK, to contain departing aircraft until reaching 1,200 feet above the surface and arriving aircraft below 1,500 feet above the surface. The airspace is centered on the Akiachak Airport reference point, with a 6.5-mile radius to encompass the diverse departure environment.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Akiachak, AK [New]

Akiachak Airport, AK
(Lat. 60°54'50" N, long. 161°29'36" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Akiachak Airport.

* * * * *

Issued in Des Moines, Washington, on August 21, 2024.

B.G. Chew,

*Group Manager, Operations Support Group,
Western Service Center.*

[FR Doc. 2024–19406 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2024–0697; Airspace
Docket No. 23–AAL–54]

RIN 2120–AA66

Amendment of Alaskan Very High Frequency Omnidirectional Range Federal Airway V–477 in the Vicinity of Ambler, AK

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Alaskan Very High Frequency Omnidirectional Range (VOR) Federal Airway V–477 in the vicinity of Ambler, AK. The FAA is taking this amendment due to the pending decommissioning of the Ambler, AK, Nondirectional Radio Beacon (NDB).

DATES: Effective date 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by

reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT:

Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

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

History

The FAA published a NPRM for Docket No. FAA 2024–0697 in the **Federal Register** (89 FR 20880; March 26, 2024), proposing to amend V–477 in the vicinity of Ambler, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Alaskan VOR Federal airways are published in paragraph 6010(b) of FAA

Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending Alaskan Federal Airway V–477. The airspace action is described below.

V–477: As amended, Alaskan Federal Airway V–477 extends between the Galena, AK, VOR/Distance Measuring Equipment (DME), the Huslia, AK, VOR/DME and the Selawik, AK, VOR/DME.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this airspace action of amending Alaskan VOR Federal Airway V–477 in the vicinity of Ambler, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points

(see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V–477 [Amended]

From Galena, AK; Huslia, AK; to Selawik, AK.

* * * * *

Issued in Washington, DC, on August 23, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–19340 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–0438; Airspace Docket No. 23–AAL–13]

RIN 2120–AA66

Amendment of United States Area Navigation (RNAV) Route T–399 in the Vicinity of Clear, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends United States Area Navigation Route (RNAV) T–399 in the vicinity of Clear, AK. The FAA is taking this action to increase the lateral separation between T–399 and Restricted Area R–2206.

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

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in

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

History

The FAA published a NPRM for Docket No. FAA 2024–0438 in the **Federal Register** (89 FR 26796; April 16, 2024), proposing to amend T–399 in the vicinity of Clear, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received expressing concerns outside of the scope of this action and did not mention any issues relating to air traffic services and/or this route amendment. The commentor included supplementary references that do not apply to air traffic services and are neither in support of, nor contrary to this action.

Incorporation by Reference

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated July 31, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

The FAA is amending 14 CFR part 71 to amend RNAV Route T–399 in the vicinity of Clear, AK. This amendment will increase the lateral separation between the RNAV route and Restricted Area R–2206. Specifically, the SEAHK, AK, WP (waypoint) is being relocated approximately 2.3 NM (nautical mile) west from its current location. The

SEAHK WP is also being renamed to the WHYTT, AK, WP.

T-399: T-399 extends between the Talkeetna, AK (TKA), Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) and the Nenana, AK (ENN), VOR/Tactical Air Navigation (VORTAC). This rule also adds the route point EVIEE to the route description as explained in the NPRM.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this airspace action of amending T-399 in the vicinity of Clear, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5-6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further

analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated July 31, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T-399 Talkeetna, AK (TKA) to Nenana, AK (ENN) [Amended]

Talkeetna, AK (TKA)	VOR/DME	(Lat. 62°17'54.16" N, long. 150°06'18.90" W)
AILEE, AK	FIX	(Lat. 63°36'00.04" N, long. 149°32'23.46" W)
PAWWW, AK	WP	(Lat. 63°58'06.62" N, long. 149°35'19.10" W)
EVIEE, AK	WP	(Lat. 64°08'04.02" N, long. 149°34'14.27" W)
WHYTT, AK	WP	(Lat. 64°22'23.27" N, long. 149°37'54.53" W)
Nenana, AK (ENN)	VORTAC	(Lat. 64°35'24.04" N, long. 149°04'22.34" W)

Issued in Washington, DC, on August 23, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024-19338 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-1957; Airspace Docket No. 23-AAL-28]

RIN 2120-AA66

Amendment of Jet Route J-133 and Establishment of Area Navigation Route Q-801 in the Vicinity of Anchorage, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Jet Route J-133 by revoking a portion of the airway and establishes Canadian Area Navigation Route (RNAV) Q-801 in the vicinity of Anchorage, AK. The

amendment of J-133 is due to the pending decommissioning of several Navigational Aids (NAVAID) that provide course guidance along the airway. The establishment of RNAV route Q-801 serves as a mitigation to the revoked segments of J-133 and provides additional routing to the southeast for aircraft traveling to Canada or to the Pacific Northwest United States.

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

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

FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a NPRM for Docket No. FAA-2023-1957 in the **Federal Register** (88 FR 68004; October 3, 2023), proposing to amend J-133 and establish Q-801 in the vicinity of Anchorage, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Differences From the NPRM

The NPRM published for Docket No. FAA-2023-1957 in the **Federal Register** (88 FR 68004; October 3, 2023) contained errors in the regulatory text. The regulatory text in the NPRM listed the route points within Canadian airspace. The NPRM should not have listed the route points with Canadian airspace. These route points have been removed from the regulatory text in this final rule. Additionally, the route point

FROZN, listed in the NPRM, has been renamed to CSMOS. Also, in the proposal section of the NPRM there is a reference to the route point MOCHA. The name of this route point is being changed to MOCKA. The changes to the route point names only impact the name of the route point and not the location.

Incorporation by Reference

Jet Routes are published in paragraph 2004 and Canadian Area Navigation Routes are published in paragraph 2007 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated July 31, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending Jet Route J-133 and establishing Canadian RNAV route Q-801 in United States airspace. NAV CANADA is amending RNAV route Q-801 in their airspace to ensure continuity and cross-border connectivity. The Air Traffic Service (ATS) route actions are described below.

J-133: Jet route J-133 extends between Galena, AK, VOR/DME and Anchorage, AK, VOR/DME.

Q-801: Q-801 extends between the HARPR, OR, WP and the CYVIC, WA, WP and between the EEVER, AK, Fix and the Anchorage, AK, VOR/DME.

Regulatory Notices and Analyses

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

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

Environmental Review

The FAA has determined that this airspace action of amending Jet Route J-133 and the establishment of Area Navigation Route Q-801 in the vicinity of Anchorage, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5-6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated July 31, 2023, and

effective September 15, 2023, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J-133 [Amended]

From Galena, AK to Anchorage, AK.

* * * * *

Paragraph 2007 Canadian Area Navigation Routes.

Q-801 Harpr, OR to Anchorage, AK (TED) [NEW]

Harpr, OR	WP	(Lat. 42°28'50.00" N, long. 122°53'01.54" W)
Felix, OR	WP	(Lat. 43°19'13.98" N, long. 123°05'39.51" W)
Ectof, OR	WP	(Lat. 44°10'49.55" N, long. 123°18'57.87" W)
Wapto, WA	FIX	(Lat. 47°28'19.54" N, long. 124°13'50.38" W)
Tatoosh, WA (TOU)	VORTAC	(Lat. 48°17'59.64" N, long. 124°37'37.36" W)
Cyvic, WA and	WP	(Lat. 48°29'59.97" N, long. 124°54'39.80" W)
Eever, AK	FIX	(Lat. 54°35'01.79" N, long. 133°05'54.23" W)
Macie, AK	WP	(Lat. 57°43'38.87" N, long. 137°50'47.74" W)
Laire, AK	FIX	(Lat. 58°48'14.67" N, long. 140°31'43.36" W)
Csmos, AK	WP	(Lat. 59°40'34.90" N, long. 143°29'31.48" W)
Johnstone Point, AK (JOH)	VOR/DME	(Lat. 60°28'51.43" N, long. 146°35'57.61" W)
Anchorage, AK (TED)	VOR/DME	(Lat. 61°10'04.32" N, long. 149°57'36.52" W)

Issued in Washington, DC, on August 23, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024-19356 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31562; Amdt. No. 4127]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective August 30, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 30, 2024.

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

For Examination

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney

Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on August 16, 2024.

Thomas J. Nichols,

Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 3 October 2024

Lexington, KY, LEX, RNAV (GPS) RWY 4, Amdt 3
Lexington, KY, LEX, RNAV (GPS) RWY 22, Amdt 3
Manitowoc, WI, MTW, RNAV (GPS) RWY 35, Amdt 2A

Effective 31 October 2024

Kake, AK, PAFE, KAKE ONE, Graphic DP
Kake, AK, PAFE, KAKE THREE, Graphic DP, CANCELED
Kake, AK, PAFE, Takeoff Minimums and Obstacle DP, Amdt 2
Nulato, AK, NUL/PANU, RNAV (GPS) RWY 21, Amdt 1, CANCELED
Nulato, AK, NUL/PANU, RNAV (GPS)-A, Orig
Huntsville, AL, KHSV, RADAR 1, Amdt 12
Chester, CA, O05, CHOTT ONE, Graphic DP
Chester, CA, O05, RNAV (GPS) RWY 34, Orig
Chester, CA, O05, Takeoff Minimums and Obstacle DP, Orig
Oceanside, CA, KOKB, OCEANSIDE ONE, Graphic DP
Oceanside, CA, KOKB, Takeoff Minimums and Obstacle DP, Amdt 5
Turlock, CA, O15, RNAV (GPS)-A, Orig
Turlock, CA, O15, Takeoff Minimums and Obstacle DP, Orig
Lake Wales, FL, X07, VOR/DME-B, Amdt 3A, CANCELED
Sarasota/Bradenton, FL, SRQ, VOR RWY 14, Amdt 18E, CANCELED
Augusta, GA, DNL, NDB RWY 11, Amdt 4B, CANCELED

Charles City, IA, CCY, LOC RWY 12, Amdt 1A, CANCELED
Chicago/Lake in the Hills, IL, 3CK, RNAV (GPS) RWY 8, Amdt 1
Chicago/Lake in the Hills, IL, 3CK, RNAV (GPS) RWY 26, Amdt 1
Chicago/Lake in the Hills, IL, 3CK, Takeoff Minimums and Obstacle DP, Amdt 1
Chicago/Lake in the Hills, IL, 3CK, VOR RWY 26, Amdt 4B, CANCELED
Pontiac, IL, PNT, VOR RWY 24, Amdt 2A, CANCELED
Robinson, IL, RSV, NDB RWY 17, Amdt 8A, CANCELED
Springfield, IL, SPI, VOR/DME RWY 31, Amdt 1C
Auburn, IN, GWB, ILS OR LOC RWY 27, Amdt 2
Auburn, IN, GWB, RNAV (GPS) RWY 9, Amdt 1
Auburn, IN, GWB, RNAV (GPS) RWY 27, Amdt 1
Auburn, IN, KGWB, Takeoff Minimums and Obstacle DP, Amdt 1A
Auburn, IN, GWB, VOR-A, Amdt 10B
Bloomington, IN, BMG, VOR RWY 17, Amdt 12B, CANCELED
Bloomington, IN, BMG, VOR/DME RWY 6, Amdt 19D, CANCELED
Indianapolis, IN, MQJ, RNAV (GPS) RWY 7, Orig
Louisville, KY, SDF, RNAV (GPS) Y RWY 29, Amdt 1A
Louisville, KY, SDF, RNAV (RNP) Z RWY 17L, Amdt 1A
Baton Rouge, LA, BTR, RADAR-1, Amdt 11, CANCELED
Annapolis, MD, ANP, RNAV (GPS)-A, Orig-C
Gaylord, MI, GLR, ILS OR LOC RWY 9, Amdt 2
Gaylord, MI, GLR, VOR RWY 27, Amdt 2C, CANCELED
Harbor Springs, MI, MGN, VOR-A, Amdt 2, CANCELED
Ironwood, MI, IWD, RNAV (GPS) RWY 9, Amdt 1
Saginaw, MI, MBS, ILS OR LOC RWY 5, Amdt 11B
Charlotte, NC, KCLT, Takeoff Minimums and Obstacle DP, Amdt 8A
Oxford, NC, HNZ, RNAV (GPS) RWY 24, Amdt 1A
Grand Forks, ND, GFK, RNAV (GPS) RWY 9L, Amdt 2
Grand Forks, ND, GFK, RNAV (GPS) RWY 27R, Amdt 3
Grand Forks, ND, KGFK, Takeoff Minimums and Obstacle DP, Amdt 3
Atkinson, NE, 8V2, RNAV (GPS) RWY 29, Orig-B
Sussex, NJ, FWN, VOR-A, Amdt 6B, CANCELED
Hobbs, NM, HOB, ILS OR LOC RWY 4, Amdt 8
Hobbs, NM, HOB, RNAV (GPS) RWY 4, Amdt 3
Hobbs, NM, HOB, RNAV (GPS) RWY 22, Amdt 3
Hobbs, NM, HOB, RNAV (GPS) RWY 31, Amdt 2
Hobbs, NM, KHOB, Takeoff Minimums and Obstacle DP, Amdt 1
Hobbs, NM, HOB, VOR OR TACAN RWY 22, Amdt 10
Reno, NV, RTS, STEAD ONE, Graphic DP

Reno, NV, KRTS, Takeoff Minimums and Obstacle DP, Amdt 4
 Montgomery, NY, MGJ, RNAV (GPS) RWY 8, Amdt 1D
 Wilmington, OH, ILN, ILS OR LOC RWY 4L, Amdt 5A
 Goldsby, OK, 1K4, RNAV (GPS) RWY 31, Amdt 1
 Goldsby, OK, 1K4, Takeoff Minimums and Obstacle DP, Amdt 1
 Tulsa, OK, RVS, ILS OR LOC RWY 1L, Amdt 4
 North Bend, OR, OTH, COPTER ILS Y OR LOC Y RWY 5, Amdt 2
 North Bend, OR, OTH, ILS Z OR LOC Z RWY 5, Amdt 9
 Wilkes-Barre, PA, WBW, RNAV (GPS) RWY 7, Amdt 1
 Pawtucket, RI, SFZ, VOR-B, Amdt 7C, CANCELED
 Marion, SC, MAO, VOR/DME-A, Amdt 5, CANCELED
 Millington, TN, NQA, ILS OR LOC RWY 22, Amdt 7
 Burnet, TX, BMQ, RNAV (GPS) RWY 19, Amdt 1
 Follett, TX, T93, RNAV (GPS) RWY 35, Orig-A, CANCELED
 Follett, TX, T93, VOR/DME-A, Amdt 3A, CANCELED
 San Antonio, TX, KSSF, Takeoff Minimums and Obstacle DP, Amdt 3
 Blackstone, VA, BKT, RNAV (GPS) RWY 4, Amdt 1C
 Blackstone, VA, BKT, RNAV (GPS) RWY 22, Amdt 1C
 Madison, WI, MSN, ILS OR LOC RWY 18, ILS RWY 18 (SA CAT I), ILS RWY 18 (SA CAT II), Amdt 2B
 Madison, WI, MSN, ILS OR LOC RWY 21, Orig-E

[FR Doc. 2024-19546 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31563; Amdt. No. 4128]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or

changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 30, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 30, 2024.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments

require making them effective in less than 30 days.

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

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on August 16, 2024.

Thomas J. Nichols,

Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and

Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
3-Oct-24	TX	Stamford	Arledge Fld	4/0081	5/29/2024	RNAV (GPS) RWY 17, Orig-C.
3-Oct-24	TX	Stamford	Arledge Fld	4/0082	5/29/2024	RNAV (GPS) RWY 35, Orig-B.
3-Oct-24	IA	Decorah	Decorah Muni	4/5337	7/22/2024	RNAV (GPS) RWY 29, Amdt 1.
3-Oct-24	IA	Decorah	Decorah Muni	4/5339	7/22/2024	RNAV (GPS) RWY 11, Amdt 1.
3-Oct-24	PA	Philadelphia	Philadelphia Intl	4/9673	7/30/2024	ILS Z OR LOC RWY 17, Amdt 8C.
3-Oct-24	TX	Harlingen	Valley Intl	4/9986	7/30/2024	ILS OR LOC RWY 36L, ILS RWY 36L (SA CAT I), ILS RWY 36L (SA CAT II), Orig.

[FR Doc. 2024–19547 Filed 8–29–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–35305; File No. S7–2024–01]

RIN 3235–AN33

Qualifying Venture Capital Funds Inflation Adjustment

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is adopting a rule that adjusts for inflation the dollar threshold used in defining a “qualifying venture capital fund” under the Investment Company Act of 1940 (“Investment Company Act” or “Act”). The final rule also allows the Commission to adjust for inflation this threshold amount by order every five years and specifies how those adjustments will be determined. This

rule implements the inflation adjustment requirements of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (“EGRRCPA”) relating to qualifying venture capital funds.

DATES: This rule is effective September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Michael Khalil, Senior Counsel, Frank Buda, Senior Special Counsel, or Brian McLaughlin Johnson, Assistant Director, Investment Company Regulation Office, at (202) 551–6792, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is adopting new 17 CFR 270.3c–7 (“rule 3c–7”) under the Investment Company Act.

I. Introduction

The Commission is adopting final rule 3c–7 to adjust for inflation the dollar threshold used in defining a “qualifying venture capital fund” under the Investment Company Act and to allow the Commission to make subsequent inflation adjustments by order according to the rule.

Section 3(a) of the Investment Company Act defines the term “investment company” for purposes of the Act, and section 3(c)(1) provides certain exclusions from that definition.¹ Section 504 of EGRRCPA amended section 3(c)(1) of the Investment Company Act by excluding “qualifying venture capital funds” from the investment company definition.² Section 504 of EGRRCPA also added new Investment Company Act section 3(c)(1)(C), defining a “qualifying venture capital fund” as “a venture capital fund that has not more than \$10,000,000 in aggregate capital contributions and uncalled committed capital.”³ The statutory definition requires this \$10,000,000 threshold “be indexed for inflation once every five

¹ See 15 U.S.C. 80a–3(a) and 80a–3(c)(1).

² Public Law 115–174, section 504 (May 24, 2018); 15 U.S.C. 80a–3(c)(1). In order to meet this statutory exclusion, a qualifying venture capital fund’s outstanding securities cannot be beneficially owned by more than 250 persons, and the fund must not be making, or presently proposing to make, a public offering of its securities. *Id.*

³ Public Law 115–174, section 504 (May 24, 2018); 15 U.S.C. 80a–3(c)(1)(C)(i). For purposes of section 3(c)(1), a “venture capital fund” has the meaning given the term in 17 CFR 275.203(l)–1. 15 U.S.C. 80a–3(c)(1)(C)(ii).

years by the Commission, beginning from a measurement made by the Commission on a date selected by the Commission, rounded to the nearest \$1,000,000.”⁴

Accordingly, in February 2024, the Commission proposed new rule 3c–7 under the Investment Company Act to implement these requirements.⁵ The Commission proposed to use December 2023 as the current measurement date and proposed adjusting the current dollar threshold for determining what constitutes a qualifying venture capital fund under section 3(c)(1)(C) of the Act to \$12,000,000. Additionally, to implement the future statutorily required inflation adjustments, the proposed rule included provisions that would allow the Commission to make future inflation adjustments by order, according to the methodology described in the rule.

We received two comment letters that addressed the specifics of the proposal.⁶ Those commenters were generally supportive.⁷ They described the importance of implementing inflation adjustments for determining the financial thresholds applicable to qualifying venture capital funds and supported the proposed procedures for implementing future inflation adjustments.

II. Discussion

Pursuant to section 3(c)(1)(C) of the Act and section 504 of EGRRCPA, we are adopting as proposed rule 3c–7 to update for inflation the dollar threshold for defining a “qualifying venture capital fund” under section 3(c)(1)(C) of the Act. As proposed, the final rule also provides that the Commission will make future inflation adjustments by order every five years and specifies how those adjustments will be determined.

A. Current Inflation-Adjusted Definition of Qualifying Venture Capital Fund

Pursuant to EGRRCPA, final rule 3c–7(a) adjusts for inflation the dollar threshold for purposes of defining a

qualifying venture capital fund under section 3(c)(1)(C) of the Investment Company Act.⁸ Substantially as proposed, final rule 3c–7(a) uses December 2023 as the current measurement date and adjusts the dollar threshold to \$12,000,000 or, following November 1, 2029 (*i.e.*, approximately five years after the effective date of this rule), the dollar amount specified in the most recent order issued by the Commission in accordance with this final rule and as published in the **Federal Register**.⁹

As proposed, this revised dollar threshold takes into account the effects of inflation by reference to the historic and current levels of the Personal Consumption Expenditures Chain-Type Price Index (“PCE Index”),¹⁰ which is published by the Department of Commerce.¹¹ The PCE Index is often used as an indicator of inflation in the personal sector of the U.S. economy,¹²

⁸ Final rule 3c–7’s definition of qualifying venture capital fund is expressly limited to construing the term for purposes of section 3(c)(1) of the Act. Under 12 CFR 351.10, the term qualifying venture capital fund has a different meaning.

⁹ The final rule differs from the proposal only in that it specifies Nov. 1, 2029, as the date after which the Commission would issue the next inflation adjustment order, rather than instructing the **Federal Register** to insert the date that is five years after the effective date of the final rule. This approach is consistent with the proposal in that Nov. 1, 2029, is approximately five years after the estimated effective date of this rule and eliminates the need for the **Federal Register** to have to perform the calculation. Such orders will also be available on the Commission’s website.

¹⁰ The revised dollar threshold reflects inflation as of Dec. 2023, and is rounded to the nearest \$1,000,000 as required by section 3(c)(1)(C) of the Act. The Dec. 2023 PCE Index was 121.421, and the May 2018 PCE Index was 101.941. $121.421/101.941 \times \$10,000,000 = \$11,910,909$; \$11,910,909 rounded to the nearest multiple of \$1,000,000 = \$12,000,000. As described in the Proposing Release, we also considered using the Consumer Price Index for all Urban Consumers (“CPI-U”) to conduct this inflation adjustment. *See* Proposing Release at nn.13–14. After rounding to the nearest \$1,000,000 as required by EGRRCPA, both indexes yielded an adjusted inflation threshold of \$12,000,000, or an increase of \$2,000,000. *Id.* at nn.15–16. We did not receive any comments on our proposed use of the PCE Index to conduct inflation adjustments under proposed rule 3c–7, or on the use of CPI-U as an alternative.

¹¹ The values of the PCE Index are available from the Bureau of Economic Analysis, a bureau of the Department of Commerce. *See* <https://www.bea.gov>. The PCE Index measures the prices that people living in the United States, or those buying on their behalf, pay for goods and services. The PCE Index is known for capturing inflation (or deflation) across a wide range of consumer expenses and reflecting changes in consumer behavior. *See* <https://www.bea.gov/data/personal-consumption-expenditures-price-index>.

¹² *See* Clinton P. McCully, Brian C. Moyer & Kenneth J. Stewart, *Comparing the Consumer Price Index and the Personal Consumption Expenditures Price Index*, Survey of Current Bus., Nov. 2007, at 26 n.1 (PCE Index measures changes in “prices paid for goods and services by the personal sector in the U.S. national income and product accounts” and is

and the Commission routinely has used the PCE Index in similar contexts in Commission rules, and it is also used in provisions of the federal securities laws.¹³ We are using the PCE Index to calculate inflation adjustments for this rulemaking because the methodology and scope of the PCE Index, which considers both urban and rural households and expenditures made on their behalf by third parties, reflects a broad sector of the U.S. economy and in light of the additional considerations discussed in the Economic Analysis. As discussed below, the scope of the PCE Index, covering all households in America, is more relevant to the affected parties of this final rule than is the scope of the CPI-U, which only reflects urban households, because persons in both rural and urban areas in America can invest in venture capital funds and can be stakeholders in firms that receive venture capital funding.¹⁴ Additionally, the PCE Index incorporates category weights on a quarterly basis, and incorporates multiple surveys of businesses, some of which are government mandated and carry fines

primarily used for macroeconomic analysis and forecasting). *See also* Federal Reserve Board, Monetary Policy Report to the Congress, at n.1 (Feb. 17, 2000), available at <https://www.federalreserve.gov/boarddocs/hh/2000/february/ReportSection1.htm#FN1> (noting the reasons for using the PCE Index rather than the consumer price index).

¹³ *See, e.g.*, Investment Adviser Performance Compensation, Investment Advisers Act Release No. 3372 (Feb. 15, 2012) [77 FR 10358, 10367 (Feb. 22, 2012)] (using the PCE Index in connection with required inflation adjustments to the dollar thresholds in the definition of “qualified client” appearing in 17 CFR 275.205–3 (“rule 205–3”) under the Investment Advisers Act of 1940 (“Advisers Act”), and stating that the PCE Index is widely used as a broad indicator of inflation in the economy, and that the Commission has used it in other contexts); Definitions of Terms and Exemptions Relating to the “Broker” Exceptions for Banks, Securities Exchange Act Release No. 56501 (Sept. 24, 2007) [72 FR 56514 (Oct. 3, 2007)] (using PCE Index in adopting periodic inflation adjustments to the fixed-dollar thresholds for both “institutional customers” and “high net worth customers” under Rule 701 of Regulation R “because it is a widely used and broad indicator of inflation in the U.S. economy”); *see also* Amendments to Form ADV, Investment Advisers Act Release No. 3060 (July 28, 2010) [75 FR 49234 (Aug. 12, 2010)] (using PCE Index in increasing for inflation the threshold amount for prepayment of advisory fees that triggers an adviser’s duty to provide clients with an audited balance sheet and the dollar threshold triggering the exception to the delivery of brochures to advisory clients receiving only impersonal advice). The Dodd-Frank Act also requires the use of the PCE Index to calculate inflation adjustments for the cash limit protection of each investor under the Securities Investor Protection Act of 1970. *See* section 929H(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203, 124 Stat. 1376 (2010), codified at 15 U.S.C. 78ff–3.

¹⁴ *See infra* section IV.

⁴ Public Law 115–174, section 504 (May 24, 2018); 15 U.S.C. 80a–3(c)(1)(C)(i).

⁵ Qualifying Venture Capital Funds Inflation Adjustment, Investment Company Act Release No. 35129 (Feb. 14, 2024) [89 FR 12995 (Feb. 21, 2024)] (“Proposing Release”). The comment letters on the proposal are available at <https://www.sec.gov/comments/s7-2024-01/s7202401.htm>.

⁶ *See* Comment Letter of Joel Wresh (Mar. 16, 2024) (“Wresh Comment Letter”); Comment Letter of Arushi Mehra (Feb. 15, 2024) (“Mehra Comment Letter”).

⁷ Two other commenters broadly opposed the proposal but did not address the substance of the proposed rule. *See* Comment Letter of Benjamin Nisly (May 15, 2024); Comment Letter of Joseph (Feb. 22, 2024). The other commenters addressed matters not relevant to the proposal.

for nonresponse. No commenters disagreed with the use of the PCE Index.

B. Future Inflation Adjustments to the Definition of Qualifying Venture Capital Fund

As proposed, final rule 3c–7(b) provides that the dollar threshold for qualifying venture capital funds shall be adjusted for inflation by order of the Commission every five years.¹⁵ Also as proposed, final rule 3c–7(b) specifies the PCE Index (or any successor index thereto) as the inflation index used to calculate future inflation adjustment of the dollar threshold in the rule.¹⁶ We are using the PCE Index for these updates for the same reasons we are using the PCE Index for the proposed initial adjustment.¹⁷ One commenter supported the proposal's establishment of clear criteria for future inflation adjustments.¹⁸ Another commenter observed that the proposal's provisions regarding future inflation adjustments were helpful because they would allow for simple recalculations going forward without the need for a burdensome rule-making process.¹⁹

C. Effective Date

As proposed, because the rule implements a required inflation adjustment to an existing statutory exclusion from regulation, we are not including a compliance period or extended effective date for final rule 3c–7.²⁰ Reliance on section 3(c)(1) is voluntary and a fund that newly meets the definition of a qualifying venture capital fund under rule 3c–7 can choose whether to rely on the exclusion

¹⁵ Final rule 3c–7 states that the Commission will issue an order on or about Nov. 1, 2029, and approximately every five years thereafter, adjusting for inflation the dollar threshold necessary to be a qualifying venture capital fund for purposes of section 3(c)(1) of the Act. This aspect of the final rule differs from the proposal only in that it specifies Nov. 1, 2029 (which is approximately five years after the estimated effective date of the final rule) as the date on or about which the Commission will issue the next inflation adjustment order, rather than instructing the **Federal Register** to insert the date five years after the effective date of the rule as that date.

¹⁶ Final rule 3c–7 provides that the dollar threshold for qualifying venture capital funds will be adjusted for inflation by dividing the year-end value of the PCE Index for the calendar year preceding the calendar year in which the order is being issued, by the year-end value of the PCE Index for the calendar year 2018, multiplying \$10,000,000 (*i.e.*, the original 2018 statutory threshold for a qualifying venture capital fund) by that quotient, and rounding the product to the nearest multiple of \$1,000,000.

¹⁷ See *supra* footnotes 12–14 and accompanying text and *infra* section IV.

¹⁸ See Mehra Comment Letter.

¹⁹ See Wresh Comment Letter.

²⁰ No commenters addressed this aspect of the proposal.

provided by section 3(c)(1) for such funds. Final rule 3c–7 will be effective September 30, 2024.

III. Other Matters

Pursuant to the Congressional Review Act,²¹ the Office of Information and Regulatory Affairs has designated final rule 3c–7 as not a “major rule” as defined by U.S.C. 804(2). If any of the provisions of this rule, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

IV. Economic Analysis

The Commission is sensitive to the economic effects of final rule 3c–7. To comply with the inflation adjustment required under EGRRCPA, we are adopting rule 3c–7 to state the current threshold for qualifying venture capital funds as indexed for inflation. This rule adjusts the threshold in the definition of the term “qualifying venture capital fund” from \$10,000,000 to \$12,000,000 in response to inflation as measured by the PCE Index and allows the Commission to perform future statutorily required inflation adjustments using the same methodology.

For purposes of analyzing the economic effects of the rule, we use as our baseline the current venture capital fund market and the current regulatory framework. To be excepted from registration under section 3(c)(1) of the Act, an issuer (including a venture capital fund) must, among other things, either have no more than 100 beneficial owners, or in the case of a qualifying venture capital fund, which currently is defined as having no more than \$10,000,000 in aggregate capital contributions and uncalled committed capital, have no more than 250 beneficial owners.

An adviser to a venture capital fund that is either registered with the Commission or is an “exempt reporting adviser” is required to file reports on Form ADV.²² Based on this data, there

²¹ 5 U.S.C. 801 *et seq.*

²² An adviser to a venture capital fund may or may not be required to register with the Commission depending on its specific facts and circumstances including the adviser's total regulatory assets under management, the state of its principal office, and whether it solely manages private funds or venture capital funds. Many of the advisers to qualifying venture capital funds are “exempt reporting advisers.” See, *e.g.*, Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers with Less Than \$150 Million in Assets

are at least 36,819 venture capital funds, of which at least 25,822 are qualifying venture capital funds as of June 2024.²³ Of the qualifying venture capital funds, 989 have more than 100 beneficial owners and so could not use the section 3(c)(1) exclusion absent meeting the current \$10,000,000 asset threshold. Increasing the asset threshold in the definition of the term “qualifying venture capital fund” will increase the number of venture capital funds that can be qualifying venture capital funds. Specifically, we estimate that there are approximately five venture capital funds that are not currently excluded from registration under section 3(c)(1) but that could be defined as a qualifying venture capital fund after the threshold is adjusted for inflation to \$12,000,000.²⁴

Incentives for funds to change their behaviors to stay within the regulatory definition of a “qualifying venture capital fund” will strengthen or be mitigated depending on the specific circumstances of the fund. When the threshold is increased to \$12,000,000, a fund near the current \$10,000,000 threshold in aggregate capital contributions and uncalled capital commitments, and a number of beneficial owners above 100 but well below 250, will have additional room to raise capital while remaining a

Under Management, and Foreign Private Advisers, Investment Advisers Act Release No. 3222 (June 22, 2011) [76 FR 39645 (July 6, 2011)], at n.20 and accompanying text. Exempt reporting advisers are not subject to the investment adviser registration requirements under the Advisers Act. They are, however, subject to certain other requirements under the Advisers Act and its rules that also apply to registered advisers, including the requirement to file reports on Form ADV and the Advisers Act's antifraud provisions. See 17 U.S.C. 80b–3(l).

²³ Based on Form ADV data between July 1, 2023, and June 30, 2024. These estimates encompass all private funds reported on Form ADV that advisers indicated are venture capital funds. The estimate of qualifying venture capital funds includes only these funds that qualify for the exclusion from the definition of investment company under section 3(c)(1) of the Act, have no more than 250 beneficial owners, and report gross assets of no more than \$10,000,000. These numbers somewhat underestimate the total number of relevant funds. First, gross assets may include assets that are not considered aggregate capital contributions or uncalled capital commitments. Second, with certain exceptions, advisers with less than \$25 million in regulatory assets under management are prohibited from registering with the Commission and must instead register with state regulators. Some states require these advisers to file Form ADV under state registration, while other states do not. Accordingly, these estimates do not capture funds managed by advisers registered in states that do not require filing Form ADV.

²⁴ This estimate is based on the number of venture capital funds reported on Form ADV between July 1, 2023, and June 30, 2024, that have gross asset value between \$10,000,000 and \$12,000,000, between 100 and 250 beneficial owners, and currently do not qualify for an exception under section 3(c)(1).

qualifying venture capital fund. Accordingly, it will have weaker incentives to prevent growth until its aggregate capital contributions and uncalled capital commitments approach the new threshold. Funds near an anticipated future adjusted threshold of aggregate capital contributions and uncalled capital commitments could have a greater incentive to maintain a balance below this future threshold and maintain fewer than 250 beneficial owners.

While the immediate impacts described above are likely to be meaningful for funds near the existing and future adjusted thresholds, the overall effect of the rule on the venture capital fund market will be minimal. Commenters who discussed the effects of inflation agreed that the inflation adjustment should maintain the scope of funds that can be defined as a qualifying venture capital fund, thereby preserving the economic effects associated with the original provision.²⁵

Relatively few funds will be directly impacted by the adopted change in the asset threshold. Accordingly, the rule will not substantively impact efficiency, competition, or capital formation in the near term. In addition, over time, as future inflation adjustments are made, the rule will preserve the costs and benefits associated with the original provision by maintaining a consistent threshold standard. At the margin, the rule may encourage market competition by lowering barriers to entry for emerging venture capital managers. Specifically, it could lower compliance costs for eligible funds by exempting them from certain regulatory requirements such as registration as an investment company and make it easier for their managers to raise smaller amounts of capital from a larger number of accredited investors.

Absent the periodic inflation adjustments that the rule will implement, the capital threshold for qualifying venture capital funds would have, over time, shrunk in real terms. This could have either resulted in higher compliance costs for these types of funds—because these funds would be newly required to register under the Act—or caused the managers of these funds to change how they operate to avoid or mitigate these costs.²⁶ Whether

managers changed their behavior or not, the amount of money invested in qualifying venture capital funds would likely have decreased, and at least some of the capital that would otherwise have been allocated to these funds would likely have gone to funds that are not excluded from the Act and thus would have received the investor protection benefits provided by the Act.

Because the rule will implement the statutory inflation adjustments mandated by EGRRCPA, the only reasonable alternative to be considered relates to the choice of inflation index to be used. As discussed in the proposal,²⁷ two indexes were considered—the PCE Index and CPI-U. These measures differ because of different scopes and different methodologies. CPI-U reflects only expenditures made directly by urban households, whereas the PCE Index considers both urban and rural households and considers expenditures made on their behalf by third parties, such as employer-paid health insurance. The scope of the PCE Index, covering all American households, is more relevant to the affected parties of this final rule than is the scope of the CPI-U, which only reflects urban households, because all Americans, not just those in urban areas, can invest in venture capital funds and can be stakeholders in firms that receive venture capital funding. The PCE Index also better captures substitution effects since its category weights update quarterly whereas those of the CPI-U update annually. Category weights reflect the quantity of goods and services purchased in a particular category. As some determinants of prices change, consumers will substitute purchases between categories. Category weights that change less frequently will less accurately capture these substitution effects. The indexes' survey methodologies also differ: CPI-U relies on two voluntary consumer surveys whereas the PCE Index incorporates multiple surveys of businesses, some of which are government mandated and carry fines for nonresponse. No commenters suggested that the CPI-U or any other index would be a more appropriate choice.

V. Paperwork Reduction Act

Final rule 3c-7 does not contain a “collection of information” requirement within the meaning of the Paperwork Reduction Act of 1995 (“PRA”), nor does it create any new filing, reporting, recordkeeping, or disclosure reporting

requirements.²⁸ Accordingly, the PRA is not applicable.²⁹

VI. Regulatory Flexibility Act Certification

The Commission certified, pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 (“RFA”) ³⁰ that proposed rule 3c-7 would not, if adopted, have a significant economic impact on a substantial number of small entities. The Commission included this certification in section V of the Proposing Release. Commenters did not respond to the Commission's requests for comment regarding the Commission's certification, and we continue to believe that final rule 3c-7 will not have a significant economic impact on a substantial number of small entities.³¹ As discussed in the Proposing Release, based on a review of Form ADV filings, we expect few small entities would be affected by rule 3c-7's inflation adjustment provisions.³² Accordingly, we certify that the final rule will not have a significant impact on a substantial number of small entities.

Statutory Authority

The Commission is adopting new rule 3c-7 under the authority set forth in the Investment Company Act, particularly sections 3 and 38 thereof [15 U.S.C. 80a *et seq.*] and the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, particularly section 504 thereof [Pub. L. 115-174, 132 Stat. 1296].

List of Subjects in 17 CFR Part 270

Investment companies, Securities.

²⁸ 44 U.S.C. 3502(3).

²⁹ 44 U.S.C. 3501 *et seq.* The Proposing Release requested comment on our conclusion that proposed rule 3c-7 did not contain a “collection of information.” We did not receive any comments regarding PRA issues.

³⁰ 5 U.S.C. 605(b).

³¹ Generally, for purposes of the Investment Company Act and the RFA, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of \$50 million or less as of the end of its most recent fiscal year. 17 CFR 270.0-10(a).

³² To qualify for a section 3(c)(1) exclusion, an issuer must (among other things) have no more than 100 beneficial owners, or in the case of a qualifying venture capital fund, no more than 250 beneficial owners. 15 U.S.C. 80a-3(c)(1). A review of Form ADV filings suggests that, as of June 2024, there are approximately five venture capital funds that are not currently relying on the exclusion in section 3(c)(1) of the Investment Company Act but that also have between \$10,000 and \$12,000,000 in aggregate capital contributions and uncalled committed capital, and between 100 and 250 beneficial owners, such that they could meet the definition of a qualifying venture capital fund under final rule 3c-7. *See supra* footnote 28. We do not believe that five funds represent a “substantial number” of small entities.

²⁵ See Wresh Comment Letter and Mehra Comment Letter.

²⁶ For example, such funds may have decided to merge with other funds to spread out any fixed costs from registration or stop operating these types of funds altogether. They may have also chosen to limit the number of investors to be under the conventional section 3(c)(1) limit of no more than 100 beneficial owners.

²⁷ See Proposing Release at nn.13-16 and accompanying text.

Text of Rule Amendments

For reasons set forth in the preamble, we are amending title 17, chapter II of the Code of Federal Regulations as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 1. The general authority citation for part 270 continues to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39, 1681w(a)(1), 6801–6809, 6825, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 2. Add § 270.3c–7 to read as follows:

§ 270.3c–7 Inflation-adjusted definition of qualifying venture capital fund.

(a) *Inflation-adjusted definition of qualifying venture capital fund.* For purposes of section 3(c)(1)(C)(i) of the Act (15 U.S.C. 80a–3(c)(1)(C)(i)), the term *qualifying venture capital fund* means a venture capital fund (as that term is defined in 17 CFR 275.203(l)–1) that has not more than \$12,000,000 in aggregate capital contributions and uncalled committed capital, or, following November 1, 2029, the dollar amount specified in the most recent order issued by the Commission in accordance with paragraph (b) of this section and as published in the **Federal Register**.

(b) *Future inflation adjustments.* Pursuant to section 3(c)(1)(C)(i) of the Act (15 U.S.C. 80a–3(c)(1)(C)(i)), the dollar amount specified in paragraph (a) of this section shall be adjusted by order of the Commission, issued on or about November 1, 2029, and approximately every five years thereafter. The adjusted dollar amount established in such orders shall be computed by:

(1) Dividing the year-end value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), as published by the United States Department of Commerce, for the calendar year preceding the calendar year in which the order is being issued, by the year-end value of such index (or successor) for the calendar year 2018; and

(2) Multiplying \$10,000,000 times the quotient obtained in paragraph (b)(1) of this section and rounding the product to the nearest multiple of \$1,000,000.

By the Commission.

Dated: August 21, 2024.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024–19229 Filed 8–29–24; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 1140**

[Docket No. FDA–2020–N–1395]

RIN 0910–AI51

Prohibition of Sale of Tobacco Products to Persons Younger Than 21 Years of Age

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is issuing a final rule to make conforming changes as required by the Further Consolidated Appropriations Act, 2020 (Appropriations Act), which established a new Federal minimum age of sale for tobacco products. These conforming changes include increasing the minimum age of sale for cigarettes, smokeless tobacco, and covered tobacco products from 18 to 21 years of age; increasing the minimum age for age verification by means of photographic identification for cigarettes, smokeless tobacco, and covered tobacco products from under the age of 27 to under the age of 30; increasing the minimum age of individuals who may be present or permitted to enter facilities that maintain vending machines to sell cigarettes, smokeless tobacco, or covered tobacco products from 18 to 21 years of age; and increasing the minimum age of individuals who may be present or permitted to enter facilities that maintain self-service displays that sell cigarettes or smokeless tobacco from 18 to 21 years of age.

DATES: This rule is effective September 30, 2024.

ADDRESSES: For access to the docket to read background documents, go to <https://www.regulations.gov> and insert the docket number found in brackets in the heading of this final rule 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: Beth Buckler, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 877–287–1373, AskCTP@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Purpose of the Regulatory Action

II. Background

- A. The Tobacco Control Act
- B. The Deeming Rule and Covered Tobacco Products
- C. Further Consolidated Appropriations Act, 2020
- III. Legal Authority
- IV. Description of the Final Rule
- V. Economic Analysis of Impacts
 - A. Introduction
 - B. Benefits, Costs, and Transfers
- VI. Paperwork Reduction Act of 1995
- VII. Federalism
- VIII. Consultation and Coordination With Indian Tribal Governments

I. Purpose of the Regulatory Action

The Appropriations Act, enacted on December 20, 2019, established and made immediately effective¹ a new Federal minimum age for the sale of tobacco products (Pub. L. 116–94, div. N, tit. I, sub. F, sec. 603, 133 Stat. 2534, 3123–24). Specifically, the Appropriations Act amended section 906(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387f(d)) (FD&C Act) to make it unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age. The Appropriations Act also directed the Food and Drug Administration (FDA, the Agency, or we) to issue a final rule to amend its regulations to update the minimum age-related requirements in subpart B of part 1140 (21 CFR part 1140).

As required by the Appropriations Act, FDA is issuing this final rule to make conforming changes to its regulations to: (1) reflect the increased minimum age of sale for cigarettes,² smokeless tobacco, and covered tobacco products from 18 to 21 years of age; (2) increase the minimum age for verification by means of photographic identification for cigarettes, smokeless tobacco, and covered tobacco products from under the age of 27 to under the age of 30; (3) increase the minimum age of persons who may be present or permitted to enter at any time for facilities that maintain vending machines to sell cigarettes, smokeless tobacco, or covered tobacco products from 18 to 21 years of age; and (4) increase the minimum age of persons who may be present or permitted to enter at any time for facilities that maintain self-service displays to sell cigarettes or smokeless tobacco from 18 to 21 years of age. This final rule ensures FDA’s regulations align with

¹ Because the Appropriations Act did not provide a later effective date, the new provision became effective immediately.

² As discussed in section II.A of this document, unless otherwise stated, the restrictions in part 1140 that are applicable to cigarettes also apply to cigarette tobacco.

current Federal law as it pertains to age restrictions and tobacco products, reducing youth access to such products and providing clarity to consumers, retailers, and manufacturers.

II. Background

FDA is amending part 1140 to apply the new Federal minimum age requirements for the sale of tobacco products to cigarettes, smokeless tobacco, and covered tobacco products.

A. The Tobacco Control Act

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) was enacted on June 22, 2009, amending the FD&C Act and providing FDA with the authority to regulate tobacco products (Pub. L. 111–31, 123 Stat. 1776). In enacting the Tobacco Control Act, Congress found, among other things, that the use of tobacco products is a pediatric disease, virtually all new users of tobacco products are under 18 years of age, and that tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market (section 2(1), (4), (20), (23), (24) of the Tobacco Control Act) (21 U.S.C. 387 note). Accordingly, Congress directed FDA to reissue, among others, provisions contained in its 1996 final rule (61 FR 44396, August 28, 1996) that restricted youth access to tobacco products (section 102 of the Tobacco Control Act) (21 U.S.C. 387a–1).

Specifically, section 102 of the Tobacco Control Act required FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to FDA's 1996 final rule (61 FR 44396), with certain specified exceptions. Consistent with section 102 of the Tobacco Control Act, FDA published a final rule adding a new part 1140 to title 21, that established restrictions on the sale and distribution of cigarettes and smokeless tobacco (75 FR 13225, March 19, 2010).

Among other things, the rule prohibited the sale of cigarettes and smokeless tobacco to any person younger than 18 years of age (§ 1140.14(a)); required retailers to verify by means of photographic identification that no person purchasing cigarettes or smokeless tobacco was younger than 18 years of age (§ 1140.14(b)(1)), but did not require such verification for any person over the age of 26 (§ 1140.14(b)(2)); and prohibited the sale of cigarettes and smokeless tobacco through vending machines and self-service displays, except in facilities where individuals younger than 18 years of age were not

present or permitted at any time (§ 1140.16(c)).

The final rule also set out definitions for “cigarette,” “cigarette tobacco,” and “smokeless tobacco” that mirrored those definitions set out at section 900 of the FD&C Act (21 U.S.C. 387). These terms were (and continue to be) defined in § 1140.3 as follows:

- *Cigarette* means a product that is a tobacco product; and meets the definition of the term “cigarette” in section 3(1) of the Federal Cigarette Labeling and Advertising Act; and includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

- *Cigarette tobacco* means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this chapter shall also apply to cigarette tobacco.

- *Smokeless tobacco* means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

Products that meet these definitions are generally subject to the restrictions in part 1140.

B. The Deeming Rule and Covered Tobacco Products

On May 10, 2016, FDA issued a final rule deeming all products meeting the statutory definition of “tobacco product,” excluding accessories of newly deemed tobacco products, to be subject to chapter IX of the FD&C Act and its implementing regulations (Deeming Rule) (81 FR 28974; codified at 21 CFR part 1100). Under section 906(d) of the FD&C Act (21 U.S.C. 387f(d)), the Deeming Rule also established age and identification restrictions for “covered tobacco products,” defined as any tobacco product deemed to be subject to the FD&C Act under § 1100.2 (21 CFR 1100.2), but excluding any component or part that is not made or derived from tobacco (81 FR 28974 at 29103, codified at 21 CFR 1140.3).³ Specifically, the

³ The following is a nonexhaustive list of covered tobacco products subject to the minimum age and identification restrictions described in the Deeming Rule and this final rule: cigars, liquid nicotine, e-liquids and e-cigarettes containing nicotine, hookah/waterpipe tobacco, and pipe tobacco. In contrast, the following is a nonexhaustive list of components, parts, and accessories that do not meet the definition of a covered tobacco product and

Deeming Rule amended § 1140.14 to add, among others, provisions prohibiting retailers from selling covered tobacco products to any person younger than 18 years of age, requiring age verification by means of photographic identification for any person purchasing covered tobacco products under the age of 27, and prohibiting vending machine sales of covered tobacco products in facilities where persons younger than 18 years of age were present or permitted to enter at any time.

C. Further Consolidated Appropriations Act, 2020

Section 603(a) of the Appropriations Act amended chapter IX of the FD&C Act and established a new Federal minimum age of 21 years for the sale of tobacco products. Specifically, section 603(a) of the Appropriations Act added a new provision, that became effective immediately, to section 906(d) of the FD&C Act to make it unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age.⁴

While section 603(a) of the Appropriations Act refers to tobacco products in general, section 603(b) does not. As a result, this rule does not expand the scope of the products subject to the age-related restrictions, and instead simply increases the age thresholds for those restrictions. Section 603(b) of the Appropriations Act directed FDA to issue “a final rule to update the regulations issued under chapter IX of the [FD&C] Act (21 U.S.C. 387 *et seq.*) as appropriate” to (and only to) “carry out the amendments made by subsection (a).” The provision specified that such updates included updating all references to persons younger than 18 years of age in part 1140, subpart B and updating the relevant age verification requirements in part 1140 to require age verification for individuals under the

therefore are not subject to such restrictions: atomizers, batteries, waterpipe hose cooling attachments, flavored waterpipe charcoals, waterpipe tongs, lanyards, matches, and lighters. For more information, please visit the FDA website at <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/fdas-deeming-regulations-e-cigarettes-cigars-and-all-other-tobacco-products>.

⁴ Separately, the Consolidated Appropriations Act, 2022 (Pub. L. 117–103, 136 Stat. 49) was enacted on March 15, 2022. Among other things, the Consolidated Appropriations Act amended the definition of “tobacco product” in section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)) to include products that contain nicotine from any source (Pub. L. 117–103, div. P, tit. I, sub. B, sec. 111(a), 136 Stat. at 789). This amendment took effect on April 14, 2022 (*id.*, sec. 111(c), 136 Stat. at 789). As a result, it is unlawful for any retailer to sell a tobacco product containing nicotine from any source, including a non-tobacco nicotine product, to any person younger than 21 years of age.

age of 30. Thus, the regulations Congress directed FDA to update are the minimum age of sale restrictions in part 1140, subpart B and the related age verification restrictions in part 1140, all of which solely apply to cigarettes, smokeless tobacco, and covered tobacco products. FDA understands section 603(b) to direct FDA only to increase these age restrictions and not simultaneously to extend part 1140's age restrictions to apply to additional tobacco products. Section 603(b) identified two specific conforming changes; both called upon FDA to modify particular age restrictions within part 1140—age restrictions that, as noted, apply only to cigarettes, smokeless tobacco, and covered tobacco products. In contrast to section 603(a) of the Appropriations Act, section 603(b) did not use the term “tobacco product,” and neither of the age-related conforming changes identified in section 603(b) suggested that Congress expected FDA to apply the identified restrictions to *all* tobacco products. The legislative history of the Appropriations Act does not address section 603, and thus does not support a different conclusion. As such, this rule makes corresponding amendments to the relevant age restrictions in part 1140 but does not expand the range of products subject to such restrictions.

III. Legal Authority

Section 603 of the Appropriations Act amends section 906(d) of the FD&C Act to make it unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age. Section 603 directs the Secretary to issue a final rule to update the regulations issued under chapter IX of the FD&C Act, including updating all references to persons younger than 18 years of age in part 1140, subpart B and updating relevant age verification requirements under part 1140 to require age verification for individuals under the age of 30. Under section 603(b)(1)(B), this final rule is deemed to be in compliance with all applicable provisions of chapter 5 of title 5, U.S. Code and all other provisions of law relating to rulemaking procedures. A proposed rule under 5 U.S.C. 553(b) is therefore neither required nor necessary.

IV. Description of the Final Rule

Consistent with the requirements of section 603 of the Appropriations Act, this rule updates part 1140 to: (1) increase the minimum age of sale for cigarettes, smokeless tobacco, and covered tobacco products from 18 to 21 years of age; (2) increase the minimum age for verification by means of

photographic identification for cigarettes, smokeless tobacco, and covered tobacco products from under the age of 27 to under the age of 30; (3) increase the minimum age of persons who may be present or permitted to enter at any time for facilities that maintain vending machines to sell cigarettes, smokeless tobacco, or covered tobacco products from 18 to 21 years of age; and (4) increase the minimum age of persons who may be present or permitted to enter at any time for facilities that maintain self-service displays to sell cigarettes or smokeless tobacco from 18 to 21 years of age.

Specifically, in this final rule, FDA is revising the regulations as follows:

- In the heading to subpart B, by replacing the number “18” with the number “21”;
- In § 1140.14(a)(1), (a)(2)(i), (b)(1), (b)(2)(i), and (b)(3), by replacing the number “18” with the number “21”;
- In § 1140.14(a)(2)(ii) and (b)(2)(ii), by replacing the number “26” with the number “29”; and
- In § 1140.16(c)(2)(ii), by replacing the number “18” with the number “21”.

V. Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the final rule under Executive Order (E.O.) 12866, E.O. 13563, E.O. 14094, which direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Rules are “significant” under E.O. 12866 section 3(f)(1) (as amended by E.O. 14094) if they “have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of [the Office of Information and Regulatory Affairs (OIRA)] for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities.” OIRA has determined that this final rule is a significant regulatory action under E.O. 12866.

As directed by the Further Consolidated Appropriations Act, 2020, this final rule issued under section 603(b)(1)(B) is “deemed to be in compliance with all applicable provisions of chapter 5 of title 5, United States Code and all other provisions of

law relating to rulemaking procedures.” This exempts this rulemaking from such provisions of law as the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*, Pub. L. 104–4), the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801, Pub. L. 104–121), and Regulatory Flexibility Act (5 U.S.C. 601–612).

B. Benefits, Costs, and Transfers

In cases where the relevant statutory provisions are entirely self-implementing even in the absence of the regulation, or the regulatory action is one “over which an agency clearly has essentially no regulatory discretion”, OMB’s Circular A–4 allows for the use of a “with-statute” baseline. A with-statute baseline means that an Agency is only tasked to assess the impacts of the rule that are up to its discretion. Section 603(b) of the Appropriation Act charges FDA with publishing “in the **Federal Register** a final rule to update the regulations issued under chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387 *et seq.*)” to make edits to conform the regulations to the statutory changes. As FDA “clearly has essentially no regulatory discretion” over any of the provisions of this rule, we do not assess costs, benefits, or transfers for this final rule.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Federalism

We have analyzed this final rule in accordance with the principles set forth in E.O. 13132. We have determined that the rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the E.O. and, consequently, a federalism summary impact statement is not required.

VIII. Consultation and Coordination With Indian Tribal Governments

We have analyzed this final rule in accordance with the principles set forth in E.O. 13175. FDA received a request for Tribal consultation, but the Agency did not consider consultation on this regulation to be practicable. As previously discussed, the

Appropriations Act established and made immediately effective a new Federal minimum age of 21 for the sale of tobacco products. The Appropriations Act also directed FDA to issue this final rule to make conforming changes to its regulations. Accordingly, a Tribal summary impact statement is not required.

List of Subjects in 21 CFR Part 1140

Advertising, Labeling, Smoking, Tobacco.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1140 is amended as follows:

PART 1140—CIGARETTES, SMOKELESS TOBACCO, AND COVERED TOBACCO PRODUCTS

■ 1. The authority citation for part 1140 is revised to read as follows:

Authority: 21 U.S.C. 301 *et seq.*; 21 U.S.C. 387a–1; Pub. L. 116–94, div. N, tit. I, sub. F, sec. 603, 133 Stat. 2534, 3123; Pub. L. 117–103, div. P, tit. I, sub. B, sec. 111(a), 136 Stat. 49, 789.

■ 2. Revise the heading for subpart B to read as follows:

Subpart B—Prohibition of Sale and Distribution to Persons Younger Than 21 Years of Age

§ 1140.14 [Amended]

■ 3. Amend § 1140.14 by:

■ a. Removing the number “18”, wherever it appears, and adding in its place the number “21”; and

■ b. Removing the number “26”, wherever it appears, and adding in its place the number “29”.

§ 1140.16 [Amended]

■ 4. Amend § 1140.16, in paragraph (c)(2)(ii), by removing the number “18” and adding in its place the number “21”.

Dated: August 15, 2024.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2024–19481 Filed 8–29–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9999]

RIN 1545–BQ90

Statutory Disallowance of Deductions for Certain Qualified Conservation Contributions Made by Partnerships and S Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule; correction and correcting amendments.

SUMMARY: This document contains corrections to Treasury Decision 9999, which was published in the **Federal Register** on Friday, June 28, 2024. The document issued final regulations concerning the statutory disallowance rule enacted by the SECURE 2.0 Act of 2022 to disallow a Federal income tax deduction for a qualified conservation contribution made by a partnership or an S corporation after December 29, 2022, if the amount of the contribution exceeds 2.5 times the sum of each partner's or S corporation shareholder's relevant basis.

DATES: These corrections are effective on August 30, 2024. For dates of applicability see §§ 1.170A–14(o)(1), 1.170A–16(g)(2), 1.706–3(e), and 1.706–4(e)(2)(xiii) and (e)(3)(ii).

FOR FURTHER INFORMATION CONTACT:

Concerning these final regulations under §§ 1.170A–14, 1.706–3, and 1.706–4, contact John Hanebuth or Benjamin Weaver at (202) 317–6850 (not a toll-free number); concerning the final regulations under § 1.170A–16 and issues regarding section 170 of the Internal Revenue Code (Code) other than section 170(h)(7), contact Elizabeth Boone at (202) 317–5100 or Hannah Kim at (202) 317–7003 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9999) that are the subject of this correction are under sections 170 and 706 of the Code.

Corrections to Publication

Accordingly, FR Doc. 2024–13844 (TD 9999) appearing on page 54284 in the **Federal Register** on Friday, June 28, 2024, is corrected to read:

1. On page 54288, in the third column, in the sixth line of footnote 2, the language “determining relative basis” is corrected to read “determining relevant basis”.

2. On page 54298, in the third column, the fifth line of the first full paragraph is corrected to read “extremely limited and that ninety”.

3. On page 54309, in the first column, in the fourth line from the bottom of the first partial paragraph the language “1.170A–14(n)” is corrected to read “1.170A–14(n)(4)”.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Corrections to the Regulations

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

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 * * *

§ 1.170A–14 [Corrected]

■ **Par. 2.** Section 1.170A–14 is amended by:

■ 1. Removing “\$12.50” in the first sentence of paragraph (m)(7)(ii)(E) and adding “\$12.50X” in its place;

■ 2. Removing “\$19” in the eleventh sentence of paragraph (m)(7)(iii)(A) and adding “\$19X” in its place;

■ 3. Removing “\$26.80 (\$26.80)” in paragraph (m)(7)(iii)(I) and adding “\$26.80X (\$26.80X)” in its place;

■ 4. Removing “\$1,000” in paragraph (m)(7)(v)(A) and adding “\$1,000X” in its place;

■ 5. Removing “\$1,000” in paragraph (m)(7)(v)(C)(2) and adding “\$1,000X” in its place;

■ 6. Removing the language “\$1,000 portion LossProp’s adjusted basis that does not exceed LossProp’s \$1,000X value, plus all of the \$1,000” in paragraph (m)(7)(v)(D)(2) and adding the language “\$1,000X portion of LossProp’s adjusted basis that does not exceed LossProp’s \$1,000X value, plus all of the \$1,000X” in its place; and

■ 7. Removing the word “requirement” in the third sentence of paragraph (n)(2)(v)(B)(2) and adding the word “requirements” in its place.

■ **Par 3.** Section 1.170A–16 is amended by revising paragraph (f)(6)(ii)(B)(1) to read as follows:

§ 1.170A–16 Substantiation and reporting requirements for noncash charitable contributions.

* * * * *

(f) * * *

(6) * * *

(ii) * * *

(B) * * *

(1) Made by a contributing partnership (as defined in § 1.170A–14(j)(3)(iii)) or contributing S corporation (as defined in § 1.170A–14(j)(3)(iv)); or

* * * * *

Oluwafunmilayo A. Taylor,

*Section Chief, Publications & Regulations
Section, Associate Chief Counsel, (Procedure
and Administration).*

[FR Doc. 2024–18925 Filed 8–29–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2023–0007; T.D. TTB–195;
Re: Notice No. 225]

RIN 1513–AD03

Establishment of the San Luis Rey Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 97,733-acre “San Luis Rey” American viticultural area (AVA) in San Diego County, California. The San Luis Rey viticultural area lies entirely within the established South Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity

and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology,

soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;

- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identities the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

San Luis Rey Petition

TTB received a petition from Rebecca Wood, managing member of Premium Vintners, LLC on behalf of Fallbrook Winery and other local vineyard owners and winemakers proposing the establishment of the “San Luis Rey” AVA in San Diego County, California. Premium Vintners, LLC, operates Fallbrook Winery and farms several vineyards within the proposed AVA. The proposed San Luis Rey AVA is located entirely within the established South Coast AVA (27 CFR 9.104) and covers approximately 97,733 acres. There are 44 commercially-producing vineyards covering a total of approximately 256 acres, along with 29 acres of planned vineyards. There are also 23 wineries within the proposed AVA.

According to the petition, the distinguishing features of the proposed San Luis Rey AVA are its topography, climate, and soils. The proposed AVA has low elevations that allow cool marine air from the Pacific Ocean to flow through the region, moderating temperatures. The mean elevation within the proposed AVA is 563 feet, and the average slope angle is 10 degrees. The low elevations and a terrain of gently rolling hills that are open to marine air almost eliminate the spring frosts that can affect vine growth at the beginning of the growing season. The petition also notes that afternoon breezes help to prevent fungal diseases resulting from the morning’s low cloud cover.

In the region north of the proposed San Luis Rey AVA, elevations are higher and slope angles are similar to those in the proposed AVA. In the region to the south, average elevations are lower and

slope angles are shallower than within the proposed AVA. Also, in the area to the southeast, elevations are higher with steeper slope angles than the proposed AVA. The petition did not provide elevation ranges for the area east of the proposed AVA but did include a graphic indicating higher elevations to the east of the proposed AVA. The Pacific Ocean is west of the proposed AVA, so the petition did not provide distinguishing feature information for this area.

The petition provided climate data, specifically the average annual mean temperature, average annual maximum temperature, average peak ripening and harvest season maximum temperature, and growing degree day¹ (GDD) accumulations for the proposed AVA and surrounding regions. According to the petition, the proposed AVA generally has mild winters and summers with lower maximum temperatures than regions farther inland due to the proposed AVA's proximity to the Pacific Ocean. The petition notes that the proposed AVA has lower average annual mean and maximum temperatures and fewer GDDs than the regions to the north and south. The proposed AVA has a greater number of mean GDDs but lower minimum GDDs and a lower average annual maximum temperature than the area to the southeast. Additionally, the proposed San Luis Rey AVA has lower annual precipitation amounts than the regions to the north and southeast and slightly higher amounts than the region to the south.

The petition notes that nearly 50 percent of the soils in the proposed San Luis Rey AVA are Alfisols soils with high concentrations of essential plant nutrients. Approximately 69 percent of the soils in the proposed AVA are sandy loams that can hold water while draining and aerating well and prevent overly vigorous growth. Soils to the north are 48 percent Alfisols and also contain more Entisols and Mollisols soils than the proposed AVA. To the south, soils are primarily Alfisols but in lower amounts than the proposed AVA. This area also has more Entisols and Mollisols soils than the proposed AVA. To the southeast, soils are 46 percent Alfisols, but contain more Entisols than are found in the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published a notice of proposed rulemaking (NPRM) (Notice No. 225) in the *Federal Register* on August 30, 2023 (88 FR 59820), proposing to establish the San Luis Rey AVA. In the NPRM, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The NPRM also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see the NPRM.

In the NPRM, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed San Luis Rey AVA's location within the South Coast AVA, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the South Coast AVA. Finally, TTB requested comments on whether the geographic features of the proposed AVA are so distinguishable from the South Coast AVA that the proposed San Luis Rey AVA should no longer be part of the established AVA. The comment period closed October 30, 2023.

In response to the NPRM, TTB received one comment. The commenter is a wine reviewer who supported the establishment of the proposed San Luis Rey AVA, stating that its proposed boundaries encompass a subregion with soils compositions, temperature patterns, and acidity profiles that set the proposed AVA apart from neighboring AVAs. The commenter also stated that significant coastal influence on acidity profiles, in particular, invites the planting of grape varieties not otherwise found in the South Coast AVA.

TTB did not receive any comments in response to its question of whether the proposed San Luis Rey AVA is so distinguishable from the established South Coast AVA that the proposed AVA should not be part of the established AVA.

TTB Determination

After careful review of the petition and the comment received in response to the NPRM, TTB finds that the evidence provided by the petitioner supports the establishment of the San Luis Rey AVA. Accordingly, under the

authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the "San Luis Rey" AVA in San Diego County, California, effective 30 days from the publication date of this document.

TTB has also determined that the San Luis Rey AVA will remain part of the established South Coast AVA. As discussed in the NPRM, the proposed AVA shares the marine-influenced climate of the larger South Coast AVA. However, in general, the proposed San Luis Rey AVA has a lower mean elevation and more consistent terrain than the South Coast AVA. Additionally, the three most common soil series in the proposed AVA make up 34.9 percent of the total soils in the proposed AVA, but only comprise 20.3 percent of the total South Coast AVA soils.

Boundary Description

See the narrative description of the boundary of the San Luis Rey AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The San Luis Rey AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the San Luis Rey AVA, its name, "San Luis Rey," will be recognized as a name of

¹ See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “San Luis Rey” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the San Luis Rey AVA will not affect any existing AVA, and any bottlers using “South Coast AVA” as an appellation of origin or in a brand name for wines made from grapes grown within the South Coast AVA will not be affected by the establishment of this new AVA. The establishment of the San Luis Rey AVA will allow vintners to use “San Luis Rey” and “South Coast AVA” as appellations of origin for wines made primarily from grapes grown within the San Luis Rey AVA if the wines meet the eligibility requirements for these appellations.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993, as amended. Therefore, no regulatory assessment is required.

Drafting Information

Vonzella C. Johnson of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.295 to read as follows:

§ 9.295 San Luis Rey AVA.

(a) *Name.* The name of the viticultural area described in this section is “San Luis Rey”. For purposes of part 4 of this chapter, “San Luis Rey” is a term of viticultural significance.

(b) *Approved maps.* The eight United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the viticultural area are as follows:

- (1) Oceanside, CA, 2018;
- (2) San Luis Rey, CA, 2018;
- (3) San Marcos, CA, 2018;
- (4) Valley Center, CA, 2018;
- (5) Bonsall, CA, 2018;
- (6) Temecula, CA, 2018;
- (7) Fallbrook, CA, 2018; and
- (8) Morro Hill, CA, 2018.

(c) *Boundary.* The San Luis Rey viticultural area is located in San Diego County, California. The boundary of the San Luis Rey viticultural area is described as follows:

(1) The beginning point is on the Oceanside map at the intersection of Interstate 5 and the Marine Corps Base (MCB) Camp Pendleton boundary. From the beginning point, proceed northeast for a total of 11.21 miles along the MCB Camp Pendleton boundary, crossing over the San Luis Rey map and onto the Morro Hill map, and continuing along the MCB Camp Pendleton boundary to its intersection with the Naval Weapons Station (NWS) Seal Beach Fallbrook California boundary; then

(2) Proceed east along the NWS Seal Beach Fallbrook California boundary for a total of 6.85 miles, crossing onto the Bonsall map and continuing north, then west along the boundary, and crossing back onto the Morro Hill map and continuing northerly along the boundary, crossing onto the Fallbrook map, and continuing along the boundary as it becomes concurrent with the MCB Camp Pendleton boundary, and continuing along the boundary to its intersection with De Luz Road; then

(3) Proceed east along De Luz Road for 0.38 mile to its intersection with Sandia Creek Drive; then

(4) Proceed northerly along Sandia Creek Drive for a total of 3.98 miles, crossing onto the Temecula map and continuing along Sandia Creek Drive to its intersection with an unnamed road known locally as Rock Mountain Road; then

(5) Proceed east along Rock Mountain Road for 0.21 mile to its intersection with the San Diego County line; then

(6) Proceed south then east along the San Diego County line for 6.72 miles to its intersection with an unnamed road known locally as Old Highway 395; then

(7) Proceed south along Old Highway 395 for a total of 14.9 miles, crossing onto the Bonsall map and continuing south along Old Highway 395 to its intersection with an unnamed road known locally as Old Castle Road; then

(8) Proceed east on Old Castle Road for a total of 0.59 mile, crossing onto the San Marcos map and continuing east along Old Castle Road to its intersection with Gordon Hill Road; then

(9) Proceed southeasterly along Gordon Hill Road for 0.92 mile to its intersection with the 800-foot elevation contour; then

(10) Proceed east along the 800-foot elevation contour for a total of 2.5 miles, crossing onto the Valley Center map and continuing east along the 800-foot elevation contour to its intersection with Canyon Country Lane; then

(11) Proceed northwest and then south along Canyon Country Lane for 0.83 mile to its intersection with the 1,240-foot elevation contour; then

(12) Proceed east along the 1,240-foot elevation contour for 2.90 miles to its intersection with Cougar Pass Road; then

(13) Proceed west then south along Cougar Pass Road for 0.4 mile to its intersection with Meadow Glen Way East; then

(14) Proceed south along Meadow Glen Way East for 0.46 mile to its intersection with Hidden Meadows Road; then

(15) Proceed southwest along Hidden Meadows Road for 0.73 mile to its intersection with Mountain Meadow Road; then

(16) Proceed southwest along Mountain Meadow Road for a total of 1.44 miles, crossing onto the San Marcos map and continuing along Mountain Meadow Road to the point where Mountain Meadow Road becomes known as Deer Springs Road just west of Interstate 15; then

(17) Proceed southwest along Deer Springs Road for 2.42 miles to its intersection with an unnamed road known locally as North Twin Oaks Valley Road; then

(18) Proceed south along North Twin Oaks Valley Road for 3.01 miles to its intersection with an unnamed road known locally as West Mission Road; then

(19) Proceed northwest along West Mission Road (which becomes South

Santa Fe Avenue) for a total of 3.9 miles to its intersection with Robelini Drive; then

(20) Proceed southwest along Robelini Drive (which becomes Sycamore Avenue) for a total of 0.55 mile to its intersection with State Highway 78; then

(21) Proceed northwest, then westerly along State Highway 78 for a total of 9.09 miles, crossing onto the San Luis Rey map and continuing westerly along State Highway 78 to its intersection with Interstate 5; then

(22) Proceed northwest along Interstate 5 for a total of 3.14 miles, crossing onto the Oceanside map and returning to the beginning point.

Signed: August 19, 2024.

Mary G. Ryan,
Administrator.

Approved: August 20, 2024.

Aviva R. Aron-Dine,
Acting Assistant Secretary (Tax Policy).
[FR Doc. 2024–19578 Filed 8–29–24; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Parts 550 and 556

[Docket No. BOEM–2024–0037]

RIN 1010–AE23

Adjustment of Service Fees for Outer Continental Shelf Activities

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior (the Department or DOI), acting through the Bureau of Ocean Energy Management (BOEM), is amending its regulations related to service fees. This final rule adjusts for inflation the service fees due to BOEM for processing documents related to oil and gas activities on the Outer Continental Shelf (OCS).

DATES: This rule is effective November 1, 2024.

ADDRESSES: BOEM has established a docket for this action under Docket No. BOEM–2024–0037. All documents in the docket are listed on the <https://www.regulations.gov> website and can be found by entering the Docket No. in the “Enter Keyword or ID” search box and clicking “search”.

FOR FURTHER INFORMATION CONTACT: Kelley Spence, Office of Regulations, BOEM, 45600 Woodland Road, Sterling,

Virginia 20166, at email address Kelley.Spence@boem.gov or at telephone number (884) 298–7345; and Karen Thundiyil, Chief, Office of Regulations, BOEM, 1849 C Street NW, Washington DC 20240, at email address Karen.Thundiyil@boem.gov or at telephone number (202) 742–0970. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting the contacts listed in this section. These services are available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. 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: *Preamble acronyms and abbreviations.* Multiple acronyms are included in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, BOEM explains the following acronyms here:

ANCSA Alaska Native Claims Settlement Act
APA Administrative Procedure Act
BEA Bureau of Economic Analysis
BOEM Bureau of Ocean Energy Management
CFR Code of Federal Regulations
CRA Congressional Review Act
DOC Development Operations Coordination Document
DOI Department of the Interior (or Department)
DPP Development and Production Plan
E.O. Executive Order
EP Exploration Plan
FR Federal Register
NEPA National Environmental Policy Act
OCS Outer Continental Shelf
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RUE Right-of-Use and Easement
SBREFA Small Business Regulatory Enforcement Fairness Act
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

Background. The service fees being adjusted in this rulemaking were last adjusted on August 26, 2022 (87 FR 52443). BOEM is adjusting these service fees to reflect inflation since the last update.

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?

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

- II. Summary of the Rule
 - A. Background
 - B. Regulatory Amendments
- III. Statutory and Executive Order Reviews
 - A. Administrative Procedure Act
 - B. Executive Order 12866: Regulatory Planning and Review, as Amended by Executive Order 14094: Modernizing Regulatory Review, and Executive Order 13563: Improving Regulation and Regulatory Review
 - C. Regulatory Flexibility Act (RFA)
 - D. Small Business Regulatory Enforcement Fairness Act (SBREFA)
 - E. Unfunded Mandates Reform Act (UMRA)
 - F. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights
 - G. Executive Order 13132: Federalism
 - H. Executive Order 12988: Civil Justice Reform
 - I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - J. Paperwork Reduction Act (PRA)
 - K. National Environmental Policy Act (NEPA)
 - L. Data Quality Act
 - M. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - N. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final action are holders of oil, gas, and sulfur leases and Right-of-Use and Easement (RUE) grants on the OCS.

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

In addition to being available in the docket, BOEM will post an electronic copy of the documents related to this final action at: <https://www.boem.gov/regulations-and-guidance>.

II. Summary of the Rule

A. Background

BOEM’s regulations at 30 CFR 550.125 and 556.106 provide the authority for BOEM to periodically adjust its service fees according to the Implicit Price Deflator for Gross Domestic Product by publication of a document in the **Federal Register**. BOEM derives its authority from the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701, as interpreted by Office of Management and Budget (OMB) Circular No. A–25 Revised (1993). That circular states: “When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general

public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price)."

The service fees in 30 CFR 550.125 and 556.106 were last updated on August 26, 2022 (87 FR 52443). With this action, BOEM is adjusting the service fees to reflect inflation since the last update.

B. Regulatory Amendments

This rule adjusts the service fees in accordance with BOEM's regulations at 30 CFR 550.125 and 556.106. The new

2024 fee amounts are based on an inflation rate of 10.94 percent as calculated by the Implicit Price Deflator for Gross Domestic Product for the 2-year period between 2021 and 2023.

The inflation rate between any 2 years is calculated as the percentage difference between the measure of prices for a designated year (e.g., 2023) and some previous year (e.g., 2021). The prices include all new, domestically produced, final goods and services in the economy for the designated year (e.g., 2023). See the Department of Commerce's Bureau of Economic

Analysis (BEA) "Table 1.1.9, Implicit Price Deflators for Gross Domestic Product," available at <https://apps.bea.gov/iTable/?1301=i&1303=13&ReqID=13&isuri=1&step=3>.

The inflation rate was calculated by dividing the deflator from 2023 by the deflator from 2021, and then subtracting one. For example, using the data in the table below from BEA's table 1.1.9 as revised on April 25, 2024, with the base year set to 2021, the inflation multiplier was calculated as $(122.273/110.213) - 1 = 10.94$ percent. A copy of this table is available in the docket.

TABLE 1—DATA SAMPLE FROM BEA'S TABLE 1.1.9

Calendar Year	Current implicit price deflator for gross domestic product (Base = 2017)	Latest BEA annual inflation rate
2017	100.000	1.90%
2021	110.213	4.15
2022	117.973	4.80
2023	122.273	5.32

Table 2 summarizes the change in service fees from 2022 to 2024 using the calculated inflation rate multiplier.

TABLE 2—SERVICE FEES ADJUSTED FOR INFLATION

Service—processing of the following:	2022 Fee amount	Multiplier	2024 Fee amount
Change in Designation of Operator	\$207	1.1094	\$230.
RUE for State lessee	\$3,246	1.1094	\$3,601.
Exploration Plan (EP)	\$4,348 for each surface location; no fee for revisions.	1.1094	\$4,823 for each surface location; no fee for revisions.
Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD).	\$5,017 for each well proposed; no fee for revisions.	1.1094	\$5,565 for each well proposed; no fee for revisions.
Conservation Information Document	\$32,372	1.1094	\$35,914.
Assignment of record title interest in Federal oil and gas lease(s) for BOEM approval.	\$234	1.1094	\$260.
Sublease or Assignment of operating rights interest in Federal oil and gas lease(s) for BOEM approval.	\$234	1.1094	\$260.
Required document filing for record purpose, but not for BOEM approval.	\$34	1.1094	\$38.
Non-required document filing for record purposes	\$34	1.1094	\$38.

III. Statutory and Executive Order Reviews

A. Administrative Procedure Act

The Administrative Procedure Act (APA) provides that, when an agency, for good cause, finds that "notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest," the agency may issue a rule without providing notice and an opportunity for prior public comment. See 5 U.S.C. 553(b). BOEM finds good cause to promulgate this rule without first providing an opportunity for public notice and comment because BOEM has specific authority under existing regulations to periodically adjust its

service fees according to the Implicit Price Deflator for Gross Domestic Product by publication of a document in the **Federal Register** (30 CFR 550.125 and 556.106).

Under the Independent Offices Appropriation Act and OMB Circular No. A–25 Revised (1993), BOEM can adjust service fees to cover its costs. The amount of the fee increase is not subject to BOEM's discretion as it is based on the Implicit Price Deflator, as determined by the U.S. Bureau of Economic Analysis. As such, BOEM finds the publication of a proposed rule and an opportunity for public comment to be unnecessary.

B. Executive Order 12866: Regulatory Planning and Review, as Amended By Executive Order 14094: Modernizing Regulatory Review, and Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order (E.O.) 12866, as amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has determined that this rule is not a significant action under E.O. 12866, as amended by E.O. 14094, sec. 3(f)(1). This rulemaking will not result in an annual effect on the economy of \$200 million or more (adjusted every 3 years by the

Administrator of OIRA for changes in gross domestic product), nor will it raise any legal or policy issues.

E.O. 13563 reaffirms the principles of E.O. 12866, as amended by E.O. 14094, while calling for improvements in the Nation's regulatory system to promote predictability and reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. BOEM has developed this rule in a manner consistent with these requirements.

C. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when a significant economic impact on a substantial number of small entities is likely and to consider regulatory alternatives that will achieve the agency's goals while minimizing the burden on small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). For the reasons discussed above, BOEM has determined that the APA does not require a proposed rule prior to this final rule. See 5 U.S.C. 553(b). As such, the RFA does not apply to this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act (SBREFA)

The SBREFA, 5 U.S.C. 804(2), requires BOEM to perform a regulatory flexibility analysis, provide guidance, and help small businesses comply with statutes and regulations for major rulemakings. This action is not subject to SBREFA because it will not have an annual effect on the economy of \$100 million or more.

E. Unfunded Mandates Reform Act (UMRA)

The UMRA, 2 U.S.C. 1531–1538, requires BOEM, unless otherwise prohibited by law, to assess the effects of regulatory actions on State, local, and Tribal governments, and the private sector. Section 202 of UMRA generally requires BOEM to prepare a written statement, including a cost-benefit analysis, for each proposed and final rule with “federal mandates” that may result in expenditures by State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. This action does not contain a Federal

mandate under UMRA, 2 U.S.C. 1531–1538, that may result in expenditures of \$100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

Accordingly, BOEM is not required to prepare a written statement required under section 202 of UMRA.

This action is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

Executive Order 12630 ensures that government actions affecting the use of private property are undertaken on a well-reasoned basis with due regard for the potential financial impacts imposed by the government. This action does not effect a taking of private property or otherwise have taking implications under E.O. 12630, and therefore a takings implication assessment is not required.

G. Executive Order 13132: Federalism

Regulatory actions that 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 are subject to E.O. 13132. Under the criteria in section 1 of E.O. 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

H. Executive Order 12988: Civil Justice Reform

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

- (1) Meets the criteria of section 3(a) requiring all regulations to be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (2) Meets the criteria of section 3(b)(2) requiring all regulations to be written in clear language and contain clear legal standards.

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

Executive Order 13175 defines policies that have Tribal implications as

regulations, legislative comments or proposed legislation, and other policy statements or actions that will or may have a substantial direct effect on one or more Indian Tribes, or on the relationship between the Federal Government and one or more Indian Tribes. Additionally, the DOI's consultation policy for Tribal Nations and Alaska Native Claims Settlement Act (ANCSA) Corporations, as described in Departmental Manual part 512 chapter 4, expands on the above definition from E.O. 13175 and requires that BOEM invite Indian Tribes and ANCSA Corporations “early in the planning process to consult whenever a Departmental plan or action with Tribal Implications arises.” BOEM strives to strengthen its government-to-government relationships with Tribal Nations through a commitment to consultation with Tribes, recognition of their right to self-governance and Tribal sovereignty, and honoring BOEM's trust responsibilities for Tribal Nations. BOEM determined that this rule has no substantial direct effects on federally recognized Indian Tribes or ANCSA Corporations and that consultation is not required.

J. Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements, and a submission to OMB under the PRA (44 U.S.C. 3501 *et seq.*) is not required. BOEM may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed environmental analysis under NEPA is not required because this final rule is covered by a categorical exclusion (see 43 CFR 46.205). This final rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental categorical exclusion in that this action is “of an administrative, financial, legal, technical, or procedural nature.” BOEM has also determined that the final rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Data Quality Act

In promulgating this rule, BOEM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–

153–154). In accordance with the Data Quality Act, the Department has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at the Department's website at: <https://www.doi.gov/ocio/policy-mgmt-support/information-and-records-management/iq>.

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

Under E.O. 13211, BOEM is required to prepare and submit to OMB a “Statement of Energy Effects” for “significant energy actions.” This should include a detailed statement of any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) expected to result from the action and a discussion of reasonable alternatives and their effects. This rule is not a significant energy action under the definition in E.O. 13211, therefore a “Statement of Energy Effects” is not required.

N. Congressional Review Act (CRA)

This rule is not a major rule under the CRA (5 U.S.C. 804) because it:

(a) Will not have an annual effect on the economy of \$100 million or more;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

List of Subjects

30 CFR Part 550

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Federal lands, Government contracts, Investigations, Mineral resources, OCS, Oil and gas exploration, Outer continental shelf, Pipelines, Reporting and recordkeeping requirements, Rights-of-way, sulfur.

30 CFR Part 556

Administrative practice and procedure, Continental shelf, Environmental protection, Federal lands, Government contracts, Intergovernmental relations, Oil and gas exploration, Outer continental shelf, Mineral resources, Rights-of-way, Reporting and recordkeeping requirements.

This action is taken pursuant to an existing delegation of authority.

Steven H. Feldgus,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, BOEM amends 30 CFR chapter V as follows:

PART 550—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 550 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

■ 2. Amend § 550.125 by revising paragraph (a) to read as follows:

§ 550.125 Service fees.

(a) The table in this paragraph (a) shows the fees that you must pay to BOEM for the services listed. The fees will be adjusted periodically according to the Implicit Price Deflator for Gross Domestic Product by publication of a document in the **Federal Register**. If a significant adjustment is needed to arrive at the new actual cost for any reason other than inflation, then a proposed rule containing the new fees will be published in the **Federal Register** for comment.

SERVICE FEE TABLE

Service—processing of the following:	Fee amount	30 CFR citation
(1) Change in Designation of Operator	\$230	§ 550.143(d).
(2) Right-of-Use and Easement for State lessee	\$3,601	§ 550.165.
(3) [Reserved]		
(4) Exploration Plan (EP)	\$4,823 for each surface location; no fee for revisions.	§ 550.211(d).
(5) Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD).	\$5,565 for each well proposed; no fee for revisions.	§ 550.241(e).
(6) [Reserved]		
(7) Conservation Information Document	\$35,914	§ 550.296(a).

* * * * *

PART 556—LEASING OF SULFUR OR OIL AND GAS AND FINANCIAL ASSURANCE REQUIREMENTS IN THE OUTER CONTINENTAL SHELF

■ 3. The authority citation for part 556 continues to read as follows:

Authority: 31 U.S.C. 9701; 42 U.S.C. 6213; 43 U.S.C. 1334.

■ 4. Amend § 556.106 by revising paragraph (a) to read as follows:

§ 556.106 Service fees.

(a) The table in this paragraph (a) shows the fees you must pay to BOEM for the services listed. BOEM will adjust the fees periodically according to the

Implicit Price Deflator for Gross Domestic Product and publish a document showing the adjustment in the **Federal Register**. If a significant adjustment is needed to arrive at a new fee for any reason other than inflation, then a proposed rule containing the new fees will be published in the **Federal Register** for comment.

SERVICE FEE TABLE

Service—processing of the following:	Fee amount	30 CFR citation
(1) Assignment of record title interest in Federal oil and gas lease(s) for BOEM approval	\$260	§ 556.701(a)
(2) Sublease or Assignment of operating rights interest in Federal oil and gas lease(s) for BOEM approval.	\$260	§ 556.801(a)

SERVICE FEE TABLE—Continued

Service—processing of the following:	Fee amount	30 CFR citation
(3) Required document filing for record purpose, but not for BOEM approval	\$38	§ 556.715(a) § 556.808(a)
(4) Non-required document filing for record purposes	\$38	§ 556.715(b) § 556.808(b)

* * * * *

[FR Doc. 2024–18798 Filed 8–29–24; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 100**

[Docket No. USCG–2024–0767]

RIN 1625–AA08

Special Local Regulation; Find Your Way Home Swim; Detroit River, Grosse Ile, MI**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain waters of the Detroit River, Grosse Ile, MI. This action is necessary to protect safety of life on navigable waters immediately prior to, during, and after the Find Your Way Home Swim. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit or a designated representative.

DATES: This rule is effective from 5 a.m. through 3:30 p.m. on September 14, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0767 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9564, or email Tracy.M.Girard@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this swim event until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard’s ability to protect participants, mariners, and vessels from the hazards associated with this event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would inhibit the Coast Guard’s ability to protect participants, mariners, and vessels from the hazards associated with this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041(a) and 33 CFR 1.05–1. The Captain of the Port Detroit (COTP) has determined that the likely combination of recreation vessels, commercial vessels, and an unknown number of spectators in close proximity to the swim along the water poses extra and unusual hazards to public safety and property. Therefore, the COTP is establishing a special local regulation around the event location to help minimize risks to safety of life and property during this event.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 5 a.m.

through 3:30 p.m. on September 14, 2024. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass the following waterway: all waters of the Detroit River encompassed within the following six points: from 42°05.376’ N, 083°09.027’ W; a line drawn south to point 42°02.459’ N, 083°08.989’ W; a line drawn south east to point 42°00.039’ N, 083°08.417’ W; a line drawn west to point 42°00.024’ N, 083°08.501’ W; a line drawn north west to point 42°02.43’ N, 083°09.308’ W; a line drawn north to point 42°05.374’ N, 083°09.085’ W back to the beginning point. These coordinates are based on the 1984 World Geodetic System (WGS 84).

An on-scene representative of the COTP may permit vessels to transit the area when no swim activity is occurring. The on-scene representative may be present on any Coast Guard, state, or local law enforcement vessel assigned to patrol the event. Vessel operators desiring to transit through the regulated area must contact the Coast Guard Patrol Commander to obtain permission to do so. The COTP or his designated on-scene representative may be contacted via VHF Channel 16 or via telephone at (313) 568–9560.

The COTP or his designated on-scene representative will notify the public of the enforcement of this rule by all appropriate means, including a Broadcast Notice to Mariners and Local Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies

to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the special local regulation. Vessel traffic will be able to safely transit around this special local regulation zone which will impact a small designated area of the Detroit River from 5 a.m. through 3:30 p.m. on September 14, 2024. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the special local regulation and the rule allows vessels to seek permission to enter the area.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions

annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting almost eleven hours that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L61 of appendix A, table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T09–0767 to read as follows:

§ 100.T09–0767 Special Local Regulation; Find Your Way Home Swim; Detroit River; Grosse Ile, MI

(a) *Regulated Area.* The regulations in this section apply to the following area: all waters of the Detroit River encompassed within the following six points: from 42°05.376′ N, 083°09.027′ W; a line drawn south to point 42°02.459′ N, 083°08.989′ W; a line drawn south east to point 42°00.039′ N, 083°08.417′ W; a line drawn west to point 42°00.024′ N, 083°08.501′ W; a line drawn north west to point 42°02.43′ N, 083°09.308′ W; a line drawn north to point 42°05.374′ N, 083°09.085′ W back to the beginning point. These coordinates are based on the 1984 World Geodetic System (WGS 84).

(b) As used in this section—The “on-scene representative” means any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law

enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(c) *Regulations.* (1) Vessels are prohibited from entering, transiting through, anchoring in, or remaining in the regulated area described in paragraph (a) of this section, unless authorized by the Captain of the Port Detroit (COTP) or their on-scene representative. Vessel operators desiring to operate in the regulated area must contact the Coast Guard Patrol Commander to obtain permission to do so. The COTP or his on-scene representative may be contacted via VHF Channel 16 or via telephone at (313) 568–9560. Vessel operators given permission to operate within the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

(2) Vessels transiting through the regulated area are to maintain the minimum speeds for safe navigation.

(d) *Enforcement period.* This section will be enforced from 5 a.m. through 3:30 p.m. on September 14, 2024.

Dated: August 23, 2024.

Richard P. Armstrong,
Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2024–19423 Filed 8–29–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2024–0742]

Special Local Regulations; Marine Event on the Willamette River, Portland, OR

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Portland Dragon Boat Races from September 7 through 8, 2024 to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event in Portland, OR. During the enforcement periods, entry of vessels or persons into the regulated area is prohibited unless specifically authorized by the Captain of the Port, Sector Columbia River or the Patrol Commander. Vessels permitted to transit the area must comply with the

lawful directions from the Patrol Commander or any official patrol vessel.

DATES: The regulations in 33 CFR 100.1302 will be enforced for the Portland Dragon Boat Races regulated area listed in item 8 in table 1 to § 165.1302, from 8 a.m. to 5 p.m., each day, from September 7 through 8, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Jesse D. Wallace, Waterways Management Division at Sector Columbia River, U.S. Coast Guard; telephone 503–572–3524, email SCRWWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.1302 for the Portland Dragon Boat Races regulated area, from 8 a.m. to 5 p.m., each day, from September 7 through 8, 2024. This action is being taken to provide for the safety of life on navigable waterways during this 2-day event. Our regulations for marine events within the Thirteenth District, § 165.1302, specifies the location of the regulated area for the Portland Dragon Boat Races, which encompasses portions of the Willamette River, extending from Tom McCall Waterfront Park between the Hawthorne and Marquam Bridges, Portland, OR.

During the enforcement periods, as reflected in § 100.1302(a) through (e), if you are the operator of a vessel in the regulated area you must comply with the lawful directions from the Patrol Commander or any official patrol vessel. Vessels may not transit the regulated areas without approval from the Patrol Commander. Vessels permitted to transit must operate at a no wake speed, in a manner which will not endanger participants or other crafts in the event. Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through Local Notice to Mariners, unless authorized by an official patrol vessel. In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of these enforcement periods via the Local Notice to Mariners and marine information broadcasts.

Dated: August 26, 2024.

J.W. Noggle,
Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2024–19591 Filed 8–29–24; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 210

[Docket No. 2022–5]

Termination Rights, Royalty Distributions, Ownership Transfers, Disputes, and the Music Modernization Act

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

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is issuing a final rule adjusting certain due dates set in an earlier rule regarding how the Copyright Act's derivative works exception to termination rights applies to the statutory mechanical blanket license established by the Music Modernization Act.

DATES: This rule is effective August 30, 2024.

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

SUPPLEMENTARY INFORMATION: On July 9, 2024, the Copyright Office published a final rule regarding how the Copyright Act's derivative works exception to termination rights (the “Exception”) applies to the statutory mechanical blanket license established by the Music Modernization Act.¹ Among other things, the rule required the Mechanical Licensing Collective (“MLC”) to engage in corrective royalty adjustments for royalties distributed under its earlier, erroneous interpretation of the Exception. The rule specified separate due dates for the MLC and relevant parties to complete certain steps in this process. The due dates were set by referencing the rule's publication date (e.g., thirty or sixty days after the rule's publication date). Three days after the rule's publication, the Office of the Federal Register issued a correction to one of those dates, which it had miscalculated.²

On August 15, 2024, the MLC contacted the Office to ask about the calculation of the first due date in the corrective adjustment process based on a discrepancy between the date in the rule's regulatory text and its preamble. To resolve any confusion created by the discrepancy and ensure that parties have adequate time to participate in the corrective adjustment process, the

¹ 89 FR 56586 (July 9, 2024).

² 89 FR 57093 (July 12, 2024).

Office is adjusting the relevant due dates for all parties by extending each by approximately thirty days from the original dates provided in the rule's regulatory text.

List of Subjects in 37 CFR Part 210

Copyright, Phonorecords, Recordings.

Final Regulations

For the reasons set forth in the preamble, the U.S. Copyright Office amends 37 CFR part 210 as follows:

PART 210—COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHYSICAL AND DIGITAL PHONORECORDS OF NONDRAMATIC MUSICAL WORKS

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 17 U.S.C. 115, 702.

■ 2. Amend § 210.29 as follows:

■ a. In paragraph (k)(1)(ii) introductory text, remove “August 8, 2024” and add in its place “September 9, 2024”.

■ b. In paragraph (k)(1)(iii) introductory text, remove “September 9, 2024” and add in its place “October 9, 2024”.

■ c. In paragraph (k)(1)(iv)(B), remove “February 9, 2026” and add in its place “March 11, 2026”.

■ d. In paragraph (k)(1)(v)(A), remove “October 7, 2024” and add in its place “November 6, 2024” and remove “November 6, 2024” and add in its place “December 6, 2024”.

* * * * *

Dated: August 21, 2024.

Shira Perlmutter,

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

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2024–19538 Filed 8–29–24; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0237; FRL–11999–02–R9]

Air Plan Revisions; California; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Air Act (CAA or “Act”), the Environmental

Protection Agency (EPA) is taking final action to approve a revision to the California State Implementation Plan (SIP). This revision addresses the CAA requirements for motor vehicle inspection and maintenance (I/M) programs (also referred to as “Smog Check” programs) for the 2015 8-hour ozone National Ambient Air Quality Standards (“2015 ozone NAAQS”).

DATES: This rule is effective September 30, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2024–0237. 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:

Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 947–4152; email: buss.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On July 2, 2024 (89 FR 54753), under CAA section 110(k)(3), the EPA proposed to approve the California Air Resources Board’s (CARB’s) submission of the “California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard” (“Smog Check Certification SIP”) as a revision to the California SIP. CARB submitted the Smog Check Certification SIP to the EPA on April 26,

2023.¹ The Smog Check Certification SIP includes CARB’s evaluation of the California Smog Check program for compliance with the applicable Smog Check program requirements for SIPs under CAA sections 182(a)(2)(B), 182(b)(4), and 182(c)(3) and the EPA’s regulations in 40 CFR part 51, subpart S for certain nonattainment areas for the 2015 ozone NAAQS.

More specifically, the Smog Check Certification SIP addresses the applicable Smog Check SIP requirements for all California air quality planning areas classified as “Moderate” and above for the 2015 ozone NAAQS that are subject to State jurisdiction. These areas (and their respective classifications for the 2015 ozone NAAQS) include Coachella Valley (Severe-15), Eastern Kern (Serious), Mariposa County (Moderate), Sacramento Metro (Serious), San Diego County (Severe-15), San Joaquin Valley (Extreme), Los Angeles-South Coast Air Basin (Extreme), Ventura (Serious), West Mojave Desert (Severe-15) and Western Nevada County (Serious).² While Coachella Valley and Sacramento Metro are currently classified as Severe-15 and Serious, respectively, CARB has submitted voluntary reclassification requests for the areas to Extreme and Severe-15, respectively, and the performance standard modeling presented and documented by CARB in the Smog Check Certification SIP assumes the EPA’s grant of the reclassification requests for those areas.³

Earlier this year, the EPA took final action to approve the San Diego County area portion of the Smog Check Certification SIP as part of the EPA’s action on the San Diego ozone attainment plan.⁴ In this document, we are taking final action on the Smog Check Certification SIP as it relates to all the other nonattainment areas that are addressed in the SIP submission.

In our proposed rule, we provided background information concerning the national ambient air quality standards

¹ Letter (with enclosures) dated April 26, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX (submitted electronically April 26, 2023). The letter and enclosures, which include the Smog Check Certification SIP, among other materials, are included in the docket for this rulemaking. The “70 Parts Per Billion (ppb) 8-Hour Ozone Standard” refers to the ozone NAAQS the EPA established in 2015.

² 40 CFR 81.305.

³ See letters from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX, dated February 22, 2023 (Reclassification request to Extreme for Coachella Valley); CARB Resolution 23–19, October 26, 2023 (Adopting Severe area ozone plan for the 2015 ozone NAAQS for the Sacramento Metro area).

⁴ 89 FR 15035 (March 1, 2024).

(NAAQS), the criteria air pollutants and precursors, and the requirements for States to adopt and submit SIPs. We also explained that, for certain ozone nonattainment areas, States must submit SIP revisions that address CAA and EPA requirements for Smog Check programs. More specifically, section 182(b)(4) of the CAA requires States with ozone nonattainment areas classified under subpart 2 as Moderate to submit SIP revisions that provide for the implementation of a “Basic” I/M program in those areas. Section 182(c)(3) of the CAA requires States with ozone nonattainment areas classified under subpart 2 as Serious or above to submit SIP revisions that provide for the implementation of an “Enhanced” I/M program in certain urbanized portions of those areas.⁵

As a general matter, Basic and Enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions due to one or more malfunctions and requiring them to be repaired. An Enhanced I/M program covers more of the vehicles in operation, employs inspection methods that are better at finding high-emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The EPA has established specific requirements for Basic and Enhanced I/M programs in 40 CFR part 51, subpart S (“The EPA’s I/M regulation”). The EPA’s I/M regulation establishes minimum performance standards for Basic and Enhanced I/M programs as well as requirements for certain elements of the programs, including (among other elements) test frequency, vehicle coverage, test procedures and standards, stations and inspectors, and data collection, analysis, and reporting.⁶

An I/M performance standard is a collection of program design elements that defines a benchmark program to which a State’s Smog Check program is compared in terms of its potential to reduce emissions of the ozone precursors, VOC and NO_x. The performance standard is expressed as emission levels in area-wide average grams per mile (gpm), achieved from on-road motor vehicles based on a specified model I/M program design. The emission levels achieved by the State’s program design must be calculated using the most current version of the EPA mobile source emission factor model and must meet or exceed the

emission reductions achieved by the model performance standard program both in operation and for SIP approval.

The EPA most recently approved a comprehensive update to California’s Smog Check program into its SIP in 2010, and in that action, the EPA approved the program as meeting the applicable I/M requirements for the various nonattainment areas in the State for the 1997 ozone NAAQS.⁷ The California Bureau of Automotive Repair (BAR) implements the SIP-approved Smog Check program in California, including oversight of the automotive repair industry and administration of the State’s vehicle emissions reduction and safety programs. The California Department of Motor Vehicles (DMV) administers motor vehicle registration and licensing and supports BAR in administering the Smog Check program.⁸

Currently, BAR implements an Enhanced I/M program in the urbanized areas within the Coachella Valley, Sacramento Metro, San Diego County, San Joaquin Valley, South Coast, Ventura County and West Mojave Desert ozone nonattainment areas and a Basic I/M program outside the urbanized areas within these nonattainment areas. BAR implements a Basic I/M program in Western Nevada County and Eastern Kern. Owners of motor vehicles registered in Mariposa County are subject to certain Smog Check requirements only upon change of ownership.

Since the EPA’s most recent approval of a comprehensive update to the California I/M program in 2010, the State has taken steps to improve the effectiveness of the Smog Check program by requiring BAR to direct older vehicles to high-performing auto technicians and test stations for inspection and certification.⁹ Further changes to State law have required BAR to implement an updated protocol for testing 2000 and newer model-year vehicles that collects more complete On-Board Diagnostic (OBD) information than had been collected under the existing protocol.¹⁰ The State publishes an annual report summarizing the

performance of the California Smog Check program.¹¹

CARB submitted the Smog Check Certification SIP to address the I/M SIP requirements for California ozone nonattainment areas classified as Moderate or above for the 2015 ozone NAAQS, including the Enhanced I/M performance standard evaluations required under 40 CFR 51.351(i). The provisions of 40 CFR 51.351(i) define the elements of the model Enhanced I/M program for areas required to implement an Enhanced I/M program as a result of designation and classification under the 8-hour ozone standard. As noted previously, a state’s Enhanced I/M program can differ from the model program, but it must meet or exceed the VOC and NO_x emission reductions achieved by the model program.

As part of CARB’s certification of the existing California Smog Check program for compliance with the applicable I/M SIP requirements for the 2015 ozone NAAQS, the Smog Check Certification SIP includes Enhanced I/M performance standard evaluations for the urbanized areas within certain ozone nonattainment areas for 2015 ozone NAAQS: Coachella Valley, Eastern Kern, Sacramento Metro, San Diego County,¹² San Joaquin Valley, South Coast, Ventura County and West Mojave Desert. For the I/M performance standard evaluations, CARB relied upon the EPA’s MOVES3 emissions model and the EPA’s most recent guidance for I/M performance standard modeling.¹³ CARB did not provide I/M performance standard evaluations for the Western Nevada County and Mariposa County because the I/M SIP requirements apply only to areas that exceed certain population thresholds, and neither area exceeds those thresholds.¹⁴

As described in our proposed rule, for this action, the EPA evaluated the Smog Check Certification SIP against the applicable procedural and substantive requirements of the CAA and the EPA’s regulations and proposed to conclude that the Smog Check Certification SIP meets all applicable requirements. More specifically, for the reasons given in the proposed rule, we proposed to find that:

¹¹ The most recent performance report is BAR’s Smog Check Performance Report 2023, July 1, 2023.

¹² As noted previously, the EPA has already taken final action on the San Diego County area portion of the Smog Check Certification SIP, including the related Enhanced I/M performance evaluation. 89 FR 15035 (March 1, 2024).

¹³ EPA, Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model, EPA-420-B-22-034, October 2022.

¹⁴ CARB, Smog Check Certification SIP, page 4.

⁷ 75 FR 38023 (July 1, 2010).

⁸ “Fiscal Year 2021–22 Annual Report,” Department of Consumer Affairs, at pages 40–44.

⁹ CARB, Progress Report on Implementation of PM_{2.5} State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions (Release Date: March 29, 2011), Table 1.

¹⁰ CARB, Revised Proposed 2016 State Strategy for the State Implementation Plan (March 7, 2017), pp. 52–53.

⁵ The CAA I/M SIP requirements apply to Moderate and above nonattainment areas for the 2015 ozone NAAQS pursuant to 40 CFR 51.1302.

⁶ 40 CFR part 51, subpart S, sections 51.350–51.373.

- CARB has met the procedural requirements for adoption and submission of SIPs and SIP revisions under CAA sections 110(a)(1), 110(a)(2) and 110(l) and 40 CFR 51.102 with respect to the Smog Check Certification SIP;
- CARB has provided adequate necessary assurances for purposes of CAA section 110(a)(2)(E)(i) for the Smog Check Certification SIP and that the California Smog Check program continues to meet the SIP requirements for legal authority in 40 CFR 51.372(a)(5);
- the State has adequate personnel and funding to continue to implement the California Smog Check program;
- the California Smog Check program meets the applicable I/M program SIP requirements under CAA sections 182(b)(4) and 182(c)(3) and 40 CFR 51.1302 for the 2015 ozone NAAQS in the Coachella Valley, Eastern Kern, Mariposa County, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, Ventura County, West Mojave Desert and Western Nevada County areas;
- the State continues to implement and enforce an Enhanced I/M program in the urbanized areas within the ozone nonattainment areas for which the Enhanced I/M program is required. These areas include the urbanized areas within nonattainment areas in Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, and Ventura County.¹⁵ In connection with this proposed finding, we reviewed CARB's Enhanced I/M performance standard modeling evaluation for the California ozone nonattainment areas that are subject to the Enhanced I/M requirement and found that, for both VOC and NO_x in all analysis years, CARB's MOVES3 modeling results indicate that the California Enhanced I/M program meets or exceeds the Federal Enhanced I/M performance standard benchmark program to within 0.02 gpm in all the subject areas; and
- the approval of the Smog Check Certification SIP would not interfere with attainment and reasonable further progress or any other applicable requirement of the CAA, consistent with the requirements for SIP revisions under CAA section 110(l).

In our proposed rule, we also indicated that we agree with CARB that an Enhanced I/M program is not required in the Western Nevada County

Serious ozone nonattainment area because it is not part of an area having a 1980 Bureau of Census-defined (Census-defined) urbanized area population of 200,000 or more.¹⁶ We also noted that the Western Nevada County area is not subject to the Basic I/M program requirement because it is not part of any 1990 Census-defined urbanized area with a population of 200,000 or more,¹⁷ although the State has decided to implement a Basic I/M program in Western Nevada County as part of the ozone control strategy for the area.

For the same reasons, we noted also that the West Mojave Desert Severe-15 and Eastern Kern Serious ozone nonattainment areas are not subject to the Basic or Enhanced I/M program requirement, although the State has decided to implement an Enhanced or Basic I/M program in portions of West Mojave Desert and a Basic I/M program in Eastern Kern as part of the ozone control strategies for the areas.

With respect to the Mariposa County Moderate ozone nonattainment area, we agree with CARB that a Basic I/M program is not required there because it is not part of a 1990 Census-defined urbanized area with a population of 200,000 or more.

In this final rule, we are affirming the above findings that we included in our proposed rule and are taking final action to approve the Smog Check Certification SIP as a revision to the California SIP. For more detailed information on the SIP submission and on our basis for proposed approval, please see our proposed rule.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

Pursuant to section 110(k)(3) of the Act, and for the reasons given in the proposed rule and summarized above, the EPA is taking final action to approve the Smog Check Certification SIP based on our finding that it meets the applicable procedural and substantive SIP requirements under the CAA and the EPA's I/M regulation for the applicable California nonattainment areas for the 2015 ozone NAAQS. These areas include Coachella Valley, Eastern Kern, Mariposa County, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, Ventura, West Mojave Desert

and Western Nevada County. This final rule adds the Smog Check Certification SIP to the federally-enforceable California SIP.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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).

¹⁵ As noted previously in this proposed rule, the Enhanced I/M SIP requirement also applies in the urbanized area with San Diego County. We have already approved the Smog Check Certification SIP as it relates to San Diego County. 89 FR 15035 (March 1, 2024).

¹⁶ See CAA section 182(c)(3)(A) and 40 CFR 51.350(a)(2).

¹⁷ See 40 CFR 51.350(a)(4).

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

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of this proposed action, this action is expected to have a neutral to positive impact on the air quality of the various ozone nonattainment areas covered by this proposed action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898, to achieve EJ 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 29, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 22, 2024.

Martha Guzman Aceves,
Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

- 2. Section 52.220 is amended by adding paragraph (c)(611)(ii)(A)(2) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

- (c) * * *
(611) * * *
(ii) * * *
(A) * * *

(2) “California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard,” adopted on March 23, 2023, excluding the San Diego County area portion.

* * * * *

[FR Doc. 2024–19374 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0664; FRL–12010–01–R5]

Air Plan Approval; Wisconsin; Infrastructure SIP Requirements for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) submission from Wisconsin regarding the infrastructure requirements of

section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state’s air quality management program are adequate to meet the state’s responsibilities under the CAA.

DATES: This final rule is effective on September 30, 2024.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0664. 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, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), 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 either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353–4489 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. What is the background of this SIP submission?

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This type of SIP submission is commonly referred to as an “infrastructure SIP.” These submissions must meet the various requirements of CAA section 110(a)(2), as applicable.

On September 30, 2020 (85 FR 61673), EPA published a notice of proposed rulemaking proposing to approve most elements of a September 14, 2018, submission from the Wisconsin Department of Natural Resources (WDNR) intended to address all

applicable infrastructure requirements for the 2015 ozone NAAQS. EPA's proposed rulemaking contained a detailed analysis of Wisconsin's submission. Public comments on the September 30, 2020, proposed rule were due by October 30, 2020.

EPA's September 30, 2020, proposed rulemaking did not address Wisconsin's infrastructure requirements under section 110(a)(2)(D)(i)(I) and section 110(a)(2)(F). In separate rulemakings, EPA has since taken action on these elements. In a February 13, 2023 (88 FR 9384), rulemaking addressing the interstate transport elements under section 110(a)(2)(D)(i)(I), EPA approved Wisconsin's September 14, 2018, submission as to the requirements of prong 1 and disapproved the submission as to the requirements of prong 2. On July 24, 2023 (88 FR 47375), EPA approved an August 3, 2022, submission from Wisconsin certifying that its SIP is sufficient to meet the stationary source monitoring and reporting element under section 110(a)(2)(F). In this action, which finalizes EPA's September 30, 2020, proposed rulemaking, EPA is taking final action on all remaining elements of Wisconsin's infrastructure requirements for the 2015 ozone NAAQS.

II. What are EPA's responses to comments?

During the public comment period on EPA's September 30, 2020, proposed rulemaking, EPA received one comment in support of our action, as well as one adverse comment, which addressed three aspects of Wisconsin's infrastructure SIP submission. For each aspect, summaries of the adverse comment and EPA's responses are provided below.

Comment: A commenter alleges that EPA cannot finalize approval of Wisconsin's submission as meeting the infrastructure SIP requirements of CAA section 110(a)(2)(B). The commenter notes that EPA's proposed rule refers to our October 2, 2019, approval of Wisconsin's 2020 Annual Monitoring Network Plan (AMNP), but the commenter suggests that Wisconsin would have submitted a more recent AMNP in July 2020. The commenter asserts that EPA should have based its proposal on the most recent AMNP. The commenter notes that neither AMNP was in the docket folder for the proposed rulemaking, and requests that EPA add both AMNPs to the docket and open a new 30-day public comment period.

Response: EPA disagrees that EPA must propose approval only on the most recently submitted AMNP. Wisconsin

submitted its 2021 AMNP on June 29, 2020, and EPA approved the 2021 AMNP on September 15, 2020. On September 10, 2020, when the Deputy Regional Administrator signed EPA's rulemaking proposing approval of the state's infrastructure SIP submission for the 2015 ozone NAAQS with respect to section 110(a)(2)(B), EPA's approval of the 2020 AMNP was the most current approval, and therefore EPA could not have cited approval of the 2021 AMNP. Further, a state's 2021 AMNP describes changes it intended to make no earlier than January 1, 2021. On the date EPA published the proposed approval, Wisconsin was implementing its monitoring network according to the 2020 AMNP.

Additionally, in its 2021 AMNP, Wisconsin outlined changes to its monitoring network that had no adverse impact on its ability to monitor ozone. In Table 14 of its 2021 AMNP, Wisconsin listed proposed changes at only four monitoring sites. At its Milwaukee SER DNR Headquarters site, the state proposed to terminate monitoring of eight pollutants including ozone, because of the scheduled demolition of the facility adjacent to that site. At the other three sites, the state proposed new monitoring or increased monitoring of pollutants that had earlier been monitored at the Milwaukee SER DNR Headquarters site. The state proposed to start monitoring of five of those pollutants, including ozone, nearby at a new Milwaukee UWM Park & Ride site. At its Milwaukee Sixteenth St. Health Center site, the state proposed increasing the frequency of sampling of particles with an aerodynamic diameter of less than or equal to 2.5 micrometers (PM_{2.5}). The state also proposed to start monitoring oxides of nitrogen (NO_x) at its Chiwaukee site. Importantly, the 2021 AMNP was not Wisconsin's first mention of the proposed termination of the Milwaukee SER DNR Headquarters site. The state had already proposed this termination in its 2020 AMNP, and EPA's September 30, 2020, rulemaking references EPA's October 2, 2019, approval of that plan. EPA accordingly concludes that referencing the most recently approved 2020 AMNP at the time of signature of the proposed rulemaking, as opposed to the most recently submitted 2021 AMNP, did not deprive commenters of an ability to raise concerns about adverse changes to the state's ozone monitoring network. EPA is now adding the 2020 AMNP and 2021 AMNP to the docket folder for this action.

EPA further disagrees that any AMNP must have been included in the docket

at the time of the comment period for this action. Prior to submitting an AMNP to EPA, WDNR makes each AMNP broadly available through a public comment process (see 40 CFR 58.10). Both the 2020 AMNP and 2021 AMNP are available at the WDNR website. WDNR's September 14, 2018, submittal contains a link to a subpage of this website, and EPA provided the same link in the proposed rule. Accordingly, EPA concludes that commenters had knowledge of, and access to, both the 2020 and 2021 AMNPs during the comment period and thus there was no need for EPA to provide an additional comment period for this purpose.

Comment: A commenter alleges that EPA cannot finalize approval of Wisconsin's submission as meeting the infrastructure SIP requirements of CAA section 110(a)(2)(E). The commenter asserts that Wisconsin's infrastructure SIP submission for the 2015 ozone NAAQS fails to provide any documentation, budgetary details, or personnel numbers to support its conclusions that Wisconsin meets the infrastructure SIP requirements relating to adequate resources to carry out the SIP. The commenter notes that WDNR's submission identifies its section 105 grants and Environmental Performance Partnership Agreement (EnPPA), but states that these sources were neither described in detail in the submission nor included in the docket for EPA's proposed rulemaking. The commenter refers to requirements at 40 CFR 51.280 and asserts that 1-, 3-, and 5-year resource projections are required but not included in Wisconsin's submission. The commenter also cites to a report which states that environmental agency funding in Wisconsin has been cut by 36 percent from 2008 to 2018. The commenter alleges that Wisconsin "must provide concrete assurances that it has adequate funding and personnel both now and for the next 5 years."

Response: EPA agrees that CAA section 110(a)(2)(E)(i) requires each state to provide necessary assurances that the state will have adequate personnel, funding, and authority under state law necessary to carry out the SIP during the five years following the SIP submission.¹ However, CAA section 110

¹ EPA guidance identifies a five-year period following the SIP submission as the relevant timeframe for this evaluation. See Stephen D. Page, Director, Office of Air Quality Planning and Standards, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Section 110(a)(1) and 110(a)(2)," Memorandum to EPA Air Division Directors, Regions 1 through 10, September 13, 2013, at page 40 (2013 Guidance).

does not mandate a specific methodology for EPA to evaluate the adequacy of state resources available to implement the SIP.

The commenter expresses concern that that Wisconsin's funding to implement the SIP may be inadequate based on potential budget cuts. Specifically, the commenter asserts that "Wisconsin ranks first in environmental protection funding cuts across the country," and to support this contention cites to a report by the Environmental Integrity Project, as well as a public radio news story referencing that report, which both allege that Wisconsin cut its environmental agency funding by 36 percent between 2008 and 2018. As discussed on page 8 of the report, the alleged 36% cut is expressed in inflation-adjusted dollars. As shown in Table 1 of the report, this was a decrease from a budget of \$91.4 million in 2008 to a budget of \$68.9 million in 2018, which is a 25 percent cut without adjusting for inflation.

To evaluate the commenter's concern that Wisconsin budgets are declining in a way that would make the state unable to continue to implement its SIP, EPA reviewed the state's enacted budgets, which are posted online by the Wisconsin Department of Administration.² Wisconsin's budgets are passed by the Wisconsin legislature and signed by the governor on a biennial cycle, covering periods from July 1 of one odd-numbered year through June 30 of the next odd-numbered year. To evaluate the commenter's claims regarding Wisconsin's 2008 budget, EPA reviewed Wisconsin's enacted biennial budget for 2007–2009. EPA also reviewed Wisconsin's four most recent enacted biennial budgets, for the periods 2017–2019, 2019–2021, 2021–2023, and 2023–2025, which cover a total of eight years, including the 2018 year referenced by the commenter, and spanning the complete five-year period following Wisconsin's September 14, 2018, submittal.

As noted by the Environmental Integrity Project, Wisconsin's pollution control and cleanup programs are

housed within WDNR, which also manages state parks, recreational areas, wildlife programs, and fisheries programs. This structure is distinct from the organization of most states, which consolidate pollution control and cleanup programs in a single agency, like Indiana's Department of Environmental Management. In the case of Wisconsin, the Environmental Integrity Project has "attempted to identify and distinguish spending for those functions from the department's overall budget," and the 25 percent nominal budget cut is meant to quantify cuts to the portion of WDNR's funding allocated to pollution control and cleanup programs, which the Environmental Integrity Project describes as "environmental agency funding." The Environmental Integrity Project report does not explain its methodology for separating WDNR's "environmental agency funding" from other funding.

In reviewing biennial budgets, EPA first reviewed data for WDNR's department-wide budget. WDNR's budget did decline between 2008 and 2018, but by an amount much smaller than the 25 percent nominal cut described in the Environmental Integrity Project report. WDNR's total budget was \$573 million for 2007–2008 and \$580 million for 2008–2009, compared to \$549 million for 2017–2018 and \$547 million for 2018–2019, which is a cut of less than 6 percent. In the six years preceding the current biennial budget, starting in 2017–2018 and ending in 2022–2023, WDNR's total budget was between \$549 million and \$575 million, which is a range of less than 5 percent, with no clear trends of increases or decreases within this period. In the current biennial budget, WDNR's total budget has been increased relative to the level of previous years, at \$640 million for 2023–2024 and \$581 million for 2024–2025.

Given that the Environmental Integrity Project analyzed only a portion of WDNR's budget, EPA also reviewed previous and current biennial budget allocations for the nine programs that together comprise the total WDNR budget. One of these programs, titled "environmental management", contains pollution control and cleanup programs including air management, water quality, wastewater management, and

remediation. The environmental management program budget was \$70.8 million for 2017–2018 and \$70.0 million for 2018–2019, which differs by less than 3 percent from the Environmental Integrity Project's calculation of \$68.9 million in "environmental agency funding" for 2018. Because the Environmental Integrity Project did not provide its methodology in the report, EPA cannot verify whether WDNR's environmental management program was the budget used by the Environmental Integrity Project in calculating 2018 "environmental agency funding." For 2008, WDNR's nine programs were organized and labeled differently, and EPA does not see any program or combination of programs from 2008 that is similar to the \$91.4 million funding level in the report, such that the Environmental Integrity Project might be able to draw comparisons to 2018 funding levels for WDNR's environmental management program.

During EPA's evaluation of state assurances of adequate resources under section 110(a)(2)(E), it is not necessary for EPA to determine the exact amount of resources a state needs to carry out its SIP. In this case, EPA's evaluation of the facts indicates that the WDNR budget has not changed to the degree that it would preclude the state from implementing its SIP, given that the overall budget did not decrease by more than 6 percent between 2008 and 2018. Further, as shown below in Table 1, funding for WDNR and for its environmental management program has not decreased over the eight-year period starting in 2017–2018 and ending in 2024–2025. As noted above, WDNR's total budget in this period was between \$549 million and \$640 million, with no clear trends of increases or decreases over the first six years followed by an increase in the current 2023–2025 biennial budget. The environmental management program budget in this period was between \$70.0 million and \$102 million, with an overall trend of increased funding during this period, particularly in the current 2023–2025 biennial budget. Considered together, the biennial budgets show a trajectory of stable or increasing resources for WDNR and its environmental management program over the five-year period beginning with Wisconsin's September 14, 2018, submission.

² Wisconsin's current enacted budget is available at <https://doa.wi.gov/Pages/StateFinances/CurrentBiennialBudget.aspx>. Previous enacted budgets are available at <https://doa.wi.gov/Pages/StateFinances/PastBudgets.aspx>.

TABLE 1—ENACTED BUDGETS FOR WDNR AND ITS ENVIRONMENTAL MANAGEMENT PROGRAM

Budget period	Total WDNR budget	Environmental management program budget
2017–2018	\$549,243,200	\$70,843,300
2018–2019	549,243,200	70,002,900
2019–2020	574,682,800	75,134,000
2020–2021	548,896,600	74,975,000
2021–2022	566,301,400	83,014,200
2022–2023	558,779,900	77,963,500
2023–2024	640,434,900	101,630,600
2024–2025	580,922,900	81,381,000

Wisconsin's submission additionally identified the section 105 Air Pollution Control Grant as a source of resources applied towards implementing its air program, and Wisconsin explains that "EPA and WDNR negotiate priorities and grant commitments under the EnPPA, which is a two-year agreement itemizing performance measures and outcomes across various funding sources and grants." To further assess the adequacy of Wisconsin's resources towards carrying out the SIP, EPA reviewed EnPPA documents from the five-year period beginning with Wisconsin's September 14, 2018, submission. EPA is placing the EnPPA materials in the docket for this action. The EnPPA documents provide further support to EPA's finding that Wisconsin has had adequate resources to carry out its SIP. In these materials, EPA and WDNR staff review objectives and activities relating to the SIP, across categories including mobile source programs, ambient air monitoring, NAAQS implementation, and regional haze. Within each category, EPA and WDNR staff discuss progress towards specific commitments, such as conducting vehicle emissions testing in ozone nonattainment areas, operating ozone monitors, implementing maintenance plans in areas that have been redesignated to attainment of the 2015 ozone NAAQS, and issuing air quality forecasts for criteria pollutants including ozone. The EnPPA process does not require documentation of every commitment in every year, however when progress within each commitment is discussed, EPA and WDNR consistently agree that Wisconsin's progress is ongoing or satisfactory.

Comment: A commenter alleges that EPA cannot finalize approval of Wisconsin's submission as meeting the infrastructure SIP requirements of CAA section 110(a)(2)(C), section 110(a)(2)(D)(i)(II) relating to the Prevention of Significant Deterioration (PSD), or section 110(a)(2)(J). The commenter notes EPA's January 17, 2017 (82 FR 5182), rulemaking

promulgating revisions to the Guideline on Air Quality Models at appendix W to 40 CFR part 51 ("Guideline"), which required states to integrate the revisions no later than January 17, 2018. The commenter cites EPA's July 6, 2020 (85 FR 40165), rulemaking proposing approval of elements of an infrastructure SIP submission from Kentucky, which expressed EPA's view that applications of the Guideline include the infrastructure requirements relating to PSD, which means the requirements at CAA section 110(a)(2)(C), section 110(a)(2)(D)(i)(II) relating to PSD, and section 110(a)(2)(J). The commenter notes that the Wisconsin Administrative Code Chapter Natural Resources (NR) 405.10 specifies that modeling required under the state's PSD rules shall be based on the Guideline, but NR 484.04 incorporates by reference the version of the Guideline that was in effect on August 1, 2016. The commenter acknowledges that states with references to earlier versions of the Guideline may be able to rely on their authority to use alternative models to satisfy these infrastructure requirements but suggests that neither Wisconsin nor EPA has confirmed the state's ability to implement the current version of the Guideline.

Response: The air quality modeling procedures at NR 405.10 were approved into the Wisconsin SIP on May 27, 1999 (64 FR 28745), as part of the state's PSD program. EPA agrees with the commenter that NR 405.10 incorporates by reference the version of the Guideline that was effective on August 1, 2016, which is not the current version of the Guideline. However, as the commenter suggests, Wisconsin has the authority to conduct modeling according to the current Guideline under substitution procedures provided within NR 405.10. Specifically, where it is inappropriate to use the modeling procedures provided in the earlier Guideline that is incorporated by reference, then NR 405.10 provides that another model may be substituted. NR 405.10 further provides that a

substitution shall be subject to public comment procedures and that approval of the EPA Administrator shall be obtained for any substitution.

In EPA's January 17, 2017, rulemaking promulgating revisions to the Guideline, EPA explained to states that the new revisions to the Guideline "must be integrated into the regulatory processes of respective reviewing authorities and followed by applicants" by January 17, 2018. In EPA's view, by issuing this direction to states to begin using the revised Guideline, the Agency has in effect provided its approval for the state to substitute the current Guideline in place of an earlier Guideline, which thus functionally satisfies the requirement for administrator approval at NR 405.10. Were the state seeking to use some alternative approach that EPA had not already determined to be appropriate by updating the Guideline and instructing states to integrate it into their programs, then the EPA approval process required in NR 405.10 would still apply. Further, any PSD application is already subject to the public participation requirements at NR 405.15, which satisfies the requirement at NR 405.10 for public comment on air quality modeling. EPA therefore concludes that the SIP-approved modeling procedures at NR 405.10 are adequate to authorize and allow the state to conduct modeling according to the current Guideline, and thus adequate to meet the infrastructure requirements relating to PSD at CAA section 110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J).

III. What action is EPA taking?

EPA is approving most elements of a submission from Wisconsin certifying that its current SIP is sufficient to meet the required infrastructure elements under section 110(a)(1) and (2) for the 2015 ozone NAAQS.

EPA's actions for the state's satisfaction of infrastructure SIP requirements pursuant to section

110(a)(2) and NAAQS are contained in the table below.

Element	2015 Ozone
(A)—Emission limits and other control measures	A
(B)—Ambient air quality monitoring/data system	A
(C)1—Program for enforcement of control measures	A
(C)2—Minor NSR	A
(C)3—PSD	A
(D)1—I Prong 1: Interstate transport—significant contribution to nonattainment	NA
(D)2—I Prong 2: Interstate transport—interference with maintenance	NA
(D)3—II Prong 3: Interstate transport—interference with PSD	A
(D)4—II Prong 4: Interstate transport—interference with visibility protection	A
(D)5—Interstate and international pollution abatement	A
(E)1—Adequate resources	A
(E)2—State board requirements	A
(F)—Stationary source monitoring system	NA
(G)—Emergency powers	A
(H)—Future SIP revisions	A
(I)—Nonattainment planning requirements of part D	*
(J)1—Consultation with government officials	A
(J)2—Public notification	A
(J)3—PSD	A
(J)4—Visibility protection	*
(K)—Air quality modeling/data	A
(L)—Permitting fees	A
(M)—Consultation/participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA ..	No Action/Separate Rulemaking.
*	Not germane to infrastructure SIPs.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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 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, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns 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.”

WDNR did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 26, 2024.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.2591 is amended by:

- a. Revising paragraph (i); and
- b. Removing and reserving paragraph (l).

The revision reads as follows:

§ 52.2591 Section 110(a)(2) Infrastructure Requirements.

* * * * *

(i) Approval—In September 14, 2018, and August 3, 2022, submissions, WDNR certified that the state has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2015 ozone NAAQS. For section 110(a)(2)(D)(i)(I), prong 1 is approved and prong 2 is disapproved.

* * * * *

[FR Doc. 2024–19548 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2022–0879; FRL–8899–02–OAR]

RIN 2060–AV40

National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE), the New Source Performance Standards (NSPS) for Stationary Compression Ignition (CI) Internal Combustion Engines, and the NSPS for Stationary Spark Ignition (SI) Internal Combustion Engines, to add electronic reporting provisions. The addition of electronic reporting provisions will provide for simplified reporting by sources and enhance availability of data on sources to the EPA and the public. In addition, a small number of clarifications and corrections to these rules are being finalized to provide clarification and correct inadvertent and other minor errors in the Code of Federal Regulations (CFR), particularly related to tables.

DATES: This final rule is effective on August 30, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2022–0879. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher Werner, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711;

telephone number: (919) 541–5133; and email address: werner.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document and other related information?
 - C. Judicial Review and Administrative Review
- II. Background
- III. What changes did we propose and what changes are we finalizing?
 - A. Summary of Actions Proposed
 - B. Electronic Reporting
 - C. Clarifications to Table 4 in NSPS Subpart IIII
 - D. Correction of Inadvertent Errors in NESHAP Subpart ZZZZ
 - E. Clarifications to the Oil Change Requirement in NESHAP Subpart ZZZZ
 - F. Other Requests for Comments
 - G. Effective Date and Compliance Dates
- IV. Summary of Cost, Environmental, and Economic Impacts
 - A. What are the air quality impacts?
 - B. What are the cost impacts?
 - C. What are the economic impacts?
 - D. What are the benefits?
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act (UMRA)
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA)
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing our Nation's Commitment to Environmental Justice for All
 - K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action include industries using stationary engines, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and

natural gas production; Natural gas liquids producers; and National security. North American Industry Classification System Codes of potentially regulated industries may include 2211, 622110, 48621, 211111, 211112, and 92811. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the rules. If you have any questions regarding the applicability of any aspect of this action, please contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action is available on the internet at <https://www.epa.gov/stationary-engines>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule and key technical documents at this same website.

C. Judicial Review and Administrative Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by October 29, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that “[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.” This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, “[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.” Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the

Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

Stationary engines are used in a variety of applications from generating electricity to powering pumps and compressors in power and manufacturing plants. They are also used in the event of an emergency such as fire or flood. The key air pollutants the EPA regulates from these sources include formaldehyde, acetaldehyde, acrolein, methanol, polycyclic aromatic hydrocarbon, volatile organic compounds, carbon monoxide, nitrogen oxides, particulate matter, sulfur dioxide, and hydrocarbons.

A CI engine, or diesel engine, is a type of engine in which the fuel injected into the combustion chamber is ignited by a heat resulting from the compression of gases inside the cylinder. A SI engine is a type of engine in which the fuel-air mixture in the combustion chamber is ignited by a spark from a spark plug.

The NESHAP for RICE is codified in 40 CFR part 63, subpart ZZZZ, which was first promulgated in 2004. The NSPS for Stationary CI Internal Combustion Engines (ICE) is codified in 40 CFR part 60, subpart IIII, which was first promulgated in 2006. The NSPS for Stationary SI Internal Combustion Engines is codified in 40 CFR part 60, subpart JJJJ, which was first promulgated in 2008. All have been amended several times since promulgation.

III. What changes did we propose and what changes are we finalizing?

A. Summary of Actions Proposed

On June 26, 2023 (88 FR 41361), the EPA proposed the following pursuant to CAA sections 111 and 112: addition of requirements for electronic reporting to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ; clarifications to table 4 in 40 CFR part 60, subpart IIII due to incorrect display in the CFR; the correction of inadvertent errors in 40 CFR part 63, subpart ZZZZ, specifically in 40 CFR 63.6625(j) the need to reference additional line items in table 2d; and clarifications to the oil change

requirements for certain engines as referenced in 40 CFR part 63, subpart ZZZZ, tables 2c and 2d. The following sections discuss the proposed changes in more detail, along with significant comments received and the EPA's response to those comments, and the final amendments to the rules, including any changes to what was proposed that are being made as a result of comments received. For additional comments and responses, please see the document, *Summary of Public Comments and EPA's Responses National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting*, available in the docket for this action. The EPA also solicited comments to aid in its consideration of the appropriate next steps following remand of the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region by the court. The EPA appreciates the comments and information that were provided during the public comment period and will consider them as it assesses the appropriate path forward but is not responding to these comments or taking further action on these provisions at this time.

B. Electronic Reporting

The EPA proposed that owners and operators of stationary engines subject to NSPS subparts IIII or JJJJ, or NESHAP subpart ZZZZ, submit electronic copies of certain initial notifications of compliance, performance test reports, Notification of Compliance Status (NOCS), and annual and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process was provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* and was placed in the docket at the time of proposal. The EPA proposed that the initial notification of compliance be submitted through CEDRI, that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the

ERT website¹ at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the extensible markup language (XML) schema on the ERT website, and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. The EPA also proposed that NOCS for NESHAP subpart ZZZZ be submitted as a PDF upload in CEDRI.

For annual and semiannual compliance reports, the EPA proposed that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. Draft versions of the proposed templates for these reports were included in the docket at the time of proposal.² The EPA specifically requested comment on the content, layout, and overall design of the templates.

Additionally, the EPA identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances were: (1) outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports and (2) force majeure events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of force majeure events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA provided these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

As described in the proposed rulemaking, the electronic submittal of the reports addressed in this final rule will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in

the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated State, local, Tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan³ to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy⁴ developed in response to the White House's Digital Government Strategy.⁵ For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action.

As part of the electronic reporting effort, reporting requirements in NESHAP subpart ZZZZ were clarified and adjusted to be consistent for all engine types as well as to provide specificity in units of measure and to provide consistency between the NSPS and the NESHAP. With these changes, the regulatory text in 40 CFR part 63, subpart ZZZZ at 40 CFR 63.6650 now includes all the applicable data elements required by 40 CFR 63.10(e)(3), and the general provisions applicability table is being revised to reflect that 40 CFR 63.10(e)(3) is no longer applicable.

We received comments both in support of, and opposed to, the addition of electronic reporting provisions, as well as several comments regarding the draft electronic reporting templates that were made available in the docket. In

response to these comments, we made some clarifying changes to the templates. We address and respond to these comments in detail in the response to comment document available in the docket for this action.

One clarifying change made in response to comments was to alter the regulatory text and the corresponding entry in the final reporting template for subpart ZZZZ to require the year the engine was constructed, rather than the specific date. Additionally, if the exact year is unknown, an estimate can be provided.

The Department of Defense (DoD) commented that all templates provided for review have a requirement to provide the latitude and longitude of the engine in decimal degrees reported to the fifth decimal place, but due to the present-day public availability of electronic data files, DoD is concerned that disclosing the location of certain engines used by the commenter can compromise national security. The comment requested the EPA consider including an option for template latitude and longitude data fields that would allow an installation to label critical system geolocation data as "confidential" or "national security information." By offering such an option, the commenter's national security data would not be disclosed or retrievable through publicly available agency (Federal/state/local/tribal) electronic data systems.

The EPA agrees that the exact location of engines should not be reported if the location should remain confidential due to national security concerns. The EPA has clarified for the final rule that if disclosure of the exact location of an engine that is owned by or operated by or for an agency of the Federal Government that is responsible for national defense would be a threat to national security, the filer may claim a national security exemption, which will allow the latitude and longitude fields in the reporting template to be left blank. A corresponding revision is also being made to the regulatory text. It should be noted that the reports still contain the address of the facility at which the engine(s) are located.⁶

⁶ The comment also suggested that the EPA should establish criteria for access to precise geolocation of sources in all appropriate stationary engine (NESHAP and NSPS) rules. The EPA does not find it necessary to adopt such criteria at this time, particularly since facility address data is still required to be reported but will work with other agencies to address this issue in the future if it becomes appropriate.

¹ <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

² See 60.4214d3 *annual_report_bulk_upload_template* ICRDraft.xlsx, 60.4245e3 *annual_report_bulk_upload_template* ICRDraft.xlsx, and 63.6650_h and i *Compliance Report Template* ICRDraft.xlsx, available at Docket ID. No. EPA-HQ-OAR-2022-0879.

³ EPA's Final Plan for Periodic Retrospective Reviews, August 2011. Available at: <https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154>.

⁴ E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>.

⁵ Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

C. Clarifications to Table 4 in NSPS Subpart IIII

Since it was originally published in the CFR, “Table 4 to Subpart IIII of Part 60—Emission Standards for Stationary Fire Pump Engines” has been confusing to the public because it shows blank cells for the CO standard for certain engine model years. The table intended to show that the same CO standard applies for all model years. The table was not intended to be displayed in this

manner and the current version simply reflects a mismatch between what was submitted by the EPA and what was able to be shown in the CFR. The EPA invited comment on whether any other aspect of this table was confusing or incorrect (it was shown as table 1 in the preamble of the proposal), but we did not solicit comment on any proposed changes to the standards themselves.

We received comment supporting the clarified table and further suggesting that the units of the engine emission

standards be added, similar to how the units are currently shown in tables 1 and 2 of 40 CFR part 60, subpart IIII, to prevent any potential confusion regarding the applicable emission standards. We agree that this suggestion would provide further clarification and prevent additional confusion. We are, therefore, finalizing the clarifications to this table as proposed and additionally placing units in the column heading of the table as shown in table 1 of this document.

TABLE 1—CLARIFIED VERSION OF “TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES”

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO _x	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 + ...	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 + ...	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 + ...	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
56≤KW<75 (75≤HP<100)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 + ²	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 + ...	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW≤560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW≤560 (HP>750)	2008 + ...	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

¹ For model years 2011–2013, manufacturers, owners, and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

² For model years 2010–2012, manufacturers, owners, and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

³ In model years 2009–2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

D. Correction of Inadvertent Errors in NESHP Subpart ZZZZ

As it appeared in the CFR at the time of the proposal, table 2d in 40 CFR part 63, subpart ZZZZ correctly indicated multiple SI engine types for which oil change requirements apply. Specifically, table 2d’s items numbers 5, 6, 7, 8, 10, 11, and 13 all indicated SI engine types for which these requirements apply. When this table was last revised,⁷ corresponding changes to 40 CFR 63.6625(j) were inadvertently not made. As a result, the version of 40 CFR 63.6625(j), which specifies that an oil analysis program can be used to extend the oil change requirements, referred to an incorrect set of table 2d’s item numbers.

Therefore, the EPA proposed to amend 40 CFR 63.6625(j) to include the correct list of table 2d’s item numbers, specifically 5, 6, 7, 8, 10, 11, and 13, that indicate SI engine types for which oil change requirements apply.

We received no comments opposing this correction and received only one comment in general support of it. Therefore, we are finalizing the correction as proposed.

E. Clarifications to the Oil Change Requirement in NESHP Subpart ZZZZ

As indicated in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ, several types of CI and SI engines are subject to oil change requirements. The number of hours of operation allowed between oil changes stated in the requirement vary by engine type. However, in each

instance, the requirement that appeared in the CFR at the time of the proposal was phrased in the form: “Change oil and filter every X,XXX hours of operation or annually, whichever comes first.”

The EPA receives frequent inquiries from regulated entities regarding these provisions, most often revolving around the meaning of the term “annually.” For example, regulated entities sometimes inquire whether “annually” means “every calendar year.” In such a case, the inquiry amounts to essentially whether an oil change could hypothetically be conducted on January 1, 2019, and the next oil change could then be conducted on December 31, 2020, since 2020 is the calendar year that falls immediately after 2019 (this assumes of course that X,XXX hours of

⁷ 78 FR 6709 (January 30, 2013).

operation has not occurred). In such a scenario, however, these two hypothetical oil changes will have actually occurred almost exactly 2 years apart, minus a day.

This is not what the EPA intended with the use of the term “annually” in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ. It is important for oil changes to occur as close as possible to 12 months apart to minimize emissions, absent use of the oil analysis programs afforded by 40 CFR 63.6625(i) and (j). The same language of “annually” also appears in these tables related to items such as spark plug, air cleaner, and hose and belt inspections, and similar concerns about emissions and engine reliability apply. Therefore, the EPA proposed to replace each instance of use of the term “annually” in tables 2c and 2d with the term “every 12 months.”⁸

The EPA received a number of comments on this issue, which are detailed in the response to comment document available in the docket. While some comments were generally supportive of the EPA’s proposed change, commenters asked for additional flexibility beyond that afforded by the proposed language, mainly due to concerns about performing oil changes within a tight window in the case of unforeseen events or due to scheduling concerns for maintenance personnel or contractor availability. Most commenters favored an additional month of flexibility beyond the 12-month deadline.⁹ After considering these comments, we are making adjustments to the final language to state “within 1 year + 30 days of the previous change” (and, in the case of items such as spark plug, air cleaner, and hose and belt inspections, “within 1 year + 30 days of the previous inspection”) in lieu of the current “annually.” The EPA continues to believe that it is appropriate for oil changes to be performed annually (*i.e.*, after 365 days) but is balancing the need for timely oil changes for proper emissions control against the practical concerns raised by commenters

regarding scheduling oil changes in a tight window. Pursuant to this revised text, an oil change could hypothetically be conducted on June 1, 2025, and the next oil change could then be conducted anywhere from June 2, 2025, to July 1, 2026, and be in compliance with the regulations. The EPA also finds that this revised language will address the request by some commenters for more clarity as to the deadline for oil changes. As explained at proposal, it is worthwhile to note that the EPA occasionally receives questions as to whether regulated entities that adopt the oil analysis program in 40 CFR 63.6625(i) or (j) must change the oil filter on a more frequent basis than the oil is changed even when the oil analysis program indicates condemning limits have not yet been reached for Total Acid or Total Base Number, viscosity, and percent water content. We are clarifying that regulated entities that adopt the oil analysis program must change the oil filter for these generators when changing the oil and are not required to change the filter prior to changing the oil. We received no comments opposing this clarification. The intention of the EPA’s regulations is that the oil filter should always be changed whenever the engine oil is changed, and we are finalizing the proposed changes to the regulatory text to this effect. Also please note that nothing in the EPA’s regulations prevents the owner and operator from changing the oil or the oil filter sooner than condemning limits have been reached, if desired.

F. Other Requests for Comments

In addition to general comments on the proposal, we also asked for comments on the reporting template that was placed in the docket for this action. Several commenters suggested changes to the template and after considering these comments we have made minor clarifying changes to the template. These comments and our responses are discussed more fully in the response to comment document available in the docket for this action. A final template is also available in the docket for this action.

The EPA also requested comments on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. These provisions appear in the NESHAP¹⁰ and

both NSPS¹¹ and are often referred to as the “50-hour provisions.” The EPA did not propose any changes to the 50-hour provisions, but as discussed in the proposal, solicited comments to aid in its consideration of the appropriate next steps following remand of the provisions by the court. The EPA appreciates the comments and information that were provided during the public comment period and is considering them as we assess the appropriate path forward. However, the EPA did not propose and is not finalizing, any changes to the 50-hour provisions at this time; and we have not addressed those comments in the response to comments document for this final rule.

G. Effective Date and Compliance Dates

As stated in the proposal, the EPA’s experience with other industries and entities that are required to convert reporting mechanisms, install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA’s CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters shows that a time period of a minimum of 90 days, but more typically 180 days, is generally necessary to successfully complete these changes. Due to the diverse nature of the stationary engine sector, the EPA proposed to allow 180 days from the date of the final rule for all electronic reporting provisions, and where a semiannual or annual report template is newly required, 180 days or 1 year from the date that the report template is made available on CEDRI, whichever is later, for compliance with the proposed electronic reporting requirements. For all other proposed requirements, because they are non-substantive edits simply to clarify existing requirements, the EPA proposed to make compliance effective immediately upon promulgation of the final rule.

We received some comments asking for a longer compliance timeframe. The majority of these are addressed in the response to comment document available in the docket for this action, but in general, the commenters that asked for additional time to comply were generally mistaken about the steps required to make their systems compatible with electronic reporting. For sources that were already required to submit the annual reports via an

⁸ Additionally, the same language of “annually” also appears in a separate location in subpart ZZZZ, namely in the subsection on management practices applicable to existing stationary non-emergency CI RICE with a site rating of more than 300 HP located on an offshore vessel that is an area source of HAP and is a nonroad vehicle that is an Outer Continental Shelf source as defined in 40 CFR 55.2. Similar concerns apply to the engines affected by this subsection (40 CFR 63.6603). So we, likewise, proposed to replace each instance of the term “annually” with the term “every 12 months” there.

⁹ The EPA also is making it clear that we do not prohibit changing the oil earlier than 12 months if entities desire to do so (since this was raised in some comments).

¹⁰ 40 CFR 63.6640(f)(4)(ii).

¹¹ 40 CFR 60.4211(f)(3)(i), 40 CFR 60.4243(d)(3)(i).

electronic template to CEDRI prior to this rulemaking (*i.e.*, emergency stationary CI ICE subject to reporting under 40 CFR 60.4214(d) in 40 CFR part 60, subpart IIII, emergency stationary SI ICE subject to reporting under 40 CFR 60.4245(e) in 40 CFR part 60, subpart JJJJ, and emergency stationary RICE subject to reporting under 40 CFR 63.6650(h) in 40 CFR part 63, subpart ZZZZ) the EPA determined that 180 days is sufficient time to adjust to the revised electronic template and accommodate the new reporting elements. For all other sources, the EPA determined that the additional year after the reporting template becomes available in CEDRI is necessary for these sources to begin electronic reporting. As discussed in the response to comments document, the EPA considers a year to be an adequate amount of time for these sources to adjust to electronic reporting. We are therefore finalizing the compliance timeframe as proposed.

Pursuant to CAA sections 111(b)(1)(B) and 112(i), the revisions to the rules being promulgated in this action are effective on August 30, 2024. The compliance date for affected sources to comply with the amendments pertaining to electronic reporting is 180 days after the effective date of the rule, or, where electronic reporting is newly required for semiannual or annual compliance reports, 1 year from the date that the respective report template is made available on CEDRI, whichever is later.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the air quality impacts?

No air quality impacts are expected to result from this rulemaking.

B. What are the cost impacts?

The EPA estimated costs for this action are based on the results of the analysis for information collection activities, as presented in the Paperwork Reduction Act (PRA) section and accompanying Information Collection Request (ICR) documents in the docket.

When assessed over the first 3 years of compliance, the incremental costs for both NSPS (subpart IIII and subpart JJJJ) are estimated to be negative, *i.e.*, reflect a cost savings, for all 3 years. For the NESHAP (subpart ZZZZ), the incremental cost is estimated to have costs in 2025 followed by cost savings in 2026 and 2027. When viewed on an overall basis (*i.e.*, all subparts considered), undiscounted costs for the final rule, in 2021\$, are \$18.0 million in 2025, (\$38.0 million) in 2026, and (\$38.2 million) in 2027, with

parentheses indicating negative values, *i.e.*, cost savings. Although the EPA also anticipates that the final rule will continue to result in cost savings in years beyond 2027 for all subparts, we have not estimated the magnitude or duration of these cost savings. These estimates are consistent with our experience that electronic reporting reduces burden on regulated entities (and the EPA) by eliminating paper-based processes and providing data quickly and accurately.

More details on cost impact analyses for the final rule can be found in the “What are the economic impacts?” section of this preamble as well as in section 2 of the memorandum, *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments*, which is also available in the docket for this action.

C. What are the economic impacts?

The EPA conducted economic impact analyses for the final rule, as detailed in the memorandum, *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments*, which is available in the docket for this action.

Costs were estimated for the first 3 years following this action. Correspondingly, a 3-year period from 2025 to 2027 was selected as the best measure of the economic impacts of this action. This allowed for a reasonable and consistent timeframe over which to examine impacts of this action from a present value (PV) perspective. The PV in 2021 dollars is a cost saving of approximately \$53.8 million using a 2 percent discount rate, a cost saving of approximately \$51.8 using a 3 percent discount rate, and a cost saving of approximately \$44.5 million using a 7 percent discount rate.^{12 13} The

¹² Present value and equivalent annualized value calculations can be found in *RICE—final—economic analysis.xls*, a spreadsheet that includes the basis for the economic impacts that was generated by the EPA for this analysis report. This spreadsheet can be found in the docket for this rule.

¹³ Results using the 2 percent discount rate were not included in the proposal for this action. The 2003 version of OMB’s Circular A–4 had generally recommended 3 percent and 7 percent as default rates to discount social costs and benefits. The analysis of the proposed rule used these two recommended rates. In November 2023, OMB finalized an update to Circular A–4, in which it

equivalent annualized value (EAV), in 2021 dollars, is a cost saving of approximately \$18.7 million using a discount rate of 2 percent, a cost saving of approximately \$18.3 using a discount rate of 3 percent, and a cost saving of approximately \$16.9 million using a discount rate of 7 percent. The amendments to 40 CFR part 60, subparts IIII and JJJJ have estimated cost savings for respondents in each year. We conducted an analysis assessing the impacts of the costs associated with the amendments to 40 CFR part 63, subpart ZZZZ. As shown in the supporting statement to 40 CFR part 63, subpart ZZZZ, the amendments to ZZZZ have estimated costs of \$32 per respondent for the first year and cost savings thereafter. As described the economic impact analysis, for the first year such costs are less than 0.1 percent of the average affected entity’s payroll, and we conclude that it is reasonable to assume that such costs represent less than 0.1 percent of sales for the average affected entity.¹⁴

Given the results of the analysis, these economic impacts are relatively small for affected industries and entities impacted by this rule, and there will not be substantial impacts on the markets for affected products. The costs of the rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

D. What are the benefits?

The EPA is not making changes to the emission limits and estimates that the final requirements for electronic reporting are not economically significant. Because these amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were projected, we are not estimating any benefits from reducing emissions.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be

recommended the general application of a 2 percent rate to discount social costs and benefits (subject to regular updates), which is an estimate of consumption-based discount rate. We include cost results calculated using a 2 percent discount rate consistent with the update to Circular A–4 (OMB, 2023).

¹⁴ The memorandum titled *Economic Impact and Small Business Analysis for the Final National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment* is available in the docket for this action.

found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

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

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR numbers 2196.08, 2227.07, and 1975.12 for NSPS subparts IIII and JJJJ, and NESHAP subpart ZZZZ, respectively. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The amendments mainly add electronic reporting provisions to the rules. In general, the changes do not result in regulated entities needing to submit anything additional electronically that is not currently submitted via paper copies, and this is therefore expected to lessen the recordkeeping and reporting burden. The information is collected to assure compliance with 40 CFR part 60, subparts IIII and JJJJ and 40 CFR part 63, subpart ZZZZ.

Respondents/affected entities:

Owners and operators of stationary RICE at either a major or area source of HAP emissions (NESHAP subpart ZZZZ); existing and new manufacturers, owners, and operators of stationary CI internal combustion engines (NSPS subpart IIII); existing and new manufacturers, owners, and operators of stationary SI internal combustion engines (NSPS subpart JJJJ).

Respondents' obligation to respond: Mandatory.

Estimated number of respondents:

915,781 (ZZZZ); 207,360 (IIII); 19,835 (JJJJ).

Frequency of response: Varies by rule and by type of response.

Total estimated burden: (61,799) (ZZZZ); (95,928) (IIII); (1,144) (JJJJ) hours (per year). Burden is defined at 5 CFR 1320.3(b). Note: parentheses indicate a reduction in burden, *i.e.*, a reduced number of hours as a result of the addition of electronic reporting to the rules.

Total estimated cost: (\$7,581,151) (ZZZZ); (\$11,688,145) (IIII); (\$140,379) (JJJJ) (per year), includes \$0 annualized capital or operation & maintenance costs. Note: parentheses indicate a reduction in cost as a result of the addition of electronic reporting to the rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses, small governmental jurisdictions and small non-profits across a range of sectors, that own or operate stationary engines (*e.g.*, for generating electricity in remote areas or when electricity supply is temporarily interrupted), including but not limited to: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security.

The amendments to 40 CFR part 60, subparts IIII and JJJJ have estimated cost savings for respondents by reducing reporting burdens. We conducted analysis assessing the impacts of the costs associated with the amendments to 40 CFR part 63, subpart ZZZZ. As shown in the supporting statement to 40 CFR part 63, subpart ZZZZ, this subpart has estimated costs of \$32 per respondent in 1 year, and cost savings in following years. We estimate that this compliance cost of \$32 per respondent is well below a 1 percent impact relative to payroll or sales for affected small entities.¹⁵ While there is some uncertainty in these estimates, due to the range of entities that may own or operate stationary engines, there is a large margin before the impacts would approach a 1 percent impact for a substantial number of small entities.

¹⁵ For example, for an entity with \$32,000 in payroll, the compliance cost would represent an impact of 0.1% relative to payroll.

Details of this analysis are presented in the memorandum titled *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment*, which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action will reduce reporting costs for all sources, although we did estimate some initial costs (well under \$100 million in the aggregate) for some sources.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. While some Tribes could be impacted by this amendment, this rulemaking would reduce the compliance costs for owners and operators of stationary engines. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This is because this action involves the addition of electronic reporting and therefore is not expected to change emissions.

K. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, parts 60 and 63 of the Code of Federal Regulations are amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart III—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

- 2. Amend § 60.4214 by:
 - a. Revising paragraph (a)(1) introductory text and paragraph (d)(3); and
 - b. Adding paragraphs (f), (g), (h), (i), and (j).

The revisions and additions read as follows:

§ 60.4214 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?

(a) * * *

(1) Submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (a)(1)(i) through (v) of this section. Beginning on February 26, 2025, submit the notification electronically according to paragraph (g) of this section.

* * * * *

(d) * * *

(3) The annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the appropriate address listed in § 60.4. Beginning on February 26, 2025, submit annual report electronically according to paragraph (g) of this section.

* * * * *

(f) Beginning on February 26, 2025, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test required under this section following the procedures specified in paragraphs (f)(1) and (2) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test.* Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), according to paragraph (g) of this section. The data must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML)

schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI according to paragraph (g) of this section.

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph (g), you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (g)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as described in paragraph (g) of this section, should include clear CBI markings. ERT files should be flagged to

the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Stationary Compression Ignition Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Group Leader, Measurement Policy Group, and all other files should be sent to the attention of the Stationary Compression Ignition Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(h) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as

possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report

electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

(j) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 3. Revise table 4 to subpart IIII of part 60 to read as follows:

TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES

[As stated in §§ 60.4202(d) and 60.4205(c), you must comply with the following emission standards for stationary fire pump engines]

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO _x	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 + ...	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 + ...	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 + ...	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)

TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES—Continued
 [As stated in §§ 60.4202(d) and 60.4205(c), you must comply with the following emission standards for stationary fire pump engines]

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO _x	CO	PM
56≤KW<75 (75≤HP<100)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 + ²	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 + ...	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW>560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW>560 (HP>750)	2008 + ...	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

¹ For model years 2011–2013, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

² For model years 2010–2012, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

³ In model years 2009–2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

* * * * *

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

■ 4. Amend § 60.4245 by:

- a. Revising paragraph (c) introductory text, paragraphs (d), and (e)(3); and
- b. Adding paragraphs (f), (g), (h), (i), and (j).

The revisions and additions read as follows:

§ 60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

* * * * *

(c) Owners and operators of stationary SI ICE greater than or equal to 500 HP that have not been certified by an engine manufacturer to meet the emission standards in § 60.4231 must submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (c)(1) through (5) of this section. Beginning on February 26, 2025 submit the notification electronically according to paragraph (g) of this section.

* * * * *

(d) Owners and operators of stationary SI ICE that are subject to performance testing must submit a copy of each performance test as conducted in § 60.4244 within 60 days after the test has been completed. Performance test reports using EPA Method 18, EPA Method 320, or ASTM D6348–03 (incorporated by reference—see 40 CFR 60.17) to measure VOC require reporting of all QA/QC data. For Method 18, report results from sections 8.4 and

11.1.1.4; for Method 320, report results from sections 8.6.2, 9.0, and 13.0; and for ASTM D6348–03 report results of all QA/QC procedures in Annexes 1–7. Beginning on February 26, 2025, performance tests must be reported electronically according to paragraph (f) of this section.

(e) * * *

(3) The annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the appropriate address listed in § 60.4. Beginning on February 26, 2025, submit annual report electronically according to paragraph (g) of this section.

(f) Beginning on February 26, 2025, within 60 days after the date of completing each performance test, you must submit the results following the procedures specified in paragraph (g) of this section. Data collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT

website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or an alternate electronic file.

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph (g), you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (g)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data

available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as described in paragraph (g) of this section, should include clear CBI markings. ERT files should be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Stationary Spark Ignition Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Group Leader, Measurement Policy Group, and all other files should be sent to the attention of the Stationary Spark Ignition Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(h) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as

possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with that reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

(j) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 5. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

■ 6. Amend § 63.6603 by revising paragraphs (c)(1) through (4) to read as follows:

§ 63.6603 What emission limitations, operating limitations, and other requirements must I meet if I own or operate an existing stationary RICE located at an area source of HAP emissions?

* * * * *

(c) * * *

(1) Change oil every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first. Sources have the option to utilize an oil analysis program as described in § 63.6625(i) in order to extend the specified oil change requirement.

(2) Inspect and clean air filters every 750 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

(3) Inspect fuel filters and belts, if installed, every 750 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

(4) Inspect all flexible hoses every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

* * * * *

■ 7. Amend § 63.6620 by adding paragraph (j) to read as follows:

§ 63.6620 What performance tests and other procedures must I use?

* * * * *

(j) Beginning on February 26, 2025, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedure specified in § 63.9(k). Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or alternate electronic file.

■ 8. Amend § 63.6625 by:

- a. Adding paragraph (a)(5); and
- b. Revising paragraphs (i) and (j).

The additions and revisions read as follows:

§ 63.6625 What are my monitoring, installation, collection, operation, and maintenance requirements?

* * * * *

(a) * * *

(5) Beginning on February 26, 2025, within 60 days after the date of completing each continuous emissions monitoring system (CEMS) performance evaluation (as defined in § 63.2) that includes a relative accuracy test audit (RATA), you must submit the results of the performance evaluation following the procedures specified in § 63.9(k). The results of performance evaluations of CEMS measuring RATA pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation must be submitted in a file format generated using the EPA's ERT. Alternatively, you

may submit an electronic file consistent with the XML schema listed on the EPA's ERT website. The results of performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation must be included as an attachment in the ERT or alternate electronic file.

* * * * *

(i) If you own or operate a stationary CI engine that is subject to the work, operation or management practices in items 1 or 2 of table 2c to this subpart or in items 1 or 4 of table 2d to this subpart, you have the option of utilizing an oil analysis program in order to extend the specified oil and filter change requirement in tables 2c and 2d to this subpart. The oil analysis must be performed at the same frequency specified for changing the oil and filter in table 2c or 2d to this subpart. The analysis program must at a minimum analyze the following three parameters: Total Base Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Base Number is less than 30 percent of the Total Base Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil and filter. If any of the limits are exceeded, the engine owner or operator must change the oil and filter within 2 business days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil and filter within 2 business days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil and filter changes for the engine. The analysis program must be part of the maintenance plan for the engine.

(j) If you own or operate a stationary SI engine that is subject to the work, operation or management practices in items 6, 7, or 8 of table 2c to this subpart or in items 5, 6, 7, 8, 10, 11, or 13 of table 2d to this subpart, you have the option of utilizing an oil analysis program in order to extend the specified oil and filter change requirement in tables 2c and 2d to this subpart. The oil analysis must be performed at the same frequency specified for changing the oil and filter in table 2c or 2d to this

subpart. The analysis program must at a minimum analyze the following three parameters: Total Acid Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Acid Number increases by more than 3.0 milligrams of potassium hydroxide (KOH) per gram from Total Acid Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil and filter. If any of the limits are exceeded, the engine owner or operator must change the oil and filter within 2 business days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil and filter within 2 business days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil and filter changes for the engine. The analysis program must be part of the maintenance plan for the engine.

■ 9. Amend § 63.6645 by:

■ a. Revising paragraphs (b), (c), (d), (e), (h)(2) introductory text; and

■ b. Adding paragraphs (h)(2)(i) and (ii).
The revisions and additions read as follows:

§ 63.6645 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart, you must submit an initial notification not later than December 13, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. Beginning on February 26, 2025, submit the notification electronically in portable document format (PDF) consistent with § 63.9(k).

(c) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions on or after August 16, 2004, you must submit an initial notification not later than 120 days after you become subject to this subpart. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

(d) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart and you are required to submit an initial notification, you must submit an initial notification not later than July 16, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

(e) If you start up your new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions on or after March 18, 2008, and you are required to submit an initial notification, you must submit an initial notification not later than 120 days after you become subject to this subpart. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

* * * * *

(h) * * *

(2) Before February 26, 2025, for each initial compliance demonstration required in table 5 to this subpart that includes a performance test conducted according to the requirements in table 3 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th day following the completion of the performance test according to § 63.10(d)(2). Beginning on February 26, 2025, for each initial compliance demonstration required in table 5 to this subpart that includes a performance test conducted according to the requirements in table 3 to this subpart, you must submit the Notification of Compliance Status, including a summary of the performance test results, in PDF to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), before the close of business on the 60th day following the completion of the performance test following the procedure specified in § 63.9(k), except any Confidential Business Information (CBI) is to be submitted according to paragraphs (h)(2)(i) and (ii) of this section. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in paragraphs (h)(2)(i) and

(ii) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (h)(2).

(i) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as described in paragraph (h)(2) of this section, should include clear CBI markings and be flagged to the attention of the Reciprocating Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(ii) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Reciprocating Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

* * * * *

■ 10. Amend § 63.6650 by:

■ a. Revising paragraph (c) introductory text and paragraph (c)(4);

■ b. Adding paragraphs (c)(7) through (9);

■ c. Revising paragraphs (d), (e) introductory text, paragraphs (e)(2), (3), and (5) through (7);

■ d. Removing and reserving paragraph (e)(9);

■ e. Adding paragraph (e)(13);

■ f. Revising paragraphs (f), (h)(1)(iii), (ix), and (h)(3); and

■ g. Adding paragraph (i).

The revisions and additions read as follows:

§ 63.6650 What reports must I submit and when?

* * * * *

(c) The Compliance report must contain the information in paragraphs (c)(1) through (8) of this section.

* * * * *

(4) If you had a malfunction during the reporting period, the compliance report must include the starting and ending date and time, the duration (in hours), and a brief description for each malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.6605(b), including actions taken to correct a malfunction.

* * * * *

(7) Engine site rating in brake HP, year construction of the engine commenced (as defined in § 63.2, where the exact year is not known, provide the best estimate), and type of engine (CI, SI 2SLB, SI 4SLB, or SI 4SRB).

(8) Latitude and longitude of the engine in decimal degrees reported to the fifth decimal place.

(9) An engine can be claimed as exempt from reporting coordinates (latitude/longitude) via CEDRI if:

(i) During the reporting period, the engine will be owned by, or operated by or for, an agency of the Federal Government responsible for national defense; and

(ii) The agency determines that disclosing the coordinates to the general public would be a threat to national security.

(d) For each deviation from an emission or operating limitation that occurs for a stationary RICE where you are not using a CMS to comply with the emission or operating limitations in this subpart, the Compliance report must contain the information in paragraphs (c)(1) through (8) of this section and the information in paragraphs (d)(1) and (2) of this section.

(1) The total operating time (in hours) of the stationary RICE at which the deviation occurred during the reporting period.

(2) Information on the number, duration (in hours), and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(3) A description of any changes in processes, or controls since the last reporting period.

(e) For each deviation from an emission or operating limitation occurring for a stationary RICE where you are using a CMS to comply with the emission and operating limitations in this subpart, you must include information in paragraphs (c)(1) through (8) and (e)(1) through (13) of this section.

* * * * *

(2) The start and end date and time and the duration (in hours) that each CMS was inoperative, except for zero (low-level) and high-level checks.

(3) The start and end date and time and the duration (in hours) that each CMS was out-of-control, including the information in § 63.8(c)(8).

* * * * *

(5) A summary of the total duration (in hours) of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration (in hours) of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration (in hours) of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total operating time of the stationary RICE at which the CMS downtime occurred during that reporting period.

* * * * *

(13) The total operating time of the stationary RICE at which the deviation occurred during the reporting period.

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a Compliance report pursuant to table 7 of

this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the Compliance report includes all required information concerning deviations from any emission or operating limitation in this subpart, submission of the Compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a Compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority. Beginning on February 26, 2025, the semiannual and annual compliance report required in table 7 of this subpart must be submitted according to paragraph (i) of this section. Only those elements required under this subpart are required to be submitted according to paragraph (i) of this section.

* * * * *

(h) * * *

(1) * * *

(iii) Engine site rating in brake HP, year construction of the engine commenced (as defined in § 63.2, where the exact year is not known, provide the best estimate), and type of engine (CI, SI 2SLB, SI 4SLB, or SI 4SRB).

* * * * *

(ix) If there were deviations from the fuel requirements in § 63.6604 that apply to the engine (if any), information on the number, duration (in hours), and cause of deviations, and the corrective action taken.

* * * * *

(3) Before February 26, 2025, the annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the

appropriate address listed in § 63.13. Beginning on February 26, 2025, the annual report must be submitted according to paragraph (i) of this section.

(i) Beginning on February 26, 2025 for the annual report specified in § 63.6650(h) and February 26, 2025 or one year after the report becomes available in CEDRI, whichever is later for all other semiannual or annual reports, submit all semiannual and annual subsequent compliance reports using the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart and following the procedure specified in § 63.9(k), except any CBI must be submitted according to the procedures in § 63.6645(h). The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

■ 11. Amend § 63.6655 by revising paragraph (a)(2) to read as follows:

§ 63.6655 What records must I keep?

(a) * * *

(2) Records of the occurrence and duration (in hours) of each malfunction of operation (*i.e.*, process equipment) or the air pollution control and monitoring equipment.

* * * * *

■ 12. Amend § 63.6670 by adding paragraph (c)(6) to read as follows:

§ 63.6670 Who implements and enforces this subpart?

* * * * *

(c) * * *

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 13. Revise Table 2c to subpart ZZZZ of part 63 to read as follows:

TABLE 2c TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING COMPRESSION IGNITION STATIONARY RICE LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS AND EXISTING SPARK IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6602, and 63.6640, you must comply with the following requirements for existing compression ignition stationary RICE located at a major source of HAP emissions and existing spark ignition stationary RICE ≤500 HP located at a major source of HAP emissions]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
1. Emergency stationary CI RICE and black start stationary CI RICE ¹ .	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first². b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary³.	Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the non-startup emission limitations apply. ³
2. Non-Emergency, non-black start stationary CI RICE <100 HP.	a. Change oil and filter every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first². b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary³.	
3. Non-Emergency, non-black start CI stationary RICE 100≤HP≤300 HP.	Limit concentration of CO in the stationary RICE exhaust to 230 ppmvd or less at 15 percent O ₂ .	
4. Non-Emergency, non-black start CI stationary RICE 300<HP≤500.	a. Limit concentration of CO in the stationary RICE exhaust to 49 ppmvd or less at 15 percent O₂; or b. Reduce CO emissions by 70 percent or more.	
5. Non-Emergency, non-black start stationary CI RICE >500 HP.	a. Limit concentration of CO in the stationary RICE exhaust to 23 ppmvd or less at 15 percent O₂; or b. Reduce CO emissions by 70 percent or more.	
6. Emergency stationary SI RICE and black start stationary SI RICE ¹ .	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;² b. Inspect spark plugs every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary³.	
7. Non-Emergency, non-black start stationary SI RICE <100 HP that are not 2SLB stationary RICE.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;² b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary. c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary³.	
8. Non-Emergency, non-black start 2SLB stationary SI RICE <100 HP.	a. Change oil and filter every 4,320 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;² b. Inspect spark plugs every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary³.	
9. Non-emergency, non-black start 2SLB stationary RICE 100≤HP≤500.	Limit concentration of CO in the stationary RICE exhaust to 225 ppmvd or less at 15 percent O ₂ .	
10. Non-emergency, non-black start 4SLB stationary RICE 100≤HP≤500.	Limit concentration of CO in the stationary RICE exhaust to 47 ppmvd or less at 15 percent O ₂ .	
11. Non-emergency, non-black start 4SRB stationary RICE 100≤HP≤500.	Limit concentration of formaldehyde in the stationary RICE exhaust to 10.3 ppmvd or less at 15 percent O ₂ .	

TABLE 2c TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING COMPRESSION IGNITION STATIONARY RICE LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS AND EXISTING SPARK IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS—Continued

[As stated in §§ 63.6600, 63.6602, and 63.6640, you must comply with the following requirements for existing compression ignition stationary RICE located at a major source of HAP emissions and existing spark ignition stationary RICE ≤500 HP located at a major source of HAP emissions]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
12. Non-emergency, non-black start stationary RICE 100≤HP≤500 which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	Limit concentration of CO in the stationary RICE exhaust to 177 ppmvd or less at 15 percent O ₂ .	

¹ If an emergency engine is operating during an emergency and it is not possible to shut down the engine in order to perform the work practice requirements on the schedule required in table 2c of this subpart, or if performing the work practice on the required schedule would otherwise pose an unacceptable risk under Federal, state, or local law, the work practice can be delayed until the emergency is over or the unacceptable risk under Federal, state, or local law has abated. The work practice should be performed as soon as practicable after the emergency has ended or the unacceptable risk under Federal, state, or local law has abated. Sources must report any failure to perform the work practice on the schedule required and the Federal, state or local law under which the risk was deemed unacceptable.

² Sources have the option to utilize an oil analysis program as described in § 63.6625(i) or (j) in order to extend the specified oil change requirement in table 2c of this subpart.

³ Sources can petition the Administrator pursuant to the requirements of 40 CFR 63.6(g) for alternative work practices.

■ 14. Revise Table 2d to subpart ZZZZ of part 63 to read as follows:

TABLE 2d TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS

[As stated in §§ 63.6603 and 63.6640, you must comply with the following requirements for existing stationary RICE located at area sources of HAP emissions:]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
1. Non-Emergency, non-black start CI stationary RICE ≤300 HP.	a. Change oil and filter every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; ¹ b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the non-startup emission limitations apply.
2. Non-Emergency, non-black start CI stationary RICE 300<HP≤500.	a. Limit concentration of CO in the stationary RICE exhaust to 49 ppmvd at 15 percent O ₂ ; or b. Reduce CO emissions by 70 percent or more.	
3. Non-Emergency, non-black start CI stationary RICE >500 HP.	a. Limit concentration of CO in the stationary RICE exhaust to 23 ppmvd at 15 percent O ₂ ; or b. Reduce CO emissions by 70 percent or more.	
4. Emergency stationary CI RICE and black start stationary CI RICE. ²	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; ¹ b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
5. Emergency stationary SI RICE; black start stationary SI RICE; non-emergency, non-black start 4SLB stationary RICE >500 HP that operate 24 hours or less per calendar year; non-emergency, non-black start 4SRB stationary RICE >500 HP that operate 24 hours or less per calendar year. ²	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; ¹ b. Inspect spark plugs every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
6. Non-emergency, non-black start 2SLB stationary RICE.	a. Change oil and filter every 4,320 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; ¹ b. Inspect spark plugs every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and	

TABLE 2d TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS—Continued

[As stated in §§ 63.6603 and 63.6640, you must comply with the following requirements for existing stationary RICE located at area sources of HAP emissions:]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
7. Non-emergency, non-black start 4SLB stationary RICE ≤500 HP.	c. Inspect all hoses and belts every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary. a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;¹ b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
8. Non-emergency, non-black start 4SLB remote stationary RICE >500 HP.	a. Change oil and filter every 2,160 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;¹ b. Inspect spark plugs every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
9. Non-emergency, non-black start 4SLB stationary RICE >500 HP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Install an oxidation catalyst to reduce HAP emissions from the stationary RICE.	
10. Non-emergency, non-black start 4SRB stationary RICE ≤500 HP.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;¹ b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
11. Non-emergency, non-black start 4SRB remote stationary RICE >500 HP.	a. Change oil and filter every 2,160 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;¹ b. Inspect spark plugs every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
12. Non-emergency, non-black start 4SRB stationary RICE >500 HP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Install NSCR to reduce HAP emissions from the stationary RICE.	
13. Non-emergency, non-black start stationary RICE which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first;¹ b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	

¹ Sources have the option to utilize an oil analysis program as described in § 63.6625(i) or (j) in order to extend the specified oil change requirement in table 2d of this subpart.

² If an emergency engine is operating during an emergency and it is not possible to shut down the engine in order to perform the management practice requirements on the schedule required in table 2d of this subpart, or if performing the management practice on the required schedule would otherwise pose an unacceptable risk under Federal, state, or local law, the management practice can be delayed until the emergency is over or the unacceptable risk under Federal, state, or local law has abated. The management practice should be performed as soon as practicable after the emergency has ended or the unacceptable risk under Federal, state, or local law has abated. Sources must report any failure to perform the management practice on the schedule required and the Federal, state or local law under which the risk was deemed unacceptable.

* * * * *

■ 15. Revise Table 7 to subpart ZZZZ of part 63 to read as follows:

TABLE 7 TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR REPORTS

[As stated in § 63.6650, you must comply with the following requirements for reports:]

For each . . .	You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Existing non-emergency, non-black start stationary RICE 100≤HP≤500 located at a major source of HAP; existing non-emergency, non-black start stationary CI RICE >500 HP located at a major source of HAP; existing non-emergency, non-black start stationary RICE >500 HP located at a major source of HAP; existing non-emergency, non-black start stationary CI RICE >300 HP located at an area source of HAP; new or reconstructed non-emergency stationary RICE >500 HP located at a major source of HAP; and new or reconstructed non-emergency 4SLB stationary RICE 250≤HP≤500 located at a major source of HAP.	Compliance report	a. If there are no deviations from any emission limitations or operating limitations that apply to you, a statement that there were no deviations from the emission limitations or operating limitations during the reporting period. If there were no periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), a statement that there were not periods during which the CMS was out-of-control during the reporting period; or b. If you had a deviation from any emission limitation or operating limitation during the reporting period, the information in § 63.6650(d). If there were periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), the information in § 63.6650(e); or c. If you had a malfunction during the reporting period, the information in § 63.6650(c)(4).	i. Semiannually according to the requirements in § 63.6650(b)(1)–(5) and (i) for engines that are not limited use stationary RICE subject to numerical emission limitations; and ii. Annually according to the requirements in § 63.6650(b)(6)–(9) and (i) for engines that are limited use stationary RICE subject to numerical emission limitations. i. Semiannually according to the requirements in § 63.6650(b) and (i).
2. New or reconstructed non-emergency stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	Report	a. The fuel flow rate of each fuel and the heating values that were used in your calculations, and you must demonstrate that the percentage of heat input provided by landfill gas or digester gas, is equivalent to 10 percent or more of the gross heat input on an annual basis; and b. The operating limits provided in your federally enforceable permit, and any deviations from these limits; and c. Any problems or errors suspected with the meters.	i. Semiannually according to the requirements in § 63.6650(b) and (i). i. Annually, according to the requirements in § 63.6650.
3. Existing non-emergency, non-black start 4SLB and 4SRB stationary RICE >500 HP located at an area source of HAP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Compliance report	a. The results of the annual compliance demonstration, if conducted during the reporting period.	i. See item 2.a.i. i. See item 2.a.i.
4. Emergency stationary RICE that operate for the purposes specified in § 63.6640(f)(4)(ii).	Report	a. The information in § 63.6650(h)(1) ..	i. Semiannually according to the requirements in § 63.6650(b)(1)–(5) and (i). i. Annually according to the requirements in § 63.6650(h)(2)–(3) and (i).

■ 16. Revise Table 8 to subpart ZZZZ of part 63 to read as follows:

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.1	General applicability of the General Provisions.	Yes.	Additional terms defined in § 63.6675.
§ 63.2	Definitions	Yes	
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities and circumvention	Yes.	

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued
[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.5	Construction and reconstruction	Yes.	
§ 63.6(a)	Applicability	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new and reconstructed sources.	Yes.	
§ 63.6(b)(5)	Notification	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major sources.	Yes.	
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance dates for existing area sources that become major sources.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)	Operation and maintenance	No.	
§ 63.6(f)(1)	Applicability of standards	No.	
§ 63.6(f)(2)	Methods for determining compliance ..	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternate standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards.	No	Subpart ZZZZ does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart ZZZZ contains performance test dates at §§ 63.6610, 63.6611, and 63.6612.
§ 63.7(a)(3)	CAA section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes	Except that § 63.7(b)(1) only applies as specified in § 63.6645.
§ 63.7(b)(2)	Notification of rescheduling	Yes	Except that § 63.7(b)(2) only applies as specified in § 63.6645.
§ 63.7(c)	Quality assurance/test plan	Yes	Except that § 63.7(c) only applies as specified in § 63.6645.
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	No	Subpart ZZZZ specifies conditions for conducting performance tests at § 63.6620.
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart ZZZZ specifies test methods at § 63.6620.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements.	Yes	Subpart ZZZZ contains specific requirements for monitoring at § 63.6625.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring for control devices	No.	
§ 63.8(b)(1)	Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Monitoring system operation and maintenance.	Yes.	
§ 63.8(c)(1)(i)	Routine and predictable SSM	No.	
§ 63.8(c)(1)(ii)	SSM not in Startup Shutdown Malfunction Plan.	Yes.	
§ 63.8(c)(1)(iii)	Compliance with operation and maintenance requirements.	No.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No	Subpart ZZZZ does not require COMS.
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart ZZZZ does not require COMS.

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued
 [As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.8(d)	CMS quality control	Yes.	Except for § 63.8(e)(5)(ii), which applies to COMS.
§ 63.8(e)	CMS performance evaluation	Yes	
§ 63.8(f)(1)–(5)	Alternative monitoring method	Yes	Except that § 63.8(e) only applies as specified in § 63.6645.
§ 63.8(f)(6)	Alternative to relative accuracy test	Yes	Except that § 63.8(f)(4) only applies as specified in § 63.6645.
§ 63.8(g)	Data reduction	Yes	Except that § 63.8(f)(6) only applies as specified in § 63.6645.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§ 63.6635 and 63.6640.
§ 63.9(b)(1)–(5)	Initial notifications	Yes	Except that § 63.9(b)(3) is reserved.
§ 63.9(c)	Request for compliance extension	Yes	Except that § 63.9(b) only applies as specified in § 63.6645.
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes	Except that § 63.9(c) only applies as specified in § 63.6645.
§ 63.9(e)	Notification of performance test	Yes	Except that § 63.9(d) only applies as specified in § 63.6645.
§ 63.9(f)	Notification of visible emission (VE)/opacity test.	No	Except that § 63.9(e) only applies as specified in § 63.6645.
§ 63.9(g)(1)	Notification of performance evaluation	Yes	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(2)	Notification of use of COMS data	No	Except that § 63.9(g) only applies as specified in § 63.6645.
§ 63.9(g)(3)	Notification that criterion for alternative to RATA is exceeded.	Yes	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(h)(1)–(6)	Notification of compliance status	Yes	If alternative is in use.
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	Except that § 63.9(g) only applies as specified in § 63.6645.
§ 63.9(j)	Change in previous information	Yes.	Except that notifications for sources using a CEMS are due 30 days after completion of performance evaluations. § 63.9(h)(4) is reserved.
§ 63.9(k)	Electronic reporting procedures	Yes	Except that § 63.9(h) only applies as specified in § 63.6645.
§ 63.10(a)	Administrative provisions for record-keeping/reporting.	Yes.	Only as specified in §§ 63.9(j), 63.6620, 63.6625, 63.6645, and 63.6650.
§ 63.10(b)(1)	Record retention	Yes	Except that the most recent 2 years of data do not have to be retained on site.
§ 63.10(b)(2)(i)–(v)	Records related to SSM	No.	For CO standard if using RATA alternative.
§ 63.10(b)(2)(vi)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA.	Yes	
§ 63.10(b)(2)(xiv)	Records of supporting documentation	Yes.	Except that § 63.10(c)(2)–(4) and (9) are reserved.
§ 63.10(b)(3)	Records of applicability determination	Yes.	
§ 63.10(c)	Additional records for sources using CEMS.	Yes	
§ 63.10(d)(1)	General reporting requirements	Yes.	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting opacity or VE observations	No	
§ 63.10(d)(4)	Progress reports	Yes.	Subpart ZZZZ does not require COMS.
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	No.	
§ 63.10(e)(1) and (2)(i)	Additional CMS Reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.10(e)(3)	Excess emission and parameter exceedances reports.	No	Excess emissions and exceedance reporting is specified in § 63.6650. Subpart ZZZZ does not require COMS.
§ 63.10(e)(4)	Reporting COMS data	No	
§ 63.10(f)	Waiver for recordkeeping/reporting	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA–HQ–OPP–2023–0409; FRL–12214–01–OCSPP]****RIN 2070–ZA16****Phenol; Revoking Exemption From the Requirement of a Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation revokes the tolerance exemption for residues of the antimicrobial pesticide ingredient phenol when used as an inert ingredient (solvent/cosolvent) in pesticide formulations applied to growing crops. This rulemaking is established on the Agency's own initiative under the Federal Food, Drug, and Cosmetic Act (FFDCA) to implement a tolerance action the Agency determined was appropriate during the registration review conducted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for phenol.

DATES: This regulation is effective February 26, 2025. Objections and requests for hearings must be received on or before October 29, 2024, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0409, is available at <https://www.regulations.gov> or in person at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave.

NW, Washington, DC 20460–0001. Additional instructions for visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–0736; email address: Pease.Anita@epa.gov or ADFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the **Federal Register** Office's e-CFR site at <https://www.ecfr.gov/current/title-40>.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0409 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 29, 2024. Notwithstanding the procedural requirements of 40 CFR 178.25(b), the Office of the Administrative Law Judges has issued an order urging parties to file and serve documents with the Tribunal by electronic means only. See *Revised Order Urging Electronic Filing and Service* (dated June 22, 2023), <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0409, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

II. Background

A. Proposed Rule

In the **Federal Register** of August 22, 2023 (88 FR 57026) (FRL–11232–01–OSCPP), EPA proposed to revoke the tolerance exemption in 40 CFR 180.920 for residues of phenol when used as an inert ingredient (solvent/cosolvent) in pesticide formulations applied to growing crops. In the August 2020 *Phenol and Salt Interim Registration Review Decision* (available at www.regulations.gov in docket ID number EPA–HQ–OPP–2012–0810), EPA determined that there are no current registrations for pesticide products containing phenol as an inert ingredient (solvent/cosolvent) for use on growing crops, and therefore the tolerance exemption for phenol under 40 CFR 180.920 is not necessary and should be revoked. Additionally, the *Registration Review Draft Risk Assessment for Phenol and Salts* indicated aggregate risks of concern are likely to result from exposures to phenol pesticide products. Updates have been made to phenol pesticide labels to reduce exposures to phenol through the dietary pathway by preventing the use of these products on food contact surfaces, thereby mitigating the aggregate risks of concern. Revoking phenol's inert tolerance exemption will ensure that dietary exposures do not result from the inert uses of phenol, further mitigating potential exposures that would contribute to aggregate risks of concern. Moreover, there have been no registrations for use associated with this tolerance exemption for many years. The Agency therefore believes that existing stocks of pesticide products containing phenol for the use associated with this tolerance exemption have been exhausted and that treated commodities have cleared the channels of trade.

B. What is the Agency's authority for taking this action?

Under section 408(e) of the FFDCA, EPA can establish, modify, or revoke an

exemption from the requirement of a tolerance for residues of a pesticide chemical after publishing a proposed rule and providing 60-day period for public comment. 21 U.S.C. 346a(e). EPA published the proposed rule on August 22, 2023, and provided 60 days for public comment (until October 23, 2023).

C. When does this action become effective?

EPA is establishing this rule with an effective date that is six months after the date of publication of the final rule in the **Federal Register** (February 26, 2025). EPA is setting this effective date for this action to allow a reasonable interval for producers in exporting members of the World Trade Organization's (WTO's) Sanitary and Phytosanitary (SPS) Measures Agreement to adapt to the requirements of the final rule.

Any commodities treated with phenol in the channels of trade following the tolerance exemption revocation shall be subject to FFDCA section 408(l)(5), 21 U.S.C. 346a(l)(5). Under this section, any residues of this pesticide in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA and the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption, unless EPA determines that consumption of legally treated food during the period of its likely availability in commerce will pose unreasonable dietary risk. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Final Rule

A. Comments

Three individuals submitted comments that supported the proposed rule. Public comments are posted to the docket for this tolerance rulemaking action (docket EPA–HQ–OPP–2023–0409 at <https://www.regulations.gov>). There were no comments requesting retention of the phenol tolerance exemption.

B. Final Rule

As discussed in the proposed rule, EPA is revoking the tolerance exemption in 40 CFR 180.920 for residues of phenol when used as an

inert ingredient (solvent/cosolvent) in pesticide formulations applied to growing crops. EPA has determined that there are no current registrations for pesticide products containing phenol as an inert ingredient (solvent/cosolvent) for use on growing crops, and therefore the tolerance exemption for phenol under 40 CFR 180.920 is not necessary at this time. Because there have been no registrations for use associated with this tolerance exemption for many years, the Agency therefore believes that existing stocks of pesticide products containing phenol for the use associated with this tolerance exemption have been exhausted and that treated commodities have cleared the channels of trade.

IV. Conclusion

Therefore, EPA is revoking the exemption from the requirement of a tolerance for residues of phenol when used as an inert ingredient (solvent/cosolvent) in pesticide products used on growing crops.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders#influence>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). OMB has exempted this type of action (e.g., tolerance revocation for which extraordinary circumstances do not exist) from review. These revocations are not expected to present extraordinary circumstances because no registrations containing phenol or relying on these tolerances have existed for several years. Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* Because this use has not been registered in the United States for some time, there has been no need for this tolerance exemption and thus the revocation will impose no net burden on small entities subject to the rule. Furthermore, the Agency did not receive any comments on these conclusions as presented in the proposed rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132, August 10, 1999 (64 FR 43255). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175, November 9, 2000 (65 FR 67249), because it will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) directs federal agencies to include an evaluation of health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potential effective and reasonably feasible alternatives. This action is also not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit V.A.). However, EPA's *Policy on Children's Health*

applies to this action. Since phenol has not been used in any registered pesticides for several years, it is unlikely that there has been much, if any, exposure to children from pesticide use. The revocation of the tolerance exemption also ensures that residues of the pesticide will not be in food.

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

This action is not a subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards under NTTAA section 12(d), 15 U.S.C. 272.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or indigenous peoples) and low-income populations. As discussed in more detail in the pesticide specific risk assessments conducted as part of the registration review for phenol, EPA has considered the safety risks for phenol. EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. Furthermore, EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 26, 2024.

Anita Pease,

Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended to read as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.920 [Amended]

■ 2. In § 180.920, amend table 1 by removing the inert ingredient “Phenol”.

[FR Doc. 2024–19531 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

42 CFR Part 136

[RIN 0917–AA10]

Catastrophic Health Emergency Fund

AGENCY: Indian Health Service, Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Indian Health Service (IHS or Service) administers the Catastrophic Health Emergency Fund (CHEF) pursuant to section 202 of the Indian Health Care Improvement Act (IHCIA). The purpose of the CHEF is to meet the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service. This document finalizes the regulations governing the administration of the CHEF, with clarifying edits, and responds to comments received on the proposed rule.

DATES: This final rule is effective on October 29, 2024.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this rule contact: Carl Mitchell, Director, Division of Regulatory and Policy Coordination (DRPC), Office of Management Services (OMS), Indian Health Service, 301–443–

6384, carl.mitchell@ihs.gov; or CAPT John Rael, Director, Office of Resource Access and Partnerships (ORAP), Indian Health Service, 301-443-0969, john.rael@ihs.gov.

SUPPLEMENTARY INFORMATION: The CHEF was established by section 202 of the IHCA, Public Law 94-437 (25 U.S.C. 1621a). The Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (collectively, the Affordable Care Act or “the ACA”), reauthorized the IHCA and amended the CHEF, directing the Secretary to promulgate regulations governing the administration of the CHEF.

In the **Federal Register** of July 18, 2023 (88 FR 45867), the IHS published a proposed rule entitled “Catastrophic Health Emergency Fund” with a 60-day comment period.

I. Background

II. Provisions of the Regulation

- A. Definitions
- B. Threshold Cost
- C. Compliance With PRC Regulations
- D. Alternate Resources
- E. Reimbursement Procedure
- F. Recovery of the CHEF Reimbursement Funds

III. Collection of Information Requirements

IV. Summary of Comments

V. Regulatory Impact Analysis

- A. Executive Order 12866
- B. Regulatory Flexibility Act (RFA)
- C. Unfunded Mandates Reform Act (UMRA)
- D. Federalism
- E. Executive Order 13175
- F. Congressional Review Act

I. Background

The purpose of the CHEF is to meet the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service. The IHS administers the CHEF to reimburse certain IHS and Tribal purchased/referred care (PRC) costs that exceed the cost threshold. Although the CHEF was first established in 1988, a similar fund was authorized by Public Law 99-591, a Joint Resolution continuing appropriations for fiscal year (FY) 1987. The IHS developed operating guidelines for the management of the CHEF in August of 1987, which were approved by the Office of Management and Budget (OMB). Those guidelines were developed with input from Tribal Organizations and IHS personnel who work with the daily processing and management of Contract Health Services (CHS), now known as the Purchased/Referred Care (PRC) Program. Congress passed the Indian Health Care Improvement Reauthorization and

Extension Act of 2009, S. 1790, 111th Cong. (2010) (IHCIREA), as section 10221(a) of the Patient Protection and Affordable Care Act, Public Law 111-148. Through IHCIREA, Congress permanently reauthorized and amended the IHCA, Public Law 94-437. Section 202 of the IHCA (25 U.S.C. 1621a) establishes the CHEF and directs the IHS to promulgate regulations for its administration.

The operating guidelines and twenty-eight (28) years of experience (FYs 1987–2015) contributed to the design of the proposed rule published on January 26, 2016 (81 FR 4239). Following additional Tribal Consultation and additional years of experience, the IHS issued a new notice of proposed rulemaking (NPRM). The new NPRM, published on July 18, 2023 (88 FR 45867), superseded and replaced the proposed rule published on January 26, 2016 (81 FR 4239); as such, the 2016 NPRM was rescinded.

II. Provisions of This Final Regulation

This final regulation (1) establishes definitions governing the CHEF, including definitions of disasters and catastrophic illnesses; (2) establishes that a Service Unit shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost; (3) establishes a procedure for reimbursement of the portion of the costs for authorized services that exceed such threshold costs; (4) establishes a procedure for payment from the CHEF for cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment; and, (5) establishes a procedure that will ensure no payment will be made from the CHEF to a Service Unit to the extent the provider of services is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

No part of the CHEF, or its administration, shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law 93-638 (25 U.S.C. 5301 *et seq.*) and may not be allocated, apportioned, or delegated to a Service Unit, Area Office, or any other IHS organizational unit. Accordingly, the IHS Division of Contract Care within ORAP, the IHS, shall remain responsible for administration of the CHEF.

This final regulation incorporates provisions on severability. Congress has

specifically directed the promulgation of these rules for the administration of the CHEF, which is administered by the Secretary, United States (U.S.) Department of Health and Human Services (HHS) (“the Secretary”) acting through IHS Headquarters. The sole purpose of the CHEF is meeting extraordinary medical costs associated with treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service. In the event that any portion of the final regulation is declared invalid, the Secretary, acting through the IHS, will continue to be responsible for the administration of the CHEF. The IHS anticipates that the remainder of the regulation could function sensibly and continue to govern the administration of the CHEF. For these reasons, if any portion of the final regulation is declared invalid, the IHS intends that the remaining provisions be severable.

The final regulation also incorporates clarifying edits to §§ 136.501, 136.503, and 136.506. Under § 136.501, the IHS added a missing comma in the definition of alternate resources. The IHS had unintentionally omitted the comma from the proposed rule and correction was important to ensure consistency with § 136.61(c). The IHS removed an unnecessary comma in the definition of catastrophic illness in § 136.501 for clarity. The IHS also corrected a typographical error in the preamble regarding the definition of PRC, which did not change the definition of PRC under § 136.501. In § 136.503(a), the IHS clarified that the initial threshold is being established for fiscal year 2024. Under § 136.506, the IHS added two clarifications regarding alternate resources, based upon public comments received in response to the proposed rule. The first clarification regarding alternate resources, located at § 136.506(b), explains that patients are not required to expend personal resources for health services to meet alternate resource eligibility, nor are they required to sell valuables or property to become eligible for alternate resources. The second clarification, located at § 136.506(c), explains that when a PRC program pays primary to (*i.e.*, before) a Tribal self-insurance plan, this will not impact whether a PRC program’s expenditures are eligible for reimbursement from the CHEF, as long as the Service Unit clearly demonstrates that the PRC program was responsible and did in fact assume that responsibility by making the payments at issue in the CHEF request. Further details are included in response to the comments under section IV, below.

A. Definitions

The IHS establishes the following definitions for governing the CHEF, including definitions of disasters and catastrophic illnesses:

1. **Alternate Resources**—health care resources other than those of the IHS. Such resources include health care providers and institutions, and health care programs for the payment of health services including, but not limited to programs under title XVIII or XIX of the Social Security Act (*i.e.*, Medicare, Medicaid), State or local health care programs, and private insurance.

2. **Catastrophic Health Emergency Fund (CHEF)**—the fund established by Congress to reimburse extraordinary medical expenses incurred for catastrophic illnesses and disasters paid by a PRC program of the IHS, whether such program is carried out by the IHS or an Indian Tribe or Tribal Organization under the ISDEAA.

3. **Catastrophic Illness**—a medical condition that is costly by virtue of the intensity and/or duration of its treatment. Examples of conditions that frequently require multiple hospital stays and extensive treatment are cancer, burns, premature births, cardiac disease, end-stage renal disease, strokes, trauma-related cases such as automobile accidents and gunshot wounds, and certain mental disorders. The CHEF is intended to insulate the IHS and Tribal PRC operations from financial disruption caused by the intensity of expenses incurred as a result of high cost illnesses and/or disasters.

4. **Disasters**—situations that pose a significant level of threat to life or health or cause loss of life or health stemming from events such as tornadoes, earthquakes, floods, catastrophic accidents, epidemics, fires, and explosions. The CHEF is intended to insulate the IHS and Tribal PRC operations from financial disruption caused by the intensity of expenses incurred as a result of high cost illnesses and/or disasters.

5. **Episode of Care**—the period of consecutive days for a discrete health condition during which reasonable and necessary medical services related to the condition occur.

6. **Purchased/Referred Care (PRC)**—any health service that is—

(a) delivered based on a referral by, or at the expense of, an Indian health program; and

(b) provided by a public or private medical provider or hospital that is not a provider or hospital of the Indian health program.

7. **Service Unit**—an administrative entity of the Service or a Tribal health

program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

8. **Threshold Cost**—the annual designated amount above which incurred medical costs will be considered for the CHEF reimbursement after a review of the authorized expenses and diagnosis.

B. Threshold Cost

The IHCA section 202 provides that a Service Unit shall not be eligible for reimbursement from the CHEF until its cost of treating any victim of a catastrophic illness or event has reached a certain threshold cost. The Secretary is directed to establish the initial CHEF threshold at—

(1) the FY 2000 level of \$19,000; and

(2) for any subsequent year, the threshold will not be less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the Consumer Price Index (CPI) for all urban consumers (United States city average) for the 12-month period ending with December of the previous year.

In the proposed rule, the IHS stated its intention to establish the initial threshold of \$19,000 for the current FY, which was FY 2023 at that time. Since the IHS is publishing this final rule after FY 2023, the IHS is setting the initial threshold governed by this rule at \$19,000 for the current FY, which is FY 2024. In reaching this determination, the IHS adopted the recommendation of the IHS Director's Workgroup on Improving PRC (Workgroup). The Workgroup, composed of Tribal leaders and Tribal and Federal representatives, voted 18–2 to recommend \$19,000 as the initial threshold. For this recommendation, the Workgroup considered several factors, including the following: (1) Tribal concerns regarding the lower threshold and the potential to exhaust the CHEF earlier in the fiscal year leaving PRC programs without the ability to recover costs for treating victims of catastrophic illnesses or disasters; and (2) Tribal concerns about setting the threshold at the FY 2000 level and then applying the Consumer Price Index for All Urban (CPI-U) Medical for each year since FY 2000, which would have resulted in a \$30,000 plus threshold requirement by FY 2013. At this higher level, PRC programs with limited budgets would be unable to access the CHEF to seek recovery for extraordinary medical costs.

Accordingly, the IHS is setting the initial threshold at \$19,000 for FY 2024, with increases in subsequent years based on the annual CPI-U Medical

factor. The IHS will publish annual updates to the threshold amount yearly in the **Federal Register**.

C. Compliance With PRC Regulations

In order to qualify for reimbursement from the CHEF, a Service Unit must follow PRC regulations at 42 Code of Federal Regulations (CFR) part 136. For example, payment or reimbursement from the CHEF may be made for the costs of treating persons eligible for PRC in accordance with 42 CFR 136.23 and authorized for PRC in accordance with 42 CFR 136.24. In cases where the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service Unit, authorization must be obtained in accordance with 42 CFR 136.24(c). For example, claims for reimbursement of services provided that do not meet the 72-hour emergency notification requirements found at 42 CFR 136.24(c) will be denied. The applicable Area PRC program shall review the CHEF requests for CHEF reimbursement to ensure consistency with PRC regulations.

D. Alternate Resources

In accordance with section 202(d)(5) of the IHCA [25 U.S.C. 1621a(d)(5)], alternate resources must be exhausted before reimbursement is made from the CHEF. No reimbursement shall be made from the CHEF to any Service Unit to the extent that the provider of treatment is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible. Medical expenses incurred for catastrophic illnesses and events will not be considered eligible for reimbursement if they are payable by alternate resources, as determined by the IHS. The IHS is the payer of last resort and, if the provider of services is eligible to receive payment from other resources, the medical expenses are payable by PRC and reimbursable by the CHEF only to the extent that the IHS would not consider the other resources to be “alternate resources” under the applicable authorities. Expenses paid by alternate resources are not eligible for payment by PRC or reimbursement by the CHEF. However, if the patient is found to have been eligible for alternate resources at the time of service, the Service Unit shall promptly return all funds reimbursed from the CHEF to the IHS Headquarters CHEF account.

E. Reimbursement Procedure

A patient must be eligible for PRC services and the Service Unit must adhere to regulations (42 CFR 136.23(a)

through (f) governing the PRC program to be reimbursed for catastrophic cases from the CHEF. Once the catastrophic case meets the threshold cost for the year at issue and the Service Unit has authorized PRC resources exceeding that threshold requirement, the Service Unit may qualify for reimbursement from the CHEF. Reimbursable costs are those costs that exceed the threshold cost after payment has been made by all alternate resources such as Federal, State, local, private insurance, and other resources. Reimbursement of PRC expenditures incurred by the Service Unit and approved by the PRC program at IHS Headquarters will be processed through the respective IHS Area Office. Reimbursement from the CHEF shall be subject to availability of funds, and usually done on a first in first out for complete applications.

F. Recovery of the CHEF Reimbursement Funds

In the event a PRC program has been reimbursed from the CHEF for an episode of care and that same episode of care becomes eligible for and is paid by any Federal, State, local, or private source (including third-party insurance), the PRC program shall return all the CHEF funds received for that episode of care to the CHEF at the IHS Headquarters. These recovered CHEF funds will be used to reimburse other approved CHEF requests.

III. Collection of Information Requirements

Prior to implementing the rule, the IHS may be required to develop new information collection forms that would require approval from the OMB in accordance with the Paperwork Reduction Act of 1995, 44 United States Code (U.S.C.) 3507(d).

IV. Summary of Comments

The IHS received comments¹ from eight Tribal entities. Their comments are grouped by topic and summarized below, together with responses. No other comments were received.

Threshold

Comment: The IHS received seven comments in full support of the threshold establishment, including two commenters who specifically supported the adjustment language. An additional commenter² supported the

establishment of the threshold, but opposed the annual adjustment based upon the CPI and would like to see the threshold maintained at \$19,000 permanently.

Response: The IHS appreciates the comments and in response to the comment opposing adjustment, the IHS clarifies here that the annual adjustment in the final rule is mandated by the specific language of 25 U.S.C. 1621a(d)(2)(B).

Process (General)

Comment: The IHS received four comments in support of the process, either generally or in regards to certain parts of the process.

Response: The IHS appreciates the supportive comments.

Comment: An additional commenter³ expressed concerns about unspecified timelines in the processing of the CHEF reimbursement requests and recommended specific deadlines, including deadlines for review and submission by the Area Office, review and submission by IHS Headquarters, and payment by the Fiscal Intermediary (FI).

Response: The IHS takes this opportunity to clarify that the FI is not involved in payment of the CHEF reimbursements. The IHS considered whether to add the recommended deadlines, but it has decided not to do so at this time. For the time being, the IHS believes that the concern is sufficiently addressed by the provision permitting a Service Unit to appeal as a “deemed denial” after 180 calendar days. See § 136.509(b). Also, the IHS has established a process that it believes will expedite review and approval of CHEF claims once they are received which typically occurs within 60 calendar days.

Process (Appeals)

Comment: The IHS received four comments in support of the appeals process set out in the proposed rule.

Response: The IHS appreciates the supportive comments.

Comment: An additional commenter⁴ expressed concerns about the timeline to provide written notice of the denial, believing 130 business days from receipt to be excessive, and recommended that this timeline be changed to 40 days, consistent with the deadline to submit an appeal.

Response: The IHS considered whether to shorten this timeline and it has decided not to do so at this time. The vast majority of CHEF claims do not take 130 business days to process. The IHS has established a process that expedites review and approval of CHEF claims once they are received. On average, it takes less than 1 month for IHS Headquarters to review, process and initiate payment. There may be situations based upon volume and complexity of cases that require much longer. The IHS has also considered the time that the Area Offices need to fulfill their roles in the process and how the timeline affords the Service Units an opportunity to supplement missing and/or indecipherable information.

PRC Authorities

Comment: The IHS received two comments in support of following the PRC authorities, meaning that only appropriately-paid PRC expenditures are eligible for CHEF reimbursement.

Response: The IHS appreciates the supportive comments.

Comment: The IHS also received two comments⁵ in opposition, based upon their belief that the CHEF statute is not restricted to PRC and that direct care costs should qualify for reimbursement from the CHEF.

Response: Reimbursements from the CHEF are limited to expenditures by PRC programs, consistent with the CHEF statute and congressional intent. The CHEF statute, at 25 U.S.C. 1621a(d)(1), specifically authorizes the Secretary to promulgate regulations establishing the types of disasters and illnesses for which “the cost of the treatment provided under contract” will be reimbursed. This explicit reference to services provided under contract demonstrates that the CHEF is intended to provide reimbursement for PRC (formerly known as contract health services) program expenditures.

This interpretation is further supported by the legislative history of the CHEF statute. When the CHEF statute was first introduced in 1983, reimbursement from the CHEF was to be for “. . . the cost of treatment, whether provided under contract or in a Service or Service-supported facility . . .”. HR 4567, 98th Congress, 1st Session (Nov. 18, 1983). However, following legislative hearings and several rounds of amendment over the next 2 years, the language providing reimbursement from

¹ See generally, public comments posted in response to Docket ID #IHS-2016-0002-0022, 09/15-22/2023, <https://www.regulations.gov/docket/IHS-2016-0002/comments>.

² Docket ID #IHS-2016-0002-0023, 09/15/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0023>.

³ Docket ID #IHS-2016-0002-0029, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0029>.

⁴ Docket ID #IHS-2016-0002-0029, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0029>.

⁵ Docket ID #IHS-2016-0002-0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

Docket ID #IHS-2016-0002-0027, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0027>.

the CHEF for treatment costs incurred “in a Service or Service-supported facility” was removed from the proposed legislation, leaving only reimbursement for treatment provided under contract. See HR 1426, 99th Congress, 1st Session (May 23, 1985), and S 277, 99th Congress, 1st Session (May 16, 1985). In a report accompanying the Senate version of the bill, a summary of the bill noted that it established “[a]n Indian Catastrophic Health Emergency Fund . . . to relieve the financial burden on the contract health care budget of the Indian Health Service . . .”. S. Comm. Rep. 99–62 (May 16, 1985). Finally, funds for the CHEF are appropriated through the PRC line item, further indicating that Congress intends for the CHEF funds to be used to reimburse PRC costs, not direct care costs.

Comment: An additional commenter⁶ expressed concerns about the definition of PRC and recommended that a different definition be created for purposes of reimbursements from the CHEF.

Response: Based upon the tie between the CHEF and expenditures by PRC programs, as discussed in the response above, the IHS has utilized the statutory definition of PRC. The IHS did correct a typographical error in the preamble regarding the definition of PRC, which did not change the definition of PRC under § 136.501. Otherwise, the IHS has decided to finalize the rule without changes to this definition.

Alternate Resources, § 136.501

Comment: The IHS received a comment in support of the language regarding alternate resources in § 136.501.

Response: The IHS appreciates the supportive comment.

Comment: The IHS also received two comments⁷ that supported the absence of the term “Tribal” from the list of alternate resources and/or explaining that they read the rule to exclude Tribal self-insurance as an alternate resource. The IHS also received five comments⁸

that recommended an explicit exclusion for Tribal self-insurance and four of those commenters sought a broader exclusion for Tribal programs or Tribal resources.

Response: The IHS appreciates this opportunity to clarify the change between the 2016 NPRM and the 2023 NPRM. Consistent with the IHS’ current PRC policy, the IHS assumes that Tribal self-insurance is not an alternate resource for purposes of the CHEF. However, the IHS has also long recognized that Tribal self-insurance plans can choose to pay primary to PRC, meaning they can choose to be an alternate resource to PRC. This is a coordination between the payers of last resort, with one needing to pay primary to the other, but until the IHS is informed otherwise, the IHS assumes that the Tribal self-insurance does *not* wish to be an alternate resource. For tribally operated PRC programs, the Tribal Health Program would decide how to coordinate with Tribal self-insurance. For example, a Tribal Health Program may decide to coordinate in a complicated manner in order to maximize discounts. This coordination process will *not* impair eligibility for reimbursement from the CHEF, as long as the Tribal Health Program clearly demonstrates that their PRC program was responsible and did in fact assume that responsibility by making the payments at issue in the CHEF request. This is not an issue of who *must* pay primary; it is a factual question of whether the PRC program paid. Again, regardless of whether the PRC program is operated by the IHS or a Tribal Health Program, when a PRC program pays primary to (*i.e.*, before) the Tribal self-insurance plan, this will not impair the PRC program’s eligibility for reimbursement from the CHEF. The IHS added clarification in this regard to § 136.506.

For programs or resources other than Tribal self-insurance, it will depend upon the circumstances. For example, if a Tribal Health Program is reasonably accessible or available to meet the patient’s needs through direct care, PRC cannot be authorized for that care, meaning it cannot be reimbursed from the CHEF. Similarly, when sponsorship occurs through private insurance (*i.e.*, not Tribal self-insurance), the private

insurance would be an alternate resource.

Unrelated to this issue, the IHS is adding a missing comma to the definition of alternate resources in § 136.501, to ensure it is consistent with § 136.61(c).

Alternate Resources, § 136.506

Comment: A commenter⁹ recommended revisions to clarify that if a patient is required to pay premiums or cost-sharing out of pocket, it would not be an alternate resource.

Response: The IHS appreciates this comment and the opportunity to clarify this issue. Through policy, the IHS has already explicitly recognized that IHS beneficiaries are not required to either expend personal resources for health services to meet alternate resource eligibility, or to sell valuables or property to become eligible for alternate resources. The IHS added clarifying language to § 136.506, to make sure this is clear for purposes of CHEF reimbursement.

Comment: The IHS also received a comment¹⁰ recommending revisions to this section that explicitly exclude Tribal resources and Tribal self-insurance.

Response: Please see the response to the same comment regarding § 136.501, including the explanation of the clarification added to § 136.506. For the same reasons, the IHS is not presupposing how Tribal Health Programs and Tribal self-insurance may wish to coordinate amongst each other. That coordination is not an IHS decision to make. The IHS is looking factually at whether the PRC program was ultimately responsible and did in fact make the payment at issue in the CHEF reimbursement request. The IHS takes this opportunity to clarify again the following two points: (1) IHS-operated PRC programs do not treat Tribal self-insurance as alternate resources unless and until the Tribe’s governing body clearly asks them to do so through a Tribal Resolution; and (2) regardless of whether the PRC program is operated by the IHS or a Tribal Health Program, if a PRC program pays primary to Tribal self-insurance, that PRC program’s eligibility for reimbursement from the CHEF is not impaired in any way. The Service Unit simply needs to show that their PRC program paid the amount at issue in the CHEF request, because the CHEF is not intended to reimburse

⁶ Docket ID #IHS–2016–0002–0029, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0029>.

⁷ Docket ID# IHS–2016–0002–0023, 09/15/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0023>.

Docket ID #IHS–2016–0002–0029, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0029>.

⁸ Docket ID #IHS–2016–0002–0027, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0027>.

Docket ID #IHS–2016–0002–0024, 09/15/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0024>.

Docket ID #IHS–2016–0002–0025, 09/05/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0025>.

Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

Docket ID #IHS–2016–0002–0028, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0028>.

⁹ Docket ID #IHS–2016–0002–0029, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0029>.

¹⁰ Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

programs other than PRC. As noted above, the IHS has added clarification in response to this comment under § 136.506.

Consultation

Comment: Two comments¹¹ requested additional Tribal Consultation before the proposed rule is finalized, based upon fundamental changes they thought needed to be considered through Tribal Consultation.

Response: The IHS has already held a number of Tribal Consultations on the proposed rule, including multiple in-person and telephonic Tribal Consultations. The IHS has also repeatedly sought recommendations from Tribal representatives on the Director's Workgroup. The IHS does not intend to do any further Tribal Consultation before finalizing this rule. As more fully discussed below, the fundamental changes suggested by these two commenters are outside the scope of rulemaking. However, the IHS will assess the final CHEF regulations following implementation, and we will look to hold future Tribal Consultations to receive input from Tribal Health Programs regarding potential improvements.

Supplementary Tribal Funds

Comment: Two commenters¹² recommended changing the rule to give "credit" to Tribal expenditures that supplement direct care budgets or PRC.

Response: Direct supplements to the PRC program (*i.e.*, adding funds directly to the PRC program, for PRC expenditure in accordance with PRC authorities) are eligible for reimbursement from the CHEF on the same basis as PRC-appropriated funds. We understand that a number of Tribes operate Tribal self-insurance plans outside of an ISDEAA agreement and may consider those plans to be a "supplement" to the PRC program. However, this is not a direct supplement of funds to the PRC program for expenditure by the PRC program in accordance with PRC authorities, meaning the expenditures by those Tribal self-insurance plans are not reimbursable by the CHEF. Similarly, expenditures by the direct care

programs are not eligible for CHEF reimbursement. The IHS appreciates the opportunity to clarify these points, but for these reasons and those stated above, the IHS is not making any changes in response to the comment.

Other

Comment: Two commenters¹³ recommended adding language regarding the Indian canon of statutory construction and trust responsibilities.

Response: Because these suggestions are outside the scope of the proposed rule, the IHS did not make any changes. However, the IHS notes that it did consider the Indian canon of statutory construction for purposes of establishing the initial CHEF threshold.

Comment: A second commenter¹⁴ recommended splitting the regulation into two phases to first address the threshold alone, then address all remaining aspects of the proposed rule.

Response: Congress directed the promulgation of CHEF regulations on a number of items, including topics beyond the threshold cost. *See* 25 U.S.C. 1621a(d). Following extensive consultation, the IHS needs to move forward with finalizing the regulations, as directed by Congress. For these reasons, the IHS is not making changes in response to this comment.

Comment: One commenter¹⁵ indicated support, generally, for CHEF reimbursement of payments to non-PRC providers.

Response: In the proposed rule, the IHS sought comment on whether payments by PRC programs to patients, or other individuals or entities that are not PRC providers, should be included as eligible for CHEF reimbursement under these regulations and if so, under what circumstances. The IHS received no comments regarding payments to patients, such as reimbursements to patients who needed to pay out-of-pocket for their healthcare expenses prior to authorization by the PRC program. The IHS also did not receive any comments regarding payments made on behalf of patients in these circumstances. This is not an issue faced by IHS-operated PRC programs. We were seeking comments in case the Tribal Health Programs dealt with

different scenarios or experiences. The IHS did not receive sufficient information to consider changes in this regard.

V. Regulatory Impact Analysis

We have examined the impacts of this rule as required by Executive Order (E.O.) 12866 on Regulatory Planning and Review (September 30, 1993); section 604 of the Regulatory Flexibility Act (RFA), Public Law 96–354 [5 U.S.C. 601–612], as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996, Public Law 104–121; the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4; E.O. 13132 on Federalism (August 4, 1999); E.O. 13175 on Consultation and Coordination with Indian Tribal Governments; and the Congressional Review Act.

A. Executive Order 12866

Executive Order 12866, as amended by Executive Order 14094, directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866, as amended, defines a "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of \$200 million or more in any one year (adjusted every three years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product), or adversely affect in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities (2) create a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in Executive Order 12866. OIRA has determined that this is a significant regulatory action as defined by Executive Order 12866, section 3(f).

B. Regulatory Flexibility Act (RFA)

RFA requires analysis of regulatory options that minimize any significant economic impact of a rule on small entities, unless it is certified that the

¹¹ Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

Docket ID #IHS–2016–0002–0027, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0027>.

¹² Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

Docket ID #IHS–2016–0002–0027, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0027>.

¹³ Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

Docket ID #IHS–2016–0002–0027, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0027>.

¹⁴ Docket ID #IHS–2016–0002–0026, 09/18/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0026>.

¹⁵ Docket ID #IHS–2016–0002–0030, 09/22/2023, <https://www.regulations.gov/comment/IHS-2016-0002-0030>.

final rule is not expected to have a significant economic impact on small entities. HHS certifies that this final rule is not expected to have a significant economic impact on small entities, because the rule only governs reimbursements of certain expenditures made by Service Units under PRC authorities. Many PRC programs are operated by the Federal Government, through the IHS. The remaining PRC programs are operated by Tribes and Tribal Organizations under ISDEAA agreements with the IHS. Presently, there are 62 federally operated PRC programs and 188 tribally operated PRC programs. Some of the entities operating PRC programs may be small entities, but the rule does not directly impact a substantial number of small entities and the rule is not expected to reduce their revenues or raise their costs.

C. Unfunded Mandates Reform Act (UMRA)

Section 202 of UMRA (Pub. L. 104–4) requires an assessment of anticipated costs and benefits before proposing any rule that may result in expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of \$100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is \$183 million (in 2023 dollars), using the most recent full year of data for the Implicit Price Deflator for the Gross Domestic Product. We find that this rule will not have an effect on the economy that exceeds the UMRA threshold in any one year. The IHS FY 2023 annual appropriation for the CHEF was \$54 million. Thus, this final rule is not anticipated to have an effect on State, local, or Tribal governments in the aggregate, or by the private sector that exceed the UMRA monetary threshold.

D. Federalism

E.O. 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. We reviewed this rule under the threshold criteria of E.O. 13132 and determined that it would not have substantial direct effect on States, on the relationship between the Federal Government and States, or on the distribution of power and governmental responsibilities among the various levels of the government(s). As this rule has no Federal implications, a federalism summary impact statement is not required.

E. E.O. 13175

This rule has Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would have a substantial direct effect on one or more Indian Tribes.

The first proposed CHEF rule, published on January 26, 2016 (81 FR 4239), was developed with input from Tribes and IHS personnel who work with the daily processing and management of PRC resources. Specifically, the IHS Director's Workgroup met and discussed the CHEF guidelines on October 12–13, 2010, and June 1–2, 2011, in Denver, Colorado, and on January 11–12, 2012, in Albuquerque, New Mexico. This Workgroup is a Federal-Tribal workgroup established in 2010 to provide advice and recommendations on strategies to improve the PRC Program to the IHS Director. In addition, the IHS issued Tribal Leader letters related to the development of these regulations on February 9, 2011,¹⁶ and May 6, 2013.¹⁷

The IHS sought additional Tribal input throughout the development of the new proposed rule. Specifically, Tribal Consultations were held in the fall of 2016, including multiple in-person and telephonic Tribal Consultation sessions.¹⁸ The proposed regulations were also a topic of discussion during multiple meetings of the IHS Director's Workgroup. At meetings of the Workgroup in 2015 and 2018, the Workgroup recommended establishing a \$19,000 CHEF threshold. Moreover, in November 2020, the Workgroup recommended that the IHS promulgate new regulations based on Workgroup input. Based on the recommendation of the Workgroup, the threshold amount of \$19,000 was proposed to be established for the current fiscal year, which at the time was FY 2020.

F. Congressional Review Act (CRA)

Before a rule can take effect, the CRA requires agencies to submit to the U.S. House of Representatives, U.S. Senate, and the Comptroller General a report containing a copy of the rule and a statement identifying whether it is a

“major rule.” 5 U.S.C. 801. The OMB determines if a final rule constitutes a major rule. The CRA defines a major rule as any rule that the Administrator of OMB's Office of Information and Regulatory Affairs finds has resulted in or is likely to result in—(A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804(2).

This final rule is *not* a major rule for purposes of the Congressional Review Act. HHS/IHS will submit a report, including the final rule, to both houses of Congress and the Government Accountability Office for review.

List of Subjects in 42 CFR Part 136

Alaska Natives, Health, Health facilities, Indians, Purchased/referred care (formerly contract health services).

For the reasons set out in the preamble, the IHS amends 42 CFR part 136 as set forth below:

PART 136—INDIAN HEALTH

- 1. The authority citation for part 136 is revised to read as follows:

Authority: 42 U.S.C. 2001 and 2003; 25 U.S.C. 13; and 25 U.S.C. 1621a.

- 2. Add subpart L, consisting of §§ 136.501 through 136.510, to read as follows:

Subpart L—Indian Catastrophic Health Emergency Fund

Sec.

136.501	Definitions.
136.502	Purpose of this subpart.
136.503	Threshold cost.
136.504	Reimbursement procedure.
136.505	Reimbursable services.
136.506	Alternate resources.
136.507	Program integrity.
136.508	Recovery of reimbursement funds.
136.509	Reconsideration and appeals.
136.510	Severability.

§ 136.501 Definitions.

Alternate resources means health care resources other than those of the Indian Health Service (IHS or Service). Such resources include health care providers and institutions, and health care programs for the payment of health services including but not limited to programs under title XVIII or XIX of the Social Security Act (*i.e.*, Medicare, Medicaid), State or local health care programs, and private insurance.

¹⁶ https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011-Letters/02-09-2011%20DTL%20Letter%20and%20Attachment.pdf.

¹⁷ https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2013-Letters/05-06-2013_DTL_CHS_WG_Recommendations.pdf.

¹⁸ https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2016-Letters/55914-1_CHEF_DTL_07292016.pdf.

Catastrophic Health Emergency Fund (CHEF) means the fund established by Congress to reimburse extraordinary medical expenses incurred for catastrophic illnesses and disasters paid by a purchased/referred care (PRC) program of the IHS, whether such program is carried out by the IHS or an Indian Tribe or Tribal Organization under the Indian Self-Determination and Education Assistance Act (ISDEAA).

Catastrophic illness refers to a medical condition that is costly by virtue of the intensity and/or duration of its treatment. Examples of conditions that frequently require multiple hospital stays and extensive treatment are cancer, burns, premature births, cardiac disease, end-stage renal disease, strokes, trauma-related cases such as automobile accidents and gunshot wounds, and some mental disorders. The CHEF is intended to insulate the IHS and Tribal PRC operations from financial disruption caused by the intensity of expenses incurred as a result of high cost illnesses and/or disasters.

Disaster means a situation that poses a significant level of threat to life or health or causes loss of life or health stemming from events such as tornadoes, earthquakes, floods, catastrophic accidents, epidemics, fires, and explosions. The CHEF is intended to insulate the IHS and Tribal PRC operations from financial disruption caused by the intensity of expenses incurred as a result of high cost illnesses and/or disasters.

Episode of care means the period of consecutive days for a discrete health condition during which reasonable and necessary medical services related to the condition occur.

Purchased/referred care means any health service that is—

(1) Delivered based on a referral by, or at the expense of, an Indian health program; and

(2) Provided by a public or private medical provider or hospital which is not a provider or hospital of the Indian health program.

Service Unit means an administrative entity of the Service or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

Threshold cost means the annual designated amount above which incurred medical costs will be considered for the CHEF reimbursement after a review of the authorized expenses and diagnosis.

§ 136.502 Purpose of this subpart.

The CHEF is authorized by section 202 of the Indian Health Care Improvement Act (IHCIA) [25 U.S.C. 1621a]. The CHEF is administered by the Secretary, Department of Health and Human Services (HHS) (“the Secretary”) acting through the Headquarters of IHS, solely for the purpose of meeting extraordinary medical costs associated with treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service. This subpart:

(a) Establishes definitions of terms governing the CHEF, including definitions of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

(b) Establishes a threshold level for reimbursement for the cost of treatment;

(c) Establishes procedures for reimbursement of the portion of the costs incurred by Service Units that exceeds such threshold costs, including procedures for when the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

(d) Establishes procedures for reimbursements pending the outcome or payment by alternate resources.

§ 136.503 Threshold cost.

A Service Unit shall not be eligible for reimbursement from the CHEF until its cost of treating any victim of a catastrophic illness or disaster for an episode of care has reached a certain threshold cost.

(a) The threshold cost shall be established at the level of \$19,000 for fiscal year 2024.

(b) The threshold cost in subsequent years shall be calculated from the threshold cost of the previous year, increased by the percentage increase in the medical care expenditure category of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year. The revised threshold costs shall be published yearly in the **Federal Register**.

§ 136.504 Reimbursement procedure.

Service Units whose scope of work and funding include the purchase of medical services from private or public vendors under PRC are eligible to participate. The CHEF payments shall be based only on valid PRC expenditures, including expenditures for exigent medical circumstances without prior PRC authorization. Reimbursement from the CHEF will not

be made if applicable PRC requirements are not followed.

(a) *Claim submission.* Requests for reimbursement from the CHEF must be submitted to the appropriate IHS Area Office. Area PRC programs will review requests for reimbursement to ensure compliance with PRC requirements, including but not limited to: patient eligibility, medical necessity, notification requirements for emergent and non-emergent care, medical priorities, allowable expenditures, and eligibility for alternate resources. Following this review, Area PRC programs may provide Service Units an opportunity to submit missing information or to resubmit documents that are indecipherable. Area PRC programs will then forward all requests to the Division of Contract Care, along with any recommendations or observations from the Area PRC program regarding compliance with PRC or other CHEF requirements. The Division of Contract Care will adjudicate the claim based upon an independent review of the claim documentation, but it may consider any recommendations or observations from the Area PRC program.

(b) *Content of claims.* All claims submitted for reimbursement may be submitted electronically utilizing the secure IHS system(s) established for this purpose or may be submitted in paper form but must include:

(1) A fully completed Catastrophic Health Emergency Fund Reimbursement Request Form.

(2) A statement of the provider's charges on a form that complies with the format required for the submission of claims under title XVIII of the Social Security Act. For example, charges may be printed on forms such as the Centers for Medicare & Medicaid Services (CMS) 1500, UB-04 (formerly CMS-1450), American Dental Association (ADA) dental claim form, or National Council for Prescription Drug Program (NCPDP) universal claim forms. The forms submitted for review must include specific appropriate diagnostic and procedure codes.

(3) An explanation of benefits or statement of payment identifying how much was paid to the provider by the Service Unit for the catastrophic illness or disaster. Payments to the patient or any other entity are ineligible for the CHEF reimbursement.

(4) The Division of Contract Care may request additional medical documentation describing the medical treatment or service provided, including but not limited to discharge summaries and/or medical progress notes. Cases may be submitted for 50%

reimbursement of eligible expenses pending discharge summaries. Medical documentation must be received to close the CHEF case.

(c) *Limitation of funds and reimbursement procedure.* Because of the limitations of funds, full reimbursement cannot be guaranteed on all requests and will be based on the availability of funds at the time the IHS processes the claim. To the extent funds are available, the CHEF funds may not be used to cover the cost of services or treatment for which the funds were not approved. Unused funds, including but not limited to, funds unused due to overestimates, alternate resources, and cancellations must be returned to the CHEF.

§ 136.505 Reimbursable services.

The costs of catastrophic illnesses and disasters for distinct episodes of care are eligible for reimbursement from the CHEF in accordance with the medical priorities of the Service. Only services that are related to a distinct episode of care will be eligible for reimbursement. Some of the services that may qualify for reimbursement from the fund are:

- (a) Emergency treatment.
- (b) Emergent and acute inpatient hospitalization.
- (c) Ambulance services; air and ground (including patient escort travel costs).
- (d) Attending and consultant physician.
- (e) Functionally required reconstructive surgery.
- (f) Prostheses and other related items.
- (g) Reasonable rehabilitative therapy exclusive of custodial care not to exceed 30 days after discharge.
- (h) Skilled nursing care when the patient is discharged from the acute process to a skilled nursing facility.

§ 136.506 Alternate resources.

(a) Expenses paid by alternate resources are not eligible for payment by PRC or reimbursement by the CHEF. No payment shall be made from the CHEF to any Service Unit to the extent that the provider of services is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible. A patient shall be considered eligible for such resources and no payment shall be made from the CHEF if:

- (1) The patient is eligible for alternate resources; or
- (2) The patient would be eligible for alternate resources if he or she were to apply for them; or
- (3) The patient would be eligible for alternate resources under Federal, State,

or local law or regulation but for the patient's eligibility for PRC, or other health services, from the Indian Health Service or Indian Health Service funded programs.

(b) Patients are not required to expend personal resources for health services to meet alternate resource eligibility, nor are they required to sell valuables or property to become eligible for alternate resources.

(c) When a PRC program pays primary to (*i.e.*, before) a Tribal self-insurance plan, this will not impact whether the PRC program's expenditures are eligible for reimbursement from the CHEF, as long as the Service Unit clearly demonstrates that the PRC program was responsible and did in fact assume that responsibility by making the payments at issue in the CHEF request.

(d) The determination of whether a resource constitutes an alternate resource for the purpose of the CHEF reimbursement shall be made by the Headquarters of the Indian Health Service, irrespective of whether the resource was determined to be an alternate resource at the time of PRC payment.

§ 136.507 Program integrity.

All the CHEF records and documents will be subject to review by the respective IHS Area Office and by IHS Headquarters. Internal audits and administrative reviews may be conducted as necessary to ensure compliance with the regulations in this part and the CHEF policies.

§ 136.508 Recovery of reimbursement funds.

In the event a Service Unit has been reimbursed from the CHEF for an episode of care and that same episode of care becomes eligible for and is paid by any Federal, State, local, or private source (including third party insurance) the Service Unit shall return all the CHEF funds received for that episode of care to the CHEF at the IHS Headquarters. These recovered CHEF funds will be used to reimburse other valid CHEF requests.

§ 136.509 Reconsideration and appeals.

(a) Any Service Unit to whom payment from the CHEF is denied will be notified of the denial in writing together with a statement of the reason for the denial within 130 business days from receipt.

(b) If a decision on the CHEF case is not made by the CHEF Program Manager within 180 calendar days from receipt, the Service Unit that submitted the claim may choose to appeal it as a deemed denial.

(c) In order to seek review of a denial decision or deemed denial, the Service Unit must follow the procedures set forth in paragraphs (c)(1) and (2) of this section.

(1) Within 40 business days from the receipt of the denial provided in paragraph (a) of this section, the Service Unit may submit a request in writing for reconsideration of the original denial to the Division of Contract Care. The request for reconsideration must include, as applicable, corrections to the original claim submission necessary to overcome the denial; or a statement and supporting documentation establishing that the original denial was in error. If no additional information is submitted the original denial will stand. The Service Unit may also request a telephone conference with the Division of Contract Care, to further explain the materials submitted, which shall be scheduled within 40 business days from receipt of the request for review. A decision by the Division of Contract Care shall be made within 130 business days of the request for review. The Division of Contract Care Director, or designee, shall review the application *de novo* with no deference to the original decision maker or to the applicant.

(2) If the original decision is affirmed on reconsideration, the Service Unit will be notified in writing and advised that an appeal may be taken to the Director, Indian Health Service, within 40 business days of receipt of the denial. The appeal shall be in writing and shall set forth the grounds supporting the appeal. The Service Unit may also request a telephone conference through the Division of Contract Care, which shall be scheduled with the Director or a representative designated by the Director, to further explain the grounds supporting the appeal. A decision by the Director shall be made within 180 calendar days of the request for reconsideration. The decision of the Director, Indian Health Service or designee, shall constitute the final administrative action.

§ 136.510 Severability.

If any provision of this subpart is held to be invalid or unenforceable by its terms, as applied to any person or circumstance, or stayed pending further agency action, the provision shall be construed to continue to give the maximum effect to the provision permitted by law, including as applied to those not similarly situated or to dissimilar circumstances. However, if such holding is that the provision of this subpart is invalid and unenforceable in all circumstances, the provision shall be

severable from the remainder of this subpart and shall not affect the remainder thereof.

Dated: August 26, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2024–19421 Filed 8–29–24; 8:45 am]

BILLING CODE 4166–14–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2551, 2552, and 2553

RIN 3045–AA81

AmeriCorps Seniors Regulation Updates

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National and Community Service (operating as AmeriCorps) is revising its regulations governing AmeriCorps Seniors programs. This rule removes barriers to service for individuals and increases flexibility for grantees to accomplish project goals and recruit volunteers. Specifically, this rule removes barriers for individuals to serve as AmeriCorps Seniors volunteers in three ways: first, by modernizing what is considered income in the calculation that determines eligibility to receive a stipend; second, by allowing volunteers to continue to receive a stipend when their sponsor places them on administrative leave due to extenuating circumstances that prevent service; and third, by allowing grantees to supplement stipends. This rule reduces burden for AmeriCorps Seniors grantees in two ways: first, it establishes a single 10 percent match value regardless of grant year. Second, this rule allows grantees to choose to pay more than (but not less than) the AmeriCorps-established stipend rates, using non-AmeriCorps funds for the amount that exceeds the AmeriCorps-established rate. These changes will improve grantees' ability to recruit volunteers and allow grantees to devote to program operations resources that would otherwise be devoted to meet increasingly high match requirements. The rule also updates nomenclature to reflect that the Corporation for National and Community Service operates as AmeriCorps and that "Senior Corps" is now known as "AmeriCorps Seniors."

DATES: This rule is effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Executive Summary of Final Rule
- II. Background on the AmeriCorps Seniors Programs Affected by This Rule
- III. Comments on the Proposed Rule, AmeriCorps' Responses, and an Overview of the Final Rule
 - A. Income Calculation—SCP (§§ 2551.12, 2551.43, and 2551.44); FGP (§§ 2552.12, 2552.43, and 2552.44)
 - B. Administrative Leave—SCP (§§ 2551.23(i) and 2551.46(a)); FGP (§§ 2552.23(i) and 2552.46(a))
 - C. Allowing Grantees To Pay Higher Stipends—SCP (§ 2551.92(e)); FGP (§ 2552.92(e))
 - D. Removing the Requirement for a Full-Time Project Director—SCP (§ 2551.25(c)); FGP (§ 2552.25(c)); RSVP (§ 2553.25(c))
 - E. Establishing a Single, 10 Percent Match, Regardless of Year—RSVP (§ 2553.72)
 - F. Other Comments on the Proposed Rule
- IV. Regulatory Analyses
 - A. Executive Orders 12866 and 13563
 - B. Regulatory Flexibility Act
 - C. Unfunded Mandates Reform Act of 1995
 - D. Paperwork Reduction Act
 - E. Federalism (E.O. 13132)
 - F. Takings (E.O. 12630)
 - G. Civil Justice Reform (E.O. 12988)
 - H. Consultation With Indian Tribes (E.O. 13175)

I. Executive Summary of Final Rule

This rule updates AmeriCorps Seniors regulations implementing the Senior Companion Program (SCP), Foster Grandparent Program (FGP), and RSVP. The updates to the SCP and FGP regulations, at Code of Federal Regulations (CFR) parts 2551 and 2552, respectively, parallel each other and include changes to simplify provisions on calculation of an AmeriCorps Seniors volunteer's income to determine whether they are eligible for a stipend and removal of certain items from being considered as income. The updates to the SCP and FGP regulations also specify that volunteers who receive a stipend may be paid the stipend when the sponsor places them on administrative leave due to extenuating circumstances that prevent service. The updates also allow grantees to pay stipends at a higher rate than that established by AmeriCorps Seniors, if they choose to do so, as long as they do not use AmeriCorps grant funds to pay for the amount that is above the established stipend rate.

The updates to the RSVP regulations at part 2553 change the level of non-AmeriCorps support ("match") that an RSVP sponsor must provide. Currently, the regulations allow AmeriCorps to grant up to 90 percent of the total RSVP

budgeted project cost in the first year of a grant, but only 80 percent in the second year and 70 percent in the third and successive years. As a result, grantees currently must provide matching funds that are 10 percent of the total project cost in the first year of a grant, 20 percent in the second year, and 30 percent in successive years. The rule being finalized today instead establishes a single required match rate at 10 percent, regardless of the grant year.

Lastly, this rule makes nomenclature changes to add a definition for "AmeriCorps" and change references to the "Corporation" and "CNCS" to "AmeriCorps" throughout these regulations, to reflect that the Corporation for National and Community Service now operates as AmeriCorps. This rule also changes "National Senior Service Corps (NSSC)" to "AmeriCorps Seniors" to reflect current terminology and branding.

One change was proposed but is not being finalized today, in response to the comments opposing the change, as discussed below: the update that would have removed the requirement for grantees to employ a full-time project director.

II. Background on the AmeriCorps Seniors Programs Affected by This Rule

AmeriCorps Seniors operates four programs: the Senior Companion Program (SCP), Foster Grandparent Program (FGP), RSVP (formerly the Retired and Senior Volunteer Program), and a Senior Demonstration Program. This rule affects regulations implementing the first three programs. These programs are authorized by the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 *et seq.*, and this rulemaking is authorized by the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 *et seq.*

AmeriCorps Seniors SCP and FGP each provide grants to qualified agencies and organizations (known as grantees) for the dual purpose of engaging persons 55 and older, particularly those with limited incomes, in volunteer service to meet critical community needs and to provide a high-quality experience that will enrich the lives of older adult volunteers. In SCP, program funds are used to support Senior Companions in providing supportive, individualized services to help older adults and those with special needs maintain their dignity and independence. They also serve caregivers with respite support. In FGP, program funds are used to support Foster Grandparents in providing

supportive, person-to-person service to children with special and/or exceptional needs, or in circumstances that limit their academic, social, or emotional development. In SCP and FGP (but not RSVP), volunteers who are “low income” (meaning their income is at or below 200 percent of the poverty line) may receive stipends to allow them to serve without cost to themselves. *See* 42 U.S.C. 5011(d)–(e), 5013(b).

In SCP, FGP, and RSVP, the sponsor receiving the grant has several responsibilities. Among them is the responsibility to provide staff sufficient to support the project. Another is the responsibility to raise “match,” meaning non-AmeriCorps cash and in-kind contributions in support of the grant. The match amount is stated as a percentage of the total project cost. For both SCP and FGP grantees, the required match is 10 percent, meaning the AmeriCorps grant funds 90 percent of the total budgeted project cost. *See* 42 U.S.C. 5011(a), 5013(a). For RSVP, the statute limits match to no more than 10 percent in the first year, 20 percent in the second year, and 30 percent in subsequent years. *See* 42 U.S.C. 5001(b). In other words, the statute provides upper limits (tiered by year) on what RSVP grantees may be required to provide as match. The current RSVP regulations, however, instead frame match as a limit on AmeriCorps’ contributions to 90 percent in the first year, 80 percent in the second year, and 70 percent thereafter—in effect placing a requirement, rather than an upper limit, for grantee match at 10 percent in year one, 20 percent in year two, and 30 percent thereafter. *See* 45 CFR 2553.72.

Additionally, in SCP and FGP, AmeriCorps Seniors volunteers are offered a stipend for their service. The statute sets a minimum hourly rate for the stipend. *See* 42 U.S.C. 5011(d), 5013(b). AmeriCorps Seniors establishes the stipend rate annually through the Notice of Funding Opportunity; currently, the stipend rate is \$4.00 per service hour. The current SCP and FGP regulations provide that a grantee must pay no more than and no less than the stipend rate that AmeriCorps establishes and offers no flexibility to grantees who may wish to use available additional funding to supplement the stipend.

III. Comments on the Proposed Rule, AmeriCorps’ Responses, and an Overview of the Final Rule

AmeriCorps published a proposed rule on February 14, 2024 (89 FR 11233) and received 63 public comments in response by the April 15, 2024, comment deadline. Several of the comments expressed general support for

the rule changes. Comments that specifically addressed one or more of the five proposed substantive changes are summarized below, along with AmeriCorps’ responses to those comments and brief descriptions of the current regulations, proposals, and finalized provisions. A discussion of other comments received on the proposed rule is also included.

A. Income Calculation—SCP (§§ 2551.12, 2551.43, and 2551.44); FGP (§§ 2552.12, 2552.43, and 2552.44)

Current Regulation: The current regulations address an SCP and FGP volunteer’s income in three sections: the definition of “annual income” (at §§ 2551.12 and 2552.12, respectively); the income guidelines governing eligibility to serve as a stipended volunteer (at §§ 2551.43 and 2552.43, respectively); and the categories of “income” for determining eligibility (at §§ 2551.44 and 2552.44, respectively). Currently, the definition of “annual income” and the sections addressing eligibility guidelines and the determination of “income” each contain components for the calculation of income.

Changes That Were Proposed: The proposed rule would streamline these sections so that the definition sets out only that the time period for calculation of annual income is 12 months, and all the components for the calculation of income are contained in one section each for SCP and FGP. Substantively, these changes would remove several items from being included in the calculation of a volunteer’s income, including:

- The value of shelter, food, and clothing if provided at no cost by relatives of the volunteer or volunteer’s spouse;
- Strike benefits;
- Training stipends; and
- Regular support that is not legally required from an absent family member or someone not living in the household.

Comments on the Proposed Changes: Most who commented on the proposed changes to the income calculation provisions expressed support for them. Among the reasons that commenters gave for their support were that the changes would remove barriers for individuals to serve as AmeriCorps volunteers, help volunteer recruitment and retention (which leads to more children and seniors being served by the FGP and SCP, respectively), and contribute to greater food security among low-income volunteers.

Several commenters requested that only the volunteer’s income be considered, without the spouse’s

income or income of the entire household. These commenters stated that spousal income being included in a potential volunteer’s income calculation is one of main reasons that grantees must turn away potential FGP and SCP volunteers.

One commenter stated that military veterans should be exempt from declaring their retirement as income.

Although the proposed rule did not address the income threshold (200 percent of the poverty line), several commenters advocated for an increase in the income threshold or removal of the threshold to engage more FGP and SCP volunteers and serve more individuals as a result. Most who requested an increase suggested increasing the threshold to 400 percent of the poverty level; one suggested a \$5,000 to \$10,000 increase per year in the threshold. Two commenters suggested using the Asset Limited, Income Constrained, Employed (ALICE) tool instead of the Federal poverty level as the income threshold as a more equitable determination that accounts for the local cost of living.

AmeriCorps’ Response to Comments: AmeriCorps agrees with the commenters who stated that the proposed changes to income calculation would remove barriers for individuals to serve as FGP and SCP volunteers. The final rule includes these changes and focuses the income calculation more on long-term legally required income.

AmeriCorps acknowledges the comments stating that only the volunteer’s income should be included in the calculation, and not the spouse’s or any other family member’s income. Consistent with the current and proposed rule, the final rule continues to require the spouse’s income to be included in calculation of the volunteer’s income if the spouse resides in the same residence. If AmeriCorps considers removing the incomes of cohabitating spouses from the calculation of a volunteer’s income, it will propose that removal in a future rulemaking. However, this rulemaking takes steps to limit other relatives’ support from being included in calculation of a volunteer’s income. The proposed rule and final rule both focus solely on the volunteer’s own income and resident spouse’s income, rather than that of other relatives, as described below.

With regard to the comment requesting that military veterans’ retirement income be excluded from their income calculation, if AmeriCorps considers adding this exclusion, it will propose the exclusion in a future rulemaking.

The comments regarding increasing, removing, or changing the income threshold cannot be addressed by rulemaking because the underlying statute, the Domestic Volunteer Service Act of 1973, as amended, establishes that the low-income threshold be not more than 200 percent of the Federal poverty line. See 42 U.S.C. 5011(e)(1).

Overview of Final Rule Provisions on Income Calculation: As proposed, and as finalized today, the volunteer's income calculation will no longer include the value of shelter, food, and clothing that relatives provide to the volunteer, or financial support that absent relatives opt to provide but are not legally required to provide. Under the proposed and final rules, the only financial support from non-resident relatives (other than the spouse living in the same residence) that is included in the volunteer's income calculation is financial support that the relatives are legally required to provide. The volunteer's spouse's income is included in the calculation only if the spouse lives in the same residence with the volunteer. As a result, when examining a volunteer's income to determine eligibility for a stipend under this proposal, AmeriCorps Seniors would look only at the volunteer's income, plus the spouse's income if the spouse lives in the same residence. The final rule also removes strike benefits and training stipends from the calculation of income, because their removal supports modernization of the regulations.

AmeriCorps expects these changes will simplify the determination of whether someone is eligible to serve as a stipended FGP or SCP volunteer and remove barriers to those individuals to serve in FGP and SCP. These changes will also support AmeriCorps Seniors programs' ability to recruit and retain volunteers, rebuild volunteer numbers to pre-COVID-19 levels, and reduce relinquishment of FGP and SCP program that result from difficulties recruiting eligible volunteers.

B. Administrative Leave—SCP (§§ 2551.23(i) and 2551.46(a)); FGP (§§ 2552.23(i) and 2552.46(a))

Current Regulation: Currently, the regulations governing SCP and FGP are silent as to whether AmeriCorps Seniors volunteers who receive a stipend for their service and earned leave may also receive a stipend for administrative leave.

Changes That Were Proposed: The proposed rule would add that stipended volunteers may be paid administrative leave, as long as grantees have written service policies to address administrative leave. The proposed rule

would also require grantees to obtain AmeriCorps' approval to pay the stipend for administrative leave after the seventh calendar day of the extenuating circumstances that are the basis for the administrative leave.

Comments on the Proposed Changes: Most who commented on the administrative leave proposal supported the proposed changes. Among the reasons provided for support were that the proposed changes would enhance program flexibility to attract and retain volunteers and promote consistent volunteer participation. One commenter noted that many volunteers are dependent upon the stipend they receive and that any break in service, planned or unplanned, can create hardship for the volunteer.

A few of the commenters in support of the change suggested modifications. One suggested the regulation establish a "floor" of circumstances that would trigger administrative leave. Similarly, another stated that there should be guidelines as to what constitute "extenuating circumstances" that justify administrative leave. The other recommended increasing the time a stipend may be paid for administrative leave before AmeriCorps' approval is required, from the proposed seven calendar days to a month.

AmeriCorps' Response to Comments: AmeriCorps agrees that allowing stipends to be paid for administrative leave both enhances program flexibility to attract and retain volunteers and helps to protect volunteers who rely on their stipends from unpredictable loss of their stipend due to events beyond their control. AmeriCorps believes the phrase "extenuating circumstances" itself provides a baseline for the types of circumstances that would justify administrative leave—meaning circumstances that are exceptional, unusual, and/or unpredictable. The rule gives grantees the flexibility to establish for themselves what extenuating circumstances would justify administrative leave to complement their own policies' categorizations of circumstances qualifying as sick leave and emergency or disaster leave, as appropriate.

AmeriCorps has determined that seven calendar days is a more appropriate time period than a month for obtaining AmeriCorps' approval of continued payment of a stipend for administrative leave. As a practice, grantees should keep their portfolio managers updated as to any extenuating circumstances that affect their programs and service. Seven days is long enough to allow grantees to take any emergency action they may need to in response to

the circumstances, while allowing AmeriCorps to provide some oversight to ensure that volunteers are not unnecessarily being paid for time not in service.

Overview of Final Rule Provisions on Administrative Leave: The final rule adopts the proposed rule's changes to allow SCP and FGP grantees to grant administrative leave to their volunteers in those unusual and rare situations that prevent a volunteer, through no fault of their own, from serving at their volunteer station, as long as the grantee's program policies permit administrative leave in such situations. Many dedicated AmeriCorps Seniors volunteers in SCP and FGP rely upon the stipend to supplement their limited incomes so they can pay for necessities like medicine and groceries. This change ensures that these volunteers are not penalized by having their stipends withheld for being unable to serve due to extenuating circumstances (as defined in the program's policy). While grantees must define the specifics of administrative leave, the rule provides parameters by defining the term as a temporary absence that the sponsor allows in extenuating circumstances that prevent the volunteer from serving, or from serving safely. The final rule provides a check on grantees providing administrative leave to volunteers by requiring AmeriCorps' approval to pay the stipend for administrative leave after the seventh calendar day of the extenuating circumstances that are the basis for the administrative leave.

C. Allowing Grantees To Pay Higher Stipends—SCP (§ 2551.92(e)); FGP (§ 2552.92(e))

Current Regulation: The current SCP and FGP regulations prohibit grantees from paying stipends at rates different from those established by AmeriCorps.

Changes That Were Proposed: The proposed rule would allow grantees to pay stipends to SCP and FGP volunteers at a higher rate than the rate established by AmeriCorps Seniors, if they choose to do so, and as long as they use funds other than AmeriCorps grant funds to pay for the amount above the established stipend rate. The proposed rule also would allow grantees to use funds with which they supplement the stipend to count toward required match contributions.

Comments on the Proposed Changes: A few commenters expressed their support for the proposed change as removing barriers to volunteer recruitment and retention, promoting economic security for older adults, and accounting for certain geographic areas having higher costs of living. Several

commenters opposed the proposed change based on one or more of the following reasons: grantees able to supplement stipends will attract volunteers away from grantees who are not able to supplement stipends, creating inequities across the country; the different stipend rates will cause confusion among volunteers; and Congress might reduce funding for stipends overall.

AmeriCorps' Response to Comments: AmeriCorps agrees that allowing grantees to supplement stipends will help remove barriers to volunteer recruitment and retention, promote economic security for low-income volunteers, and account for different costs of living. AmeriCorps does not believe that the change will create inequities; rather, the change will help address the inequities that already exist among geographic areas with different costs of living. This rule provides grantees a means of attracting more volunteers if they are in an area with a higher cost of living and gives them an incentive to find more community support so they can supplement stipends. This flexibility aligns with the approach taken by AmeriCorps State and National in allowing grantees the flexibility to provide additional benefits and higher living allowances. AmeriCorps has no basis for expecting that this change will cause confusion among volunteers or result in reduced appropriations for stipends, as there is no evidence that these were issues when prior versions of the regulations allowed supplementation of stipends. See 45 CFR 1207.2–2 and 1208.2–2 (10/01/1996 edition).

Overview of Final Rule Provisions on Supplementation of Stipends: The final rule adopts the proposed rule's changes to allow grantees to pay volunteers a stipend at a rate higher than the AmeriCorps-established rate, should they have the desire and funding to do so, and allows grantees to count the funds with which they supplement the stipend toward their required match contribution. Grantees' supplementation of volunteers' stipends must comply with anti-discrimination and other laws.

The current regulation, which restricts all volunteers to the AmeriCorps-established stipend rate, prevents grantees from adjusting their benefits to account for the needs of volunteers in their local communities. This restriction is not compelled by statute, as the DVSA establishes only a minimum stipend rate (\$3.00 per hour). Earlier versions of the regulation explicitly allowed for stipend payments in excess of the amount established by AmeriCorps (then "ACTION"). See 45

CFR 1207.2–2 and 1208.2–2 (10/01/1996 edition). The final rule reinstitutes this allowance, and also allows the supplemented stipend amount to count toward the required match contribution. Under the final rule, AmeriCorps will continue to establish stipend rates and comply with the statutory minimum for stipend rates, but grantees will have the flexibility to supplement the rate with their non-AmeriCorps funds.

AmeriCorps expects that the flexibility for supplementing stipends will help grantees to recruit and retain volunteers by improving the feasibility of service for low-income volunteers whose costs of serving exceed the AmeriCorps-established stipend rate. This flexibility will also allow for grantees to account for things like higher costs of living in providing their volunteers with stipends, by using their grantee (non-AmeriCorps) share funds to add on to the single stipend rate that AmeriCorps establishes for the entire country.

D. Removing the Requirement for a Full-Time Project Director—SCP (§ 2551.25(c)); FGP (§ 2552.25(c)); RSVP (§ 2553.25(c))

Current Regulation: The current SCP, FGP, and RSVP regulations all require a sponsor to employ a full-time project director to accomplish project objectives and manage functions and project activities, except in a limited circumstance where the sponsor may negotiate with AmeriCorps for permission to instead employ a part-time project director. That circumstance is when the sponsor has demonstrated to AmeriCorps that having only a part-time project director will not adversely affect the size, scope, or quality of project operations.

Changes That Were Proposed: The proposed rule would have replaced these prescriptive requirements with a more results-focused requirement that grantees employ project staff sufficient to support the size, scope, and quality of project operations. In the application, the sponsor would have had to thoroughly outline their management plan to describe how each project director duty will be fulfilled. At the time of renewal, program structure would then be evaluated based on performance measures. The intention of the proposed change was to provide grantees with the flexibility to determine their own appropriate mix of staffing to support the project.

Comments on the Proposed Changes: Of those who commented on this proposed change, approximately half expressed support and half opposition. Those in support of the change stated

that it allows programs to use staff more efficiently by allowing programs to reallocate work duties, adjust workflows, and increase continuity of services, without having to request a waiver from AmeriCorps. Those in opposition to the change stated that it would allow grantees to pull the currently full-time project directors onto other efforts, limiting the amount of time the project directors would be able to devote to the programs and undermining their ability to effectively run them, would contribute to understaffing the programs and job loss, and would increase compliance issues, as there would be no single full-time person accountable as program director. Commenters also pointed out that there is already a waiver process in place to enable grantees to employ a part-time director, and one commenter provided evidence that there are insufficient requests for waivers to justify a change to the general rule.

AmeriCorps' Response to Comments: AmeriCorps is persuaded by those comments opposing the change that state that a waiver process is already available and is not used so frequently as to justify a change to the overall requirement for a full-time project director. For this reason, AmeriCorps is not moving forward with finalizing this change at this time, but will monitor the number of waiver requests in the future to determine whether this change should be considered in a separate, future rulemaking.

Overview of Final Rule Provisions on Full-Time Project Director: The final rule retains the current regulatory requirement for a full-time project director, and opportunity for a waiver of this requirement.

E. Establishing a Single, 10 Percent Match, Regardless of Year—RSVP (§ 2553.72)

Current Regulation: The current regulation provides that AmeriCorps RSVP grants may fund up to 90 percent of the total budgeted project cost in the first year, leaving the sponsor responsible for 10 percent of the total project cost through locally generated contributions. The current regulation then decreases the level of funding AmeriCorps may provide for RSVP grants to 80 percent (consequently increasing the sponsor's responsibility to 20 percent) in the second year, and further decreases AmeriCorps' contribution to 70 percent (consequently increasing the sponsor's responsibility to 30 percent) in the third year and beyond.

Changes That Were Proposed: The proposed rule would revise the current

tiered match requirements for RSVP to instead provide RSVP parity with the FGP and SCP programs, which each require 10 percent match regardless of year.

Comments on the Proposed Changes: Every commenter who commented on the proposed match change supported the proposed reduction of required RSVP match to 10 percent. Among the reasons commenters expressed for their support were that the proposed change would establish parity with the FGP and SCP program match requirements; simplify raising and reporting match for RSVP grantees; help RSVP programs remain sustainable in a time of rapid inflation and stagnant or reduced funding from other non-Federal sources; have a compounding positive financial impact on RSVP grantees' ability to provide needed vital services to their communities; streamline management of RSVP program budgets; and allow for more focus on RSVP program requirements, volunteer recruitments, partnerships and potential new programming. A commenter also noted that the current 30 percent match can be a barrier for service in rural areas that are philanthropically underserved and that a 10 percent match, regardless of year, helps to remove this barrier.

AmeriCorps' Response to Comments: AmeriCorps agrees with these unanimous comments in support of the change to a 10 percent required match for RSVP, regardless of year. In addition to the reasons expressed by the commenters for their support, this change will also benefit grantees that have RSVP programs and FGP and/or SCP programs, by allowing them to have consistent policies across all their programs. AmeriCorps also anticipates that this change will reduce relinquishments of RSVP programs.

Overview of Final Rule Provisions on Income Calculation: The final rule removes the increasing required match for RSVP programs, requiring match at 10 percent regardless of year. The statute limits how much match funding RSVP grantees must provide to no more than 10 percent in the first year, 20 percent in the second year, and 30 percent in subsequent years. *See* 42 U.S.C. 5001(b). In other words, the statute provides upper limits (tiered by year) on what RSVP grantees may be required to provide as match. In contrast, the current RSVP regulations convert these upper limits into requirements for grantees to provide match at 10 percent in the first year, 20 percent in the second year, and 30 percent in subsequent years. *See* 45 CFR 2553.72. The final rule instead uses the flexibility afforded by the statute to

require 10 percent match for RSVP regardless of year. This change in required match is not expected to impact the quality of services provided to communities by the program because all program expectations remain the same under this final rule.

F. Other Comments on the Proposed Rule

Two commenters commented on the proposed rule's nomenclature updates, such as the updates to reflect that "Senior Corps" is now called "AmeriCorps Seniors." One commenter supported these updates. The other commenter opposed the updates, stating that most communities are only familiar with the separate identities of the FGP, SCP, and RSVP, and that "AmeriCorps" causes confusion because people think of the AmeriCorps State and National program. AmeriCorps is finalizing the nomenclature updates, as its programs have been operating under the unifying moniker "AmeriCorps" for several years.

IV. Regulatory Analyses

A. Executive Orders 12866 and 13563

Executive Orders 12866 and 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, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs in the Office of Management and Budget determined this rule is not a significant regulatory action.

B. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), AmeriCorps certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. While many grantees are small governmental jurisdictions or not-for-profit enterprises that may qualify as small entities, the economic effect of this proposed rule on those small entities is minimal. Therefore, AmeriCorps has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for rules that are expected to have such results.

C. Unfunded Mandates Reform Act of 1995

For purposes of title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in Federal, State, local, or Tribal Governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, an agency may not conduct or sponsor a collection of information unless the collections of information display valid control numbers. This rule does not affect any information collections.

E. Federalism (E.O. 13132)

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rulemaking does not have any federalism implications, as described above.

F. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable "taking." A takings implication assessment is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rulemaking: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

AmeriCorps recognizes the inherent sovereignty of Indian Tribes and their right to self-governance. We have evaluated this rulemaking under the agency's consultation policy and the criteria in Executive Order 13175 and determined that this rule does not

impose substantial direct effects on federally recognized Tribes.

List of Subjects in 45 CFR Parts 2551, 2552, and 2553

Aged, Grant programs—social programs, Volunteers.

For the reasons stated in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapter XXV, title 45 of the Code of Federal Regulations as follows:

PART 2551—SENIOR COMPANION PROGRAM

- 1. The authority citation for part 2551 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

- 2. Revise and republish § 2551.12 to read as follows:

§ 2551.12 Definitions.

Act. The Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

Adequate staffing level. The number of project staff or full-time equivalent needed by a sponsor to manage the AmeriCorps Seniors project operations considering such factors as: Number of budgeted Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

Adult with special needs. Any individual over 21 years of age who has one or more physical, emotional, or mental health limitations and is in need of assistance to achieve and maintain their highest level of independent living.

AmeriCorps. The Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

AmeriCorps Seniors. The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act

Annual income. The applicant or enrollee's total income for the preceding 12 months, including the applicant or enrollee's spouse's income, if the spouse lives in the same residence, as calculated in § 2551.44.

Chief Executive Officer. The Chief Executive Officer of AmeriCorps appointed under the National and Community Service Act of 1990, as

amended, (NCSA), 42 U.S.C. 12501 *et seq.*

Cost reimbursements.

Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs, transportation, meals, recognition, supplemental accident, personal liability and excess automobile liability insurance and other expenses as negotiated in the Memorandum of Understanding.

In-home. The non-institutional assignment of a Senior Companion in a private residence.

Letter of Agreement. A written agreement between a volunteer station or sponsor and the person(s) served or the person legally responsible for that person. It authorizes the assignment of an SCP volunteer in the home of a client, defines SCP volunteer activities, and specifies supervision arrangements.

Memorandum of Understanding. A written statement prepared and signed by the Senior Companion project sponsor and the volunteer station that identifies project requirements, working relationships, and mutual responsibilities.

Non-AmeriCorps support (excess). The amount of non-AmeriCorps cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-AmeriCorps support (match). The percentage share of non-AmeriCorps cash and in-kind contributions required to be raised by the sponsor in support of the grant.

Performance measures. Indicators that help determine the impact of an SCP project on the community and clients served, including the volunteers.

Project. The locally planned SCP activity or set of activities in a service area as approved by AmeriCorps and implemented by the sponsor.

Proprietary Health Care Agency. Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) in which Senior Companions are enrolled and placed on assignments.

Service schedule. A written delineation of the days and times a Senior Companion serves each week.

Sponsor. A public agency, including Indian Tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Senior Companion project.

Stipend. A payment to Senior Companions to enable them to serve without cost to themselves. The amount

of the stipend is set by AmeriCorps in accordance with Federal law.

United States and territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer assignment plan. A written description of a Senior Companion's assignment with a client. The plan identifies specific outcomes for the client and the activities of the Senior Companion.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of Senior Companions in health, education, social service, or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

- 3. In § 2551.23, redesignate paragraphs (i)(2) through (5) as paragraphs (i)(3) through (6) and add new paragraph (i)(2) to read as follows:

§ 2551.23 What are a sponsor's project responsibilities?

* * * * *

(i) * * *

(2) Administrative leave, meaning a temporary absence the sponsor allows in extenuating circumstances that prevent the Senior Companion from serving or serving safely.

* * * * *

- 4. In § 2551.25, revise paragraph (h) to read as follows:

§ 2551.25 What are a sponsor's administrative responsibilities?

* * * * *

(h) Comply with, and ensure that Memorandums of Understanding require all volunteer stations to comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

- 5. Revise the heading for subpart C to read as follows:

Subpart C—Suspension and Termination of AmeriCorps Assistance

- 6. In § 2551.43, revise paragraph (b) to read as follows:

§ 2551.43 What income guidelines govern eligibility to serve as a stipended Senior Companion?

* * * * *

(b) For applicants to become stipended Senior Companions, income is based on annual income at the time of application. For serving stipended Senior Companions, annual income is counted for the past 12 months. Annual income includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence, as calculated in § 2551.44.

* * * * *

■ 7. In § 2551.44, revise paragraph (a)(3) to read as follows:

§ 2551.44 What is considered income for determining volunteer eligibility?

(a) * * *

(3) Social Security, Unemployment or Workers Compensation, alimony, and military family allotments, or other legally required financial support from an absent family member or someone not living in the household.

* * * * *

■ 8. In § 2551.46, revise paragraph (a) to read as follows:

§ 2551.46 What cost reimbursements are provided to Senior Companions?

* * * * *

(a) *Stipend*. The stipend is paid for the time Senior Companions spend with their assigned clients, for earned leave, for administrative leave, and for attendance at official project events. The sponsor may pay a stipend for administrative leave for extenuating circumstances lasting up to seven calendar days, but must obtain AmeriCorps' written approval to pay a stipend for administrative leave based on extenuating circumstances lasting beyond seven calendar days.

* * * * *

§ 2551.91 [Amended]

■ 9. In § 2551.91, remove "CNCS' " and add in its place "AmeriCorps' " wherever it appears.

■ 10. In § 2551.92, revise paragraph (e) to read as follows:

§ 2551.92 What are project funding requirements?

* * * * *

(e) *May a sponsor pay stipends at rates different than those established by AmeriCorps?* A sponsor must pay stipends at rates no less than the rate established by AmeriCorps. A sponsor may use non-AmeriCorps funding to pay stipends at rates higher than the rate established by AmeriCorps but may not use AmeriCorps funding for this purpose.

■ 11. Revise the heading of subpart K to read as follows:

Subpart K—Non-AmeriCorps Funded Senior Companion Projects

§ 2551.114 [Amended]

■ 12. In § 2551.114, remove "non-CNCS" and add in its place "non-AmeriCorps" and remove "CNCS' " and add in its place "AmeriCorps' ".

■ 13. In § 2551.121, revise paragraph (c)(1) to read as follows:

§ 2551.121 What legal limitations apply to the operation of the Senior Companion Program and to the expenditure of grant funds?

* * * * *

(c) * * *

(1) An agency or organization to which AmeriCorps Seniors volunteers are assigned or which operates or supervises any AmeriCorps Seniors program shall not request or receive any compensation from AmeriCorps Seniors volunteers, or from beneficiaries, for the services provided by AmeriCorps Seniors volunteers.

* * * * *

§ 2551.122 [Amended]

■ 14. In § 2551.122, remove "CNCS's" and add in its place "AmeriCorps' ".

§§ 2551.21 through 2551.122 [Amended]

■ 15. In addition to the amendments set forth above, in §§ 2551.21 through 2551.122, remove "CNCS" and add in its place the word "AmeriCorps".

§§ 2551.92, 2551.102, 2551.112, and 2551.113 [Amended]

■ 16. In addition to the amendments set forth above, in §§ 2551.92, 2551.102, 2551.112, and 2551.113, remove "non-CNCS" and add in its place the word "non-AmeriCorps".

PART 2552—FOSTER GRANDPARENT PROGRAM

■ 17. The authority for part 2552 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

■ 18. Revise and republish § 2552.12 to read as follows:

§ 2552.12 Definitions.

Act. The Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

Adequate staffing level. The number of project staff or full-time equivalent needed by a sponsor to manage the AmeriCorps Seniors project operations

considering such factors as: Number of budgeted Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

AmeriCorps. The Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

AmeriCorps Seniors. The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act.

Annual income. The applicant's or enrollee's total income, as calculated in § 2552.44, over the preceding 12 months.

Chief Executive Officer. The Chief Executive Officer of AmeriCorps appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

Child. Any individual who is less than 21 years of age.

Children having exceptional needs. Children who have a developmental disability, such as those who have autism; an intellectual disability; cerebral palsy or epilepsy; a visual, speech, hearing, or orthopedic impairment; an emotional, behavioral, or language disorder; a specific learning disability; multiple disabilities; other significant health impairments; or have literacy, math or other educational assistance needs. Before a Foster Grandparent is assigned to a child, existence of the child's exceptional need shall be verified by an appropriate professional, such as a physician; psychiatrist; psychologist, including school psychologists; registered nurse or licensed practical nurse; speech therapist; licensed clinical social worker; or educator.

Children with special needs. Children who are abused or neglected, in need of foster care, adjudicated youth, homeless youth, teenage parents, and children in need of protective intervention in their homes. Existence of a child's special need shall be verified by an appropriate professional before a Foster Grandparent is assigned to the child.

Cost reimbursements. Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs; transportation; meals; recognition; supplemental accident, personal liability and excess automobile liability insurance; and other expenses as

negotiated in the Memorandum of Understanding.

In-home. The non-institutional assignment of a Foster Grandparent in a private residence or a foster home.

Letter of Agreement. A written agreement between a volunteer station or sponsor and the person(s) served or the person legally responsible for that person. It authorizes the assignment of an FGP volunteer in the home of a client, defines FGP volunteer activities, and specifies supervision arrangements.

Memorandum of Understanding. A written statement prepared and signed by the Foster Grandparent project sponsor and the volunteer station that identifies project requirements, working relationships, and mutual responsibilities.

Non-AmeriCorps support (excess). The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-AmeriCorps support (match). The percentage share of non-AmeriCorps cash and in-kind contributions required to be raised by the sponsor in support of the grant.

Non-AmeriCorps support (excess). The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Parent. A natural parent or a person acting in place of a natural parent, such as a guardian, a child's natural grandparent, or a step-parent with whom the child lives. The term also includes otherwise-unrelated individuals who are legally responsible for a child's welfare.

Performance measures. Indicators that help determine the impact of an FGP project on the community and clients served, including the volunteers.

Project. The locally planned FGP activity or set of activities in a service area as approved by AmeriCorps and implemented by the sponsor.

Proprietary Health Care Agency. Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) in which Foster Grandparents are enrolled and placed on assignments.

Service schedule. A written delineation of the days and times a Foster Grandparent serves each week.

Sponsor. A public agency, including Indian Tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Foster Grandparent project.

Stipend. A payment to Foster Grandparents to enable them to serve without cost to themselves. The amount of the stipend is set by AmeriCorps in accordance with Federal law.

United States and Territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer assignment plan. A written description of a Foster Grandparent's assignment with a child. The plan identifies specific outcomes for the child and the activities of the Foster Grandparent.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of Foster Grandparents in health, education, social service, or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

■ 19. In § 2552.23, redesignate paragraphs (i)(2) through (5) as paragraphs (i)(3) through (6) and add new paragraph (i)(2) to read as follows:

§ 2552.23 What are a sponsor's project responsibilities?

* * * * *

(i) * * *

(2) Administrative leave, meaning a temporary absence the sponsor allows in extenuating circumstances that prevent the Foster Grandparent from serving or serving safely.

* * * * *

■ 20. In § 2552.25, revise paragraph (h) to read as follows:

§ 2552.25 What are a sponsor's administrative responsibilities?

* * * * *

(h) Comply with, and ensure that Memorandums of Understanding require all volunteer stations to comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

■ 21. Revise the heading for subpart C to read as follows:

Subpart C—Suspension and Termination of AmeriCorps Assistance

§ 2552.43 [Amended]

■ 22. In § 2552.43, revise paragraph (b) to read as follows:

§ 2552.43 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?

* * * * *

(b) For applicants to become stipended Foster Grandparents, income is based on annual income at the time of application. For serving stipended Foster Grandparents, annual income is counted for the past 12 months. Annual income includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence, as calculated in § 2552.44.

* * * * *

■ 23. In § 2552.44, revise paragraph (a)(3) to read as follows:

§ 2552.44 What is considered income for determining volunteer eligibility?

(a) * * *

(3) Social Security, Unemployment or Workers Compensation, alimony, and military family allotments, or other legally required financial support from an absent family member or someone not living in the household.

* * * * *

■ 24. In § 2552.46, revise paragraph (a) to read as follows:

§ 2552.46 What cost reimbursements and benefits do sponsors provide to Foster Grandparents?

* * * * *

(a) *Stipend.* The stipend is paid for the time Foster Grandparents spend with their assigned children, for earned leave, for administrative leave, and for attendance at official project events. The sponsor may pay a stipend for administrative leave for extenuating circumstances lasting up to seven calendar days but must obtain AmeriCorps' written approval to pay a stipend for administrative leave based on extenuating circumstances lasting beyond seven calendar days.

* * * * *

■ 25. In § 2552.92, revise paragraph (e) to read as follows:

§ 2552.92 What are project funding requirements?

* * * * *

(e) *May a sponsor pay stipends at rates different than those established by AmeriCorps?* A sponsor must pay stipends at rates no less than the rate established by AmeriCorps. A sponsor may use non-AmeriCorps funding to pay stipends at rates higher than the rate

established by AmeriCorps, but may not use AmeriCorps funding for this purpose.

- 26. Revise the heading of subpart K to read as follows:

Subpart K—Non-AmeriCorps Funded Foster Grandparent Projects

§ 2552.112 [Amended]

- 27. In addition § 2552.112 introductory text, remove “Non-CNCS” and add in its place “non-AmeriCorps”.
- 28. In § 2552.121, revise paragraph (c)(1) to read as follows:

§ 2552.121 What legal limitations apply to the operation of the Foster Grandparent Program and to the expenditure of grant funds?

* * * * *

(c) * * *

(1) An agency or organization to which AmeriCorps Seniors volunteers are assigned or which operates or supervises any AmeriCorps Seniors program shall not request or receive any compensation from AmeriCorps Seniors volunteers, or from beneficiaries, for the services provided by AmeriCorps Seniors volunteers.

* * * * *

§§ 2552.21 through 2552.122 [Amended]

- 29. In addition to the amendments set forth above, in §§ 2552.21 through 2552.122, remove “CNCS” and add in its place the word “AmeriCorps” wherever it appears.

§§ 2552.91, 2552.114, and 2552.122 [Amended]

- 30. In addition to the amendments set forth above, in §§ 2552.91, 2552.114, and 2552.122, remove “CNCS” and add in its place “AmeriCorps” wherever it appears.

§§ 2552.92, 2552.102, 2552.112, 2552.113, and 2552.114 [Amended]

- 31. In addition to the amendments set forth above, in §§ 2552.92, 2552.102, 2552.112, 2552.113, and 2552.114, remove “non-CNCS” and add in its place “non-AmeriCorps” wherever it appears.

PART 2553—THE RETIRED AND SENIOR VOLUNTEER PROGRAM

- 32. The authority for part 2553 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*

- 33. Revise and republish § 2553.12 to read as follows:

§ 2553.12 Definitions.

Act. The Domestic Volunteer Service Act of 1973, as amended, Public Law

93–113, Oct. 1, 1973, 87 Stat. 396, 42 U.S.C. 4950 *et seq.*

Adequate staffing level. The number of project staff or full-time equivalent needed by a sponsor to manage the AmeriCorps Seniors project operations considering such factors as: Number of budgeted volunteers, number of volunteer stations, and the size of the service area.

AmeriCorps. The Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

AmeriCorps Seniors. The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act.

Assignment. The activities, functions, or responsibilities to be performed by volunteers identified in a written outline or description.

Assignment description. The written description of the activities, functions, or responsibilities to be performed by RSVP volunteers.

Chief Executive Officer. The Chief Executive Officer of AmeriCorps appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

Cost reimbursements. Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs, transportation, meals, recognition, supplemental accident, personal liability and excess automobile liability insurance, and other expenses as negotiated in the Memorandum of Understanding.

Letter of Agreement. A written agreement between a volunteer station or sponsor and the person(s) served or the person legally responsible for that person. It authorizes the assignment of an RSVP volunteer in the home of a client, defines RSVP volunteer activities, and specifies supervision arrangements.

Memorandum of Understanding. A written statement prepared and signed by the RSVP project sponsor and the volunteer station that identifies project requirements, working relationships, and mutual responsibilities.

Non-AmeriCorps support (excess). The amount of non-AmeriCorps cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-AmeriCorps support (match).

The percentage share of non-AmeriCorps cash and in-kind contributions required to be raised by the sponsor in support of the grant.

Performance measures. Indicators that help determine the impact of an RSVP project on the community, including the volunteers.

Project. The locally planned RSVP activity or set of activities in a service area as approved by AmeriCorps and implemented by the sponsor.

Proprietary Health Care Agency.

Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) approved in the grant application, in which RSVP volunteers are enrolled and placed on assignments.

Sponsor. A public agency, including Indian Tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer an RSVP project.

United States and Territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of RSVP volunteers in health, education, social service, or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

- 34. In § 2553.25, revise paragraph (h) to read as follows:

§ 2553.25 What are a sponsor's administrative responsibilities?

* * * * *

(h) Comply with, and ensure that Memorandums of Understanding require all volunteer stations to comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

* * * * *

§ 2553.43 [Amended]

- 35. In § 2553.43, in paragraph (b)(2) introductory text, remove “CNCS-

specified” and add in its place “AmeriCorps-specified”.

§ 2553.71 [Amended]

■ 36. In § 2553.71, in the paragraph (b) heading, remove the words “the Corporation” and add in their place the word “AmeriCorps”.

■ 37. In § 2553.72, revise the paragraph (a) heading and paragraphs (a)(1) and (c) to read as follows:

§ 2553.72 What are project funding requirements?

(a) *Is non-AmeriCorps support required?* (1) An AmeriCorps grant may be awarded to fund up to 90 percent of the total project cost.

* * * * *

(c) *May AmeriCorps restrict how a sponsor uses locally generated contributions in excess of the non-AmeriCorps support required?* Whenever locally generated contributions to RSVP projects are in excess of the non-AmeriCorps funds required (10 percent of the total cost), AmeriCorps may not restrict the manner in which such contributions are expended, provided such expenditures are consistent with the provisions of the Act.

* * * * *

■ 38. Revise the heading to subpart H to read as follows:

Subpart H—Non-AmeriCorps Funded Projects

■ 39. In § 2553.91, revise paragraph (c)(1) to read as follows:

§ 2553.91 What legal limitations apply to the operation of the RSVP volunteer program and to the expenditure of grant funds?

* * * * *

(c) * * *

(1) An agency or organization to which AmeriCorps Seniors volunteers are assigned or which operates or supervises any AmeriCorps Seniors program shall not request or receive any compensation from AmeriCorps Seniors volunteers or from beneficiaries for services of AmeriCorps Seniors volunteers.

* * * * *

§§ 2553.21 through 2553.108 [Amended]

■ 40. In addition to the amendments set forth above, in §§ 2553.21 through 2553.108, remove “CNCS” and add in its place the word “AmeriCorps” wherever it appears.

§§ 2553.71, 2553.84, and 2553.92 [Amended]

■ 41. In addition to the amendments set forth above, in §§ 2553.71, 2553.84, and 2553.92, remove “CNCS” and add in its place the word “AmeriCorps” wherever it appears.

§§ 2553.72, 2553.82, 2553.83, and 2553.84 [Amended]

■ 42. In addition to the amendments set forth above, in §§ 2553.72, 2553.82, 2553.83, and 2553.84, remove “non-CNCS” and add in its place “non-AmeriCorps” wherever it appears.

Andrea Grill,

Acting General Counsel.

[FR Doc. 2024–19348 Filed 8–29–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2023–0113; FXMB1231099BPP0–245–FF09M32000]

RIN 1018–BG63

Migratory Bird Hunting; 2024–25 Seasons for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the seasons, hours, areas, and daily bag and possession limits for hunting migratory birds. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2024–25 season.

DATES: This rule takes effect on August 29, 2024.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113. You may obtain copies of referenced reports from the Division of Migratory Bird Management’s website at <https://www.fws.gov/program/migratory-birds> or at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358–2606. 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:

Regulations Schedule for 2024

On February 8, 2024, we published in the **Federal Register** (89 FR 8631) a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20. The proposal provided a background and overview of the migratory bird hunting regulations process and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.100 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2024–25 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the February 8, 2024, proposed rule.

We provided the meeting dates and locations for the Service Regulations Committee (SRC) on our website at <https://www.fws.gov/event/us-fish-and-wildlife-service-migratory-bird-regulations-committee-meeting> and Flyway Council meetings on flyway calendars posted on our website at <https://www.fws.gov/partner/migratory-bird-program-administrative-flyways>. On October 10, 2023, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2024–25 regulations for these species. The February 8, 2024, proposed rule provided detailed information on the proposed 2024–25 regulatory schedule.

On May 13, 2024, we published in the **Federal Register** (89 FR 41522) the proposed frameworks for migratory game bird hunting regulations during the 2024–25 season. On August 26, 2024, we published in the **Federal Register** (89 FR 68500) the final frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected seasons, hours, areas, and limits for hunting migratory birds during the 2024–25 season.

The final rule described here is the final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for the 2024–25 season and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for migratory game bird species. This final rule is the culmination of the

annual rulemaking process allowing migratory game bird hunting, which started with the February 8, 2024, proposed rule. As discussed elsewhere in this document, we supplemented that proposal on May 13, 2024, and published final season frameworks on August 26, 2024, that provided the regulatory frameworks from which the States selected their hunting seasons. This final rule sets the migratory game bird hunting seasons based on that input from the States.

Required Determinations

National Environmental Policy Act (NEPA) Consideration

The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being “Duck Hunting Regulations for 2024–25,” with its corresponding 2024 finding of no significant impact, available at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have

caused modification of some regulatory measures previously proposed, and the final frameworks (89 FR 68500, August 26, 2024) reflect any such modifications. The biological opinion is available from <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113.

Regulatory Planning and Review—Executive Orders 12866, 13563, and 14094

Executive Order 14094 amends and reaffirms the principles of E.O. 12866 and E.O. 13563. Regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. We have developed this final rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. This action is a “significant regulatory action,” as defined under section 3(f)(1) of E.O. 12866 (58 FR 51735, October 4, 1993), as amended by E.O. 14094 (88 FR 21879, April 11, 2023).

An economic analysis was prepared for the 2024–25 migratory bird hunting season. This analysis was based on data from the 2011 and the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent years for which data are available. See discussion under Required Determinations, *Regulatory Flexibility Act*, below. This analysis estimated consumer surplus for four alternatives for duck hunting regulations. As defined by OMB in Circular A–4, consumers’ surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) not opening a hunting season, (2) issuing restrictive regulations that allow fewer days than the 2023–24 season, (3) issuing moderate regulations that allow more days than in Alternative 2 but fewer days than the 2023–24 season, and (4) issuing liberal regulations that allow days similar to the 2023–24 season. The estimated consumer surplus associated with liberal regulations issued for the 2024–25 season across all flyways was

\$606 million to \$797 million (2023\$). We also chose Alternative 4 (liberal regulations) for the 2009–10 through 2023–24 seasons. The 2024–25 analysis is part of the record for this rulemaking action and is available at <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis was prepared to analyze the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2022 National Survey did not collect migratory bird expenditure data, so the 2024–25 migratory bird hunting season analysis is based on the 2011 and 2016 National Surveys and the U.S. Department of Commerce’s County Business Patterns, from which it is estimated that migratory bird hunters will spend approximately \$2.6 billion (2023\$) at small businesses during the 2024–25 migratory bird hunting season. Copies of the analysis are available upon request from the person listed above under **FOR FURTHER INFORMATION CONTACT** or from <https://www.regulations.gov> at Docket No. FWS–HQ–MB–2023–0113.

Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801 *et seq.*) was signed into law as part of the Small Business Regulatory Enforcement Fairness Act (SBREFA; title II of Pub. L. 104–121, March 29, 1996). Pursuant to the CRA, OIRA designated this action as a major rule, as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of \$100 million or more. However, because this final rule establishes a regulatory program for an activity related to hunting and because hunting seasons are time sensitive, we establish the effective date of this final rule using the exemption in the CRA at 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements

associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, “North American Woodcock Singing Ground Survey” (expires 02/28/2027).
- 1018–0023, “Migratory Bird Surveys, 50 CFR 20.20” (expires 05/31/2026). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, “Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20” (expires 10/31/2024).

You may view the information collection request(s) at <https://www.reginfo.gov/public/do/PRAMain>. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*, that this final rulemaking does not include any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted for inflation) in any 1 year and does not significantly or uniquely affect small governments.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this final rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment—Executive Order 12630

In accordance with E.O. 12630, this final rule, authorized by the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This final rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this final rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduces restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. While this final rule is a significant regulatory action under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy and has not been designated by OIRA as a significant energy action. Therefore, no statement of energy effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes with respect to impacts to Tribes’ treaty rights to hunt waterfowl, and we have determined that there are de minimis effects on Indian Tribes for that aspect of their treaty rights. Through this process to establish annual hunting regulations, we regularly coordinate with Tribes that are affected by this final rulemaking action. This final rule will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This rule is general in nature and does not directly affect any specific Tribal lands, treaty rights, or Tribal trust resources. In addition, this final rule does not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands. We recognize that, in certain cases, conflicts may arise between States and specific Tribes on aspects of other Tribal treaty rights. The Service actively supports the parties reaching a mutually agreeable solution to such conflicts. Therefore, we conclude that this final rule does not have “Tribal implications” under section 1(a) of E.O. 13175 with respect to waterfowl treaty rights. Thus, formal government-to-government consultation is not required by E.O. 13175 and related policies of the Department of the Interior. We will continue to collaborate with Tribes on concerns related to migratory bird hunting regulations.

Federalism Effects—Executive Order 13132

Due to the migratory nature of certain species of birds, the Federal Government has been given

responsibility over these species by the MBTA. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. We recognize that, in certain cases, conflicts may arise between States and specific Tribes on aspects of other Tribal treaty rights. The Service actively supports the parties reaching a mutually agreeable solution to such conflicts.

Any State or Tribe may be more restrictive in its regulations than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. This final rule 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 E.O. 13132, this final regulation does not have federalism implications and does not warrant the preparation of a federalism summary impact statement.

Review of Public Comments

The February 8, 2024, proposed (preliminary) rulemaking (89 FR 8631) opened the public comment period for 2024–25 migratory game bird hunting regulations. We previously addressed all pertinent comments in our May 13, 2024, proposed rule (see 89 FR 41522) and August 26, 2024, final rule (89 FR 68500).

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act (5 U.S.C. subchapter II) requirements. Thus, when the preliminary proposed rulemaking was published, we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided

notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, we conclude that sufficient public notice and opportunity for involvement have been given to affected persons.

Further, States need sufficient time to communicate these season selections to their affected publics, and to establish and publicize the necessary regulations and procedures to implement these seasons. Thus, we find that “good cause” exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and, therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

Signing Authority

Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this action on July 31, 2024, for publication. On August 22, 2024, Shannon Estenoz authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of the Interior.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Maureen D. Foster,

Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703 *et seq.*, and 16 U.S.C. 742a–j.

Note: The following annual hunting regulations provided for by §§ 20.101 through 20.107 and 20.109 of 50 CFR part 20 will not

appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) Puerto Rico.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

Closed Areas: Closed areas are described in the August 26, 2024, **Federal Register** (89 FR 68500).

Species	Season dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves (1) ..	Sept. 7–Nov. 4	30	90
Scaly-naped pigeons	Sept. 7–Nov. 4	5	15
Ducks	Nov. 16–Dec. 23 & Jan. 11–Jan. 27	6	18
Common Gallinules	Nov. 16–Dec. 23 & Jan. 11–Jan. 27	6	18
Snipe	Nov. 16–Dec. 23 & Jan. 11–Jan. 27	8	24

(1) The daily bag limit for Zenaida, white-winged, and mourning doves is in the aggregate and may include not more than 10 Zenaida and 3 mourning doves. The possession limit is three times the daily bag limit.

(b) Virgin Islands.

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling

duck, fulvous whistling duck, masked duck, and all other ducks, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of

migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

Species	Season dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1–Sept. 30	10	10
Ducks	Closed		

■ 3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open

seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

Note: Light geese include lesser snow (including blue) geese, greater snow geese, and Ross's geese.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a raptor

under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this section.

Special Tundra Swan Season: In Game Management Units (Units) 17, 18, 22, and 23, in the North Zone, the tundra swan season is from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by State permit only; hunters

will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report with the State after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Season dates
North Zone	Sept. 1–Dec. 16.
Gulf Coast Zone	Sept. 1–Dec. 16.
Southeast Zone	Sept. 1–Nov. 30.
	Dec. 16–Dec. 31.
Pribilof and Aleutian Islands Zone	Oct. 8–Jan. 22.
Kodiak Zone	Oct. 8–Jan. 22.

Area	Daily bag and possession limits							
	Ducks (1)	Canada & Cackling geese (2)(3)(4)	White-fronted geese (5)(6)	Light geese	Brant	Emperor geese (7)(8)	Snipe	Sandhill cranes (9)
North Zone	10–30	4–12	4–12	6–18	2–6	1–1	8–24	3–9
Gulf Coast Zone	8–24	4–12	4–12	6–18	2–6	1–1	8–24	2–6
Southeast Zone	7–21	4–12	4–12	6–18	2–6	1–1	8–24	2–6
Pribilof and Aleutian Islands Zone	7–21	4–12	4–12	6–18	2–6	1–1	8–24	2–6
Kodiak Zone	7–21	4–12	4–12	6–18	2–6	1–1	8–24	2–6

(1) The basic duck bag limits may include no more than 2 canvasbacks daily and may not include sea ducks. In addition to the basic duck limits, the sea duck limit is 10 daily, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common, hooded, and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) Daily bag and possession limits are in the aggregate for the two species.

(3) In Game Management Units (Units) 5 and 6, in the Gulf Coast Zone, the taking of Canada and cackling geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada and cackling geese is by special permit only. The maximum number of Canada and cackling geese permits is 10 for the season. A mandatory goose-identification class is required. Hunters must check in and out. The daily bag and possession limits are 1 Canada or cackling goose. The season will close if harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

(4) In Unit 10, in the Pribilof and Aleutian Islands Zone, for Canada and cackling geese, the daily bag limit is 6 and the possession limit is 18.

(5) In Unit 9, in the Gulf Coast Zone, Unit 10, in the Pribilof and Aleutian Islands Zone, and Unit 17, in the North Zone, for white-fronted geese, the daily bag limit is 6 and the possession limit is 18.

(6) In Unit 18, in the North Zone, for white-fronted geese, the daily bag limit is 10 and the possession limit is 30.

(7) In Unit 8, in the Kodiak Zone, the Kodiak Island Roaded Area is closed to emperor goose hunting. The Kodiak Island Roaded Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull and Puffin Islands.

(8) Emperor goose hunting is by State permit only; no more than 1 emperor goose may be harvested per hunter per season. Hunters will be required to file a harvest report with the State after harvesting an emperor goose. Total emperor goose harvest may not exceed 500 birds. See State regulations for specific dates, times, and conditions of permit hunts and closures.

(9) In Unit 17, in the North Zone, for sandhill cranes, the daily bag limit is 2 and the possession limit is 6.

■ 4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and

possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Doves.*

Note: Unless otherwise specified, the seasons listed below are for mourning and white-winged doves. The daily bag and possession limits are in the aggregate for the two species.

Area	Season dates	Limits	
		Bag	Possession
EASTERN MANAGEMENT UNIT			
Alabama:			
North Zone:			
12 noon to sunset	Sept. 7 only	15	15
½ hour before sunrise to sunset	Sept. 8–Oct. 20 & Nov. 23–Dec. 1 & Dec. 14–Jan. 19	15	45
South Zone:			
12 noon to sunset	Sept. 14 only	15	15
½ hour before sunrise to sunset	Sept. 15–Oct. 27 & Nov. 23–Dec. 1 & Dec. 14–Jan. 19.	15	45
Delaware	Sept. 1–Sept. 29 & Oct. 19–Oct. 27 & Dec. 6–Jan. 26	15	45
Florida	Sept. 28–Oct. 20 & Nov. 9–Dec. 1 & Dec. 19–Jan. 31	15	45
Georgia	Sept. 7–Oct. 13 & Nov. 23–Dec. 1 & Dec. 19–Jan. 31	15	45
Illinois (1)	Sept. 1–Nov. 14 & Dec. 26–Jan. 9	15	45
Indiana	Sept. 1–Oct. 20 & Nov. 1–Dec. 1 & Dec. 21–Dec. 29	15	45
Kentucky:			
11 a.m. to sunset	Sept. 1 only	15	15
½ hour before sunrise to sunset	Sept. 2–Oct. 26 & Nov. 28–Dec. 8 & Dec. 21–Jan. 12	15	45
Louisiana:			
North Zone	Sept. 7–Sept. 28 & Oct. 5–Nov. 9 & Dec. 21–Jan. 21	15	45
South Zone	Sept. 7–Sept. 21 & Oct. 19–Nov. 30 & Dec. 14–Jan. 14.	15	45
Maryland:			
12 noon to sunset	Sept. 2–Oct. 19	15	45
½ hour before sunrise to sunset	Oct. 26–Nov. 29 & Dec. 21–Jan. 10	15	45
Mississippi:			
North Zone	Sept. 1–Sept. 29 & Oct. 12–Nov. 10 & Dec. 27–Jan. 26.	15	45
South Zone	Sept. 1–Sept. 29 & Oct. 12–Nov. 10 & Dec. 27–Jan. 26.	15	45
North Carolina	Sept. 2–Oct. 5 & Nov. 9–Nov. 30 & Dec. 16–Jan. 31	15	45
Ohio (1)	Sept. 1–Nov. 3 & Dec. 7–Jan. 1	15	45
Pennsylvania	Sept. 2–Nov. 29 & Dec. 21–Jan. 4	15	45
Rhode Island	Sept. 1–Sept. 30 & Oct. 19–Dec. 17	15	45
South Carolina	Sept. 2–Oct. 5 & Nov. 16–Nov. 30 & Dec. 22–Jan. 31	15	45
Tennessee:			
12 noon to sunset	Sept. 1 only	15	15
½ hour before sunrise to sunset	Sept. 2–Sept. 28 & Oct. 12–Nov. 3 & Dec. 8–Jan. 15	15	45
Virginia:			
12 noon to sunset	Sept. 2 only	15	15
½ hour before sunrise to sunset	Sept. 3–Oct. 20 & Nov. 23–Dec. 1 & Dec. 20–Jan. 20	15	45
West Virginia:			
12 noon to sunset	Sept. 1 only	15	15
½ hour before sunrise to sunset	Sept. 2–Oct. 12 & Nov. 4–Nov. 17 & Dec. 16–Jan. 18	15	45
Wisconsin	Sept. 1–Nov. 29	15	45
CENTRAL MANAGEMENT UNIT			
Arkansas	Sept. 7–Oct. 27 & Dec. 8–Jan. 15	15	45
Colorado	Sept. 1–Nov. 29	15	45
Iowa	Sept. 1–Nov. 29	15	45
Kansas	Sept. 1–Nov. 29	15	45
Minnesota	Sept. 1–Nov. 29	15	45
Missouri	Sept. 1–Nov. 29	15	45
Montana	Sept. 1–Oct. 30	15	45
Nebraska	Sept. 1–Oct. 30	15	45
New Mexico:			
North Zone	Sept. 1–Nov. 29	15	45
South Zone	Sept. 1–Oct. 28 & Dec. 1–Jan. 1	15	45
North Dakota	Sept. 1–Nov. 29	15	45
Oklahoma	Sept. 1–Oct. 31 & Dec. 1–Dec. 29	15	45
South Dakota	Sept. 1–Nov. 9	15	45
Texas (2):			
North Zone	Sept. 1–Nov. 10 & Dec. 20–Jan. 7	15	45
Central Zone	Sept. 1–Oct. 27 & Dec. 13–Jan. 14	15	45
South Zone	Sept. 14–Oct. 27 & Dec. 13–Jan. 21	15	45
Special White-winged Dove Area	Sept. 1–Sept. 2 & Sept. 6–Sept. 8 & Sept. 13 only	15	45
Wyoming	Sept. 1–Nov. 29	15	45
WESTERN MANAGEMENT UNIT			
Arizona (3)	Sept. 1–Sept. 15 & Nov. 15–Dec. 29	15	45
California (3)	Sept. 1–Sept. 15 & Nov. 9–Dec. 23	15	45

Area	Season dates	Limits	
		Bag	Possession
Idaho	Sept. 1–Oct. 30	15	45
Nevada	Sept. 1–Oct. 30	15	45
Oregon:			
Zone 1	Sept. 1–Sept. 30 & Nov. 15–Dec. 14	15	45
Zone 2	Sept. 1–Oct. 30	15	45
Utah	Sept. 2–Oct. 30	15	45
Washington	Sept. 1–Oct. 30	15	45

OTHER POPULATIONS

Hawaii (4)	Nov. 2–Jan. 12	10	30

(1) In *Illinois* and *Ohio*, shooting hours are sunrise to sunset.

(2) In *Texas*, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 90-day season. Possession limits are three times the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves. Possession limits are three times the daily bag limit. Shooting hours in the Special White-winged Dove area are from noon to sunset.

(3) In *Arizona* and *California*, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-winged doves.

(4) In *Hawaii*, the season is open only on the islands of Hawaii and Maui. On the island of Hawaii, the daily bag limit is 10 mourning doves, spotted doves, and chestnut-bellied sandgrouse in the aggregate. On the island of Maui, the daily bag limit is 10 mourning doves. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. See State regulations for additional restrictions on hunting dates and areas.

(b) Band-tailed Pigeons.

Area	Season dates	Limits	
		Bag	Possession
Arizona	Sept. 27–Oct. 10	2	6
California:			
North Zone	Sept. 21–Sept. 29	2	6
South Zone	Dec. 21–Dec. 29	2	6
Colorado (1)	Sept. 1–Sept. 14	2	6
New Mexico (1):			
North Zone	Sept. 1–Sept. 14	2	6
South Zone	Oct. 1–Oct. 14	2	6
Oregon	Sept. 15–Sept. 23	2	6
Utah (1)	Sept. 2–Sept. 14	2	6
Washington	Sept. 15–Sept. 23	2	6

(1) Each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

■ 5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and

possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

Note: Unless otherwise specified, the daily bag and possession limits for sora and Virginia rails are in the aggregate, and the daily bag and possession limits for clapper and king rails are in the aggregate.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Daily bag limit	25	15	3	8
Possession limit	75	45	9	24

ATLANTIC FLYWAY

Connecticut (1)	Sept. 2–Oct. 22 & Nov. 1–Nov. 30	Sept. 2–Oct. 22 & Nov. 1–Nov. 30	Oct. 24–Dec. 14	Sept. 2–Oct. 11 & Oct. 18–Dec. 31
Delaware (2)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 25–Dec. 1 & Dec. 21–Jan. 27	Sept. 24–Dec. 1 & Dec. 21–Jan. 27
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15
Georgia	Sept. 16–Sept. 23 & Oct. 15–Dec. 15	Sept. 16–Sept. 23 & Oct. 15–Dec. 15	Dec. 7–Jan. 20	Nov. 15–Feb. 28
Maine (3)	Sept. 2–Nov. 7	Closed	Oct. 3–Nov. 30	Sept. 2–Dec. 16
Maryland (1)	Sept. 2–Nov. 21	Sept. 2–Nov. 21	Oct. 26–Nov. 29 & Jan. 13–Jan. 29	Sept. 28–Jan. 30

Area	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
Massachusetts (4)	Sept. 2–Nov. 7	Closed	Oct. 3–Nov. 30	Sept. 2–Dec. 16.
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14.
New Jersey (2)(5):				
North Zone	Sept. 2–Nov. 21	Sept. 2–Nov. 21	Oct. 19–Oct. 26 & Oct. 29–Nov. 30.	Sept. 7–Jan. 9.
South Zone	Sept. 2–Nov. 21	Sept. 2–Nov. 21	Nov. 9–Dec. 7 & Dec. 19–Dec. 31.	Sept. 7–Jan. 9.
New York (6)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9.
North Carolina	Sept. 2–Nov. 21	Sept. 2–Nov. 21	Dec. 11–Jan. 31	Oct. 28–Feb. 28.
Pennsylvania (7)	Sept. 2–Nov. 21	Closed	Oct. 19–Nov. 29 & Dec. 16–Dec. 24.	Oct. 19–Nov. 29 & Dec. 16–Dec. 24.
Rhode Island (8)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 19–Dec. 2	Sept. 1–Nov. 9.
South Carolina	Sept. 18–Sept. 22 & Oct. 16–Dec. 19.	Sept. 18–Sept. 22 & Oct. 16–Dec. 19.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Vermont	Closed	Closed	Sept. 28–Nov. 11	Sept. 28–Nov. 11.
Virginia (9)	Sept. 13–Nov. 3 & Nov. 14–Dec. 1.	Sept. 13–Nov. 3 & Nov. 14–Dec. 1.	Nov. 11–Nov. 30 & Dec. 27–Jan. 20.	Sept. 30–Dec. 1 & Dec. 19–Jan. 31.
West Virginia (10)	Sept. 1–Nov. 9	Closed	Oct. 12–Nov. 23 & Dec. 2–Dec. 3.	Sept. 1–Dec. 16.

MISSISSIPPI FLYWAY

Alabama (11)	Sept. 14–Sept. 29 & Nov. 29–Jan. 21.	Sept. 14–Sept. 29 & Nov. 29–Jan. 21.	Dec. 7–Dec. 8 & Dec. 14–Jan. 25.	Nov. 9–Feb. 23.
Arkansas	Sept. 14–Nov. 22	Closed	Nov. 2–Dec. 16	Nov. 1–Feb. 15.
Illinois (12)	Sept. 7–Nov. 15	Closed	Oct. 19–Dec. 2	Sept. 7–Dec. 22.
Indiana (13)	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16.
Iowa (14)	Sept. 7–Nov. 15	Closed	Oct. 5–Nov. 18	Sept. 7–Nov. 30.
Kentucky	Sept. 1–Nov. 9	Closed	Oct. 26–Nov. 8 & Nov. 11–Dec. 11.	Sept. 18–Oct. 27 & Nov. 28–Feb. 2.
Louisiana	Sept. 14–Sept. 29 & Nov. 9–Jan. 1.	Sept. 14–Sept. 29 & Nov. 9–Jan. 1.	Dec. 18–Jan. 31	Nov. 2–Dec. 8 & Dec. 21–Feb. 28.
Michigan	Sept. 1–Nov. 9	Closed	Sept. 15–Oct. 29	Sept. 1–Nov. 9.
Minnesota	Sept. 1–Nov. 4	Closed	Sept. 21–Nov. 4	Sept. 1–Nov. 4.
Mississippi	Sept. 1–Sept. 30 & Nov. 22–Dec. 31.	Sept. 1–Sept. 30 & Nov. 22–Dec. 31.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Missouri	Sept. 1–Nov. 9	Closed	Oct. 18–Dec. 1	Sept. 1–Dec. 16.
Ohio (12)	Sept. 1–Nov. 9	Closed	Oct. 12–Nov. 25	Sept. 1–Nov. 20 & Dec. 7–Jan. 1.
Tennessee	Sept. 1–Nov. 9	Closed	Nov. 9–Dec. 1 & Jan. 10–Jan. 31.	Nov. 14–Feb. 28.
Wisconsin	Sept. 1–Nov. 9	Closed	Sept. 21–Nov. 4	Sept. 1–Nov. 9.

CENTRAL FLYWAY

Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Kansas	Sept. 1–Nov. 9	Closed	Oct. 12–Nov. 25	Sept. 1–Dec. 16.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nebraska (10)	Sept. 1–Nov. 9	Closed	Oct. 5–Nov. 18	Sept. 1–Dec. 16.
New Mexico (15)	Sept. 14–Nov. 22	Closed	Closed	Oct. 12–Jan. 26.
North Dakota	Closed	Closed	Sept. 21–Nov. 4	Sept. 14–Dec. 1.
Oklahoma	Sept. 1–Nov. 9	Closed	Oct. 26–Dec. 9	Sept. 28–Jan. 12.
South Dakota (16)	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 14–Sept. 29 & Nov. 2–Dec. 25.	Sept. 14–Sept. 29 & Nov. 2–Dec. 25.	Dec. 18–Jan. 31	Nov. 2–Feb. 16.
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

PACIFIC FLYWAY

Arizona:				
North Zone	Closed	Closed	Closed	Oct. 23–Jan. 31.
South Zone	Closed	Closed	Closed	Oct. 23–Jan. 31.
California	Closed	Closed	Closed	Oct. 26–Feb. 9.
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Idaho:				
Zone 1	Closed	Closed	Closed	Oct. 5–Jan. 17.
Zone 2	Closed	Closed	Closed	Oct. 5–Jan. 17.
Zone 3	Closed	Closed	Closed	Oct. 19–Jan. 31.
Zone 4	Closed	Closed	Closed	Oct. 5–Jan. 17.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nevada:				
Northeast Zone	Closed	Closed	Closed	Sept. 28–Dec. 3 & Dec. 14–Jan. 20.
Northwest Zone	Closed	Closed	Closed	Oct. 12–Jan. 6 & Jan. 9–Jan. 26.
South Zone (17)	Closed	Closed	Closed	Oct. 12–Oct. 20 & Oct. 23–Jan. 26.
New Mexico	Sept. 14–Nov. 22	Closed	Closed	Oct. 17–Jan. 31.
Oregon:				
Zone 1	Closed	Closed	Closed	Nov. 2–Feb. 16.
Zone 2	Closed	Closed	Closed	Oct. 12–Jan. 26.
Utah:				
Northern Zone	Closed	Closed	Closed	Oct. 5–Jan. 18.
Southern Zone	Closed	Closed	Closed	Oct. 12–Jan. 25.

Area	Sora and Virginia rails	Clapper and King rails	Woodcock	Snipe
<i>Washington:</i>				
East Zone	Closed	Closed	Closed	Oct. 12–Oct. 20 & Oct. 23–Jan. 26.
West Zone	Closed	Closed	Closed	Oct. 12–Oct. 20 & Oct. 23–Jan. 26.
<i>Wyoming</i>	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

(1) In *Connecticut* and *Maryland*, the daily bag limit for clapper and king rails is 10 and may include no more than 1 king rail. The possession limit is three times the daily bag limit.

(2) In *Delaware* and *New Jersey*, the limits for clapper and king rails are 10 daily and 30 in possession.

(3) In *Maine*, the daily bag and possession limit for sora and Virginia rails is 25.

(4) In *Massachusetts*, the limits for sora are 5 daily and 15 in possession; the limits for Virginia rails are 10 daily and 30 in possession.

(5) In *New Jersey*, the season for king rail is closed by State regulation.

(6) In *New York*, the limits for sora and Virginia rails are 8 daily and 24 in possession. Seasons for sora and Virginia rails and snipe are closed on Long Island.

(7) In *Pennsylvania*, the limits for sora and Virginia rails are 3 daily and 9 in possession.

(8) In *Rhode Island*, the limits for sora and Virginia rails are 3 daily and 9 in possession, the limits for clapper and king rails are 1 daily and 3 in possession, and the limits for snipe are 5 daily and 15 in possession.

(9) In *Virginia*, the limit for king rail is 1 daily and 3 in possession.

(10) In *West Virginia* and *Nebraska*, the limits for sora and Virginia rails are 10 daily and 30 in possession.

(11) In *Alabama*, the limits for sora and Virginia rails are 15 daily and 45 in possession.

(12) In *Illinois* and *Ohio*, shooting hours are from sunrise to sunset.

(13) In *Indiana*, the season on Virginia rails is closed.

(14) In *Iowa*, the limits for sora and Virginia rails are 12 daily and 36 in possession.

(15) In *New Mexico*, in the Central Flyway portion of the State, the limits for sora and Virginia rails are 10 daily and 20 in possession.

(16) In *South Dakota*, the snipe limits are 5 daily and 15 in possession.

(17) In *Nevada*, the snipe season in that portion of the South Zone including Moapa Valley to the confluence of the Muddy and Virgin rivers is only open October 26 through January 26.

■ 6. Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open

seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area

descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Gallinules*.

Area	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 1–Nov. 9	15	45
Florida (1)	Sept. 1–Nov. 9	15	45
Georgia	Nov. 23–Dec. 1 & Dec. 7–Jan. 26	15	45
New Jersey	Sept. 2–Nov. 21	1	3
New York:			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 2–Nov. 21	15	45
Pennsylvania	Sept. 2–Nov. 21	3	9
South Carolina	Sept. 18–Sept. 22 & Oct. 16–Dec. 19	15	45
Virginia	Sept. 13–Nov. 3 & Nov. 14–Dec. 1	15	45
West Virginia	Oct. 1–Oct. 14 & Dec. 7–Jan. 31	15	45
MISSISSIPPI FLYWAY			
Alabama	Sept. 14–Sept. 29 & Nov. 29–Jan. 21	15	45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	3	9
Louisiana	Sept. 14–Sept. 29 & Nov. 9–Jan. 1	15	45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota (2):			
North Zone	Sept. 21–Nov. 19	15	45
Central Zone	Sept. 21–Sept. 29 & Oct. 5–Nov. 24	15	45
South Zone	Sept. 21–Sept. 29 & Oct. 5–Nov. 24	15	45
Mississippi	Sept. 1–Sept. 30 & Nov. 22–Dec. 31	15	45
Ohio (3)	Sept. 1–Nov. 9	15	45
Tennessee	Sept. 1–Nov. 9	15	45
Wisconsin	Sept. 1–Nov. 9	8	24
CENTRAL FLYWAY			
New Mexico:			
Zone 1	Sept. 14–Nov. 22	1	3
Zone 2	Sept. 14–Nov. 22	1	3
Oklahoma	Sept. 1–Nov. 9	15	45

Area	Season dates	Limits	
		Bag	Possession
Texas	Sept. 14–Sept. 29 & Nov. 2–Dec. 25	15	45

PACIFIC FLYWAY

All States Seasons are in the aggregate with coots and listed in paragraph (d).

(1) The season applies to common gallinules only.

(2) In *Minnesota*, the daily bag limit is 15 and the possession limit is 45 coots and gallinules in the aggregate.

(3) In *Ohio*, shooting hours are from sunrise to sunset.

(b) *Early (September) Duck Seasons.*

Note: Unless otherwise specified, the seasons listed below are for teal only.

Area	Season dates	Limits	
		Bag	Possession

ATLANTIC FLYWAY

Delaware (1)	Sept. 14–Sept. 29	6	18
Florida (2)	Sept. 21–Sept. 29	6	18
Georgia	Sept. 14–Sept. 29	6	18
Maryland (1)	Sept. 16–Sept. 30	6	18
North Carolina (1)	Sept. 12–Sept. 30	6	18
South Carolina (3)	Sept. 14–Sept. 29	6	18
Virginia (1):			
Area East of Interstate 95	Sept. 16–Sept. 30	6	18
Area West of Interstate 95	Sept. 21–Sept. 30	6	18

MISSISSIPPI FLYWAY

Alabama	Sept. 14–Sept. 29	6	18
Arkansas (3)	Sept. 15–Sept. 30	6	18
Illinois (3)	Sept. 7–Sept. 22	6	18
Indiana (3)	Sept. 14–Sept. 29	6	18
Iowa (3)	Sept. 1–Sept. 16	6	18
Kentucky (2)	Sept. 21–Sept. 29	6	18
Louisiana	Sept. 14–Sept. 29	6	18
Michigan	Sept. 1–Sept. 16	6	18
Minnesota (3)(4)	Sept. 1–Sept. 5	6	18
Mississippi	Sept. 14–Sept. 29	6	18
Missouri (3)	Sept. 7–Sept. 22	6	18
Ohio (3)	Sept. 7–Sept. 22	6	18
Tennessee (2)	Sept. 14–Sept. 22	6	18
Wisconsin	Sept. 1–Sept. 9	6	18

CENTRAL FLYWAY

Colorado (1)	Sept. 14–Sept. 22	6	18
Kansas (1):			
Low Plains	Sept. 14–Sept. 29	6	18
High Plains	Sept. 21–Sept. 29	6	18
Nebraska (1)(5):			
Low Plains	Sept. 1–Sept. 16	6	18
High Plains	Sept. 1–Sept. 9	6	18
New Mexico	Sept. 14–Sept. 22	6	18
Oklahoma	Sept. 7–Sept. 22	6	18
Texas:			
High Plains	Sept. 14–Sept. 29	6	18
Rest of State	Sept. 14–Sept. 29	6	18

(1) Area restrictions. See State regulations.

(2) In *Florida*, *Kentucky*, and *Tennessee*, the daily bag limit for the first 5 days of the season is 6 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. During the last 4 days of the season, the daily bag limit is 6 teal only. The possession limit is three times the daily bag limit.

(3) Shooting hours are from sunrise to sunset.

(4) In *Minnesota*, within the boundaries of the Leech Lake Reservation, the taking of teal during the early-teal season is prohibited within one-half mile of wild rice beds that are posted open to rice harvest by Tribal authorities. Within the boundaries of the White Earth Reservation, taking teal during the early-teal season is prohibited on wild rice beds that are posted open to rice harvesting by Tribal authorities.

(5) In *Nebraska*, the season is open to both Tier I and Tier II licensed holders.

(c) *Special Early Canada and Cackling Geese Seasons.*

Note: Unless otherwise specified, the daily bag and possession limits for Canada and cackling geese are in the aggregate.

Area	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Connecticut (1):			
North Zone	Sept. 2–Sept. 30	15	45
South Zone	Sept. 14–Sept. 30	15	45
Delaware	Sept. 1–Sept. 25	15	45
Florida	Sept. 7–Sept. 29	5	15
Georgia	Sept. 7–Sept. 29	5	15
Maine:			
North Zone	Sept. 2–Sept. 25	8	24
South Zone	Sept. 2–Sept. 25	10	30
Coastal Zone	Sept. 2–Sept. 25	10	30
Maryland (1)(2):			
Eastern Unit	Sept. 2–Sept. 14	8	24
Western Unit	Sept. 2–Sept. 25	8	24
Massachusetts:			
Central Zone	Sept. 2–Sept. 21	15	45
Coastal Zone	Sept. 2–Sept. 21	15	45
Western Zone	Sept. 2–Sept. 21	15	45
New Hampshire	Sept. 1–Sept. 25	5	15
New Jersey (1)(2)(3)	Sept. 2–Sept. 30	15	45
New York (4):			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Northeastern Zone	Sept. 1–Sept. 25	15	45
East Central Zone	Sept. 1–Sept. 25	15	45
Hudson Valley Zone	Sept. 1–Sept. 25	15	45
West Central Zone	Sept. 1–Sept. 25	15	45
South Zone	Sept. 1–Sept. 25	15	45
Western Long Island Zone	Closed.		
Central Long Island Zone	Sept. 1–Sept. 25	15	45
Eastern Long Island Zone	Sept. 1–Sept. 25	15	45
North Carolina (5)(6)	Sept. 2–Sept. 30	15	45
Pennsylvania (7)(8)(9):	Sept. 2–Sept. 25	8	24
Rhode Island (1)	Sept. 1–Sept. 30	15	45
South Carolina	Sept. 1–Sept. 30	15	45
Vermont:			
Lake Champlain Zone	Sept. 1–Sept. 25	8	24
Interior Vermont Zone	Sept. 1–Sept. 25	8	24
Connecticut River Zone (10)	Sept. 1–Sept. 25	5	15
Virginia (11)	Sept. 1–Sept. 25	10	30
West Virginia	Sept. 1–Sept. 15	5	15
CENTRAL FLYWAY			
North Dakota:			
Missouri River Zone	Sept. 1–Sept. 7	15	45
Western ND Canada, and Cackling Goose Zone	Sept. 1–Sept. 15	15	45
Remainder of State	Sept. 1–Sept. 20	15	45
Oklahoma	Sept. 7–Sept. 16	8	24
South Dakota (12)	Sept. 1–Sept. 30	15	45
Texas:			
East Goose Zone (12)	Sept. 14–Sept. 29	5	15
PACIFIC FLYWAY			
Colorado	Sept. 1–Sept. 9	5	15
Idaho:			
Zone 4	Sept. 1–Sept. 15	5	15
Oregon:			
Northwest Permit Zone	Sept. 7–Sept. 15	5	15
Southwest Zone	Sept. 7–Sept. 11	5	15
Eastern Zone	Sept. 7–Sept. 11	5	15
Mid-Columbia Zone	Sept. 7–Sept. 11	5	15
Washington:			
Area 1	Sept. 7–Sept. 12	5	15
Area 2 Inland	Sept. 7–Sept. 15	5	15
Area 2 Coast (13)	Sept. 7–Sept. 15	5	15
Area 3	Sept. 7–Sept. 12	5	15
Area 4	Sept. 7–Sept. 8	5	10

Area	Season dates	Limits	
		Bag	Possession
Area 5	Sept. 7–Sept. 8	5	10
Wyoming:			
Teton County Zone	Sept. 1–Sept. 8	5	15
Balance of State Zone	Sept. 1–Sept. 8	5	15

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(2) The use of shotguns capable of holding more than 3 shotshells is allowed.

(3) The use of electronic calls is allowed.

(4) In *New York*, shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed, except during Youth Waterfowl Hunting Days in Lake Champlain, North-eastern, and Southeastern Goose Hunting Areas. During the designated Youth Waterfowl Hunting Days in these areas, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed. See State regulations for further details.

(5) In *North Carolina*, the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.

(6) In *North Carolina*, shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.

(7) In *Pennsylvania*, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 2 to September 20, and September 23 to September 25. On September 21, shooting hours are one-half hour before sunrise to sunset.

(8) In *Pennsylvania*, the area south of State Route (SR) 198 from the Ohio State line to intersection of I–79, west of I–79 to SR 358, north of SR 358 to the Ohio State line: The season dates are Sept. 2–Sept. 14. The daily limit is 1 Canada goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. Note: this restriction does not apply to youth participation on youth waterfowl hunting days when regular season regulations apply.

(9) In *Pennsylvania*, in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike I–76, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I–76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Management Area), the season is closed. However, during youth waterfowl hunting days, regular season regulations apply.

(10) In *Vermont*, the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.

(11) In *Virginia*, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 16 in the area east of I–95. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 20 in the area west of I–95.

(12) See State regulations for additional information and restrictions.

(13) In *Washington*, in Pacific County, the daily bag and possession limits are 15 and 45 Canada and cackling geese in the aggregate, respectively.

(d) *Waterfowl, Coots, and Pacific-Flyway Seasons for Gallinules.*

Definitions

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross's geese.

Dark Geese: Includes Canada geese, cackling geese, white-fronted geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Note: Unless otherwise specified, the daily bag and possession limits for Canada and cackling geese are in the aggregate.

Atlantic Flyway

Flyway-Wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4

mallards (2 female mallards), 1 scaup (except as footnoted below), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling-duck, 3 wood ducks, 2 redheads, 2 canvasbacks, 4 sea ducks (including no more than 3 scoters, 3 long-tailed ducks, and 3 eiders [and no more than 1 may be a hen eider]). The possession limit is three times the daily bag limit.

Note: Notwithstanding the provisions of this part, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The daily bag limit is 5 mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
Connecticut:			
Ducks and Mergansers (1):			
North Zone	Oct. 12–Oct. 19 & Nov. 9–Jan. 9	6	18

Area	Season dates	Limits	
		Bag	Possession
South Zone	Nov. 11–Jan. 18	6	18
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
Atlantic Flyway Resident Population (AFRP) Unit.	Oct. 12–Oct. 19 & Nov. 23–Feb. 15	5	15
North Atlantic Population (NAP) High Unit	Oct. 12–Oct. 19 & Nov. 9–Jan. 9	2	6
Late Season	Jan. 15–Feb. 15	5	15
Atlantic Population (AP) Unit	Oct. 12–Oct. 19 & Nov. 9–Nov. 30	3	9
Special Season	Dec. 16–Feb. 15	5	15
Light Geese	Oct. 1–Jan. 11 & Feb. 20–Mar. 10	25	
Brant			
North Zone	Dec. 6–Jan. 9	1	3
South Zone	Dec. 16–Jan. 18	1	3
<i>Delaware:</i>			
Ducks	Oct. 26–Nov. 3 & Nov. 25–Dec. 1 & Dec. 14–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2) ..	Nov. 28–Dec. 1 & Dec. 21–Jan. 15	2	6
Light Geese (3)	Oct. 18–Feb. 1	25	
Brant	Dec. 21–Jan. 5 & Jan. 18–Jan. 31	1	3
<i>Florida:</i>			
Ducks (4)	Nov. 23–Dec. 1 & Dec. 7–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese	Nov. 23–Dec. 1 & Dec. 1–Jan. 30	5	15
Light Geese	Same as for Ducks	15	
<i>Georgia:</i>			
Ducks	Nov. 23–Dec. 1 & Dec. 7–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2) ..	Oct. 12–Oct. 27 & Nov. 23–Dec. 1 & Dec. 7–Jan. 26	5	15
Light Geese	Same as for Canada, Cackling, and White-fronted Geese.	5	15
Brant	Closed.		
<i>Maine:</i>			
Ducks (5):			
North Zone	Sept. 23–Nov. 30	6	18
South Zone	Oct. 1–Oct. 12 & Oct. 30–Dec. 25	6	18
Coastal Zone	Oct. 5–Oct. 12 & Nov. 7–Jan. 7	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	5	15
Canada, Cackling, and White-fronted Geese (2):			
North Zone	Oct. 1–Dec. 9	2	6
South Zone	Oct. 1–Oct. 12 & Oct. 30–Dec. 25	2	6
Coastal Zone	Oct. 5–Oct. 12 & Oct. 26–Jan. 7	3	9
Light Geese	Oct. 1–Jan. 31	25	
Brant:			
North Zone	Sept. 23–Oct. 26	1	3
South Zone	Oct. 1–Oct. 12 & Oct. 30–Nov. 20	1	3
Coastal Zone	Oct. 5–Oct. 12 & Dec. 12–Jan. 7	1	3
<i>Maryland:</i>			
Ducks and Mergansers (6)(7):			
Eastern Zone	Oct. 12–Oct. 19 & Nov. 16–Nov. 29 & Dec. 16–Jan. 31	6	18
Western Zone	Oct. 5–Oct. 19 & Nov. 23–Nov. 29 & Dec. 16–Jan. 31	6	18
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
Resident Population (RP) Zone	Nov. 23–Nov. 29 & Dec. 16–Mar. 10	5	15
AP Zone	Dec. 20–Jan. 4 & Jan. 15–Feb. 1	2	6
Light Geese	Oct. 1–Nov. 29 & Dec. 16–Jan. 31 & Feb. 8 only	25	75
Brant	Dec. 28–Jan. 31	1	3
<i>Massachusetts:</i>			
Ducks (8)(9):			
Western Zone	Oct. 14–Nov. 30 & Dec. 16–Jan. 4	6	18
Central Zone	Oct. 12–Nov. 30 & Dec. 17–Jan. 4	6	18
Coastal Zone	Oct. 12–Oct. 19 & Nov. 28–Jan. 28	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
NAP Zone:			
Central Zone	Oct. 12–Nov. 30 & Dec. 17–Jan. 4	2	6
Late Season	Jan. 16–Feb. 15	5	15

Area	Season dates	Limits	
		Bag	Possession
Coastal Zone	Oct. 12–Oct. 19 & Nov. 28–Jan. 28	2	6
Late Season (10)	Jan. 29–Feb. 15	5	15
Western Zone	Oct. 14–Nov. 16	3	9
Late Season	Dec. 18–Feb. 15	5	15
Light Geese:			
Western Zone	Oct. 14–Nov. 30 & Dec. 16–Jan. 4	15	45
Central Zone	Oct. 12–Nov. 30 & Dec. 17–Jan. 4 & Jan. 16–Feb. 15	15	45
Coastal Zone (10)	Oct. 12–Oct. 19 & Nov. 28–Jan. 28 & Jan. 27–Feb. 15	15	45
Brant:			
Western and Central Zones	Closed.		
Coastal Zone	Dec. 9–Jan. 11	1	3
New Hampshire:			
Ducks:			
Northern Zone	Oct. 2–Nov. 30	6	18
Inland Zone	Oct. 9–Nov. 11 & Nov. 27–Dec. 22	6	18
Coastal Zone	Oct. 3–Oct. 9 & Nov. 27–Jan. 18	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	5	15
Canada and Cackling Geese:	Same as for Ducks	2	6
Light Geese:	Same as for Ducks	25	
Brant:			
Northern Zone	Oct. 2–Oct. 31	1	3
Inland Zone	Oct. 9–Nov. 7	1	3
Coastal Zone	Oct. 3–Oct. 9 & Nov. 27–Dec. 19	1	3
New Jersey:			
Ducks (11):			
North Zone	Oct. 12–Oct. 19 & Nov. 16–Jan. 16	6	18
South Zone	Oct. 19–Oct. 26 & Nov. 23–Jan. 23	6	18
Coastal Zone	Nov. 9–Nov. 13 & Nov. 28–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
North Zone	Nov. 28–Nov. 30 & Dec. 26–Jan. 25	3	9
Special Season	Jan. 27–Feb. 15	5	15
South Zone	Nov. 28–Nov. 30 & Dec. 26–Jan. 25	3	9
Special Season	Jan. 27–Feb. 15	5	15
Coastal Zone	Nov. 9–Nov. 13 & Nov. 28–Jan. 31	2	6
Light Geese:			
North, South, and Coastal Zones	Oct. 17–Feb. 15	25	75
Brant:			
North Zone	Nov. 16–Nov. 30 & Dec. 14–Jan. 2	1	3
South Zone	Nov. 23–Nov. 30 & Dec. 14–Jan. 9	1	3
Coastal Zone	Nov. 28–Dec. 7 & Dec. 14–Jan. 7	1	3
New York:			
Ducks and Mergansers (12):			
Long Island Zone	Nov. 23–Dec. 1 & Dec. 7–Jan. 26	6	18
Lake Champlain Zone	Oct. 12–Nov. 3 & Nov. 23–Dec. 29	6	18
Northeastern Zone	Oct. 12–Dec. 1 & Dec. 14–Dec. 22	6	18
Southeastern Zone	Oct. 12–Oct. 20 & Nov. 9–Dec. 29	6	18
Western Zone	Oct. 12–Nov. 3 & Dec. 7–Jan. 12	6	18
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
Western Long Island (RP)	Oct. 5–Oct. 20 & Nov. 23–Dec. 1 & Dec. 7–Feb. 22 ..	8	24
Central Long Island (NAP–L)	Nov. 23–Dec. 1 & Dec. 7–Feb. 5	3	9
Eastern Long Island (NAP–H)	Dec. 3–Jan. 31	2	6
Lake Champlain (AP) Zone	Oct. 12–Nov. 10	3	9
Late Season	Dec. 1–Jan. 19	5	15
Northeast (AP) Zone	Oct. 26–Nov. 15 & Nov. 23–Dec. 1	3	9
East Central (AP) Zone	Oct. 26–Nov. 15 & Nov. 23–Dec. 1	3	9
Hudson Valley (AP) Zone	Oct. 27–Nov. 9 & Dec. 21–Jan. 5	3	9
West Central (AP) Zone	Nov. 9–Nov. 24 & Jan. 11–Jan. 24	3	9
South (AFRP) Zone	Oct. 26–Nov. 15 & Nov. 23–Jan. 19	5	15
Light Geese (13):			
Long Island Zone	Nov. 25–Mar. 10	25	
Lake Champlain Zone	Oct. 1–Dec. 31	25	
Northeastern Zone	Oct. 1–Jan. 15	25	
Southeastern Zone	Oct. 1–Jan. 15	25	
Western Zone	Oct. 1–Jan. 15	25	
Brant:			
Long Island Zone	Dec. 28–Jan. 26	1	3

Area	Season dates	Limits	
		Bag	Possession
Lake Champlain Zone	Oct. 12–Nov. 10	1	3
Northeastern Zone	Oct. 12–Nov. 10	1	3
Southeastern Zone	Oct. 12–Nov. 10	1	3
Western Zone	Oct. 12–Nov. 10	1	3
<i>North Carolina:</i>			
Ducks (14)(15):			
Coastal Zone	Oct. 25–Oct. 26 & Nov. 9–Nov. 30 & Dec. 18–Jan. 31	6	18
Inland Zone	Oct. 17–Oct. 19 & Nov. 9–Nov. 30 & Dec. 19–Jan. 31	6	18
Mergansers (16)	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
RP Zone	Oct. 17–Oct. 26 & Nov. 9–Nov. 30 & Dec. 18–Feb. 8	5	15
Northeast Zone	Dec. 28–Jan. 31	1	3
Light Geese	Oct. 8–Feb. 8	25	
Brant	Dec. 28–Jan. 31	1	3
<i>Pennsylvania:</i>			
Ducks (17):			
North Zone	Oct. 12–Oct. 26 & Nov. 19–Jan. 11	6	18
South Zone	Oct. 12–Oct. 19 & Nov. 19–Jan. 18	6	18
Northwest Zone	Oct. 12–Nov. 29 & Dec. 23–Jan. 11	6	18
Lake Erie Zone	Nov. 4–Jan. 11	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2)(18):			
AP Zone	Nov. 23–Nov. 29 & Dec. 23–Jan. 18	3	9
RP Zone	Oct. 26–Nov. 29 & Dec. 16–Jan. 18 & Jan. 31–Feb. 22	5	15
Light Geese:			
AP Zone	Oct. 1–Jan. 25	25	
RP Zone	Oct. 22–Feb. 22	25	
Brant	Oct. 12–Nov. 15	1	3
<i>Rhode Island:</i>			
Ducks (19)	Oct. 11–Oct. 14 & Nov. 27–Dec. 1 & Dec. 7–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese	Nov. 23–Dec. 1 & Dec. 7–Jan. 26	2	6
Special Season	Feb. 1–Feb. 15	5	15
Light Geese	Oct. 12–Jan. 26	25	
Brant	Dec. 28–Jan. 26	1	3
<i>South Carolina:</i>			
Ducks (20)(21)(22)	Nov. 16 & Nov. 23–Nov. 30 & Dec. 12–Jan. 31	6	18
Mergansers (20)	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2)(23)	Nov. 23–Nov. 30 & Dec. 12–Jan. 31 & Feb. 15–Mar. 1	5	15
Light Geese	Same as for Canada, Cackling, and White-fronted Geese	25	
Brant	Jan. 2–Jan. 31	1	3
<i>Vermont:</i>			
Ducks (24):			
Lake Champlain Zone	Oct. 12–Nov. 3 & Nov. 23–Dec. 29	6	18
Interior Zone	Oct. 12–Nov. 10 & Nov. 23–Dec. 22	6	18
Connecticut River Zone	Oct. 9–Nov. 11 & Nov. 27–Dec. 22	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
Lake Champlain Zone	Oct. 12–Nov. 10	3	9
Late Season	Dec. 1–Jan. 19	5	15
Interior Zone	Oct. 12–Nov. 10	3	9
Late Season	Dec. 1–Jan. 19	5	15
Connecticut River Zone	Oct. 9–Nov. 11 & Nov. 27–Dec. 22	2	6
Late season	Dec. 23–Jan. 11	5	15
Light Geese:			
Lake Champlain Zone	Oct. 1–Dec. 31 & Feb. 26–Mar. 10	25	
Interior Zone	Oct. 1–Dec. 31 & Feb. 26–Mar. 10	25	
Connecticut River Zone	Oct. 9–Nov. 11 & Nov. 27–Dec. 22	25	
Brant:			
Lake Champlain Zone	Oct. 12–Nov. 10	1	3
Interior Zone	Oct. 12–Nov. 10	1	3
Connecticut River Zone	Oct. 9–Nov. 7	1	3
<i>Virginia:</i>			

Area	Season dates	Limits	
		Bag	Possession
Ducks (25)(26)	Oct. 11–Oct. 14 & Nov. 20–Dec. 1 & Dec. 19–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
AP Zone	Dec. 19–Jan. 1 & Jan. 16–Jan. 31	2	6
RP Zone	Dec. 20–Jan. 1 & Dec. 19–Feb. 23	5	15
Light Geese	Oct. 17–Jan. 31	25	75
Brant	Dec. 23–Dec. 31 & Jan. 11–Jan. 31	1	3
<i>West Virginia:</i>			
Ducks (27)(28)	Oct. 1–Oct. 14 & Nov. 11–Nov. 16 & Dec. 23–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2) ..	Oct. 1–Oct. 20 & Nov. 11–Nov. 16 & Dec. 9–Jan. 31	5	15
Light Geese	Same as for Canada, Cackling, and White-fronted Geese.	5	15
Brant	Jan. 2–Jan. 31	1	3

(1) In *Connecticut*, the daily bag limit for scaup is 2 from December 18 through January 9 in the North Zone and from December 27 through January 18 in the South Zone.

(2) The daily bag and possession limits for Canada geese, cackling geese, and white-fronted geese are in the aggregate.

(3) In *Delaware*, the Bombay Hook National Wildlife Refuge snow goose season is open Mondays, Wednesdays, and Fridays only.

(4) In *Florida*, the daily bag limit for scaup is 2 from January 7 through January 26.

(5) In *Maine*, the daily bag limit may include no more than 4 of any species, with no more than 12 of any one species in possession. The season for Barrow's goldeneye is closed. Scaup daily bag limit is 1 for the entire season. Eider daily bag limit is 2.

(6) In *Maryland*, the black duck season is closed in the first (October) segment. Two black ducks may be harvested as part of the daily duck bag limit during the 2nd and 3rd season segments of the regular duck season in both the Eastern and Western Duck Zones. Additionally, the daily bag limit of 6 ducks may include no more than 4 sea ducks, of which no more than 3 may be scoters, eiders, or long-tailed ducks (no more than 1 hen eider). Where the Sea Duck Zone (defined by State regulation 08.03.07.04) is not overlain by the Offshore Waterfowl Hunting Zone (defined by State regulation 08.03.07.07), only sea ducks (scoters, long-tailed ducks, and eiders) may be taken during the regular duck season.

(7) In *Maryland*, during the regular duck season the daily bag limit for scaup is 1 during all portions of the regular duck season that occur prior to January 9. The daily bag limit for scaup is 2 from January 9 through January 31 in both the Eastern and Western duck zones.

(8) In *Massachusetts*, the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.

(9) In *Massachusetts*, the daily bag limit for scaup is 2 from January 6 through January 28 in the Coastal Zone.

(10) In *Massachusetts*, the February 1 through 15 portion of the season in the Coastal Zone is restricted to that portion of the Coastal Zone north of the Cape Cod Canal.

(11) In *New Jersey*, the daily bag limit for scaup is 2 from December 25 through January 16 in the North Zone, from January 1 through January 23 in the South Zone, and from January 9 through January 31 in the Coastal Zone. Also, the daily bag limit for black-bellied whistling-duck or fulvous whistling-duck in the aggregate is 1.

(12) In *New York*, the daily bag limit for scaup is 2 from November 21 through December 1 and December 14 through December 22 in the Northeast Zone, from December 24 through January 12 in the Western Zone, from December 10 through December 29 in the Southeast Zone, from January 7 through January 26 in the Long Island Zone, and from December 10 through December 29 in the Lake Champlain Zone.

(13) In *New York*, the use of electronic calls and shotguns capable of holding more than 3 shotshells are allowed for hunting of light geese on any day when all other waterfowl hunting seasons are closed.

(14) In *North Carolina*, the season is closed for black ducks and mottled ducks October 17 through November 22.

(15) In *North Carolina*, the daily bag limit for scaup is 2 from January 9 through January 31.

(16) In *North Carolina*, the daily bag limit for mergansers is 5 of which no more than 2 may be hooded mergansers.

(17) In *Pennsylvania*, during the regular duck season in the North Zone, the daily bag limit for scaup is 2 from December 20 through January 11. During the regular duck season in the South Zone, the daily bag limit for scaup is 2 from December 27 through January 18. During the regular duck season in the Northwest Zone, the daily bag limit for scaup is 2 from November 28 through November 29 and from December 23 through January 11. During the regular duck season in the Lake Erie Zone, the daily bag limit for scaup is 2 from December 20 through January 11.

(18) In *Pennsylvania*, the daily bag limit is 3 Canada geese with a possession limit of 9 geese in the area south of SR 198 from the Ohio State line to the intersection of I-79, west of I-79 to SR 358, north of SR 358 to the Ohio State line.

(19) In *Rhode Island*, the daily bag limit for scaup is 2 from January 7 through January 26.

(20) In *South Carolina*, the daily bag limit of 6 may not exceed 1 black-bellied whistling-duck or hooded merganser. Further, the black duck/mottled duck limit is as follows: (1) For areas east and south of Interstate 95, either 1 black or 1 mottled duck in the daily bag in the aggregate; (2) for areas west and north of Interstate 95, either 2 black ducks, or 1 black duck and 1 mottled duck in the daily bag.

(21) In *South Carolina*, the daily bag limit for scaup is 2 on November 16, November 23 through November 30, and December 12 through December 22.

(22) In *South Carolina*, on November 16, only hunters 17 years of age or younger can hunt ducks [2 scaup], coots, and mergansers. The youth must be accompanied by a person 21 years of age or older who is properly licensed, including State and Federal waterfowl stamps. Youth who are 16 or 17 years of age who hunt on this day are not required to have a State license or State waterfowl stamp but must possess a Federal waterfowl stamp and migratory bird permit.

(23) In *South Carolina*, the daily bag limit may include no more than 2 white-fronted geese.

(24) In *Vermont*, the daily bag limit for scaup is 2 within the Lake Champlain Zone: From December 10 through December 29. Within the Interior Zone: From December 3 through December 22. Within the Connecticut River Zone: During the regular duck season the scaup bag limit will be 1 for the entire season.

(25) In *Virginia*, the season is closed for black ducks October 11 through October 14.

(26) In *Virginia*, the daily bag limit for scaup is 2 from January 12 through January 31.

(27) In *West Virginia*, the season is closed for eiders, whistling-ducks, and mottled ducks.

(28) In *West Virginia*, the daily bag limit for scaup is 2 from January 12 through January 31.

Mississippi Flyway*Flyway-Wide Restrictions*

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black

ducks, 1 pintail, 2 canvasbacks, 2 redheads, 1 scaup (except as footnoted below), and 3 wood ducks. The possession limit is three times the daily bag limit.

Merganser Limits: The daily bag limit is 5 mergansers and may include no

more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
<i>Alabama:</i>			
Ducks	Nov. 29–Dec. 1 & Dec. 6–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese	Sept. 7–Oct. 6 & Oct. 19–Nov. 2 & Nov. 29–Dec. 1 & Dec. 6–Jan. 31.	5	15
Light Geese	Same as for Dark Geese	5	15
<i>Arkansas:</i>			
Ducks	Nov. 23–Dec. 2 & Dec. 10–Dec. 23 & Dec. 27–Jan. 31.	6	18
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	45
Canada and Cackling Geese	Sept. 1–Oct. 15 & Nov. 23–Dec. 2 & Dec. 10–Dec. 23 & Dec. 27–Jan. 31.	2	6
White-fronted Geese	Oct. 26–Nov. 3 & Nov. 23–Dec. 2 & Dec. 10–Dec. 23 & Dec. 27–Jan. 31.	2	6
Brant	Closed		
Light Geese	Same as for White-fronted Geese	20	
<i>Illinois:</i>			
Ducks (1):			
North Zone	Oct. 19–Dec. 17	6	18
Central Zone	Oct. 26–Dec. 24	6	18
South Central Zone	Nov. 16–Jan. 14	6	18
South Zone	Nov. 30–Jan. 28	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
North Zone	Sept. 1–Sept. 15 & Oct. 19–Jan. 16	3	9
Central Zone	Sept. 1–Sept. 15 & Oct. 26–Nov. 3 & Nov. 12–Jan. 31.	3	9
South Central Zone	Sept. 1–Sept. 15 & Nov. 16–Jan. 31	3	9
South Zone	Sept. 1–Sept. 15 & Nov. 30–Jan. 31	3	9
White-fronted Geese:			
North Zone	Oct. 21–Jan. 16	2	6
Central Zone	Nov. 5–Jan. 31	2	6
South Central Zone	Nov. 16–Jan. 31	2	6
South Zone	Nov. 30–Jan. 31	2	6
Light Geese:			
North Zone	Oct. 19–Jan. 16	20	
Central Zone	Oct. 26–Jan. 31	20	
South Central Zone	Nov. 16–Jan. 31	20	
South Zone	Nov. 30–Jan. 31	20	
Brant	Same as for Light Geese	1	3
<i>Indiana:</i>			
Ducks (2):			
North Zone	Oct. 19–Dec. 8 & Dec. 28–Jan. 5	6	18
Central Zone	Nov. 2–Nov. 10 & Nov. 23–Jan. 12	6	18
South Zone	Nov. 9–Nov. 10 & Nov. 30–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (3):			
North Zone	Sept. 1–Sept. 15 & Oct. 19–Oct. 27 & Nov. 23–Feb. 9	5	15
Central Zone	Sept. 1–Sept. 15 & Nov. 2–Nov. 10 & Nov. 23–Feb. 9	5	15
South Zone	Sept. 1–Sept. 15 & Nov. 9–Nov. 10 & Nov. 23–Feb. 15.	5	15
White-fronted Geese:			
North Zone	Oct. 19–Oct. 27 & Nov. 23–Feb. 9	2	6
Central Zone	Nov. 2–Nov. 10 & Nov. 23–Feb. 9	2	6
South Zone	Nov. 9–Nov. 10 & Nov. 23–Feb. 15	2	6
Light Geese:			
North Zone	Same as for Dark Geese	20	
Central Zone	Same as for Dark Geese	20	
South Zone	Same as for Dark Geese	20	
<i>Iowa:</i>			

Area	Season dates	Limits	
		Bag	Possession
Ducks (4):			
North Zone	Sept. 28–Oct. 4 & Oct. 12–Dec. 3	6	18
Central Zone	Oct. 5–Oct. 11 & Oct. 19–Dec. 10	6	18
South Zone	Oct. 12–Oct. 18 & Oct. 26–Dec. 17	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese:			
North Zone (5)	Sept. 14–Sept. 22 & Sept. 21–Oct. 6 & Oct. 12–Dec. 3 & Dec. 14–Jan. 11.	5	15
Central Zone (5)	Sept. 14–Sept. 22 & Sept. 28–Oct. 13 & Oct. 19–Dec. 10 & Dec. 21–Jan. 18.	5	15
South Zone (5)	Oct. 5–Oct. 20 & Oct. 26–Dec. 17 & Dec. 28–Jan. 25	5	15
Light Geese:			
North Zone	Sept. 21–Oct. 6 & Oct. 12–Dec. 3 & Dec. 14–Jan. 11	20	
Central Zone	Sept. 28–Oct. 13 & Oct. 19–Dec. 10 & Dec. 21–Jan. 18.	20	
South Zone	Same as for Dark Geese	20	
Kentucky:			
Ducks (6):			
West Zone	Nov. 28–Dec. 1 & Dec. 7–Jan. 31	6	18
East Zone	Same as West Zone	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
Eastern Zone	Sept. 16–Sept. 30 & Nov. 28–Feb. 15	3	9
Western Zone	Sept. 1–Sept. 15 & Nov. 28–Feb. 15	3	9
White-fronted Geese	Nov. 28–Feb. 15	2	6
Brant	Nov. 28–Feb. 15	1	3
Light Geese	Nov. 28–Feb. 15	20	60
Louisiana:			
Ducks (7):			
East Zone	Nov. 16–Dec. 1 & Dec. 14–Jan. 26	6	18
West Zone	Nov. 9–Dec. 8 & Dec. 21–Jan. 5 & Jan. 18–Jan. 31 ..	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
East Zone	Nov. 2–Dec. 1 & Dec. 14–Jan. 26	1	3
West Zone	Nov. 2–Dec. 8 & Dec. 21–Jan. 5 & Jan. 18–Feb. 7	1	3
White-fronted Geese	Same as for Canada and Cackling Geese	3	9
Brant	Closed.		
Light Geese	Same as for Canada and Cackling Geese	20	
Michigan:			
Ducks (8):			
North Zone	Sept. 28–Nov. 24 & Nov. 30–Dec. 1	6	18
Middle Zone	Oct. 5–Dec. 1 & Dec. 14–Dec. 15	6	18
South Zone	Oct. 12–Dec. 8 & Dec. 28–Dec. 29	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (9):			
North Zone	Sept. 1–Dec. 16	5	15
Middle Zone	Sept. 1–Sept. 30 & Oct. 5–Dec. 20	5	15
South Zone:			
Muskegon Wastewater Game Manage- ment Unit (GMU).	Oct. 15–Dec. 21	5	15
Allegan County GMU	Sept. 1–Sept. 30 & Nov. 19–Dec. 8 & Dec. 21–Feb. 15.	5	15
Remainder of South Zone	Sept. 1–Sept. 30 & Oct. 12–Dec. 8 & Dec. 28–Jan. 5 & Feb. 1–Feb. 10.	5	15
Light Geese:			
North Zone	Same as for Dark Geese	20	60
Middle Zone	Same as for Dark Geese	20	60
South Zone:			
Muskegon Wastewater GMU	Same as for Dark Geese	20	60
Allegan County GMU	Same as for Dark Geese	20	60
Remainder of South Zone	Same as for Dark Geese	20	60
Minnesota:			
Ducks (10):			
North Zone	Sept. 21–Nov. 19	6	18
Central Zone	Sept. 21–Sept. 29 & Oct. 5–Nov. 24	6	18
South Zone	Sept. 21–Sept. 29 & Oct. 5–Nov. 24	6	18
Mergansers	Same as for Ducks	5	15
Coots (11)	Same as for Ducks	15	45

Area	Season dates	Limits	
		Bag	Possession
Dark Geese:			
North Zone	Sept. 1–Sept. 15 & Sept. 21–Dec. 21	5	15
Central Zone	Sept. 1–Sept. 15 & Sept. 21–Sept. 29 & Oct. 5–Dec. 26.	5	15
South Zone	Sept. 1–Sept. 15 & Sept. 21–Sept. 29 & Oct. 5–Dec. 26.	5	15
Light Geese:			
North Zone	Same as for Dark Geese	20	60
Central Zone	Same as for Dark Geese	20	60
South Zone	Same as for Dark Geese	20	60
Mississippi:			
Ducks (6)	Nov. 28–Dec. 1 & Dec. 7–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese	Sept. 1–Sept. 30 & Nov. 11–Nov. 24 & Nov. 28–Dec. 1 & Dec. 7–Jan. 31.	5	15
White-fronted Geese	Nov. 11–Nov. 24 & Nov. 28–Dec. 1 & Dec. 7–Jan. 31	3	9
Brant	Same as for White-fronted Geese	1	3
Light Geese	Same as for White-fronted Geese	20	
Missouri:			
Ducks and Mergansers (12):			
North Zone	Nov. 2–Dec. 31	6	18
Middle Zone	Nov. 2–Nov. 10 & Nov. 16–Jan. 5	6	18
South Zone	Nov. 28–Dec. 1 & Dec. 7–Jan. 31	6	18
Coots	Same as for Ducks	15	45
Canada and Cackling Geese, and Brant (13):			
North Zone	Oct. 5–Oct. 13 & Nov. 11–Feb. 6	3	9
Middle Zone	Same as North Zone	3	9
South Zone	Same as North Zone	3	9
White-fronted Geese:			
North Zone	Nov. 11–Feb. 6	2	6
Middle Zone	Same as North Zone	2	6
South Zone	Same as North Zone	2	6
Light Geese:			
North Zone	Nov. 11–Feb. 6	20	
Middle Zone	Same as North Zone	20	
South Zone	Same as North Zone	20	
Ohio:			
Ducks (14):			
Lake Erie Marsh Zone	Oct. 12–Oct. 27 & Nov. 9–Dec. 22	6	18
North Zone	Oct. 19–Oct. 27 & Nov. 16–Jan. 5	6	18
South Zone	Oct. 19–Oct. 27 & Dec. 7–Jan. 26	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese (15):			
Lake Erie Goose Zone	Sept. 7–Sept. 15 & Oct. 12–Oct. 27 & Nov. 16–Feb. 3	5	15
North Zone	Sept. 7–Sept. 15 & Oct. 19–Oct. 27 & Nov. 9–Feb. 3	5	15
South Zone	Sept. 7–Sept. 15 & Oct. 19–Oct. 27 & Nov. 16–Feb. 10.	5	15
Light Geese:			
Lake Erie Goose Zone	Same as for Dark Geese	10	30
North Zone	Same as for Dark Geese	10	30
South Zone	Same as for Dark Geese	10	30
Tennessee:			
Ducks (6):			
Reelfoot Zone	Nov. 30–Dec. 1 & Dec. 5–Jan. 31	6	18
Rest of State	Nov. 30–Dec. 1 & Dec. 5–Jan. 31	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
Reelfoot Zone	Sept. 1–Sept. 22	5	15
Rest of State	Oct. 12–Oct. 22 & Nov. 30–Dec. 1 & Dec. 5–Feb. 9 ..	3	9
White-fronted Geese:			
Reelfoot Zone	Sept. 1–Sept. 22	5	15
Rest of State	Oct. 12–Oct. 22 & Nov. 30–Dec. 1 & Dec. 5–Feb. 9 ..	3	9
Brant	Nov. 30–Dec. 1 & Dec. 5–Feb. 9	3	9
Light Geese	Nov. 30–Dec. 1 & Dec. 5–Feb. 9	3	9
Same as for Canada and Cackling Geese	Same as for Canada and Cackling Geese	1	3
Same as for Canada and Cackling Geese	Same as for Canada and Cackling Geese	20	
Wisconsin:			
Ducks (16):			
North Zone	Sept. 21–Nov. 19	6	18

Area	Season dates	Limits	
		Bag	Possession
South Zone	Sept. 28–Oct. 6 & Oct. 12–Dec. 1	6	18
Open Water Zone	Oct. 12–Dec. 10	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese:			
North Zone (17)	Sept. 1–Sept. 15	5	15
	Sept. 16–Dec. 16	3	9
South Zone (17)	Sept. 1–Sept. 15	5	15
	Sept. 16–Oct. 6 & Oct. 12–Dec. 1 & Dec. 21–Jan. 9 ..	3	9
Mississippi River Zone (17)	Sept. 1–Sept. 15	5	15
	Sept. 16–Oct. 6 & Oct. 12–Dec. 1 & Dec. 21–Jan. 9 ..	3	9
Light Geese:			
North Zone	Sept. 1–Dec. 16	20	
South Zone	Sept. 1–Oct. 6 & Oct. 12–Dec. 1 & Dec. 21–Jan. 9	20	
Mississippi River Zone	Sept. 1–Oct. 6 & Oct. 12–Dec. 1 & Dec. 21–Jan. 9	20	

(1) In *Illinois*, the daily bag limit for scaup is 2 during the first 45 days in each of the 4 Zones.

(2) In *Indiana*, the daily bag limit for scaup is 2 from November 3 through December 8 and from December 28 through January 5 in the North Zone, from November 29 through January 12 in the Central Zone, and from December 13 through January 26 in the South Zone.

(3) In *Indiana*, the daily bag limit for dark geese is 5 per day in the aggregate. The possession limit is three times the daily bag limit. White-fronted geese are excluded from this aggregation.

(4) In *Iowa*, the daily bag limit for scaup is 2 for the last 45 days of the season.

(5) In *Iowa*, Canada and cackling geese only September 14 through September 22, for the North and Central Zones. Beginning September 21, the dark goose daily bag limit is 5 and may not include more than 2 Canada and cackling geese September 21 through October 6 in the North Zone, September 28 through October 13 in the Central Zone, and October 5 through October 20 in the South Zone. No more than 3 Canada and cackling geese thereafter, until the end of the season.

(6) In *Kentucky*, *Mississippi*, and *Tennessee*, the daily bag limit for scaup is 2 from December 18 through January 31.

(7) In *Louisiana*, the daily bag limit for scaup daily bag limit is 2 after November 23 in the West Zone and after November 30 in the East Zone. The mottled duck daily bag limit is 0 for the first 15 days of the season in each zone and 1 thereafter.

(8) In *Michigan*, the daily bag limit for scaup is 2 from September 28 through November 11 in the North Zone, from October 21 through December 1 and December 14 through December 15 in the Middle Zone, and from October 28 through December 8 and December 28 through December 29 in the South Zone.

(9) In *Michigan*, the dark goose daily bag limit is 5 and may not include more than 1 brant.

(10) In *Minnesota*, the daily bag limit for scaup is 2 Statewide from October 11 through the remainder of the season.

(11) In *Minnesota*, the daily bag limit is 15, and the possession limit is 45 coots and gallinules in the aggregate.

(12) In *Missouri*, the daily bag limit for scaup is 2 from November 2 through December 16 in the North Zone, from November 2 through November 10 and November 16 through December 21 in the Middle Zone, and from November 28 through December 1 and December 7 through January 16 in the South Zone.

(13) In *Missouri*, Canada and cackling geese and brant have an aggregate daily bag and possession limits of 3 and 9, respectively.

(14) In *Ohio*, the daily bag limit for scaup is 2 on October 27 and from November 9 through December 22 in the Lake Erie Zone, from November 22 through January 5 in the North Zone, and from December 13 through January 26 in the South Zone.

(15) In *Ohio*, the daily bag limit for dark geese may include no more than 1 brant, and only Canada and cackling geese during the first segment (September 7 through September 15).

(16) In *Wisconsin*, the daily bag limit for scaup is 2 from September 21 through November 4 in the North Zone, from October 18 through December 1 in the South Zone, and from October 12 through November 25 in the Open Water Zone.

(17) In *Wisconsin*, Canada and cackling geese only September 1 through 15. After September 15, the bag limit for dark geese is 3 and the possession is 9. The limit and possession for white-fronted geese and brant may be no more than 1 and 3, in the aggregate with Canada and cackling geese.

Central Flyway

Flyway-Wide Restrictions

Duck and Merganser Limits: The daily bag limit is 6 ducks (including

mergansers), which may include no more than 5 mallards (2 female mallards), 1 pintail, 2 canvasbacks, 2 redheads, 1 scaup, 3 wood ducks, and

6 mergansers. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
<i>Colorado:</i>			
Ducks and Mergansers:			
Southeast Zone	Oct. 28–Jan. 31	6	18
Northeast Zone	Oct. 19–Dec. 1 & Dec. 11–Jan. 31	6	18
Mountain/Foothills Zone	Oct. 5–Dec. 1 & Dec. 25–Jan. 31	6	18
Coots	Same as for Ducks	15	45
Dark Geese:			
South Park Unit	Oct. 5–Jan. 17	5	15
San Luis Valley Unit	Oct. 5–Oct. 23 & Nov. 23–Feb. 16	5	15
North Park Unit	Oct. 5–Jan. 17	5	15
Rest of State in Central Flyway	Nov. 4–Feb. 16	5	15
Light Geese:			
Statewide	Nov. 2–Feb. 16	50	
<i>Kansas:</i>			
Ducks and Mergansers:			

Area	Season dates	Limits	
		Bag	Possession
High Plains	Oct. 12–Jan. 5 & Jan. 17–Jan. 26	6	18
Low Plains:			
Early Zone	Oct. 12–Dec. 8 & Dec. 21–Jan. 5	6	18
Late Zone	Oct. 26–Dec. 29 & Jan. 18–Jan. 26	6	18
Southeast Zone	Nov. 9–Jan. 5 & Jan. 11–Jan. 26	6	18
Coots	Same as for Ducks	15	45
Dark Geese (1)	Oct. 26–Oct. 27 & Nov. 6–Feb. 16	6	18
White-fronted Geese	Oct. 26–Dec. 29 & Jan. 25–Feb. 16	2	6
Light Geese	Oct. 26–Oct. 27 & Nov. 6–Feb. 16	50	
<i>Montana:</i>			
Ducks and Mergansers (2):			
Zone 1	Sept. 28–Jan. 2	6	18
Zone 2	Sept. 28–Oct. 6 & Oct. 26–Jan. 21	6	18
Coots	Same as for Ducks	15	45
Dark Geese:			
Zone 1	Sept. 28–Jan. 10	5	15
Zone 2	Sept. 28–Oct. 6 & Oct. 26–Jan. 29	5	15
Light Geese:			
Zone 1	Same as for Dark Geese	20	60
Zone 2	Same as for Dark Geese	20	60
<i>Nebraska:</i>			
Ducks and Mergansers (3):			
High Plains Unit	Jan. 8–Jan. 29	6	18
Zone 1	Oct. 12–Dec. 24	6	18
Zone 2	Oct. 5–Dec. 17	6	18
Zone 3	Oct. 26–Jan. 7	6	18
Zone 4	Oct. 26–Jan. 7	6	18
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
Niobrara Unit	Oct. 28–Feb. 9	5	15
North Central Unit	Oct. 5–Jan. 17	5	15
Platte River Unit	Oct. 28–Feb. 9	5	15
White-fronted Geese	Oct. 12–Dec. 22 & Jan. 25–Feb. 9	2	6
Light Geese	Oct. 12–Jan. 8 & Jan. 25–Feb. 9	50	
<i>New Mexico:</i>			
Ducks and Mergansers (4):			
North Zone	Oct. 12–Jan. 15	6	18
South Zone	Oct. 28–Jan. 31	6	18
Coots	Same as for Ducks	15	45
Dark Geese:			
Middle Rio Grande Unit	Dec. 19–Jan. 31	2	2
Rest of State	Oct. 17–Jan. 31	5	15
Light Geese	Oct. 17–Jan. 31	50	
<i>North Dakota:</i>			
Ducks and Mergansers (2):			
High Plains	Sept. 21–Dec. 1 & Dec. 7–Dec 29	6	18
Low Plains	Sept. 21–Dec. 1	6	18
Coots	Same as for Ducks	15	45
Canada and Cackling Geese and Brant (5):			
Missouri River Zone	Sept. 21–Dec. 27	5	15
Western ND Zone	Sept. 21–Dec. 21	8	24
Rest of State	Sept. 21–Dec. 16	8	24
White-fronted Geese	Sept. 21–Dec. 1	3	9
Light Geese	Sept. 21–Dec. 27	50	–
<i>Oklahoma:</i>			
Ducks and Mergansers:			
High Plains	Oct. 5–Jan. 1	6	18
Low Plains:			
Zone 1	Nov. 9–Nov. 24 & Nov. 30–Jan. 26	6	18
Zone 2	Nov. 9–Nov. 24 & Nov. 30–Jan. 26	6	18
Coots	Same as for Ducks	15	45
Canada and Cackling Geese and Brant (1)	Nov. 2–Nov. 24 & Nov. 30–Feb. 9	8	24
White-fronted Geese	Nov. 2–Nov. 24 & Nov. 30–Feb. 2	2	6
Light Geese	Nov. 2–Nov. 24 & Nov. 30–Feb. 9	50	
<i>South Dakota:</i>			
Ducks and Mergansers (2)(3):			
High Plains	Oct. 12–Jan. 16	6	18
Low Plains:			
North Zone	Sept. 21–Dec. 3	6	18
Middle Zone	Sept. 21–Dec. 3	6	18
South Zone	Oct. 26–Jan. 7	6	18
Coots	Same as for Ducks	15	45

Area	Season dates	Limits	
		Bag	Possession
Canada and Cackling Geese:			
Unit 1	Oct. 1–Dec. 16	8	24
Unit 2	Nov. 4–Feb. 16	4	12
Unit 3	Oct. 19–Dec. 22 & Jan. 11–Jan. 19	4	12
White-fronted Geese	Sept. 28–Dec. 10	3	9
Light Geese	Sept. 28–Jan. 10	50	
<i>Texas:</i>			
Ducks and Mergansers (6):			
High Plains	Oct. 26–Oct. 27 & Nov. 1–Jan. 26	6	18
Low Plains:			
North Zone	Nov. 9–Dec. 1 & Dec. 7–Jan. 26	6	18
South Zone	Nov. 2–Dec. 1 & Dec. 14–Jan. 26	6	18
Coots	Same as for Ducks	15	45
Canada and Cackling Geese and Brant (7):			
Southeast Goose Zone	Nov. 2–Jan. 26	5	15
Northeast Goose Zone	Nov. 2–Jan. 26	5	15
West Goose Zone	Nov. 2–Feb. 2	5	15
White-fronted Geese (7):			
Southeast Goose Zone	Nov. 2–Jan. 26	2	6
Northeast Goose Zone	Nov. 2–Jan. 26	2	6
West Goose Zone	Nov. 2–Feb. 2	2	6
Light Geese:			
Southeast Goose Zone	Nov. 2–Feb. 14	10	
Northeast Goose Zone	Nov. 2–Feb. 14	10	
West Goose Zone	Nov. 2–Feb. 2	10	
<i>Wyoming:</i>			
Ducks and Mergansers (2):			
Zone C1	Sept. 28–Oct. 13 & Nov. 2–Jan. 21	6	18
Zone C2	Sept. 21–Dec. 1 & Dec. 14–Jan. 7	6	18
Zone C3	Same as Zone C2	6	18
Coots	Same as for Ducks	15	45
Dark Geese:			
Zone G1A (8)	Sept. 28–Oct. 9	2	6
	Nov. 16–Feb. 16	4	12
Zone G1	Sept. 28–Oct. 6 & Nov. 2–Nov. 24 & Dec. 6–Feb. 16	5	15
Zone G2	Sept. 21–Dec. 1 & Dec. 14–Jan. 15	5	15
Zone G3	Same as Zone G2	5	15
Zone G4	Same as Zone G1	5	15
Light Geese	Sept. 28–Dec. 29 & Feb. 5–Feb. 16	20	60

(1) In *Kansas* and *Oklahoma*, dark geese include Canada, cackling geese, brant, and all other geese except white-fronted geese and light geese.

(2) In *Montana*, during the first 9 days of the duck season, and in *North Dakota*, *South Dakota* (*Tier I license*), and *Wyoming*, during the first 16 days of the duck season, the daily bag and possession limit may include 2 and 6 additional blue-winged teal, respectively.

(3) In *Nebraska* and *South Dakota*, for hunters possessing a Tier II license, the daily bag limit is 3 ducks or mergansers of any species in the aggregate, and the possession limit is 9.

(4) In *New Mexico*, Mexican ducks are included in the aggregate with mallards.

(5) In *North Dakota*, see State regulations for additional shooting hour restrictions.

(6) In *Texas*, the daily bag limit is 6 ducks, which may include no more than 5 mallards (only 2 of which may be females), 2 redheads, 3 wood ducks, 1 scaup, 2 canvasbacks, 1 pintail, and 1 dusky duck (mottled duck, Mexican duck, black duck and their hybrids). The season for dusky ducks is closed the first 5 days of the season in all zones. The possession limit is three times the daily bag limit.

(7) In *Texas*, in the Southeast, Northeast, and West Goose Zones, the daily bag limit for dark geese is 5 in the aggregate and may include no more than 2 white-fronted geese. Possession limits are three times the daily bag limits.

(8) In *Wyoming*, for Dark Goose Zone G1A, see State regulations for additional restrictions.

Pacific Flyway

Flyway-Wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including

mergansers) may include no more than 2 female mallards, 1 pintail, 2 redheads, 2 scaup, and 2 canvasbacks. The possession limit is three times the daily bag limit.

Coot and Gallinule Limits: Daily bag and possession limits are in the aggregate for the two groups.

Area	Season dates	Limits	
		Bag	Possession
<i>Arizona:</i>			
Ducks (1):			
North Zone:			
Scaup	Nov. 7–Jan. 31	2	6
Other Ducks	Oct. 23–Jan. 31	7	21
South Zone:			
Scaup	Nov. 7–Jan. 31	2	6

Area	Season dates	Limits	
		Bag	Possession
Other Ducks	Oct. 23-Jan. 31	7	21
Coots and Gallinules	Same as for Other Ducks	25	75
Dark Geese:			
North Zone	Oct. 23-Jan. 31	5	15
South Zone	Oct. 23-Jan. 31	5	15
Light Geese	Same as for Dark Geese	20	60
California:			
Ducks:			
Northeastern Zone:			
Scaup	Oct. 5-Dec. 1 & Dec. 19-Jan. 15	2	6
Other Ducks	Oct. 5-Jan. 15	7	21
Colorado River Zone:			
Scaup	Nov. 7-Jan. 31	2	6
Other Ducks	Oct. 23-Jan. 31	7	21
Southern Zone:			
Scaup	Nov. 7-Jan. 31	2	6
Other Ducks	Oct. 26-Jan. 31	7	21
Southern San Joaquin Valley Zone:			
Scaup	Nov. 7-Jan. 31	2	6
Other Ducks	Oct. 26-Jan. 31	7	21
Balance of State Zone:			
Scaup	Nov. 7-Jan. 31	2	6
Other Ducks	Oct. 26-Jan. 31	7	21
Coots and Gallinule	Same as for Other Ducks	25	75
Canada and Cackling Geese (2)(3):			
Northeastern Zone (4)	Oct. 5-Jan. 12	10	30
Klamath Basin Special Management Area	Oct. 5-Jan. 12	10	30
Colorado River Zone	Oct. 23-Jan. 31	5	15
Southern Zone	Oct. 26-Jan. 31	3	9
Balance of State Zone	Sept. 28-Sept. 30 & Oct. 26-Jan. 31 & Feb. 8-Feb. 9	10	30
North Coast Special Management Area	Oct. 5-Dec. 21 & Feb. 12-Mar. 10	10	30
White-fronted Geese (2):			
Northeastern Zone	Oct. 5-Dec. 1 & Jan. 3-Jan. 15 & Feb. 5-Mar. 10	10	30
Klamath Basin Special Management Area	Oct. 5-Jan. 17	10	30
Colorado River Zone	Oct. 23-Jan. 31	5	15
Southern Zone	Oct. 26-Jan. 31	3	9
Balance of State Zone	Oct. 26-Jan. 31 & Feb. 8-Feb. 12	10	30
Sacramento Valley Special Management Area.	Oct. 26-Dec. 21	3	9
Light Geese:			
Northeastern Zone	Oct. 5-Dec. 1 & Jan. 3-Jan. 15 & Feb. 5-Mar. 10	20	60
Klamath Basin Special Management Area	Oct. 5-Jan. 17	20	60
Colorado River Zone	Oct. 23-Jan. 31	20	60
Southern Zone	Oct. 26-Jan. 31	20	60
Imperial County Special Management Area ..	Nov. 4-Jan. 31 & Feb. 3-Feb. 9 & Feb. 12-Feb. 20 ..	20	60
Balance of State Zone	Oct. 26-Jan. 31 & Feb. 8-Feb. 12	20	60
Brant:			
Northern Zone	Nov. 18-Dec. 14	2	6
Balance of State Zone	Nov. 19-Dec. 15	2	6
Colorado:			
Ducks:			
East Zone:			
Scaup	Oct. 5-Dec. 29	2	6
Other Ducks	Oct. 5-Jan. 17	7	21
West Zone:			
Scaup	Oct. 5-Oct. 22 & Nov. 6-Jan. 12	2	6
Other Ducks	Oct. 5-Oct. 22 & Nov. 6-Jan. 31	7	21
Coots	Same as for Other Ducks	25	75
Dark Geese:			
East Zone	Oct. 5-Jan. 8	5	15
West Zone	Oct. 5-Oct. 13 & Nov. 6-Jan. 31	5	15
Light Geese	Same as for Dark Geese	10	30
Idaho:			
Ducks:			
Zone 1:			
Scaup	Oct. 5-Dec. 29	2	6
Other Ducks	Oct. 5-Jan. 17	7	21
Zone 2:			
Scaup	Oct. 24-Jan. 17	2	6
Other Ducks	Oct. 5-Jan. 17	7	21
Zone 3:			
Scaup	Nov. 7-Jan. 31	2	6

Area	Season dates	Limits	
		Bag	Possession
Other Ducks	Oct. 19–Jan. 31	7	21
Zone 4:			
Scaup	Oct. 5–Dec. 29	2	6
Other Ducks	Oct. 5–Jan. 17	7	21
Coots	Same as for Other Ducks	25	75
Canada and Cackling Geese, and Brant (5):			
Zone 1	Oct. 5–Jan. 17	5	15
Zone 2	Oct. 19–Jan. 31	5	15
Zone 3	Oct. 19–Jan. 31	5	15
Zone 4	Oct. 5–Jan. 2	5	15
Zone 5	Oct. 5–Jan. 17	5	15
Zone 6	Oct. 5–Oct. 20	5	15
	Nov. 4–Jan. 31	5	15
White-fronted Geese:			
Zone 1	Oct. 5–Jan. 17	10	30
Zone 2	Oct. 5–Jan. 17	10	30
Zone 3	Oct. 19–Jan. 31	10	30
Zone 4	Nov. 4–Feb. 16	10	30
Zone 5	Oct. 5–Jan. 17	10	30
Zone 6	Oct. 5–Jan. 17	10	30
Light Geese:			
Zone 1	Oct. 5–Jan. 17	20	60
Zone 2	Oct. 5–Dec. 10 & Feb. 1–Mar. 10	20	60
Zone 3	Nov. 26–Mar. 10	20	60
Zone 4	Oct. 19–Jan. 31	20	60
Zone 5	Oct. 5–Jan. 17	20	60
Zone 6	Oct. 5–Jan. 17	20	60
Zone 7	Oct. 5–Jan. 17	20	60
Montana:			
Ducks:			
Scaup	Sept. 28–Dec. 22	2	6
Other Ducks	Sept. 28–Jan. 10	7	21
Coots	Same as for Other Ducks	25	25
Dark Geese (6)	Sept. 28–Jan. 10	5	15
Light Geese (6)	Same as for Dark Geese	20	60
Nevada:			
Ducks:			
Northeast Zone:			
Scaup	Sept. 28–Dec. 3 & Dec. 14–Jan. 1	2	6
Other Ducks	Sept. 28–Dec. 3 & Dec. 14–Jan. 20	7	21
Northwest Zone:			
Scaup	Oct. 31–Jan. 6 & Jan. 9–Jan. 26	2	6
Other Ducks	Oct. 12–Jan. 6 & Jan. 9–Jan. 26	7	21
South Zone:			
Scaup	Nov. 2–Jan. 26	2	6
Other Ducks	Oct. 12–Oct. 20 & Oct. 23–Jan. 26	7	21
Moapa Valley Special Management Area (7):			
Scaup	Nov. 2–Jan. 26	2	6
Other Ducks	Oct. 26–Jan. 26	7	21
Coots and Gallinule	Same as for Other Ducks	25	75
Canada and Cackling Geese, and Brant (5):			
Northeast Zone	Sept. 28–Dec. 3 & Dec. 14–Jan. 20	5	15
Northwest Zone	Oct. 12–Jan. 6 & Jan. 9–Jan. 26	5	15
South Zone	Oct. 12–Oct. 20 & Oct. 23–Jan. 26	5	15
Moapa Valley Special Management Area (7):	Oct. 26–Jan. 26	5	15
White-fronted Geese:			
Northeast Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Northwest Zone	Same as for Canada and Cackling Geese, and Brant	10	30
South Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Moapa Valley Special Management Area (7):	Same as for Canada and Cackling Geese, and Brant	10	30
Light Geese:			
Northeast Zone (8)	Sept. 28–Dec. 3 & Dec. 14–Jan. 4 & Feb. 22–Mar. 9	20	60
Northwest Zone (9)	Nov. 2–Jan. 9 & Jan. 9–Jan. 26 & Feb. 20–Mar. 9	20	60
South Zone	Oct. 12–Oct. 20 & Oct. 23–Jan. 26	20	60
Moapa Valley Special Management Area (7):	Oct. 26–Jan. 26	20	60
New Mexico:			
Ducks:			
Scaup	Oct. 19–Jan. 12	2	6
Other Ducks	Oct. 19–Jan. 31	7	21
Coots and Gallinules	Same as for Other Ducks	25	75
Canada and Cackling Geese, and Brant (5):			
North Zone	Sept. 21–Oct. 6 & Nov. 2–Jan. 31	5	15

Area	Season dates	Limits	
		Bag	Possession
South Zone	Oct. 17–Jan. 31	5	15
White-fronted Geese:			
North Zone	Same as for Canada and Cackling Geese, and Brant	10	30
South Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Light Geese:			
North Zone	Same as for Canada and Cackling Geese, and Brant	20	60
South Zone	Same as for Canada and Cackling Geese, and Brant	20	60
<i>Oregon:</i>			
Ducks (10):			
Zone 1:			
Columbia Basin Unit and Rest of Zone 1:			
Scaup	Nov. 2–Jan. 26	2	6
Other Ducks	Oct. 12–Oct. 27 & Oct. 31–Jan. 26	7	21
Zone 2:			
Scaup	Oct. 12–Dec. 1 & Dec. 5–Jan. 8	2	6
Other Ducks	Oct. 12–Dec. 1 & Dec. 5–Jan. 26	7	21
Coots	Same as for Other Ducks	25	75
Canada and Cackling Geese:			
Northwest Permit Zone (11)(12)	Oct. 19–Oct. 27 & Nov. 23–Jan. 16 & Feb. 8–Mar. 10	3	9
Southwest Zone	Oct. 12–Oct. 27 & Nov. 5–Jan. 26	4	12
South Coast Zone	Oct. 5–Dec. 8 & Dec. 21–Jan. 11 & Feb. 22–Mar. 10	6	18
Eastern Zone	Oct. 12–Dec. 1 & Dec. 10–Jan. 26	4	12
Mid-Columbia Zone	Oct. 12–Oct. 27 & Nov. 5–Jan. 26	4	12
White-fronted Geese:			
Northwest Permit Zone (11)	Same as for Canada and Cackling Geese	10	30
Southwest Zone	Same as for Canada and Cackling Geese	10	30
South Coast Zone	Same as for Canada and Cackling Geese	10	30
Eastern Zone (13)	Oct. 12–Dec. 1 & Jan. 16–Mar. 10	10	30
Mid-Columbia Zone	Oct. 12–Jan. 1 & Feb. 1–Feb. 23	10	30
Light Geese:			
Northwest Permit Zone (11)	Same as for Canada and Cackling Geese	20	60
Southwest Zone	Same as for Canada and Cackling Geese	20	60
South Coast Zone	Same as for Canada and Cackling Geese	20	60
Eastern Zone	Same as for White-fronted Geese	20	60
Mid-Columbia Zone	Same as for White-fronted Geese	20	60
Brant	Nov. 30–Dec. 15	2	6
<i>Utah:</i>			
Ducks:			
Northern Zone:			
Scaup	Oct. 5–Dec. 29	2	6
Other Ducks	Oct. 5–Jan. 18	7	21
Southern Zone:			
Scaup	Nov. 1–Jan. 25	2	6
Other Ducks	Oct. 12–Jan. 25	7	21
Coots	Same as for Other Ducks	25	75
Canada and Cackling Geese, and Brant (5):			
East Box Elder County Zone	Oct. 5–Jan. 18	5	15
Wasatch Front Zone	Oct. 5–Oct. 13 & Nov. 11–Feb. 15	5	15
Northern Zone	Oct. 5–Oct. 12 & Oct. 26–Jan. 31	5	15
Southern Zone	Oct. 12–Jan. 25	5	15
White-fronted Geese:			
East Box Elder County Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Wasatch Front Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Northern Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Southern Zone	Same as for Canada and Cackling Geese, and Brant	10	30
Light Geese			
Southern Zone	Oct. 25–Dec. 15 & Jan. 15–Mar. 10	20	60
Rest of State	Oct. 15–Dec. 22 & Feb. 1–Mar. 10	20	60
<i>Washington:</i>			
Ducks (14):			
East and West Zones (15):			
Scaup	Nov. 2–Jan. 26	2	6
Other Ducks	Oct. 12–Oct. 20 & Oct. 23–Jan. 26	7	21
Coots	Same as for Other Ducks	25	75
Canada and Cackling Geese:			
Area 1 (16)	Oct. 12–Dec. 1 & Dec. 14–Jan. 26	4	12
Area 2 Inland (17)(18)	Oct. 12–Oct. 27 & Nov. 20–Jan. 12 & Feb. 8–Mar. 5	3	9
Area 2 Coast (17)(18)	Oct. 12–Dec. 1 & Dec. 18–Jan. 19 & Feb. 8–Feb. 19	3	9
Area 3 (16)	Oct. 12–Oct. 24 & Nov. 2–Jan. 26	4	12
Area 4 (16)	Oct. 12–Oct. 27 & Oct. 30 only & Nov. 2–Jan. 26	4	12
Area 5 (16)	Oct. 12–Oct. 28 & Nov. 2–Jan. 26	4	12

Area	Season dates	Limits	
		Bag	Possession
White-fronted Geese:			
Area 1 (16)	Same as for Canada and Cackling Geese	10	30
Area 2 Inland (17)	Same as for Canada and Cackling Geese	10	30
Area 2 Coast (17)	Same as for Canada and Cackling Geese	10	30
Area 3 (16)	Same as for Canada and Cackling Geese	10	30
Area 4 (16)	Same as for Canada and Cackling Geese	10	30
Area 5 (16)	Same as for Canada and Cackling Geese	10	30
Light Geese (19):			
Area 1 (16)	Oct. 12–Dec. 1 & Dec. 14–Jan. 26 & Feb. 8–Feb. 18	20	60
Area 2 Inland (17)	Oct. 12–Oct. 27 & Nov. 20–Jan. 12 & Feb. 8–Mar. 5	20	60
Area 2 Coast (17)	Oct. 12–Dec. 1 & Dec. 18–Jan. 19 & Feb. 8–Feb. 19	20	60
Area 3 (16)	Oct. 12–Oct. 24 & Nov. 2–Jan. 26	20	60
Area 4 (16)	Oct. 12–Oct. 20 & Nov. 9–Jan. 26 & Feb. 15–Mar. 2	20	60
Area 5 (16)	Oct. 12–Oct. 28 & Nov. 2–Jan. 26	20	60
Brant (20):			
Coastal Zone	Jan. 4–Jan. 26	2	6
Puget Sound Zone	Jan. 11–Jan. 26	2	6
Wyoming:			
Ducks:			
Snake River and Balance of State Zones:			
Scaup	Sept. 21–Dec. 15	2	6
Other Ducks	Sept. 21–Jan. 3	7	21
Coots	Same as for Other Ducks	15	45
Dark Geese	Sept. 21–Dec. 26	5	15
Light Geese	Sept. 21–Dec. 26	10	30

(1) In *Arizona*, the daily bag limit may include no more than either 2 female mallards or 2 Mexican ducks, or 1 of each; and no more than 6 female mallards and Mexican ducks, in the aggregate, may be in possession. For black-bellied whistling-ducks, the daily bag limit is 1 and the possession limit is 3.

(2) In *California*, the daily bag and possession limits for Canada geese, cackling geese, and white-fronted geese are in the aggregate.

(3) In *California*, small Canada geese are cackling and Aleutian cackling geese, and large Canada geese are western and lesser Canada geese.

(4) In *California*, in the Northeastern Zone, the daily bag limit may include no more than 2 large Canada geese.

(5) In *Idaho*, *Nevada*, *New Mexico*, and *Utah*, the daily bag and possession limits for Canada and cackling geese and brant are in the aggregate.

(6) In *Montana*, check State regulations for special seasons and exceptions.

(7) In *Nevada*, youth 17 years of age or younger are allowed to hunt on October 19 on the Moapa Valley portion of Overton Wildlife Management Area (WMA). Youth must be accompanied by an adult who is 18 years of age or older.

(8) In *Nevada*, in the Northeast Zone, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties.

(9) In *Nevada*, in the Northwest Zone, the season is closed in Mason Valley and Scripps WMAs and Washoe Lake State Park from February 20 to March 9.

(10) In *Oregon*, the daily bag limit may include no more than 1 harlequin duck.

(11) In *Oregon*, in the Northwest Permit Zone, see State regulations for specific dates, times, and conditions of permit hunts and closures.

(12) In *Oregon*, in the Northwest Permit Zone, the season for dusky Canada geese is closed.

(13) In *Oregon*, in Lake County, the daily bag and possession limits for white-fronted geese are 1 and 3, respectively.

(14) In *Washington*, the hunting of harlequin ducks is by State-issued permit only. See State regulations for additional information.

(15) In *Washington*, the daily bag limit in the West Zone may include no more than 2 scoters, 2 long-tailed ducks, and 2 goldeneyes, with the possession limit three times the daily bag limit.

(16) In *Washington*, in Areas 1, 3, and 5, hunting is allowed each day. In Area 4, hunting is allowed only on Saturdays, Sundays, Wednesdays, and certain holidays, except hunting is allowed each day only for light geese during the February and March portion of the season. See State regulations for details, including shooting hours.

(17) In *Washington*, in Areas 2 Inland and 2 Coast, see State regulations for specific dates, times, and conditions of permit hunts and closures.

(18) In *Washington*, in Areas 2 Inland and 2 Coast, the season for dusky Canada geese is closed.

(19) In *Washington*, the daily bag limit for light geese is 10 on or before January 30.

(20) In *Washington*, brant may be hunted in Clallam, Pacific, Skagit, and Whatcom Counties only; see State regulations for specific dates.

(e) *Youth and Veteran—Active Military Personnel Waterfowl Hunting Days.*

The following seasons are open only to youth and veteran—active military personnel, except where noted. Youth must be accompanied into the field by an adult 18 years of age or older. This adult cannot duck hunt but may participate in other open seasons.

Limits: Bag limits may include ducks, geese, swans, mergansers, coots, and gallinules. The bag and possession limits are the same as those allowed in the regular season except in States that

are allowed a daily bag limit of 1 or 2 scaup during different portions of the season, in which case the daily bag limit is 2 scaup per day and the possession limit is 4 scaup. Flyway species and area restrictions remain in effect.

Definitions

Youth: States may use their established definition of age for youth hunters. However, youth hunters may not be older than 17 years of age. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also

known as Federal Duck Stamp). Swans may be taken only by participants possessing applicable swan permits.

Veteran—Active Military Personnel: Veterans (as defined in section 101 of title 38, U.S. Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. All hunters must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may be taken only by participants possessing applicable swan permits.

Area	Species	Season dates
<i>ATLANTIC FLYWAY</i>		
Connecticut (1)	Ducks, mergansers, coots, geese, and brant	Oct. 5 & Nov. 2.
Delaware (1)(2)(3)	Ducks, mergansers, coots, gallinules, geese, brant, and tundra swans	Oct. 20 & Feb. 1.
Florida:	Ducks, mergansers, coots, gallinules, Canada geese, and light geese.	
Youth		Nov. 16 & Feb. 8.
Veteran-Active Military Personnel		Feb. 1 & 2.
Georgia	Ducks, mergansers, coots, gallinules, dark geese, and brant	Nov. 16 & 17.
Maine (1):	Ducks, mergansers, coots, geese, and brant.	
North Zone		Sept. 14 & Dec. 7.
South Zone		Sept. 21 & Oct. 19.
Coastal Zone		Sept. 28 & Oct. 28.
Maryland (4)(5)	Ducks, mergansers, coots, geese, brant, and light geese	Nov. 2 & Feb. 8.
Massachusetts:	Ducks, mergansers, coots, Canada and cackling geese, and light geese	Sept. 21 & Oct. 5.
New Hampshire	Ducks, mergansers, coots, Canada and cackling geese, and brant	
Youth		Sept. 28 & 29.
Veteran-Active Military Personnel		Jan. 25 & 26.
New Jersey:	Ducks, mergansers, coots, gallinules, geese, and brant.	
Youth:		
North Zone		Oct. 5 & Feb. 1.
South Zone		Oct. 12 & Feb. 1.
Coastal Zone		Oct. 26 & Feb. 1.
Veteran-Active Military Personnel		Nov. 2 & Feb. 1.
New York:	Ducks, mergansers, coots, dark geese, and brant.	
Youth:		
Long Island Zone		Nov. 9 & 10.
Lake Champlain Zone		Sept. 28 & 29.
Northeastern Zone		Sept. 28 & 29.
Southeastern Zone		Sept. 28 & 29.
Western Zone		Sept. 28 & 29.
Veteran-Active Military Personnel:		
Long Island Zone		Nov. 16 & 17.
Northeastern Zone		Sept. 28 & 29.
Southeastern Zone		Sept. 28 & 29.
Western Zone		Nov. 9 & Nov. 10.
North Carolina (6)(3)	Ducks, mergansers, coots, geese, brant, and tundra swans	Feb. 1 & 8.
Pennsylvania (7):	Ducks, mergansers, coots, gallinules, dark geese, and brant.	
Youth:		
North Zone		Sept. 21 & Nov. 2.
South Zone		Sept. 21 & Nov. 9.
Northwest Zone		Sept. 21 & Sept. 28.
Lake Erie Zone		Sept. 21 & Oct. 26.
Veteran-Active Military Personnel:		
North Zone		Nov. 2 & Jan. 18.
South Zone		Nov. 9 & Jan. 25.
Northwest Zone		Sept. 28 & Jan. 18.
Lake Erie Zone		Oct. 26 & Jan. 18.
Rhode Island (1)	Ducks, mergansers, coots, Canada and cackling geese, light geese, and brant.	Oct. 26 & 27.
South Carolina	Ducks, mergansers, coots, gallinules, and geese	Feb. 1 & 8.
Vermont (1)	Ducks, mergansers, coots, geese, and brant	Sept. 28 & 29.
Virginia (3)	Ducks, mergansers, coots, dark geese, and tundra swans	Oct. 26 & Feb. 8.
West Virginia (1)	Ducks, mergansers, coots, gallinules, geese, and brant	Sept. 21 & Nov. 9.
<i>MISSISSIPPI FLYWAY</i>		
Alabama	Ducks, geese, mergansers, coots, and gallinules	Nov. 23 & Feb. 8.
Arkansas:	Ducks, geese, mergansers, coots, and gallinules.	
Youth		Feb. 8 & Feb. 9.
Veteran-Active Military Personnel		Feb. 9 only.
Illinois (1):	Ducks, geese, mergansers, and coots.	
North Zone		Oct. 12 & 13.
Central Zone		Oct. 19 & 20.
South Central Zone		Nov. 9 & 10.
South Zone		Nov. 16 & 17.
Indiana:	Ducks, geese, mergansers, and coots	
North Zone		Oct. 12 & 13.
Central Zone		Oct. 26 & 27.
South Zone		Nov. 2 & 3.
Iowa (1):	Ducks, mergansers, and coots.	
North Zone		Sept. 21 & 22.
Central Zone		Sept. 28 & Sept. 29.
South Zone		Oct. 5 & 6.
Kentucky:	Ducks, geese, mergansers, coots, and gallinules	

Area	Species	Season dates
Youth .....	.....	Nov. 23 & Feb. 8.
Veteran-Active Military Personnel .....	.....	Nov. 24 & Feb. 9.
<i>Louisiana:</i>	Ducks, geese, mergansers, coots, and gallinules.	
Youth:		
East Zone .....	.....	Nov. 9 & Feb. 1.
West Zone .....	.....	Nov. 2 & 3.
Veteran-Active Military Personnel:		
East Zone .....	.....	Nov. 9 & Feb. 1.
West Zone .....	.....	Feb. 1 & 2.
<i>Michigan</i>	Ducks, geese, mergansers, coots, and gallinules	Sept. 21 & 22.
<i>Minnesota</i> (1)	Ducks, geese, mergansers, coots, and gallinules	Sept. 7 & 8.
<i>Mississippi</i>	Ducks, geese, mergansers, coots, and gallinules	Feb. 8 & 9.
<i>Missouri</i> (1):	Ducks, geese, mergansers, and coots	
North Zone .....	.....	Oct. 26 & 27.
Middle Zone .....	.....	Oct. 26 & 27.
South Zone .....	.....	Nov. 23 & 24.
<i>Ohio</i>	Ducks, geese, mergansers, coots, and gallinules	Sept. 28 & Sept. 29.
<i>Tennessee:</i>		
Youth	Ducks, geese, mergansers, coots, and gallinules	Feb. 1 & 8.
Veteran-Active Military Personnel	Ducks, geese, mergansers, and coots	Feb. 2 & 9.
<i>Wisconsin</i> (1)	Ducks, geese, mergansers, coots, and gallinules	Sept. 14 & 15.

CENTRAL FLYWAY

<i>Colorado:</i>	Ducks, dark geese, mergansers, and coots.	
Mountain/Foothills Zone .....	.....	Sept. 28 & 29.
Northeast Zone .....	.....	Oct. 12 & 13.
Southeast Zone .....	.....	Oct. 19 & 20.
<i>Kansas</i> (8):	Ducks, geese, mergansers, and coots.	
High Plains .....	.....	Oct. 5 & 6.
Low Plains:		
Early Zone .....	.....	Oct. 5 & 6.
Late Zone .....	.....	Oct. 19 & 20.
Southeast Zone .....	.....	Nov. 2 & 3.
<i>Montana</i> (1)	Ducks, geese, mergansers, and coots	Sept. 21 & 22.
<i>Nebraska</i> (9):	Ducks, geese, mergansers, and coots.	
Zone 1 .....	.....	Oct. 5 & 6.
Zone 2 .....	.....	Sept. 28 & 29.
Zone 3 .....	.....	Oct. 19 & 20.
Zone 4 .....	.....	Oct. 19 & 20.
<i>New Mexico</i> (1):	Ducks, mergansers, coots, and gallinules.	
North Zone .....	.....	Oct. 5 & 6.
South Zone .....	.....	Oct. 26 & 27.
<i>North Dakota</i>	Ducks, geese, mergansers, and coots	Sept. 14 & 15.
<i>Oklahoma:</i>	Ducks, geese, mergansers, and coots.	
High Plains .....	.....	Sept. 28 & Feb. 1.
Low Plains:		
Zone 1 .....	.....	Nov. 2 & Feb. 1.
Zone 2 .....	.....	Nov. 2 & Feb. 1.
<i>South Dakota</i> (1)(9)	Ducks, Canada and cackling geese, mergansers, and coots	Sept. 7 & 8.
<i>Texas:</i>	Ducks, geese, mergansers, coots, and gallinules.	
High Plains .....	.....	Oct. 19 & 20.
Low Plains:		
North Zone .....	.....	Nov. 2 & 3.
South Zone .....	.....	Oct. 26 & Oct. 27.
<i>Wyoming:</i>	Ducks, geese, mergansers, and coots.	
Zone C1 .....	.....	Sept. 21 & 22.
Zone C2 .....	.....	Sept. 14 & 15.
Zone C3 .....	.....	Sept. 14 & 15.

PACIFIC FLYWAY

<i>Arizona</i> (1)	Ducks, geese, mergansers, coots, and gallinules	Feb. 8 & 9.
<i>California:</i>		
Youth:	Ducks, geese, brant, mergansers, coots, and gallinules.	
Northeastern Zone .....	.....	Sept. 21 & 22.
Colorado River Zone .....	.....	Feb. 8 & 9.
Southern Zone .....	.....	Feb. 1 & 2.
Southern San Joaquin Valley Zone.	.....	Feb. 1 & 2.
Balance of State Zone .....	.....	Feb. 1 & 2.
Veteran-Active Military Personnel:	Ducks, mergansers, coots, and gallinules.	
Northeastern Zone .....	.....	Jan. 18 & 19.
Southern Zone .....	.....	Feb. 8 & 9.

Area	Species	Season dates
Southern San Joaquin Valley Zone.	.....	Feb. 8 & 9.
Balance of State Zone .....	.....	Feb. 8 & 9.
Colorado:	Ducks, geese, mergansers, and coots.	.....
East Zone .....	.....	Sept. 28 & 29.
West Zone .....	.....	Oct. 26 & 27.
Idaho	Ducks, geese, mergansers, and coots	Sept. 28 & 29.
Montana (1)	Ducks, geese, mergansers, and coots	Sept. 21 & 22.
Nevada (1)(3):	Ducks, geese, swans, mergansers, coots, and gallinules.	.....
Northeast Zone .....	.....	Sept. 21 & 22.
Northwest Zone .....	.....	Sept. 28 & Feb. 8.
South Zone .....	.....	Feb. 8 & 9.
New Mexico (1)	Ducks, mergansers, coots, and gallinules	Oct. 12 & 13.
Oregon	Ducks, geese, mergansers, and coots.	.....
Youth .....	.....	Sept. 28 & Sept. 29.
Veteran-Active Military Personnel .....	.....	Feb. 1.
Utah (1)(3):	Ducks, dark geese, swans, mergansers, and coots.	.....
Northern Zone .....	.....	Sept. 21.
Southern Zone .....	.....	Sept. 28.
Washington (10):	Ducks, geese, brant, mergansers, and coots.	.....
Youth: .....	.....	.....
East Zone .....	.....	Sept. 28 & Feb. 1.
West Zone .....	.....	Sept. 21 & Feb. 1.
Veteran-Active Military Personnel .....	.....	Feb. 1.
Wyoming	Ducks, geese, mergansers, and coots	Sept. 14 & 15.

(1) The season is open to youth hunters only.

(2) In *Delaware*, tundra swans may be taken only on February 1.

(3) In *Delaware*, *North Carolina*, *Virginia*, *Nevada*, and *Utah*, the daily bag limit may not include swans except by permit.

(4) In *Maryland*, youth hunter(s) must be accompanied by an adult 21 years of age or older that holds a valid Maryland hunting license or is exempt from the hunting license requirements. One adult may take one or more young hunters, and that adult may call waterfowl, assist with decoys, and retrieve downed birds but may not possess a hunting weapon and may not participate in other seasons that are open on the youth waterfowl hunting days. Active military and honorably discharged veterans, of any age, that possess a valid Maryland hunting license or are exempt from the hunting license requirements may also hunt waterfowl on November 2, 2024, and February 8, 2025. Active military and honorably discharged veterans at least 21 years of age or older may possess hunting weapons and hunt while also providing assistance to eligible youth hunters.

(5) In *Maryland*, the bag limit for Canada and cackling geese is 2 in the AP Zone and 5 in the RP Zone.

(6) In *North Carolina*, a permit is no longer required to hunt Canada geese or white-fronted geese in the Northeast Zone.

(7) In *Pennsylvania*, the second youth day in each duck zone is open to youth, veterans, and active-duty military.

(8) In *Kansas*, youth 17 years of age and younger may participate in the youth waterfowl hunting days.

(9) In *Nebraska* and *South Dakota*, Tier II license holders may take 3 ducks or mergansers of any species in the aggregate, and the possession limit is 9.

(10) In *Washington*, the brant and light goose seasons are closed in September.

■ 7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset,

except as otherwise noted. Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting

season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Alabama (1)(2):			
North Zone	Nov. 29–Jan. 26	3 per season.	
Kentucky (1)(2)	Dec. 7–Jan. 31	2	3 per season.
Minnesota (1):			
NW Zone	Sept. 14–Oct. 20	2	6.
Tennessee (1)(4):			

Area	Season dates	Limits	
		Bag	Possession
Southeast Zone	Dec. 3–Jan. 31	2 per season.	
Rest of State	Dec. 3–Jan. 31	2 per season.	
CENTRAL FLYWAY			
Colorado (1)	Oct. 5–Dec. 1	3	9.
Kansas (1)(2)(3):			
West Zone	Oct. 19–Dec. 15	3	9.
Central Zone	Nov. 6–Jan. 2	3	9.
Montana:			
Regular Season Area (1)	Sept. 28–Nov. 24	3	9
Special Season Area (4)	Sept. 1–Oct. 30	2 per season.	
New Mexico:			
Regular Season Area (1)	Oct. 26–Jan. 23	3	6.
Middle Rio Grande Valley Area (4)(5)	Nov. 16–Nov. 17	3	6 per season.
	Nov. 23	3 per season.	
	Nov. 30–Dec. 1 & Dec. 14–Dec. 15 & Jan. 4–Jan. 5 & Jan. 11–Jan. 12.	3	6 per season.
Southwest Area (4)	Nov. 2–Nov. 10	3	6.
Estancia Valley (4)(6)	Jan. 4–Jan. 5	3	6 per season.
	Nov. 2–Nov. 10	3	6.
North Dakota (1):			
Area 1	Sept. 14–Nov. 10	3	9.
Area 2	Sept. 14–Nov. 10	2	6.
Oklahoma (1)	Oct. 19–Jan. 19	3	9.
South Dakota (1)	Sept. 28–Nov. 24	3	9.
Texas (1):			
Zone A	Oct. 26–Jan. 26	3	9.
Zone B	Nov. 22–Jan. 26	3	9.
Zone C	Dec. 14–Jan. 19	2	6.
Wyoming:			
Regular Season (Area 7)(1)	Sept. 7–Nov. 3	3	9.
Riverton-Boysen Unit (Area 4)(4)	Sept. 28–Oct. 20	1 per season.	
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6)(4).	Sept. 14–Oct. 6	1 per season.	
Johnson, Natrona, and Sheridan Counties (Area 8) (4).	Sept. 1–Sept. 30	1 per season.	
PACIFIC FLYWAY			
Arizona (4):			
Zone 1 (7)	Nov. 8–Dec. 15	3 per season.	
Zone 2 (8)	Dec. 6–Dec. 15	3 per season.	
Zone 3 (9)	Nov. 23–Dec. 15	3 per season.	
Idaho (4):			
Areas 1, 3, 4, 5, & 6	Sept. 1–Sept. 30	2 per season.	
Area 2	Sept. 1–Sept. 15	2 per season.	
Montana (4):			
Zones 1 & 5	Sept. 1–Oct. 30	1 per season.	
Zones 2, 3, 4 & 6	Sept. 1–Oct. 30	2 per season.	
Utah (4):			
Cache County	Sept. 7–Sept. 15	1 per season.	
East Box Elder County	Sept. 7–Nov. 5	1 per season.	
Rich County	Sept. 7–Sept. 15	1 per season.	
Uintah Basin Zone	Sept. 28–Nov. 26	1 per season.	
Wyoming (4):			
Areas 1, 2, & 5	Sept. 1–Sept. 15	1 per season.	
Area 3	Sept. 1–Sept. 8	1 per season.	

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit and/or a State-issued Harvest Information Program (HIP) certification for game bird hunting in their possession while hunting.

(2) In *Alabama*, *Kansas*, and *Kentucky*, shooting hours are from sunrise to sunset.

(3) In *Kansas*, each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.

(4) Hunting is by State permit only. See State regulations for further information.

(5) In *New Mexico*, in the Middle Rio Grande Valley Area (Bernardo and Casa Colorado Wildlife Management Areas), the season is only open for youth hunters on November 23. See State regulations for further details.

(6) In *New Mexico*, in the Estancia Valley Area, the season will be closed to crane hunting on November 6.

(7) In *Arizona*, in Zone 1, season dates are November 8 to 10, November 15 to 17, November 19 to 21, November 23 to 25, November 27 to 29, December 1 to 3, December 6 to 8, and December 13 to 15. November 8 to 10 is restricted to archery hunters only, and December 6 to 8 is restricted to youth hunters only.

(8) In *Arizona*, in Zone 2, season dates are December 6 to 8 and December 13 to 15.

(9) In *Arizona*, in Zone 3, season dates are November 23 to 25, November 27 to 29, December 1 to 3, December 5 to 7, December 9 to 11, and December 13 to 15.

■ 8. Section 20.107 is revised to read as follows:

§ 20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted.

Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500). Hunting is by State permit only.

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take swans at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not

transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Note: Successful permittees must immediately validate their harvest by that method required in State regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Area	Season dates	Limits
ATLANTIC FLYWAY		
<i>Delaware</i>	Nov. 9–Jan. 31	1 tundra swan per permit.
<i>North Carolina</i>	Nov. 9–Jan. 31	1 tundra swan per permit.
<i>Virginia</i>	Nov. 15–Jan. 31	1 tundra swan per permit.
CENTRAL FLYWAY (1)		
<i>Montana</i> (2)	Sept. 28–Jan. 2	1 swan per permit.
<i>North Dakota</i> (1)	Sept. 28–Dec. 27	1 tundra swan per permit.
<i>South Dakota</i>	Sept. 28–Jan. 10	1 swan per permit.
PACIFIC FLYWAY (1)		
<i>Idaho</i> (2)	Oct. 5–Dec. 1	1 swan per season.
<i>Montana</i> (2)	Oct. 5–Nov. 29	1 swan per season.
<i>Nevada</i> (3)(4)	Oct. 12–Jan. 6 & Jan. 9–Jan. 26	1 swan per day, 2 per season.
<i>Utah</i> (3)(4)	Oct. 5–Dec. 8	1 swan per season.

(1) See State regulations for description of area open to swan hunting.

(2) In *Idaho* and *Montana*, all harvested swans must be reported by way of a bill measurement card within 3 days of harvest.

(3) In *Nevada* and *Utah*, all harvested swans and tags must be checked or registered within 3 days of harvest.

(4) Harvests of trumpeter swans are limited to 20 in Utah and 10 in Nevada. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

■ 9. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as

otherwise restricted by State regulations.

Area descriptions were published in the August 26, 2024, **Federal Register** (89 FR 68500).

Limits: The daily bag limit may include no more than 3 migratory game birds in the aggregate. The possession limit is three times the daily bag limit. These limits apply to falconry during both regular hunting seasons and extended falconry seasons, unless further restricted by State regulations. The falconry bag and possession limits

are not in addition to regular season limits.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Area	Extended falconry dates
<i>ATLANTIC FLYWAY</i>	
<i>Delaware:</i>	
Doves	Feb. 1–Feb. 17.
Rails	Dec. 1–Jan. 6.
Woodcock	Oct. 1–Oct. 29 & Feb. 6–Mar. 10.
Ducks, mergansers, and coots	Feb. 3–Mar. 3.
Brant	Feb. 1–Feb. 6 & Feb. 10–Feb. 15.
<i>Florida:</i>	
Doves	Feb. 1–Feb. 17.
Rails	Nov. 10–Dec. 16.
Woodcock	Nov. 24–Dec. 17 & Feb. 1–Mar. 10.
Gallinules	Nov. 10–Dec. 13.
Ducks, mergansers, and coots	Nov. 3–Nov. 12 & Feb. 2–Feb. 26.
<i>Georgia:</i>	
Ducks, dark geese, and gallinules	Dec. 2–Dec. 6.
<i>Maine:</i>	
Ducks, mergansers, and coots:	
North Zone	Dec. 16–Feb. 5.
South & Coastal Zones	Jan. 8–Feb. 28.
<i>Maryland:</i>	
Doves	Jan. 11–Jan. 30.
Rails	Nov. 22–Jan. 3.
Woodcock	Oct. 1–Oct. 25 & Jan. 30–Mar. 8.
Ducks	Feb. 1–Mar. 8.
Brant	Feb. 1–Mar. 8.
Light Geese	Feb. 22–Mar. 8.
<i>Massachusetts:</i>	
Ducks, mergansers, and coots	Oct. 12–Feb. 11.
<i>New Hampshire:</i>	
Ducks, mergansers, and coots:	
Northern Zone	Dec. 1–Jan. 12.
Inland Zone	Nov. 12–Nov. 26 & Dec. 23–Jan. 19.
Coastal Zone	Jan. 27–Mar. 10.
<i>New Jersey:</i>	
Woodcock:	
North Zone	Oct. 1–Oct. 18 & Dec. 2–Jan. 31.
South Zone	Oct. 1–Nov. 8 & Dec. 9–Dec. 18 & Jan. 1–Jan. 31.
Ducks, mergansers, coots, and brant:	
North Zone	Jan. 17–Mar. 10.
South Zone	Jan. 24–Mar. 10.
Coastal Zone	Feb. 1–Mar. 10.
<i>New York:</i>	
Ducks, mergansers, and coots:	
Long Island Zone	Nov. 1–Nov. 22 & Dec. 2–Dec. 6 & Jan. 27–Feb. 13.
Northeastern Zone	Oct. 1–Oct. 11 & Dec. 2–Dec. 13 & Dec. 23–Jan. 13.
Southeastern Zone	Oct. 1–Oct. 11 & Oct. 21–Nov. 8 & Dec. 30–Jan. 13.
Western Zone	Oct. 1–Oct. 11 & Nov. 4–Dec. 6 & Jan. 13 only.
<i>North Carolina:</i>	
Doves	Oct. 7–Oct. 19.
Rails and gallinules	Dec. 7–Jan. 11.
Woodcock	Dec. 2–Dec. 10 & Feb. 1–Feb. 22.
Ducks, mergansers, and coots	Oct. 1–Oct. 12 & Feb. 1–Feb. 8.
<i>Pennsylvania:</i>	
Doves	Nov. 30–Dec. 19.
Rails	Nov. 22–Jan. 3.
Woodcock and snipe	Sept. 2–Oct. 18 & Nov. 30–Dec. 14 & Dec. 26–Jan. 4.
Gallinules	Nov. 22–Jan. 1.
Ducks, mergansers, and coots:	
North Zone	Oct. 28–Nov. 18 & Feb. 8–Mar. 10.
South Zone	Oct. 21–Nov. 18 & Feb. 15–Mar. 10.
Northwest Zone	Nov. 30–Dec. 21 & Feb. 10–Mar. 10.
Lake Erie Zone	Jan. 17–Mar. 10.
Canada, cackling, and white-fronted geese:	
AP Zone	Jan. 20–Mar. 10.
RP Zone	Mar. 6–Mar. 10.
<i>South Carolina:</i>	
Ducks, mergansers, and coots	Nov. 4–Nov. 22 & Dec. 1–Dec. 11.
<i>Virginia:</i>	
Doves	Jan. 21–Jan. 31.
Rails, gallinules	Nov. 4–Nov. 13 & Dec. 2–Dec. 26.
Woodcock	Oct. 17–Nov. 10 & Dec. 1–Dec. 26 & Jan. 21–Jan. 31.
Ducks, mergansers, and coots	Dec. 2–Dec. 18 & Feb. 1–Feb. 9.
Canada, cackling, and white-fronted geese:	

Area	Extended falconry dates
Eastern (AP) Zone	Nov. 20–Dec. 1 & Jan. 2–Jan. 15 & Feb. 1–Feb. 23.
Brant	Oct. 17–Dec. 22 & Jan. 1–Jan. 10.
MISSISSIPPI FLYWAY	
<i>Arkansas:</i>	
Ducks, mergansers, and coots	Feb. 1–Feb. 15.
<i>Illinois:</i>	
Doves	Nov. 15–Dec. 1.
Rails	Sept. 1–Sept. 6 & Nov. 16–Dec. 16.
Woodcock	Sept. 1–Oct. 18 & Dec. 3–Dec. 16.
Ducks, mergansers, and coots	Feb. 10–Mar. 10.
<i>Indiana:</i>	
Doves	Oct. 21–Oct. 31 & Jan. 4–Jan. 9.
Woodcock	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots:	
North Zone	Sept. 27–Sept. 30 & Feb. 14–Mar. 10.
Central Zone	Oct. 26–Nov. 1 & Feb. 17–Mar. 10.
South Zone	Nov. 2–Nov. 8 & Feb. 17–Mar. 10.
<i>Iowa:</i>	
Ducks, mergansers, and coots	Jan. 4–Feb. 1.
<i>Kentucky:</i>	
Ducks, mergansers, and coots	Dec. 2–Dec. 6 & Feb. 1–Feb. 23.
<i>Louisiana:</i>	
Doves	Sept. 14–Sept. 30.
Rails and gallinules:	
East Zone	Nov. 2–Nov. 15 & Jan. 4–Jan. 26.
West Zone	Nov. 2–Nov. 15 & Jan. 4–Jan. 26.
Woodcock	Nov. 4–Dec. 17.
Ducks:	
East Zone	Nov. 2–Jan. 29.
West Zone	Nov. 2–Jan. 29.
<i>Michigan:</i>	
Ducks, mergansers, coots, and gallinules	Dec. 30–Jan. 12 & Feb. 22–Mar. 10.
<i>Minnesota:</i>	
Doves	Nov. 30–Dec. 16.
Rails and snipe	Nov. 5–Dec. 16.
Woodcock	Sept. 1–Sept. 20 & Nov. 5–Dec. 16.
Ducks, mergansers, coots, and gallinules	Dec. 7–Jan. 20.
<i>Mississippi:</i>	
Doves	Dec. 10–Dec. 26.
Ducks, mergansers, and coots	Feb. 1–Mar. 1.
<i>Missouri:</i>	
Doves	Nov. 30–Dec. 16.
Ducks, mergansers, and coots	Sept. 7–Sept. 22 & Feb. 11–Mar. 10.
<i>Tennessee:</i>	
Doves	Sept. 29–Sept. 30 & Jan. 16–Jan. 30.
Rails	Nov. 10–Dec. 14.
Woodcock	Nov. 1–Nov. 8 & Dec. 2–Jan. 9 & Feb. 1–Feb. 15.
Snipe	Nov. 14–Feb. 28.
Gallinules	Nov. 10–Dec. 14.
Ducks, mergansers, and coots:	
Reelfoot Zone	Dec. 2–Dec. 4 & Feb. 1–Feb. 28.
Remainder of the State	Dec. 2–Dec. 4 & Feb. 1–Feb. 28.
<i>Wisconsin:</i>	
Rails, snipe, and gallinules:	
North Zone	Sept. 1–Sept. 20 & Nov. 20–Dec. 1.
South Zone	Sept. 1–Sept. 27 & Oct. 7–Oct. 11.
Open Water Zone	Sept. 1–Oct. 11.
Woodcock	Sept. 1–Sept. 20 & Nov. 5–Dec. 16.
Ducks, mergansers, and coots	Sept. 14–Sept. 15 & Jan. 10–Feb. 14.
CENTRAL FLYWAY	
<i>Kansas:</i>	
Ducks, mergansers, and coots:	
Low Plains: Early Zone	Feb. 24–Mar. 10.
Low Plains: Late Zone	Feb. 24–Mar. 10.
Southeast Zone	Feb. 24–Mar. 10.
<i>Montana:</i> ¹	
Ducks, mergansers, and coots:	
Zone 1	Sept. 18–Sept. 27.
Zone 2	Sept. 18–Sept. 27.
<i>Nebraska:</i>	

Area	Extended falconry dates
Ducks, mergansers, and coots: ²	
Zone 1	Feb. 25–Mar. 10.
Zone 2	Feb. 25–Mar. 10.
Zone 3	Closed.
Zone 4	Feb. 25–Mar. 10.
<i>New Mexico:</i>	
Doves:	
North Zone	Nov. 30–Dec. 4 & Dec. 21–Jan. 1.
South Zone	Oct. 29–Nov. 5 & Nov. 22–Nov. 30.
Band-tailed pigeons:	
North Zone	Sept. 1–Sept. 14.
South Zone	Oct. 1–Oct. 14.
Ducks and coots	Sept. 14–Sept. 22.
Sandhill cranes ³	Oct. 12–Oct. 25 & Nov. 11–Dec. 31.
Gallinules	Nov. 23–Dec. 28.
Sora and Virginia rails	Nov. 23–Dec. 28.
<i>North Dakota:</i>	
Ducks, mergansers, coots, and snipe	Sept. 2–Sept. 6.
	Sept. 9–Sept. 13.
<i>Oklahoma:</i>	
Doves	Feb. 18–Mar. 5.
Ducks, mergansers, and coots:	
Low Plains Zones 1 and 2	Feb. 10–Feb. 24.
Gallinules and rails	Feb. 1–Mar. 9.
Woodcock	Dec. 10–Feb. 9.
Sandhill cranes	Jan. 20–Feb. 2.
<i>South Dakota:</i>	
Ducks, mergansers, and coots:	
High Plains	Sept. 1–Sept. 8.
Low Plains:	
North Zone	Sept. 1–Sept. 20 & Dec. 4–Dec. 14.
Middle Zone	Sept. 1–Sept. 20 & Dec. 4–Dec. 14.
South Zone	Oct. 1–Oct. 19 & Jan. 8–Jan. 19.
<i>Texas:</i>	
Doves	Nov. 15–Dec. 1.
Rails, gallinules, and woodcock	Jan. 27–Feb. 10.
Ducks, mergansers, and coots:	
Low Plains—North and South Zones	Jan. 27–Feb. 10.
<i>Wyoming:</i>	
Doves	Nov. 30–Dec. 16.
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots:	
Zone C1	Oct. 14–Oct. 21.
Zone C2	Sept. 16–Sept. 20 & Dec. 2–Dec. 4.
Zone C3	Same as Zone C2.
PACIFIC FLYWAY	
<i>Arizona:</i>	
Doves	Sept. 16–Nov. 1.
Ducks, mergansers, coots, and gallinules	Feb. 1–Feb. 4.
<i>California:</i>	
Ducks, mergansers, coots, and gallinules:	
Colorado River Zone	Feb. 1–Feb. 4.
Southern Zone	Feb. 15–Feb. 19.
Southern San Joaquin Valley Zone	Feb. 15–Feb. 19.
Balance of State Zone	Feb. 15–Feb. 19.
<i>Idaho:</i>	
Doves	Jan. 23–Mar. 10.
<i>New Mexico:</i>	
Dove:	
North Zone	Nov. 30–Dec. 4 & Dec. 21–Jan. 1.
South Zone	Oct. 29–Nov. 5 & Nov. 22–Nov. 30.
<i>Oregon:</i>	
Doves:	
Zone 1	Oct. 1–Nov. 14 & Dec. 15–Dec. 16.
Zone 2	Oct. 31–Dec. 16.
Band-tailed pigeons ⁴	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
<i>Utah:</i>	
Doves	Oct. 31–Dec. 16.
Band-tailed pigeons	Oct. 31–Dec. 16.
<i>Washington:</i>	
Doves	Oct. 31–Dec. 16.
Ducks, mergansers, coots, and dark geese:	

Area	Extended falconry dates
East Zone	Sept. 28 & Feb. 1.
West Zone	Sept. 21 & Feb. 1.
Light geese and brant	Feb. 1.
Wyoming:	
Doves	Nov. 30–Dec. 16.
Sora and Virginia rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	Sept. 14–Sept. 15.

¹ In *Montana*, the limits are 2 daily and 6 in possession.

² In *Nebraska*, only the portion of Zone 2 that is considered low plains is open.

³ In *New Mexico*, the limits for sandhill cranes are 3 daily and 6 in possession.

⁴ In *Oregon*, no more than 1 pigeon daily in bag or possession.

[FR Doc. 2024–19420 Filed 8–29–24; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register

Vol. 89, No. 169

Friday, August 30, 2024

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-2135; Project Identifier MCAI-2024-00157-G]

RIN 2120-AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Gliders

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 Schempp-Hirth Flugzeugbau GmbH Model Duo Discus and Duo Discus T gliders. This proposed AD was prompted by reports of gliders' canopies opening during air tow. This proposed AD would require modifying the canopy locking mechanism. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by October 15, 2024.

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

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

- *Fax:* (202) 493-2251.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2135; 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 Schempp-Hirth Flugzeugbau GmbH material identified in this proposed AD, contact Schempp-Hirth Flugzeugbau GmbH, Krehenstrasse 25, Kirchheim unter Teck, Germany; phone: +49 7021 7298-0; email: info@schempp-hirth.com; website: [schempp-hirth.com](https://www.schempp-hirth.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.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2024-2135; Project Identifier MCAI-2024-00157-G" 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](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

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 Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. 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 European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024-0059, dated March 5, 2024 (also referred to as the MCAI), to correct an unsafe condition on all Schempp-Hirth Flugzeugbau GmbH Model Duo Discus, Duo Discus T, Nimbus-4D, and Nimbus-4DT/DM sailplanes (gliders). The MCAI states that occurrences have been reported of the canopy opening during air tow on the Model Duo Discus and Nimbus gliders. The investigation concluded that the fuselage could be temporarily deformed due to forces related to acceleration, which allowed the locking mechanism to move into the open position. The MCAI requires modifying the canopy locking mechanism. These conditions, if not addressed, could lead to the canopy opening in flight, resulting in loss of control of the glider.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2135.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380-1, No. 396-6 dated July 27, 2004, with Appendix to Technical Note No. 380-1/396-6 attached (issued as one document); and Schempp-Hirth Flugzeugbau GmbH Technical Note No. 868-4, No. 890-5 dated February 23, 2005, with Appendix to Technical Note No. 868-4/890-5 attached (issued as one document), which specify procedures for installing a compression

spring in the canopy locking mechanism, installing spring washers at the canopy actuating levers, and modifying the front actuating lever to include a magnet and applying a red mark to the front and aft inside the left canopy frame or installing a front actuating lever that has a magnet. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

FAA's Determination

These products have been approved by the aviation authority of another country and are 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 and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described, except as discussed under "Differences Between this Proposed AD and the MCAI."

Differences Between This Proposed AD and the MCAI

While the MCAI applies to Schempp-Hirth Flugzeugbau GmbH Model Nimbus-4D and Nimbus-4DT/DM gliders, this proposed AD does not because these models do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 34 gliders of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modify canopy locking mechanism	2 work-hours × \$85 per hour = \$170	\$100	\$270	\$9,180

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:

Schempp-Hirth Flugzeugbau GmbH: Docket No. FAA-2024-2135; Project Identifier MCAI-2024-00157-G.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 15, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau GmbH Model Duo Discus and

Duo Discus T gliders, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5200, Doors; 5210, Passenger/Crew Doors.

(e) Unsafe Condition

This AD was prompted by reports of gliders' canopies opening during air tow. The FAA is issuing this AD to address the canopy locking mechanism opening during flight. The unsafe condition, if not addressed, could lead to the canopy opening in flight, resulting in loss of control of the glider.

(f) Compliance

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

(g) Required Actions

Within 12 months after the effective date of this AD, modify the canopy locking mechanism by installing a compression spring in the canopy locking mechanism, installing spring washers at the canopy actuating levers, modifying the front actuating lever to include a magnet and applying a red mark to the front and aft inside the left canopy frame; or installing a front actuating lever that has a magnet, in accordance with the applicable technical note specified in paragraph (g)(1) or (2) of this AD.

(1) For Model Duo Discus gliders: Appendix to Technical Note No. 380-1/396-6 attached to Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380-1, No. 396-6 dated July 27, 2004 (issued as one document).

(2) For Model Duo Discus T gliders: Appendix to Technical Note No. 868-4/890-5 attached to Schempp-Hirth Flugzeugbau GmbH Technical Note No. 868-4, No. 890-5 dated February 23, 2005 (issued as one document).

(h) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (i) of this AD or email to: AMOC@faa.gov. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Additional Information

For more information about this AD, contact Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

(j) 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) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 380-1, No. 396-6 dated July 27, 2004, with Appendix to Technical Note No. 380-1/396-6 attached (issued as one document).

(ii) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 868-4, No. 890-5 dated February 23, 2005, with Appendix to Technical Note No. 868-4/890-5 attached (issued as one document).

(3) For Schempp-Hirth Flugzeugbau GmbH material identified in this AD, contact Schempp-Hirth Flugzeugbau, Krebenstrasse 25, Kirchheim unter Teck, Germany; phone: +49 7021 7298-0; email: info@schempp-hirth.com; website: schempp-hirth.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 26, 2024.

Steven W. Thompson,

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

[FR Doc. 2024-19476 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2024-2134; Project Identifier MCAI-2024-00125-T]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2018-18-09, which applies to all Airbus Defense and Space S.A. Model CN-235, CN-235-100, CN-235-200, and CN-235-300 airplanes; and certain Model C-295 airplanes. AD 2018-18-09 requires a detailed inspection of the upper and lower lugs of each horizontal stabilizer-to-fuselage rear attachment fitting, repair if necessary, and a report of findings. Since the FAA issued AD 2018-18-09, new occurrences of cracking were reported. This proposed AD would require repetitive inspections, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The proposed AD would also revise the applicability. 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 15, 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-2024-2134; 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 (CAI), 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-2024-2134.

- 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-2024-2134; Project Identifier MCAI-2024-00125-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 which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2018–18–09, Amendment 39–19388 (83 FR 45041, September 5, 2018) (AD 2018–18–09), for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes; and certain Model C–295 airplanes. AD 2018–18–09 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2017–0218, dated November 8, 2017 (EASA AD 2017–0218), to correct an unsafe condition.

AD 2018–18–09 requires a detailed inspection of the upper and lower lugs of each horizontal stabilizer-to-fuselage rear attachment fitting, repair if necessary, and a report of findings. The FAA issued AD 2018–18–09 to address cracking, which could lead to reduced structural integrity of the lugs on the stabilizer-to-fuselage rear attachment fittings and consequent lug or fitting failure, and could result in reduced controllability of the airplane.

Actions Since AD 2018–18–09 Was Issued

Since the FAA issued AD 2018–18–09, EASA superseded EASA AD 2017–0218 and issued EASA AD 2024–0049, dated February 20, 2024 (EASA AD 2024–0049) (also referred to as the MCAI), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–200, CN–235–300, and C–295 airplanes. The MCAI states that since EASA AD 2017–0218 was issued, new occurrences of cracking were reported and the manufacturer

issued new material to provide instructions for repetitive high-frequency eddy current (HFEC) inspections for cracking of the affected part for all airplanes.

The applicability of the MCAI has been expanded from certain Model C–295 airplanes to all Model C–295 airplanes. In addition, the MCAI removed Model CN–235–100 airplanes from the applicability as those airplanes have been converted to Model CN–235–200 airplanes. Therefore, the FAA also removed Model CN–235–100 airplanes from this proposed AD.

The FAA is proposing this AD to address cracking, which could lead to reduced structural integrity of the lugs on the horizontal stabilizer-to-fuselage rear attachment fittings and consequent lug or fitting failure, and could result in reduced controllability of the airplane. You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2134.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0049 specifies procedures for repetitive HFEC inspections for discrepancies (including cracking, rework, and sharp corner radii) of the upper and lower lugs of each horizontal stabilizer-to-fuselage rear attachment fitting and contacting the manufacturer for corrective actions. 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 2024–0049 described previously, except for any differences

identified as exceptions in the regulatory text of this proposed AD.

The initial and repetitive compliance times vary based on airplane model and configuration. The compliance time for the initial inspection ranges from 1,500 total flight hours or 1,500 total flight cycles, whichever occurs first to 5,500 total flight cycles or 5,500 total flight hours, whichever occurs first. The compliance time for the repetitive interval ranges from 600 flight cycles or flight hours, whichever occurs first, to 2,200 flight hours or 2,200 flight cycles, whichever occurs first. The grace period is 50 flight hours or 50 flight cycles after the effective date of this AD, whichever occurs first.

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 2024–0049 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0049 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 2024–0049 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 2024–0049. Material required by EASA AD 2024–0049 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2134 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 14 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
New proposed actions	Up to 15 work-hours × \$85 per hour = \$1,275.	None	Up to \$1,275	Up to \$17,850.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2018–18–09, Amendment 39–19388 (83 FR 45041, September 5, 2018); and

■ b. Adding the following new AD:

Airbus Defense and Space S.A. (Formerly known as Construcciones Aeronauticas, S.A.): Docket No. FAA–2024–2134; Project Identifier MCAI–2024–00125–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 15, 2024.

(b) Affected ADs

This AD replaces AD 2018–18–09, Amendment 39–19388 (83 FR 45041, September 5, 2018) (AD 2018–18–09).

(c) Applicability

This AD applies to all Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–200, CN–235–300, and C–295 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by a report that cracks were found on the horizontal stabilizer-to-fuselage rear attachment fitting. The FAA is issuing this AD to address cracking, which could lead to reduced structural integrity of the lugs on the horizontal stabilizer-to-fuselage rear attachment fittings. The unsafe condition, if not addressed, could result in lug or fitting failure, and could result in reduced controllability of the airplane.

(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 2024–0049, dated February 20, 2024 (EASA AD 2024–0049).

(h) Exceptions to EASA AD 2024–0049

(1) Where paragraph (1) of EASA AD 2024–0049 specifies to do the initial inspection within certain compliance times, for this AD, accomplish the initial inspection at the time specified in paragraph (h)(1)(i) or (ii) of this AD, whichever occurs later.

(i) At the applicable compliance time specified in paragraph (1) of EASA AD 2024–0049.

(ii) Within 50 flight cycles or 50 flight hours, whichever occurs first, after the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2024–0049 specifies "thereafter, at intervals as defined in paragraph 3.1.1 of the AOT," this AD requires replacing that text with "thereafter, at intervals not to exceed the intervals defined in paragraph 3.1.1 of the AOT."

(3) This AD does not adopt the "Remarks" section of EASA AD 2024–0049.

(4) Where paragraph (2) of EASA AD 2024–0049 specifies "If, during any inspection as required by paragraph (1) of this AD, discrepancies are detected, as defined in the AOT, before next flight, contact Airbus DS for approved corrective action instructions and accomplish those instructions accordingly," this AD requires replacing that text with "If, during any inspection as required by paragraph (1) of this AD, any discrepancy is detected, the discrepancy must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature."

(i) No Reporting Requirement

Although the material referenced in EASA AD 2024–0049 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: 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; telephone 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 2024-0049, dated February 20, 2024.

(ii) [Reserved]

(3) For EASA AD 2024-0049, 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 26, 2024.

Victor Wicklund,

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

[FR Doc. 2024-19534 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-2159; Airspace Docket No. 24-AGL-20]

RIN 2120-AA66

Amendment of Class E Airspace; Zanesville, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Zanesville, OH. The FAA is proposing this action as the result of an airspace review conducted due to the decommissioning of the Zanesville very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the Zanesville Municipal Airport, Zanesville, OH, and the name of Genesis Health Care Heliport, Zanesville, OH, would also be updated to coincide with the FAA's aeronautical database. This action will bring the airspace into compliance with FAA orders and support instrument flight rule (IFR) procedures and operations.

DATES: Comments must be received on or before October 15, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2024-2159 and Airspace Docket No. 24-AGL-20 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200

New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report

summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice (DOT/ALL-14FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraphs 6002 and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Modifying the Class E surface airspace to within a 4.5-mile (increased from a 4-mile) radius of Zanesville Municipal Airport, Zanesville, OH; removing the Zanesville NDB and associated extensions from the airspace legal description as they are no longer needed; removing the Zanesville VOR/DME and associated extensions from the airspace legal description; updating the geographic coordinates of Zanesville Municipal Airport to coincide with the FAA's aeronautical database; and removing the city associated with Riverside Airport, Zanesville, OH, from the header of the airspace legal description to comply with changes to FAA Order JO 7400.2P, Procedures for Handling Airspace Matters;

And modifying the Class E airspace extending upward from 700 feet above the surface to within a 7-mile (reduced from an 8.5-mile) radius of Zanesville Municipal Airport; removing the Zanesville VOR/DME and associated extension from the airspace legal description; adding an extension 4 miles each side of the 034° bearing from the airport extending from the 7-mile radius to 11.4 miles northeast of the airport; adding an extension 4 miles each side of the 214° bearing from the airport extending from the 7-mile radius to 11.5 miles southwest of the airport; adding the Genesis Health Care Heliport, Zanesville, OH, point in space coordinates that had been inadvertently removed from the airspace legal description in a previous amendment to the header of the airspace legal description; updating the name of the Genesis Health Care Heliport (previous Bethesda Hospital) to coincide with the FAA's aeronautical database; and removing the exclusionary language as it is no longer required.

This action is the result of an airspace review conducted as part of the decommissioning of the Zanesville VOR as part of the VOR MON Program and to support IFR operations at this airport.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant

preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Areas Designates as a Surface Area.

* * * * *

AGL OH E2 Zanesville, OH [Amended]

Zanesville Municipal Airport, OH
(Lat. 39°56'40" N, long. 81°53'32" W)
Riverside Airport, OH
(Lat. 39°59'10" N, long. 81°59'01" W)

Within a 4.5-mile radius of the Zanesville Municipal Airport excluding that airspace within a 1-mile radius of the Riverside Airport.

* * * * *

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

* * * * *

AGL OH E5 Zanesville, OH [Amended]

Zanesville Municipal Airport, OH
(Lat. 39°56'40" N, long. 81°53'32" W)

Genesis Health Care Heliport Point in Space Coordinates

(Lat. 39°59'05" N, long. 82°01'30" W)

That airspace extending upward from 700 feet above the surface within an 7-mile radius of the Zanesville Municipal Airport; and within 4 miles each side of the 034° bearing from the airport extending from the 7-mile radius of the airport to 11.4 miles northeast of the airport; and within 4 miles each side of the 214° bearing from the airport extending from the 7-mile radius of the airport to 11.5 miles southwest of the airport; and within a 6-mile radius of the Genesis Health Care Heliport point in space coordinates.

* * * * *

Issued in Fort Worth, Texas, on August 26, 2024.

Martin A. Skinner,

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

[FR Doc. 2024–19477 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–13–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

Correction

In Proposed Rule Document 2024–18281, appearing on pages 67336–67341, in the issue of Tuesday, August 20, 2024, make the following corrections:

1. On page 67336, in the second column, in the **DATES** section, in the third line, “October 18, 2024” should read “October 21, 2024”.

2. On the same page, in the same column, in the same section, in the fourth line “August 20, 2024” should read “August 19, 2024”.

[FR Doc. C1–2024–18281 Filed 8–28–24; 2:00 pm]

BILLING CODE 0099–10–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0500]

RIN 1625–AA00

Safety and Security Zones: Pilgrim Nuclear Power Plant, Plymouth Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to disestablish the existing security zone for Pilgrim Nuclear Power Plant, Plymouth, Massachusetts. Since the implementation of the regulation, the facility has permanently ceased power operations making the provisions of the security zone no longer applicable. The waterfront facility’s security zone will be removed from all charts, publications, and other navigational references. All related private aids to navigational marking the boundaries of the security zone will also be removed. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 30, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0500 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call, or email Mr. Timothy Chase, Sector Boston, Waterways Management Division, U.S. Coast Guard; telephone 617–447–1620, email Timothy.w.chase@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Boston
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On September 11, 2001, four commercial aircraft were hijacked and flown into the World Trade Center in New York City, and the Pentagon, inflicting catastrophic human casualties and property damage. National security and intelligence officials warned that future terrorist attacks were likely.

In response, on May 30, 2002, the Coast Guard published a final rule titled “Safety and Security Zones; Pilgrim Nuclear Power Plant, Plymouth Massachusetts” in the **Federal Register** (67 FR 37693). On October 2, 2009 the regulation was amended by **Federal Register** (74 FR 50925) establishing a permanent safety and security zone on all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41–56°59.3” N, 070–34°58.5” W; thence to 41–57°12.2” N, 070–34°41.9” W; thence to 41–56°42.3” N, 070–34°00.1” W; thence to 41–56°29.5” N, 070–34°14.5” W within Captain of the Port (COTP) Sector Boston, Massachusetts as part of a comprehensive, port security regime designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts.

On June 10, 2019, Entergy Nuclear Operations Inc (site prior owner) notified the U.S. Nuclear Regulatory Commission (NRC) that the power operations have ceased at Pilgrim Nuclear Station (PNPS) and that the nuclear fuel was permanently removed from the PNPS reactor vessel as per 10 CFR 50.82(a)(1)(i). Effectively, Entergy understood and acknowledged that upon docketing these certifications (ML19161A033), the PNPS 10 CFR part 50 license no longer authorized operation of the reactor or emplacement or retention of fuel in the reactor vessel. Subsequently, the facility license and ownership of Pilgrim Station was transferred to HDI on August 27, 2019 (ML19235A050).

On December 14, 2021, HDI notified the NRC (ML21348A748) that all nuclear fuel was transferred out of the spent nuclear fuel pool and was placed in dry cask storage containers within the newly built Independent Spent Fuel Storage Installation (ISFSI). These dry cask storage containers are air cooled and do not rely on cooling water from Cape Cod Bay for nuclear fuel cooling.

On January 9, 2024, Entergy Nuclear Operation, Inc, notified the Coast Guard that they had provided all the required documentation for disestablishment to the U.S. Nuclear Regulatory Commission as per 10 CFR 50.82(a)(1)(i). Power operations have

ceased at the Pilgrim Nuclear Power Station.

For the reason discussed in the preceding paragraph, the Coast Guard proposes to disestablish the security zone cited in 33 CFR 165.115, Safety and Security Zones: Pilgrim Nuclear Power Plant, Plymouth, Massachusetts by removing that section completely and reserving it for future use. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The Coast Guard proposes to disestablish the security zone cited in 33 CFR 165.115, Safety and Security Zones: Pilgrim Nuclear Power Plant, Plymouth, Massachusetts, by removing that section and reserving it for future use.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the need to align the regulations with the current arrangements of the port as the waterfront facility safety zone is no longer required. The Captain of the Port Sector Boston proposes to amend 33 CFR 165.115(a)(1) and reserve it for future use.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have Tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the disestablishment of a security zone. Normally such actions are categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0500 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

§ 165.115 [Removed]

■ 2. Remove § 165.115.

Dated: August 22, 2024.

J.C. Frederick,

Captain, U.S. Coast Guard, Captain of the Port Sector Boston.

[FR Doc. 2024–19592 Filed 8–29–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2021–0663; EPA–R07–OAR–2021–0851; FRL–11688–03–R7]

Air Plan Disapproval; Missouri; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for a proposed rule that published August 6, 2024. The current comment period for the proposed rule was set to end on September 20, 2024. In response to requests from commenters, the EPA is extending the comment period for the proposed action to October 21, 2024.

DATES: The comment period for the proposed rule published on August 6, 2024, at 89 FR 63860 is extended. Comments must be received on or before October 21, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2021–0851 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to www.regulations.gov, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “I. Written Comments” heading of the **SUPPLEMENTARY INFORMATION** section of the associated notice of proposed rulemaking (89 FR 63860 August 6, 2024).

Docket: There are two dockets supporting this action, EPA–R07–OAR–2021–0851 and EPA–HQ–OAR–2021–0663. EPA–R07–OAR–2021–0851 contains information specific to Missouri, including the notice of

proposed rulemaking. Docket ID No. EPA–HQ–OAR–2021–0663 contains additional modeling files, emissions inventory files, technical support documents, and other relevant supporting documentation regarding interstate transport of emissions for the 2015 ozone NAAQS that are being used to support this action. All comments regarding information in either of these dockets are to be made in Docket ID No. EPA–R07–OAR–2021–0851. All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

William Stone, Environmental Protection Agency, Region 7 Office, Air and Radiation Division, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7714; email address: stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: On August 6, 2024, the EPA published the proposed rule “Air Plan Disapproval; Missouri; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards” in the **Federal Register** (89 FR 63860). The original deadline to submit comments was September 20, 2024. This action extends the comment period in response to requests from commenters. Written comments must now be received by October 21, 2024.

Dated: August 23, 2024.

Meghan A. McCollister,

Regional Administrator, Region 7.

[FR Doc. 2024–19449 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA–R06–OAR–2022–0311; FRL–12123–03–R6]****Air Plan Limited Approval and Limited Disapproval; Texas; Attainment Plan for the Rusk and Panola Counties 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard Nonattainment Area; Finding of Failure To Attain the Primary 2010 One-Hour Sulfur Dioxide Standard for Rusk and Panola Counties; Extension of Comment Period****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule “Air Plan Limited Approval and Limited Disapproval; Texas; Attainment Plan for the Rusk and Panola Counties 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard Nonattainment Area; Finding of Failure To Attain the Primary 2010 One-Hour Sulfur Dioxide Standard for Rusk and Panola Counties” that was published on August 2, 2024. The proposal provided for a public comment period ending September 3, 2024. The EPA received two requests from the public to extend this comment period. The EPA is extending the comment period to October 18, 2024.

DATES: The comment period for the proposed rule published August 2, 2024 (89 FR 63117), is extended. Written comments must be received on or before October 18, 2024.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2022–0311, at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

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

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT:

Andrew Lee, EPA Region 6 Office, Ozone and Infrastructure Section, 214–665–6750, lee.andrew.c@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket. Modeling files and other files related to the alternative model review are available upon request. Copyrighted materials are available for review in person at EPA Region 6 office in Dallas.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever

“we,” “us,” or “our” is used, we mean the EPA.

On August 2, 2024, we published in the **Federal Register** “Air Plan Limited Approval and Limited Disapproval; Texas; Attainment Plan for the Rusk and Panola Counties 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard Nonattainment Area; Finding of Failure to Attain the Primary 2010 One-Hour Sulfur Dioxide Standard for Rusk and Panola Counties”, where we proposed two actions in the notice. First, EPA proposed to determine that the Rusk-Panola Counties, Texas nonattainment area failed to attain the 2010 1-hour primary sulfur dioxide (SO₂) national ambient air quality standard (NAAQS) by the applicable attainment date of January 12, 2022. Second, EPA proposed a limited approval and limited disapproval of the State Implementation Plan (SIP) revision for the Rusk-Panola 2010 1-hour SO₂ Primary NAAQS nonattainment area (89 FR 63117). We received two requests for an extension of the comment period and, in response, have decided to allow an additional 45 days for the public to comment. The comment period will now close on October 18, 2024. This action will allow interested persons additional time to prepare and submit comments on the proposed action listed above.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, sulfur oxides, Pollution, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 26, 2024.

David Garcia,

Director, Air and Radiation Division, Region 6.

[FR Doc. 2024–19596 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 89, No. 169

Friday, August 30, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–NOP–24–0023]

Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), is announcing a meeting of the National Organic Standards Board (NOSB). The NOSB assists USDA in the development of standards for substances to be used in organic production and advises the Secretary of Agriculture on any other aspects of the implementation of the Organic Foods Production Act (OFPA).

DATES: An in-person meeting will be held October 22–24, 2024, from 8:30 a.m. to approximately 6 p.m. Pacific time (PT) each day, and we plan to include a virtual broadcast.

Oral Comments: The NOSB will hear oral public comments via webinars on Tuesday, October 15, 2024, and Thursday, October 17, 2024, from 12 p.m. to approximately 5 p.m. eastern time (ET). The USDA National Organic Program (NOP) will consult with the Board on whether time will be allotted for in-person oral public comments in Milwaukee, in addition to the pre-meeting oral comment webinars and written comments. If allowed, NOP will post details on the AMS website when registration opens.

Written Comments: The deadline to submit written comments and/or sign up for oral comment at either the webinar or in-person meeting is 11:59 p.m. ET, September 30, 2024.

ADDRESSES: The webinars are virtual and can be accessed via the internet

and/or phone. Access information will be available on the AMS website prior to the webinars. The in-person meeting will take place at the Hilton Portland Downtown, 921 SW Sixth Avenue, Portland, Oregon, United States 97204, and will be broadcast virtually. Detailed information pertaining to the webinars and in-person meeting, including virtual viewing options, can be found at <https://www.ams.usda.gov/event/national-organic-standards-board-nosb-meeting-portland-or>.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Arsenault, Advisory Committee Specialist, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Avenue SW, Room 2642–S, STOP 0268, Washington, DC 20250–0268; Phone: (202) 997–0115; Email: nosb@usda.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, 5 U.S.C. 10, and 7 U.S.C. 6518(e), as amended, AMS is announcing a meeting of the NOSB. The NOSB makes recommendations to USDA about whether substances should be allowed or prohibited in organic production and/or handling, assists in the development of standards for organic production, and advises the Secretary on other aspects of the implementation of the Organic Foods Production Act, 7 U.S.C. 6501 *et seq.* NOSB is holding a public meeting to discuss and vote on proposed recommendations to USDA, to obtain updates from the NOP on issues pertaining to organic agriculture, and to receive comments from the organic community. The meeting is open to the public. Registration is only required to sign up for oral comments. Photography is allowed, as long as it is not disruptive. All meeting documents and instructions for participating will be available on the AMS website at <https://www.ams.usda.gov/event/national-organic-standards-board-nosb-meeting-portland-or>. Please check the website periodically for updates. Meeting topics will encompass a wide range of issues, including substances petitioned for addition to, or removal from, the National List of Allowed and Prohibited Substances (National List), substances on the National List that are under sunset review, and guidance on organic policies.

Public Comments: Comments should address specific topics noted on the meeting agenda.

Written Comments: Written public comments will be accepted until 11:59 p.m. ET, September 30, 2024, via <http://www.regulations.gov> (Docket No. AMS–NOP–24–0023). Comments submitted after this date will be added to the public comment docket, but Board members may not have adequate time to consider those comments prior to making recommendations. NOP strongly prefers comments be submitted electronically. However, written comments may also be submitted (*i.e.*, postmarked) via mail, by or before the deadline, to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Oral Comments: The NOSB will hear oral public comments via webinars on Tuesday, October 15, 2024, and Thursday, October 17, 2024, from 12 p.m. to approximately 5 p.m. eastern time (ET), and during the first day of the in-person meeting in Portland. Each commenter wishing to address the Board must pre-register by 11:59 p.m. ET on September 30, 2024, and can register for only one speaking slot (either during the webinars, or in Portland). Instructions for registering and providing oral comments can be found at <https://www.ams.usda.gov/event/national-organic-standards-board-nosb-meeting-portland-or>.

Meeting Accommodations: The meeting hotel is compliant with the Americans with Disabilities Act, and USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under **FOR FURTHER INFORMATION CONTACT**. Determinations for reasonable accommodation will be made on a case-by-case basis.

Equal opportunity practices, in accordance with USDA policies, will be followed in all membership appointments to the Board. 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.

The USDA prohibits discrimination in all its programs and activities based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Dated: August 27, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–19537 Filed 8–29–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Black Hills National Forest is proposing to establish three recreation fee sites and a special recreation permit. Proposed recreation fees collected at the proposed recreation fee sites and for the proposed special recreation permit would be used for operation, maintenance, and improvement of the sites and the specialized recreation use covered by the proposed special recreation permit. An analysis of nearby recreation fee sites with similar amenities shows the proposed recreation fees that would be charged at the proposed recreation fee sites and for the proposed special recreation permit are reasonable and typical of similar recreation fee sites and specialized recreation uses in the area.

DATES: If approved, the proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Black Hills National Forest, Attention: Recreation Fees, 1019 North 5th Street, Custer, SD 57730.

FOR FURTHER INFORMATION CONTACT: Bradley Block, Recreation Program Manager, 605–673–9200 or bradley.block@usda.gov.

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the

Forest Service to publish in the **Federal Register** a six-month advance notice of establishment of proposed recreation fee sites and proposed special recreation permits. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed recreation fee sites, proposed special recreation permit, and proposed recreation fees in local newspapers and other local publications for public comment. Most of the proposed recreation fees would be spent where they are collected to enhance the visitor experience at the proposed recreation fee sites and in connection with the specialized recreation use covered by the proposed special recreation permit.

A proposed expanded amenity recreation fee of \$50 per night would be charged for rental of Meeker Cabin. A proposed standard amenity recreation fee of \$5 per day per vehicle would be charged at Jenny Gulch Picnic Site and Wrinkled Rock-Climbing Area. The America the Beautiful—the National Parks and Federal Recreational Lands Pass would be honored at these standard amenity recreation fee sites. A proposed special recreation permit and proposed special recreation permit fee of \$10 per day per vehicle are proposed for the Black Hills Motorized Trail Systems.

Expenditures of recreation fees collected at the proposed recreation fee sites and for the proposed special recreation permit would enhance recreation opportunities, improve customer service, and address maintenance needs. Once public involvement is complete, the proposed recreation fee sites, proposed special recreation permit, and proposed recreation fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. Reservations for Meeker Cabin could be made online at www.recreation.gov or by calling 877–444–6777. Reservations would cost \$8.00 per reservation.

Dated: August 26, 2024.

Jacqueline Emanuel,

Associate Deputy Chief, National Forest System.

[FR Doc. 2024–19545 Filed 8–29–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northwest Forest Plan Area Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Northwest Forest Plan Advisory Committee will hold a public meeting according to the details shown below. The committee is authorized under the National Forest Management Act and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to provide advice and pragmatic recommendations regarding potential regional scale land management planning approaches and solutions within the Northwest Forest Plan area within the context of the 2012 Planning Rule.

DATES: An in-person and virtual meeting will be held on September 25, 2024, 8:30 a.m. to 4:30 p.m.; September 26, 2024, 8:30 a.m. to 4:30 p.m.; and September 27, 2024, 8:30 a.m. to 12 p.m. Pacific daylight time.

Written and Oral Comments: Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. Pacific daylight time on September 13, 2024. Written public comments will be accepted through 11:59 p.m. Pacific daylight time on September 13, 2024. Comments submitted after this date will be provided by the Forest Service to the committee, but the committee may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held in-person at Skamania Lodge, 1131 SW Skamania Lodge Way, Stevenson, WA 98648. Committee information and meeting details can be found on the Northwest Forest Plan Federal Advisory Committee website at <https://www.fs.usda.gov/detail/r6/landmanagement/planning/?cid=fsseprd1076013> or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to sm.fs.nwfp_faca@usda.gov or via mail (postmarked) to Katie Heard, USDA Forest Service, 1220 Southwest 3rd Avenue, Ste. G015, Portland, OR 97204. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. Pacific daylight time September 13, 2024, and speakers can only register for one speaking slot. Requests to pre-register for oral comments must be sent by email to sm.fs.nwfp_faca@usda.gov or via mail (postmarked) to Katie Heard,

USDA Forest Service, 1220 Southwest 3rd Avenue, Ste. G015, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT:

Jacqueline Buchanan, Designated Federal Officer, by phone at 303–275–5452 or email at Jacqueline.buchanan@usda.gov; or Katie Heard, FACA Coordinator, at Kathryn.Heard@usda.gov.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Provide advice and pragmatic recommendations to the Forest Service regarding updates to the Northwest Forest Plan and implementation strategies.

2. Schedule the next meeting.

The agenda will include time for individuals to make oral statements of three minutes or less. To be scheduled on the agenda, individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date. Written comments may be submitted to the Forest Service up to 10 days after the meeting date listed under **DATES**.

Please contact the person listed under

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

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

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

all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the committee. To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent possible, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities USDA is an equal opportunity provider, employer, and lender.

Dated: August 27, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–19555 Filed 8–29–24; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of business meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a series of public business meetings via Zoom. The purpose of these business meetings is review and finalize the Committee's forthcoming report on the Rising Use of Artificial Intelligence (AI) in Education. The Committee will also discuss any post-report activities as appropriate and conclude the current appointment term (appointment term ending December 10, 2024).

DATES:

- Wednesday, October 16, 2024, from 12:00 p.m.–1:30 p.m. Eastern Time
- Wednesday, October 30, 2024, from 12:00 p.m.–1:30 p.m. Eastern Time
- Wednesday, November 13, 2024, from 12:00 p.m.–1:30 p.m. Eastern Time
- Wednesday, November 20, 2024 from 12:00 p.m.–1:00 p.m.
- Wednesday, December 4, 2024 from 12:00 p.m.–1:00 p.m.

ADDRESSES: These meetings will be held via Zoom.

October 16th Meeting

- **Registration Link (Audio/Visual):** https://www.zoomgov.com/webinar/register/WN_RH0wfg80SY-sDkBam2Cu_g
- **Join by Phone (Audio Only):** 1–833–435–1820 USA Toll Free; Webinar ID: 161 732 9061#

October 30th Meeting:

- **Registration Link (Audio/Visual):** https://www.zoomgov.com/webinar/register/WN_P6hLdtFQXerbOnkRnlJcQ
- **Join by Phone (Audio Only):** 1–833–435–1820 USA Toll Free; Webinar ID: 161 139 0042#

November 13th Meeting:

- **Registration Link (Audio/Visual):** https://www.zoomgov.com/webinar/register/WN_p_bRdCo0S0eNVOoJ99-pzQ
- **Join by Phone (Audio Only):** 1–833–435–1820 USA Toll Free; Webinar ID: 161 449 8622#

November 20th Meeting:

- **Registration Link (Audio/Visual):** https://www.zoomgov.com/webinar/register/WN_0FSZLQzQtIZETBNFESSTQ
- **Join by Phone (Audio Only):** 1–833–435–1820 USA Toll Free; Webinar ID: 161 536 9616#

December 4th Meeting:

- **Registration Link (Audio/Visual):** https://www.zoomgov.com/webinar/register/WN_qn4xWCd2TnWQYyl7sS5jsA
- **Join by Phone (Audio Only):** 1–833–435–1820 USA Toll Free; Webinar ID: 160 979 9134#

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, Designated Federal Officer, at mwojnaroski@usccr.gov or 1–202–618–4158.

SUPPLEMENTARY INFORMATION: These Committee meetings are available to the public through the registration links above. Any interested members of the public may attend these meetings. An open comment period will be provided to allow members of the public to make oral statements as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at these meetings. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed

captioning is available by selecting "CC" in the meeting platform. To request additional accommodations, please email csanders@usccr.gov at least 10 business days prior to each meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the scheduled meeting. Written comments may be emailed to Melissa Wojnaroski at mwojnaroski@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at 1-202-618-4158.

Records generated from these meetings may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after each meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at csanders@usccr.gov.

Agenda

- I. Welcome and Roll Call
- II. Chair's Comments
- III. SAC Discussion of the Artificial Intelligence (AI) in education report
- IV. Public Comment
- V. Adjournment

Dated: August 26, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024-19519 Filed 8-29-24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 10:00 a.m. ET on Wednesday, September 25, 2024. The purpose of the meeting is to discuss the

Committee's project proposal on voting rights in the state.

DATES: Wednesday, September 25, 2024, from 10:00 a.m.–11:00 a.m. Eastern Time

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual):

https://www.zoomgov.com/webinar/register/WN_ed7JhwFQRAeIN9qgUtPuuA

Join by Phone (Audio Only): (833) 435-1820 USA Toll-Free; Meeting ID: 160 412 5870

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, Designated Federal Officer, at mwojnaroski@usccr.gov or (202) 618-4158.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at lschiller@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at mwojnaroski@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 618-4158.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website, www.box.com. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the

Regional Programs Coordination Unit at the above phone number.

Agenda

- I. Welcome & Roll Call
- II. Committee Discussion
- III. Public Comment
- IV. Next Steps
- V. Adjournment

Dated: August 26, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024-19518 Filed 8-29-24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Texas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Texas Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via ZoomGov on Wednesday, October 16, 2024, from 1:00 p.m.–2:00 p.m. CT. The purpose of the meeting is to debrief the testimony received at Panel I & II and begin to plan Panels III & IV.

DATES: The meeting will take place on: Zoom Webinar Link to Join (*Audio/Visual*) Wednesday, October 16th https://www.zoomgov.com/webinar/register/WN_1MJCZvSPQYq7T-IbqkroVA

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer (DFO) at bpeery@usccr.gov or by phone at (202) 701-1376.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captioning will

be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Brooke Peery (DFO) at bpeery@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Texas Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at atrevino@usccr.gov.

Agenda

- I. Welcome & Roll Call
- II. Approval of Minutes
- III. Committee Discussion
- IV. Public Comment
- V. Adjournment

Dated: August 26, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–19517 Filed 8–29–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Iowa Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Iowa Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public briefing and business meeting via Zoom on Wednesday, September 18, 2024 from 11:00 a.m.–1:00 p.m. Central Time. The

purpose of the meeting is for SAC members to hear testimony and will be followed by a business meeting to discuss timeline/next steps with the Committee.

DATES: Wednesday, September 18, 2024, from 11:00 a.m.–1:00 p.m. Central Time.

ADDRESSES: The meeting will be held via Zoom.

September 18th Briefing/Business Meeting

—Registration Link: <https://www.zoomgov.com/j/1601970678>

—Join by Phone (Audio Only) 1–833–435–1820 USA Toll Free: Meeting ID: 160 197 0678

FOR FURTHER INFORMATION CONTACT:

Mallory Trachtenberg, Designated Federal Officer, at mtrachtenberg@usccr.gov or 1–202–809–9618.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available. To request additional accommodations, please email Corrine Sanders, Support Specialist, at csanders@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg, mtrachtenberg@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Iowa Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at mtrachtenberg@usccr.gov.

Agenda

- I. Introductory Remarks
- II. Presentations and Committee Q & A
- III. Public Comment
- IV. Business Meeting
- V. Adjournment

Dated: August 16, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–19520 Filed 8–29–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the U.S. Virgin Islands Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the U.S. Virgin Islands Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom. The purpose of the meeting is to review and discuss the Committee's project proposal on the selected civil rights topic.

DATES: Tuesday, September 17, 2024, from 11:00 a.m.–12:30 p.m. Atlantic Time.

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual):

<https://bit.ly/4e2rq1P>

Join by Phone (Audio Only): 1–833–435–1820 USA Toll Free; Webinar ID: 160 648 0768#

FOR FURTHER INFORMATION CONTACT:

David Barreras, Designated Federal Officer, at dbarreras@usccr.gov or 1–202–656–8937.

SUPPLEMENTARY INFORMATION: This Committee meeting is available to the public through the registration link above. Any interested member of the public may attend this meeting. An open comment period will be provided to allow members of the public to make oral statements as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers

will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting "CC" in the meeting platform. To request additional accommodations, please email svillanueva@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the scheduled meeting. Written comments may be emailed to Sarah Villanueva at svillanueva@usccr.gov. Persons who desire additional information may contact the Regional Programs Coordination Unit at 1-202-656-8937.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, U.S. Virgin Islands Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at svillanueva@usccr.gov.

Agenda

- I. Welcome and Roll Call
- II. Committee Discussion
- III. Public Comment
- IV. Next Steps
- V. Adjournment

Dated: August 26, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024-19521 Filed 8-29-24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Texas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual briefings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Texas Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a series of virtual briefings via ZoomGov on the following dates listed below. The

purpose of these virtual briefings is to hear testimony about their current project investigating maternal mortality in the state.

DATES: These virtual briefings will take place on:

- **PANEL I:** Monday, October 7, 2024, from 1:00 p.m.–3:00 p.m. CT
- **PANEL II:** Tuesday, October 8, 2024, from 1:00 p.m.–3:00 p.m. CT

Zoom Webinar Links to Join (*Audio/Visual*)
Monday, October 7th
https://www.zoomgov.com/webinar/register/WN_8vE_qHLSc-yAKOjS1mPQ

Tuesday, October 8th
https://www.zoomgov.com/webinar/register/WN_bd9i1-cEQ0CHZMkPIE6ww

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer (DFO) at bpeery@usccr.gov or by phone at (202) 701-1376.

SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist, atrevino@usccr.gov at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Brooke Peery (DFO) at bpeery@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via www.facadatabase.gov under the Commission on Civil Rights, Texas Advisory Committee link. Persons

interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at atrevino@usccr.gov.

Agenda

- I. Welcome & Opening Remarks
- II. Panelist Remarks
- III. Committee Q&A
- IV. Public Comment
- V. Adjournment

Dated: August 26, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024-19516 Filed 8-29-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on September 18, 2024, 9:30 a.m.–3 p.m., eastern daylight time, in the Herbert C. Hoover Building, Room 1412, 1401 Constitution Avenue NW, Washington, DC (enter through Main Entrance on 14th Street between Constitution and Pennsylvania Avenues). The Committee advises and assists the Secretary of Commerce (Secretary) and other Federal officials and agencies with respect to actions designed to carry out the policy set forth in section 1752(1)(A) of the Export Control Reform Act. The purpose of the meeting is to have Committee members and U.S. Government representatives mutually review updated technical data and policy-driving information that has been gathered.

Agenda

Public Session

1. Opening remarks by the Bureau of Industry and Security.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the open meeting and public participation requirements found in sections 1009(a)(1) and 1009(a)(3) of the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001-1014). The exemption is authorized by section 1009(d) of the FACA, which permits the closure of advisory committee meetings,

or portions thereof, if the head of the agency to which the advisory committee reports determines such meetings may be closed to the public in accordance with subsection (c) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). In this case, the applicable provisions of 5 U.S.C. 552b(c) are subsection 552b(c)(4), which permits closure to protect trade secrets and commercial or financial information that is privileged or confidential, and subsection 552b(c)(9)(B), which permits closure to protect information that would be likely to significantly frustrate implementation of a proposed agency action were it to be disclosed prematurely. The closed session of the meeting will involve committee discussions and guidance regarding U.S. Government strategies and policies.

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at Yvette.Springer@bis.doc.gov (email) or (202) 482-2813 (voice). A limited number of seats will be available for members of the public to attend the open session in person. Reservations are not accepted.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Yvette Springer no later than Wednesday, September 11, 2024, so that appropriate arrangements can be made.

To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of materials to the Committee members, the Committee suggests that members of the public forward their materials prior to the meeting to Ms. Springer via email. Material submitted by the public will be made public and therefore should not contain confidential information. Meeting materials from the public session will be accessible via the Technical Advisory Committee (TAC) site at <https://tac.bis.doc.gov>, within 30-days after the meeting.

The Deputy Assistant Secretary for Administration, performing the non-exclusive functions and duties of the Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on August 23, 2024, pursuant to 5 U.S.C. 1009(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5

U.S.C. 1009(a)(1) and 1009(a)(3). The remaining portions of the meeting will be open to the public.

Meeting cancellation: If the meeting is cancelled, a cancellation notice will be posted on the TAC website at <https://tac.bis.doc.gov>.

For more information, contact Ms. Springer.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2024-19550 Filed 8-29-24; 8:45 am]

BILLING CODE 3510-JT-P

DEPARTMENT OF COMMERCE

[Docket No.: 240826-0227]

Revisions to the Fee Schedule for the Data Privacy Framework Program

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Final notice of implementation of revisions to the fee schedule for the Data Privacy Framework Program.

SUMMARY: The U.S. Department of Commerce (DOC) published the Revisions to the Fee Schedule for the Data Privacy Framework Program on July 9, 2024. We gave interested parties an opportunity to comment on the revisions to the fee schedule. No comments were received; therefore, the revised fee schedule is considered the final fee schedule subject to future review in accordance with OMB Circular A-25 and will become effective October 1st, 2024.

DATES: This fee schedule will become effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding the DPF program should be directed to Isabella Carlton, Department of Commerce, International Trade Administration, Room 11018, 1401 Constitution Avenue NW, Washington, DC, tel. (202) 482-1512 or via email at dpf.program@trade.gov. Additional information on ITA fees is available at trade.gov/fees.

SUPPLEMENTARY INFORMATION:

Background

Consistent with the guidelines in OMB Circular A-25, Federal agencies are responsible for implementing cost recovery program fees. The role of ITA is to strengthen the competitiveness of U.S. industry, promote trade and investment, and ensure fair trade through the rigorous enforcement of U.S. trade laws and agreements. ITA works to promote privacy policy frameworks to facilitate the trusted flow

of data across borders with strong privacy protections, which in turn supports international trade.

The U.S., EU, UK, and Switzerland share a commitment to enhancing privacy protection, the rule of law, and a recognition of the importance of transatlantic data flows to our respective citizens, economies, and societies, but have different legal systems and take different approaches to doing so. Given those differences, the DOC developed the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF in consultation with the European Commission, the UK Government, the Swiss Federal Administration, industry, and other stakeholders. These arrangements were respectively developed to provide U.S. organizations reliable mechanisms for personal data transfers to the U.S. from the EU, UK, and Switzerland that are consistent with EU, UK, and Swiss law.

The DOC has issued the EU-U.S. DPF Principles and the Swiss-U.S. DPF Principles, including the respective sets of Supplemental Principles (collectively, the Principles) and Annex I to the Principles, as well as the UK Extension to the EU-U.S. DPF under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. 1512).

To participate in the EU-U.S. DPF and, as applicable, the UK Extension to the EU-U.S. DPF, and/or the Swiss-U.S. DPF an organization must: (1) be subject to the investigatory and enforcement powers of the Federal Trade Commission (FTC), the Department of Transportation (DOT), or another statutory body that will effectively ensure compliance with the Principles; (2) publicly declare its commitment to comply with the Principles; (3) publicly disclose its privacy policies in line with the Principles; and (4) fully implement the Principles.

While the decision by an organization to self-certify its compliance and to participate in the DPF is voluntary; effective compliance is compulsory: organizations that self-certify to the DOC and publicly declare their commitment to adhere to the Principles must comply fully with the Principles. Organizations that only wish to self-certify their compliance pursuant to the EU-U.S. DPF and/or the Swiss-U.S. DPF may do so; however, organizations that wish to participate in the UK Extension to the EU-U.S. DPF must participate in the EU-U.S. DPF. Such organizations' commitment to comply with the Principles with regard to transfers of personal data from the EU and, as applicable, the UK, and/or Switzerland must be reflected in their self-

certification submissions to the DOC, and in their privacy policies. An organization’s failure to comply with the Principles after its self-certification is enforceable: (1) by the FTC under Section 5 of the Federal Trade Commission (FTC) Act prohibiting unfair or deceptive acts in or affecting commerce (15 U.S.C. 45); (2) by the DOT under 49 U.S.C. 41712 prohibiting a carrier or ticket agent from engaging in an unfair or deceptive practice in air transportation or the sale of air transportation; or (3) under other laws or regulations prohibiting such acts.

U.S. organizations considering self-certifying their compliance pursuant to the EU-U.S. DPF and, as applicable, the UK Extension to the EU-U.S. DPF, and/or the Swiss-U.S. DPF should review the requirements in their entirety, including the Principles and associated documents available in full at www.dataprivacyframework.gov.

Revisions to the Fee Schedule

ITA initially implemented a cost recovery program to support the operation of the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Frameworks (collectively, the Privacy Shield program) and is revising that fee schedule to support the operation of the DPF program. The cost recovery program will support the administration and supervision of the DPF program and support services related to the DPF program, including education and outreach. The revisions to the fee schedule will become effective October 1st, 2024, which is 30 days after this final fee schedule was published.

The Cost Recovery Fee Schedule for the EU-U.S. Privacy Shield Framework, published September 30, 2016 (81 FR 67293), describes the fees implemented

by ITA to cover the administration and supervision of the EU-U.S. Privacy Shield Framework. The first amendment to the Cost Recovery Fee Schedule for the EU-U.S. Privacy Shield Framework, published April 4, 2017 (82 FR 16375), describes the additional fees implemented by ITA to cover the administration and supervision of the Swiss-U.S. Privacy Shield Framework. Under this revision to the fee schedule, organizations that opt to self-certify only for the EU-U.S. DPF, only the EU-U.S. DPF and the UK Extension to the EU-U.S. DPF, or only the Swiss-U.S. DPF will pay a single fee when initially self-certifying or re-certifying. Organizations that opt to self-certify for an additional framework will pay an additional 50 percent of that single fee when self-certifying or re-certifying for the additional framework, reflecting the efficiency savings in administering the DPF program for organizations that participate in multiple parts of the DPF program. As organizations that wish to participate in the UK Extension to the EU-U.S. DPF must participate in the EU-U.S. DPF, the annual fee that such organizations are required to pay to ITA to participate in the EU-U.S. DPF currently covers both the EU-U.S. DPF and the UK Extension to the EU-U.S. DPF.

These efficiency savings are maximized if organizations self-certify to multiple parts of the DPF program simultaneously, reducing the required staff time and resources for reviewing materials. In addition, organizations that participate in the EU-U.S. DPF and, as applicable, the UK Extension to the EU-U.S. DPF and/or the Swiss-U.S. DPF may adjust their annual re-certification due date by re-certifying early (*i.e.*,

before the applicable due date) to the relevant part(s) of the DPF program.

Although an organization may adjust its annual re-certification due date by re-certifying early, the re-certification due date would apply to all parts of the DPF program in which it participates (*i.e.*, re-certification to the relevant part(s) of the DPF program is synchronized). For example, if an organization initially self-certified exclusively to and was placed on the Data Privacy Framework List with regard to the EU-U.S. DPF, and then several months later self-certified to and was placed on the Data Privacy Framework List with regard to the Swiss-U.S. DPF, the organization’s next re-certification to both of those parts of the DPF program would be due by the same date.

Additionally, a fixed annual fee of \$260 will be charged per applicable framework for organizations that withdraw from the relevant part(s) of the DPF program, retain personal data that they received in reliance on their participation in the relevant part(s) of the DPF program, continue to apply the Principles to such data, and affirm to ITA on an annual basis their commitment to apply the Principles to such data. This fee has been set to cover staff costs for reviewing the “Post-Withdrawal, Annual Affirmation Questionnaire”, which must be submitted by organizations that have chosen the aforementioned option when withdrawing from the relevant part(s) of the program, as well as the necessary website infrastructure to facilitate submission of the proper documents. Additionally, this fee is set to be less than any organization would be required to pay for re-certification. The fee schedule is set forth below:

REVISED ANNUAL FEE SCHEDULE FOR THE DPF PROGRAM		
Organization’s annual revenue	A single framework	Both frameworks
\$0 to \$5 million	\$260	\$390
Over \$5 million to \$25 million	750	1,125
Over \$25 million to \$500 million	1,600	2,400
Over \$500 million to \$5 billion	4,130	6,195
Over \$5 billion	5,530	8,295
	A single framework	Both frameworks
Post-withdrawal, annual affirmation fee	\$260	\$520

For purposes of the annual fee schedule described above:

- “A single framework” could refer to any of the following: only the EU-U.S. DPF; only the EU-U.S. DPF and the UK

Extension to the EU-U.S. DPF; or only the Swiss-U.S. DPF

- “Both frameworks” could refer to any of the following: the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF,

and the Swiss-U.S. DPF; or only the EU-U.S. DPF and the Swiss-U.S. DPF.

Organizations will have additional direct costs associated with participating in the DPF program. For

example, organizations must provide a readily available independent recourse mechanism to hear individual complaints at no cost to the individual. Furthermore, organizations are required to make contributions in connection with the arbitral model, as described in Annex I to the Principles.

Method for Determining Fees

ITA collects, retains, and expends user fees pursuant to delegated authority under the Mutual Educational and Cultural Exchange Act as authorized in its annual appropriations acts. The EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF were developed to facilitate transatlantic commerce by providing U.S. organizations with reliable mechanisms for personal data transfers to the United States from the EU/European Economic Area, UK, and Switzerland. The Data Privacy Framework program operates in a way that provides strong privacy protection as well as a more effective and efficient service to participants at a lower cost than other options, including standard contractual clauses or binding corporate rules.

Fees are set by taking into account the operational costs borne by ITA to administer and supervise the Data Privacy Framework program. The DPF program requires a significant commitment of resources and staff. These costs include broad programmatic costs to run the program as well as costs specific to EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF. The DPF program includes commitments from ITA to:

- Maintain, upgrade, and update a DPF program website, including maintaining the Data Privacy Framework List (*i.e.*, the authoritative list of U.S. organizations that have self-certified to the DOC, as represented by ITA, and declared their commitment to adhere to the Principles);
- Verify self-certification requirements submitted by organizations to participate in the DPF program;
- Follow up with organizations that have been removed from the Data Privacy Framework List and ensure, where applicable, that questionnaires are correctly filed and processed;
- Search for and address false claims of participation;
- Conduct periodic compliance reviews and assessments of the program;
- Provide information regarding the program to targeted audiences;
- Increase cooperation with European data protection authorities;

- Facilitate resolution of complaints about non-compliance;
- Hold periodic meetings with the European Commission, the UK government, the Swiss government, and other authorities to review the program; and
- Provide the EU, UK, and Switzerland with updates on laws relevant to the DPF program.

In setting these revised DPF program fees, ITA determined that the services provided offer special benefits to an identifiable recipient beyond those that accrue to the general public. ITA calculated the actual cost of providing its services in order to provide a basis for setting each fee. This actual cost incorporates direct and indirect costs, including operations and maintenance, overhead, and charges for the use of capital facilities. ITA also took into account additional factors, including inflation, adequacy of cost recovery, affordability, and costs associated with alternative options available to U.S. organizations for the receipt of personal data from the EU, the UK, and Switzerland. Furthermore, ITA considered the cost-savings and efficiencies gained in staff hours through simultaneous review of self-certifications for the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF. This analysis balanced these cost savings with projected expenses, including, but not limited to, website development, further negotiations with the EU, the UK, and Switzerland, periodic reviews, certification reviews, and facilitating complaint resolutions.

ITA will continue to use the established five-tiered fee schedule (see 82 FR 16375) that promoted participation of small organizations in the Privacy Shield program, while amending the fees at each tier to account for increased program administration costs. A multiple-tiered fee schedule allows ITA to offer organizations with lower revenue a lower fee. In setting the five tiers, ITA considered, in conjunction with the factors mentioned above: (1) the Small Business Administration's guidance on identifying small and medium enterprises (SMEs) in various industries most likely to participate in the DPF program, such as computer services, software and information services; (2) the likelihood that small companies would be expected to receive less personal data and thereby use fewer government resources; and (3) the likelihood that companies with higher revenue would have more customers whose data they process, which would use more government resources

dedicated to administering and overseeing the DPF program. For example, if a company holds more data, it could reasonably produce more questions and complaints from consumers and European data protection authorities (DPAs). ITA has committed to facilitating the resolution of individual complaints and to communicating with the FTC and the DPAs regarding consumer complaints. Lastly, the fee increases between the tiers are based in part on projected program costs and estimated participation levels among companies within each tier.

As noted above, the revisions to the fee schedule recoups the costs to ITA for operating and maintaining the DPF program. ITA has taken into account the efficiencies and economies of scale experienced when organizations participate in multiple Frameworks by providing a 50 percent discount off adding another framework program and requiring organizations to synchronize their re-certifications. The added cost of joining an additional framework program reflects the additional expenses incurred, including, but not limited to, for communications with DPAs and website infrastructure and development, as well as the additional costs of cooperating and communicating separately with the EU, UK, and Swiss representatives and governments. The fee applied to organizations that withdraw from relevant part(s) of the DPF program, but that maintain data, is meant to cover the programmatic costs associated with ITA's processing of such organizations' annual affirmation of commitment to continue to apply the Principles to the personal data they received while participating in the relevant part(s) of the DPF program. The flat fee is based on the expectation that government resources required to process this annual affirmation will be similar for all companies, regardless of size.

Based on the information provided above, ITA believes that the revised DPF program cost recovery fee schedule is consistent with the objective of OMB Circular A–25 to “promote efficient allocation of the nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as the cost to the U.S. Government of providing the special benefits . . .” (OMB Circular A–25(5)(b)). ITA has provided the public with the opportunity to comment on the revisions to the fee schedule (89 FR 56289, July 9, 2024). ITA did not receive any comments and is publishing the final fee schedule 30 days before the final fee schedule becomes effective.

ITA administers and supervises the DPF program, including maintaining and making publicly available the Data Privacy Framework List, an authoritative list of U.S. organizations that have self-certified to the DOC and declared their commitment to adhere to the Principles pursuant to the EU-U.S. DPF and, as applicable, the UK Extension to the EU-U.S. DPF, and/or the Swiss-U.S. DPF.

Dated: August 26, 2024.

Lesley Elouaradia,

Acting Deputy Assistant Secretary for Services, Industry & Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2024–19541 Filed 8–29–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE238]

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 joint hybrid meeting of its Scallop Advisory Panel and Plan Development Team to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, September 17, 2024 at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at Hilton Garden Inn Logan Airport, 100 Boardman St., Boston, MA 02128; telephone: (617) 567–5678.

Webinar registration URL information: https://nefmc-org.zoom.us/j/9tqJqHtata2PQbe_vEwWOAySUZA47.

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 Scallop Plan Development Team (PDT) and Advisory Panel will meet to

discuss: Framework 39—Review results of 2024 scallop surveys, and preliminary projections. The primary focus of this meeting will be to develop input on the range of potential specification alternatives for FY 2025 and FY 2026. The action will set Acceptable Biological Catch (ABC)/Annual Catch Limits (ACLs), days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips and trip accounting, and set-asides for the observer and research programs for fishing year 2025 and default specifications for fishing year 2026. The groups will also discuss the PDT’s review of accountability measures for yellowtail flounder and windowpane flounder and consider the development of measures in this action. They also plan to discuss the Scallop Strategic Plan—Consider progress and develop input on the process and timeline for this project. Other business will be discussed, if 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 27, 2024.

Alyssa Weigers,

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

[FR Doc. 2024–19565 Filed 8–29–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE245]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The MAFMC’s Spiny Dogfish Monitoring Committee will meet via webinar to develop recommendations for future Spiny Dogfish specifications and/or management measures.

DATES: The meeting will be held on Tuesday, September 17, 2024, from 1 p.m. to 2:30 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information and any related materials will be posted to the MAFMC’s website calendar prior to the meeting at <https://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Spiny Dogfish Monitoring Committee will meet to review previously-adopted 2025 spiny dogfish fishing year specifications (see summary at https://www.mafmc.org/s/2023-12_MAFMC-Report.pdf), and make any appropriate recommendations. Public comments will also be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: August 27, 2024.

Alyssa Weigers,

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

[FR Doc. 2024–19567 Filed 8–29–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XE246]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The MAFMC's Mackerel, Squid, and Butterfish Monitoring Committee will meet via webinar to develop recommendations for future Atlantic mackerel and butterfish specifications and/or management measures.

DATES: The meeting will be held on Tuesday, September 17, 2024, from 2:30 p.m. to 4 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information and any related materials will be posted to the MAFMC's website calendar prior to the meeting at www.mafmc.org.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mackerel, Squid, and Butterfish Monitoring Committee will meet to review previously-adopted 2025 Atlantic mackerel specifications (see summary at https://www.mafmc.org/s/2023-12_MAFMC-Report.pdf), and make any appropriate recommendations. The Monitoring Committee will also make recommendations for 2025–2026 butterfish specifications. Public comments will also be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: August 27, 2024.

Alyssa Weigers,

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

[FR Doc. 2024–19568 Filed 8–29–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XE172]

Pacific Island Fisheries; Marine Conservation Plan for American Samoa; Western Pacific Sustainable Fisheries Fund

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a Marine Conservation Plan (MCP) for American Samoa.

DATES: This agency decision is effective from August 30, 2024 through July 24, 2027.

ADDRESSES: You may obtain a copy of the MCP, identified by NOAA–NMFS–2024–0093, from the Federal e-Rulemaking Portal, <https://www.regulations.gov/docket/NOAA-NMFS-2024-0093>, or from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, 808–522–8220, <http://www.wpcouncil.org>.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–725–5177.

SUPPLEMENTARY INFORMATION: The Government of American Samoa developed the MCP, with concurrence of the Western Pacific Fishery Management Council. Section 204(e)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that a MCP detail the uses for funds to be collected by the Secretary of Commerce. Funds deposited into the Western Pacific Sustainable Fisheries Fund, including payments under a Pacific Insular Area Fishery Agreement and other contributions, may be used to implement the conservation and management objectives in the MCP. The MCP must be consistent with the Council's fishery management (ecosystem) plans, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects.

At its June 2024 meeting, the Council reviewed and concurred with the MCP. On June 21, 2024, the Governor of American Samoa submitted the MCP to NMFS for review and approval. The MCP contains the following six

conservation and management objectives:

1. Maximize social and economic benefits through sustainable fisheries;
2. Support quality scientific research to assess and manage fisheries;
3. Promote an ecosystem approach in fisheries management;
4. Recognize the importance of island culture and traditional fishing in managing fishery resources and foster opportunities for participation;
5. Promote education and outreach activities and regional collaboration regarding fisheries conservation;
6. Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea.

Please refer to the MCP for projects and activities designed to meet each objective, the evaluative criteria, and priority rankings.

This notice announces that NMFS has reviewed the MCP and determined that it satisfies the requirements of the Magnuson-Stevens Act. Accordingly, NMFS has approved the MCP for the time period from the publication of this notice through July 24, 2027. This MCP supersedes the one approved for July 25, 2021 through July 24, 2024 (86 FR 42792).

Dated: August 26, 2024.

Lindsay Fullenkamp,

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

[FR Doc. 2024–19487 Filed 8–29–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XE247]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The MAFMC's Spiny Dogfish Committee will meet via webinar to review previously-adopted 2025 spiny dogfish specifications and make any appropriate recommendations to the MAFMC and/or the New England Fishery Management Council.

DATES: The meeting will be held on Thursday, September 19, 2024, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information

and any related materials will be posted to the MAFMC's website calendar prior to the meeting at <https://www.mafmc.org>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive
Director, Mid-Atlantic Fishery
Management Council, telephone: (302)
526-5255.

SUPPLEMENTARY INFORMATION: The Spiny Dogfish Committee will meet to review previously-adopted 2025 spiny dogfish fishing year specifications (see summary at <https://www.mafmc.org/s/2023-12-MAFMC-Report.pdf>), and make any appropriate recommendations to the Councils for this jointly-managed stock. Public comments will also be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: August 27, 2024.

Alyssa Weigers,

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

[FR Doc. 2024-19569 Filed 8-29-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

[RTID 0648-XE239]

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 hybrid meeting of its Scallop Committee (Committee) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 18, 2024 at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at Hilton Garden Inn Logan Airport, 100 Boardman St., Boston, MA 02128; telephone: (617) 567-6789.

Webinar registration URL
information: [https://nefmc-org.zoom.us/
meeting/register/tJElD0mrpJ8vEtHebw9-
Q8Jof u7Dgp fOdN](https://nefmc-org.zoom.us/join/join?from=addon).

Council address: New England
Fishery Management Council, 50 Water
Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Catherine O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will meet to discuss: Framework 39—Review results of 2024 scallop surveys, and preliminary projections. The primary focus of this meeting will be to develop input on the range of potential specification alternatives for FY 2025 and FY 2026. The action will set Acceptable Biological Catch (ABC)/ Annual Catch Limits (ACLs), days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips and trip accounting, and set-asides for the observer and research programs for fishing year 2025 and default specifications for fishing year 2026. The Committee will also discuss the Scallop Plan Development Team's (PDT) review of accountability measures for yellowtail flounder and windowpane flounder and consider the development of measures in this action. They also plan to discuss the Scallop Strategic Plan—Consider progress and develop input on the process and timeline for this project. Other business will be discussed, if 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 27, 2024.

Alyssa Weigers,

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

[FR Doc. 2024-19566 Filed 8-29-24; 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; Generic Clearance for NOAA Social, Behavioral, and Economic Science Studies for Weather, Water, and Climate

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 29, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648–xxxx in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:
Requests for additional information or
specific questions related to collection
activities should be directed to Dr.
Danielle Nagele, Senior Social Science

Advisor, DOC/NOAA/NWS/AFS, 1325 East-West Highway, Silver Spring, MD 20910, 301-427-6919, danielle.nagele@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new generic information collection. The generic clearance is an important planning and engagement tool for NOAA/NWS. The National Oceanic and Atmospheric Administration's (NOAA) products and services support economic vitality and can affect America's gross domestic product. The National Weather Service (NWS) is a critical component of this service and operates under the mission to "provide weather, water and climate data, forecasts, warnings, and impact-based decision support services for the protection of life and property and enhancement of the national economy." Leveraging and integrating Social, Behavioral, and Economic Sciences (SBES) methodologies and knowledge is crucial to meeting this mission.

In order to effectively support public and partner decision-making, build actionable tools and information, and evaluate performance, it is imperative that the NOAA/NWS collect key SBES data and fully engage with our audiences. Additionally, the NOAA/NWS has articulated a priority to enhance services for historically underinvested and underserved communities and improve service equity across the board. These communities typically experience higher rates of poverty, homelessness, disabilities, and language barriers, which increase their vulnerability to hazard impacts.

II. Method of Collection

The procedures expected to be used include, but are not limited to, social network analysis, open, semi-structured and structured interviews, focus groups, surveys, and ethnographies to include participant observations.

III. Data

OMB Control Number: 0648-NEW.

Form Number(s): None.

Type of Review: New information collection.

Affected Public: Members of the public, emergency managers, broadcast meteorologists, state/local/tribal decision makers, and non-profit organizations.

Estimated Number of Respondents: Approximately 6,000 per year.

Estimated Time per Response: 0.5 hours per person.

Estimated Total Annual Burden

Hours: Annualized 3,000 hours overall.

Estimated Total Annual Cost to

Public: No cost.

Respondent's Obligation: Voluntary.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this Information Collection Request (ICR). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024-19577 Filed 8-29-24; 8:45 am]

BILLING CODE 3510-KE-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the procurement list.

SUMMARY: The Committee is proposing to add service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: September 29, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785-6404, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51-5.3(b), the Committee intends to add this services requirement to the Procurement List as a mandatory purchase only for contracting activity and location listed below with the proposed qualified nonprofit agency as the authorized source of supply. Prior to adding the service to the Procurement List, the Committee will consider other pertinent information, including information from Government personnel and relevant comments from interested parties regarding the Committee's intent to geographically limit this services requirement.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Landscaping Service
Mandatory for: Missile Defense Agency, Missile Defense Agency Headquarters, Fort Belvoir, VA

Authorized Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD

Contracting Activity: MISSILE DEFENSE AGENCY (MDA)

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

4240-01-534-3386—Hearing Protection, Over-the-Head Earmuff, NRR 30dB, PR 6515-01-576-8796—Skull Screws Ear Plug, Yellow, Single Ended, Universal Size

6515-00-NSH-0012—Skull Screws Ear Plug, Single Ended, Universal Size

Authorized Source of Supply: Access: Supports for Living Inc., Middletown, NY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s):

7510-01-660-4955—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Black, Page Yield 13000
 7510-01-660-4957—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Cyan, Page Yield 12000
 7510-01-660-4960—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Yellow, Page Yield 12000
 7510-01-660-4963—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Magenta, Page Yield 12000
Designated Source of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Mail and Messenger Service
Mandatory for: US Army Corps of Engineers, 4820 University Square, Huntsville, AL
Authorized Source of Supply: Huntsville Rehabilitation Foundation, Inc., Huntsville, AL
Contracting Activity: DEPT OF THE ARMY, W2V6 USA ENG SPT CTR HUNTSVIL

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024-19522 Filed 8-29-24; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the procurement list.

SUMMARY: This action deletes service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* September 29, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785-6404, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Deletions

On 7/26/2024 (89 FR 60605), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51-2.3.

After consideration of the relevant matter presented, the Committee has determined that the service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following service(s) are deleted from the Procurement List:

Service(s)

Service Type: Mailroom Operation
Mandatory for: National Guard Bureau, Arlington Hall Building One and Two, Arlington, VA

Authorized Source of Supply: Didlake, Inc., Manassas, VA

Contracting Activity: DEPT OF THE ARMY, W39L USA NG READINESS CENTER

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: 18791 Snouffers School Road, Gaithersburg, MD

Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR-FT DIX (RC)

Service Type: Mail and Messenger Service
Mandatory for: U.S. Army, U.S. Army Test and Evaluation Command, Aberdeen Proving Ground, MD

Authorized Source of Supply: DePaul Industries, Portland, OR
Contracting Activity: DEPT OF THE ARMY, W6QK ACC-APG

Service Type: Custodial Service
Mandatory for: U.S. Army, Des Moines Military Entrance Processing Station, 7105 NW 70th Avenue, Johnston, IA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC-FT KNOX

Service Type: Janitorial/Custodial
Mandatory for: Automated Flight Service Station and ATC Tower: Bowman Field, Louisville, KY

Contracting Activity: TRANSPORTATION, DEPARTMENT OF, DEPT OF TRANS

Service Type: Custodial Services
Mandatory for: U.S. Capitol Building, Capitol Visitor Center, 2nd and D Street SW, Washington, DC
Authorized Source of Supply: Fedcap

Rehabilitation Services, Inc., New York, NY
Contracting Activity: Architect of the Capitol
Service Type: Janitorial/Grounds Maintenance
Mandatory for: U.S. Mint: 155 Hermann Street, San Francisco, CA
Authorized Source of Supply: Toolworks, Inc., San Francisco, CA
Contracting Activity: UNITED STATES MINT, DEPT OF TREAS/U.S. MINT
Service Type: Janitorial Service
Mandatory for: U.S. Fish and Wildlife Service, Rocky Mountain Arsenal National Wildlife Refuge, 6550 Gateway Road, Commerce City, CO
Authorized Source of Supply: Bayaud Enterprises, Inc., Denver, CO
Contracting Activity: U.S. FISH AND WILDLIFE SERVICE, U.S. FISH AND WILDLIFE

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024-19523 Filed 8-29-24; 8:45 am]

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DEPARTMENT OF EDUCATION

Applications for New Awards; High School Equivalency Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2025 for the High School Equivalency Program (HEP).

DATES:

Applications Available: September 3, 2024.

Deadline for Transmittal of Applications: November 13, 2024.

Deadline for Intergovernmental Review: January 13, 2025.

Pre-Application Webinar Information: The Department will hold a pre-application webinar for prospective applicants. The date and time of the webinar will be announced on the Department's website at: <https://oese.ed.gov/offices/office-of-migrant-education/high-school-equivalency-program/applicant-information-high-school-equivalency-program/>.

Note: For new potential grantees unfamiliar with grantmaking at the Department, please consult our "Getting Started with Discretionary Grant Applications" web page at <https://www2.ed.gov/fund/grant/about/discretionary/index.html>.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common

Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.

FOR FURTHER INFORMATION CONTACT:

Dylan Hart-Medina, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 987-1705. Email: Dylan.Hart-Medina@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The HEP is designed to assist migratory or seasonal farmworkers (or immediate family members of such workers) to obtain the equivalent of a secondary school diploma and subsequently to gain improved employment, enter military service, or be placed in an institution of higher education (IHE) or other postsecondary education or training.

Assistance Listing Number: 84.141A.

OMB Control Number: 1894-0006.

Note: The Administration's Good Jobs Initiative, led by the Department of Labor, is focused on providing information to workers, employers, and government to promote good jobs for all workers. The Department encourages applicants for grants under this program to consider in their budget and personnel planning for the proposal the use of funds in ways that would improve job quality and create access to good jobs for all working people. Additional information about the Good Jobs Initiative and the Department's Good Jobs Principles for Education is available at <https://www.dol.gov/general/good-jobs> and <https://www.ed.gov/us-department-education-good-jobs-principles-statement>.

Priorities: This competition includes one competitive preference priority and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), the competitive preference priority is from section 418A(e) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070d-2(e)), and 34 CFR 206.31.

Competitive Preference Priority: For FY 2025 and any subsequent year in

which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 15 points to an application, depending on how well the application meets this competitive preference priority.

This priority is:

Consideration of Prior Experience.

(Up to 15 points)

Projects that are expiring (HEP grantees in their final budget period that received their current HEP award in FY 2020) will be considered for additional points under this competitive preference priority. In accordance with section 418A(e) of the HEA, we will award up to 15 points for this priority. In accordance with 34 CFR 206.31(a), the Secretary will consider the applicant's experience in implementing an expiring HEP project, with respect to:

(a) Whether the applicant served the number of participants described in its approved application;

(b) The extent to which the applicant met or exceeded its funded objectives with regard to project participants, including the targeted number and percentage of—

(1) Participants who received a general educational development (GED) credential; and

(2) GED credential recipients who were reported as entering postsecondary education programs, career positions, or the military; and

(c) The extent to which the applicant met administrative requirements, including recordkeeping, reporting, and financial accountability under the terms of the previously funded award.

Note: Although 34 CFR 206.31(a)(2)(i) and (ii) refer to general educational development (GED) credentials, the Department recognizes that there are multiple examinations through which high school equivalency (HSE) can be earned and, for the purposes of this notice, uses GED interchangeably with HSE.

Invitational Priorities: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications. Applicants that address these invitational priorities must do so under the selection criterion "Quality of the project design."

These priorities are:

Meeting Students' Social, Emotional, and Academic Needs.

Within a project designed to assist HEP students obtain the equivalent of a secondary school diploma, we invite projects that are designed to improve students' social, emotional, academic, and career development, with a focus on underserved students, through one or both of the following:

(a) Creating a positive, inclusive, and identity-safe climate at IHEs through fostering a sense of belonging and inclusion for students who are migratory or seasonal farmworkers or immediate family members of such workers.

(b) Fostering partnerships, including across government agencies (e.g., housing, human services, employment agencies), local educational agencies, community-based organizations, adult learning providers, and postsecondary education institutions, to provide comprehensive services to students who are migratory or seasonal farmworkers or immediate family members of such workers and their families that support students' social, emotional, mental health, and academic needs, and that are inclusive with regard to race, ethnicity, culture, language, and disability status.

Promoting Multilingualism to Equip Participants with Language Skills Necessary to Thrive in a Globalized World.

Within a project designed to assist HEP participants obtain the equivalent of a secondary school diploma, we invite projects that recognize, and are designed to increase awareness of, the benefits of proficiency in more than one language to help participants attain good jobs that provide a competitive wage, access to family-sustaining benefits, and equitable opportunities for advancement.

Definitions: The definitions of "migrant farmworker" and "seasonal farmworker" are from 34 CFR 206.5. The definitions of "demonstrates a rationale," "experimental study," "logic model," "project component," "promising evidence," "quasi-experimental design study," "relevant outcome," and "What Works Clearinghouse Handbooks (WWC Handbooks)" are from 34 CFR 77.1.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a

project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Migrant farmworker means a seasonal farmworker—as defined in this notice—whose employment required travel that precluded the farmworker from returning to his or her domicile (permanent place of residence) within the same day.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a “strong evidence base” or

“moderate evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a “positive effect” or “potentially positive effect” on a relevant outcome with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (e.g., a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Seasonal farmworker means a person whose primary employment was in farmwork on a temporary or seasonal basis (that is, not a constant year-round activity) for a period of at least 75 days within the past 24 months.

What Works Clearinghouse Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Note: The What Works Clearinghouse Procedures and Standards Handbook

(Version 4.1), as well as the more recent What Works Clearinghouse Handbooks released in August 2022 (Version 5.0), are available at <https://ies.ed.gov/ncee/wwc/Handbooks>.

Program Authority: 20 U.S.C. 1070d–2.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 206. (e) The Migrant Education Program (MEP) definitions in 34 CFR 200.81. (f) The National Farmworker Jobs Program (NFJP) definitions in 20 CFR 685.110 and eligibility regulations in 20 CFR 685.320.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Note: The MEP definitions and NFJP definitions and eligibility regulations apply to individuals seeking to qualify for HEP based on past participation in the MEP or NFJP.

Note: The Department will implement the changes included in the OMB final rule, *OMB Guidance for Federal Financial Assistance* (www.federalregister.gov/documents/2024/04/22/2024-07496/guidance-for-federal-financial-assistance), formerly called, *Office of Management and Budget Guidance for Grants and Agreements*, which amends 2 CFR part 200, on October 1, 2024. When preparing an application, grant applicants who anticipate a performance period start date on or after October 1, 2024, should follow the requirements in the updated 2 CFR part 200. For more information about these updated regulations please visit: <https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested \$6,650,000 for new awards for this program for FY 2025. The actual level of funding, if any, depends on final

congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:
\$180,000–\$475,000.

Estimated Average Size of Awards:
\$475,000.

Maximum Award: We will not make an award exceeding \$475,000 for a single budget period of 12 months. Under 34 CFR 75.104(b) the Secretary may reject, without consideration or evaluation, any application that proposes a project funding level that exceeds the stated maximum award amount.

Minimum Award: We will not make an award for less than \$180,000 for a single budget period of 12 months. Under section 418A of the HEA, the Secretary is prohibited from making an award for less than the stated award amount. Therefore, we will reject any application that proposes a HEP award that is less than the stated minimum award amount.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months (five 12-month budget periods). Under section 418A(e) of the HEA, except under extraordinary circumstances, the Secretary must award grants for a five-year period. Under 34 CFR 75.117(b), applicants must submit a budget narrative accompanied by a budget form prescribed by the Secretary that provides budget information for each budget period of the proposed project period. Therefore, we may reject any application that does not propose a five-year project period as reflected on the applicant's ED 524 form, Section A, and budget narrative form, submitted as a part of the application.

III. Eligibility Information

1. *Eligible Applicants:* An IHE (as defined in section 101 and 102 of the HEA) or a private nonprofit (as those terms are defined in 34 CFR 77.1) organization may apply for a grant to operate a HEP project. If a private nonprofit organization other than an IHE applies for a HEP grant, that organization must plan the project in cooperation with an IHE and must propose to operate some aspects of the project with the facilities of that IHE.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching. However, consistent with 34 CFR 75.700, which requires an applicant to comply with its approved application, an applicant that proposes non-Federal matching funds and is awarded a grant must provide those funds for each year that the funds are proposed.

b. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or 8 percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see <https://www2.ed.gov/about/offices/list/ocfo/intro.html>.

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Guidance for Federal Financial Assistance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and nonprofit organizations. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition

under procedures established by the grantee.

4. *Other:* a. *Budget:* Projects funded under this competition must budget for a three-day Office of Migrant Education annual meeting for HEP Directors in the Washington, DC area during each year of the project period. Such expenses are allowable uses of grant funds and may be included in the proposed project budget. This meeting may be held virtually if conditions warrant such format.

b. *Build America, Buy America Act:* This program is not subject to the Build America, Buy America Act (Pub. L. 117–58) domestic sourcing requirements.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at <https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs>, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for HEP, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600 (Predisclosure of Notification Procedures for Confidential Commercial Information), please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about

Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.

- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative. An application will not be disqualified if it exceeds the recommended page limit.

6. *Application Requirements:* Applicants must address the following application requirements (34 CFR 206.20). In applying for a grant, an applicant must—

(a) Follow the procedures and meet the requirements stated in subpart C of 34 CFR part 75 (Direct Grant Programs);

(b) Submit a grant application that:

(1) Covers a period of five years unless extraordinary circumstances warrant a shorter period; and

(2) Includes an annual budget of not less than \$180,000;

(c) Include a management plan that contains:

(1) Assurances that the staff has a demonstrated knowledge of and will be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population; and

(2) Provisions for:

(i) Staff inservice training;

(ii) Training and technical assistance;

(iii) Staff travel;

(iv) Student travel;

(v) Interagency coordination; and

(vi) Project evaluation; and

(d) Provide the following assurances:

(1) The grantee will develop and implement a plan for identifying, informing, and recruiting eligible participants who are most in need of the academic and supporting services and financial assistance provided by the project.

(2) The grantee will develop and implement a plan for identifying and using the resources of the participating IHE and the community to supplement and enhance the services provided by the project.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210¹ and are as follows:

(a) Need for project (Up to 10 points).

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (Up to 10 points)

(b) Quality of the project design (Up to 24 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 7 points)

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 5 points)

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (Up to 5 points)

(iv) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (Up to 7 points)

(c) Quality of project services (Up to 24 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

¹ Although updates to the Education Department General Administrative Regulations (EDGAR), including updates to 34 CFR 75.210, are scheduled to be published in the **Federal Register** on August 29, 2024, the selection criteria that apply to this competition are the ones in effect on the date of publication of this NIA.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (Up to 7 points)

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (Up to 7 points)

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (Up to 7 points)

(d) Quality of project personnel (Up to 10 points).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel. (Up to 7 points)

(e) Adequacy of resources (Up to 12 points).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (Up to 4 points)

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (Up to 4 points)

(iii) The extent to which the costs are reasonable in relation to the objectives,

design, and potential significance of the proposed project. (Up to 4 points)

(f) Quality of the project evaluation (Up to 20 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 10 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (Up to 5 points)

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in this notice) about the project's effectiveness. (Up to 5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in section 418A of the HEA. In accordance with section 418A, the Secretary makes HEP awards based on the number, quality, and promise of the applications. Additionally, in accordance with section 418A, if final FY 2025 HEP and College Assistance Migrant Program appropriations exceed \$40,000,000, the Secretary will consider the need to provide an equitable geographic distribution of HEP awards. The Secretary may consider the need to provide equitable geographic distribution of HEP awards when—

1. Two or more applicants receive the same score at the funding cutoff for this competition;

2. The Secretary determines that a geographic region is overserved by current HEP projects;

3. The Secretary determines that a geographic region is underserved by current HEP projects; or

4. Two or more applicants propose to operate similar HEP projects in the same geographical region.

When evaluating a potentially overserved or underserved geographic region, the Secretary may consider factors such as migrant or seasonal farmworker population data for a State or region, approximate distance between current and proposed projects, the type of entity of the current or proposed project (e.g., private nonprofit organization, 2-year IHE, 4-year IHE), and the number of students proposed to be served by the current or proposed HEP project.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity

information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General:* In accordance with the Guidance for Federal Financial Assistance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN. We also may notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable

consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Performance Measures:* For the purposes of reporting under 34 CFR 75.110, the Department developed the following performance measures to evaluate the overall effectiveness of HEP: (1) the percentage of HEP participants exiting the program having received a HSE diploma, and (2) the percentage of HSE diploma recipients who enter postsecondary education or training programs, upgraded employment, or the military. These measures are referred to as HEP performance measures 1 and 2, respectively.

Applicants must propose annual targets for these measures and establish annual student enrollment targets in their applications. Applicants should identify these targets within their application abstracts. The national target for performance measure 1 for FY 2025 is that 69 percent of HEP participants exit the program having received an HSE credential. The national target for performance measure

2 for FY 2025 is that 80 percent of HEP HSE diploma recipients will enter postsecondary education or training programs, upgraded employment, or the military. The national targets for subsequent years may be adjusted based on additional baseline data.

Peer reviewers evaluate how well applicants propose to meet their application's goals and objectives. Peer reviewers will score related selection criteria on the basis of how well an applicant addresses these performance measures in addition to any other goals and objectives included in the application. Therefore, applicants will want to consider how to demonstrate a sound capacity to provide reliable data on the performance measures, including the project's annual performance targets for addressing the performance measures, as is required by the OMB-approved annual performance report that is included in the application package. All grantees will be required to submit, as part of their annual performance report, information with respect to these performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things, whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF), text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is

the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site, you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access Department documents published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Adam Schott,

*Principal Deputy Assistant Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant
Secretary Office of Elementary and Secondary
Education.*

[FR Doc. 2024–19579 Filed 8–28–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; College Assistance Migrant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2025 for the College Assistance Migrant Program (CAMP).

DATES:

Applications Available: September 3, 2024.

Deadline for Transmittal of Applications: November 13, 2024.

Deadline for Intergovernmental Review: January 13, 2025.

Pre-Application Webinar Information:

The Department will hold a pre-application webinar for prospective applicants. The date and time of the webinar will be announced on the Department's website at: <https://oese.ed.gov/offices/office-of-migrant-education/college-assistance-migrant-program/applicant-information-college-assistance-migrant-program/>.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045), and available at

www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.

FOR FURTHER INFORMATION CONTACT:

Dylan Hart-Medina, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 987-1705. Email: Dylan.Hart-Medina@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

Note: For new potential grantees unfamiliar with grantmaking at the Department, please consult our “Getting Started with Discretionary Grant Applications” web page at <https://www2.ed.gov/fund/grant/about/discretionary/index.html>.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The CAMP is designed to assist migratory or seasonal farmworkers (or immediate family members of such workers) who are enrolled or are admitted for enrollment on a full-time basis at an institution of higher education (IHE) to complete their first academic year.

Assistance Listing Number: 84.149A.

OMB Control Number: 1894-0006.

Note: The Administration’s Good Jobs Initiative, led by the Department of Labor, is focused on providing information to workers, employers, and government to promote good jobs for all workers. The Department encourages applicants for grants under this program to consider in their budget and personnel planning for the proposal the use of funds in ways that would improve job quality and create access to good jobs for all working people. Additional information about the Good Jobs Initiative and the Department’s Good Jobs Principles for Education is available at <https://www.dol.gov/general/good-jobs> and <https://www.ed.gov/us-department-education-good-jobs-principles-statement>.

Priorities: This competition includes one competitive preference priority and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), the competitive preference priority is from section 418A(e) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070d–2(e)), and 34 CFR 206.31.

Competitive Preference Priority: For FY 2025 and any subsequent year in

which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 15 points to an application, depending on how well the application meets this competitive preference priority.

This priority is:

Consideration of Prior Experience.

(Up to 15 points)

Projects that are expiring (CAMP grantees in their final budget period that received their current CAMP award in FY 2020) will be considered for additional points under this competitive preference priority. In accordance with section 418A(e) of the HEA, we will award up to 15 points for this priority. In accordance with 34 CFR 206.31(b), the Secretary will consider the applicant’s experience in implementing an expiring CAMP project, with respect to:

(a) Whether the applicant served the number of participants described in its approved application;

(b) The extent to which the applicant met or exceeded its funded objectives with regard to project participants, including the targeted number and percentage of participants who—

(1) Successfully completed the first year of college; and

(2) Continued to be enrolled in postsecondary education after completing their first year of college; and

(c) The extent to which the applicant met administrative requirements, including recordkeeping, reporting, and financial accountability under the terms of the previously funded award.

Invitational Priorities: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications. Applicants that address these invitational priorities must do so under the selection criterion “Quality of the project design.”

These priorities are:

Meeting Students’ Social, Emotional, and Academic Needs.

Within a project designed to assist CAMP students to complete their first academic year at an IHE, we invite projects that are designed to improve students’ social, emotional, academic, and career development, through one or both of the following:

(a) Creating a positive, inclusive, and identity-safe climate at IHEs through

fostering a sense of belonging and inclusion for students who are migratory or seasonal farmworkers or immediate family members of such workers.

(b) Fostering partnerships, including across government agencies (e.g., housing, human services, employment agencies), local educational agencies, community-based organizations, adult learning providers, and postsecondary education institutions, to provide comprehensive services to students who are migratory or seasonal farmworkers or immediate family members of such workers and their families that support students’ social, emotional, mental health, and academic needs, and that are inclusive with regard to race, ethnicity, culture, language, and disability status.

Promoting Multilingualism to Equip Participants with Language Skills Necessary to Thrive in A Globalized World.

Within a project designed to assist CAMP participants to complete their first academic year at an IHE, we invite projects that do one or both of the following:

(a) Encourage the development of language skills and proficiency in an additional language, recognizing the cognitive, economic, and cultural benefits of multilingualism.

(b) Encourage and support CAMP participants, especially participants who have attained the Seal of Biliteracy, to explore careers in which there is a high demand for bilingual and multilingual professionals (e.g., education and mental health services) with the intention that participants will attain good jobs that provide a competitive wage, access to family-sustaining benefits, and equitable opportunities for advancement.

Definitions: The definitions of “migrant farmworker” and “seasonal farmworker” are from 34 CFR 206.5. The definitions of “demonstrates a rationale,” “experimental study,” “logic model,” “project component,” “promising evidence,” “quasi-experimental design study,” “relevant outcome,” and “What Works Clearinghouse Handbooks (WWC Handbooks)” are from 34 CFR 77.1.

Demonstrates a rationale means a key project component included in the project’s logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment

to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Migrant farmworker means a seasonal farmworker—as defined in this notice—whose employment required travel that precluded the farmworker from returning to his or her domicile (permanent place of residence) within the same day.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a “strong evidence base” or “moderate evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a “positive effect” or “potentially positive effect” on a relevant outcome with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (e.g., a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Seasonal farmworker means a person whose primary employment was in farmwork on a temporary or seasonal basis (that is, not a constant year-round activity) for a period of at least 75 days within the past 24 months.

What Works Clearinghouse Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 4.1), as well as the more recent What Works Clearinghouse Handbooks released in August 2022 (Version 5.0), are available at <https://ies.ed.gov/ncee/wwc/Handbooks>.

Program Authority: 20 U.S.C. 1070d–2.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 206. (e) The Migrant Education Program (MEP) definitions in 34 CFR 200.81. (f) The National Farmworker Jobs Program (NFJP) definitions in 20 CFR 685.110 and eligibility regulations in 20 CFR 685.320.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Note: The MEP definitions and NFJP definitions and eligibility regulations apply to individuals seeking to qualify for CAMP based on past participation in the MEP or NFJP.

Note: The Department will implement the changes included in the OMB final rule, *OMB Guidance for Federal Financial Assistance* (89 FR 30046, April 22, 2024) (www.federalregister.gov/documents/2024/04/22/2024-07496/guidance-for-federal-financial-assistance), formerly called, *Office of Management and Budget Guidance for Grants and Agreements*, which amends 2 CFR part 200, on October 1, 2024. When preparing an application, grant applicants who anticipate a performance period start date on or after October 1, 2024, should follow the requirements in the updated 2 CFR part 200. For more information about these updated regulations please visit: <https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

II. Award Information

Type of Award: Discretionary grants.
Estimated Available Funds: The Administration has requested

\$5,225,000 for new awards for this program for FY 2025. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

\$180,000–\$475,000.

Estimated Average Size of Awards:

\$475,000.

Maximum Award: We will not make an award exceeding \$475,000 for a single budget period of 12 months. Under 34 CFR 75.104(b) the Secretary may reject, without consideration or evaluation, any application that proposes a project funding level that exceeds the stated maximum award amount.

Minimum Award: We will not make an award for less than \$180,000 for a single budget period of 12 months. Under section 418A of the HEA, the Secretary is prohibited from making an award for less than the stated award amount. Therefore, we will reject any application that proposes a CAMP award that is less than the stated minimum award amount.

Estimated Number of Awards: 11.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months (five 12-month budget periods). Under section 418A(e) of the HEA, except under extraordinary circumstances, the Secretary must award grants for a five-year period. Under 34 CFR 75.117(b), applicants must submit a budget narrative accompanied by a budget form prescribed by the Secretary that provides budget information for each budget period of the proposed project period. Therefore, we may reject any application that does not propose a five-year project period as reflected on the applicant's ED 524 form, Section A, and budget narrative form, submitted as a part of the application.

III. Eligibility Information

1. *Eligible Applicants:* An IHE (as defined in section 101 and 102 of the HEA) or a private nonprofit (as those terms are defined in 34 CFR 77.1) organization may apply for a grant to operate a CAMP project. If a private nonprofit organization other than an IHE applies for a CAMP grant, that organization must plan the project in cooperation with an IHE and must

propose to operate the project with the facilities of that IHE.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching. However, consistent with 34 CFR 75.700, which requires an applicant to comply with its approved application, an applicant that proposes non-Federal matching funds and is awarded a grant must provide those funds for each year that the funds are proposed.

b. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or 8 percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see <https://www2.ed.gov/about/offices/list/ocfo/intro.html>.

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200, subpart E, of the Guidance for Federal Financial Assistance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and nonprofit organizations. The grantee may award subgrants to entities it has

identified in an approved application or that it selects through a competition under procedures established by the grantee.

4. *Other:* a. *Budget:* Projects funded under this competition must budget for a three-day Office of Migrant Education annual meeting for CAMP Directors in the Washington, DC area during each year of the project period. Such expenses are allowable uses of grant funds and may be included in the proposed project budget. This meeting may be held virtually if conditions warrant such format.

b. *Build America, Buy America Act:* This program is not subject to the Build America, Buy America Act (Pub. L. 117–58) domestic sourcing requirements.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045), and available at <https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs>, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for CAMP, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600 (Predisclosure of Notification Procedures for Confidential Commercial Information), please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive

Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative. An application will not be disqualified if it exceeds the recommended page limit.

6. *Application Requirements:*

Applicants must address the following application requirements (34 CFR 206.20). In applying for a grant, an applicant must—

(a) Follow the procedures and meet the requirements stated in subpart C of 34 CFR part 75 (Direct Grant Programs);

(b) Submit a grant application that:

(1) Covers a period of five years unless extraordinary circumstances warrant a shorter period; and

(2) Includes an annual budget of not less than \$180,000;

(c) Include a management plan that contains:

(1) Assurances that the staff has a demonstrated knowledge of and will be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population; and

(2) Provisions for:

(i) Staff inservice training;

(ii) Training and technical assistance;

(iii) Staff travel;

(iv) Student travel;

(v) Interagency coordination; and

(vi) Project evaluation; and

(d) Provide the following assurances:

(1) The grantee will develop and

implement a plan for identifying, informing, and recruiting eligible participants who are most in need of the academic and supporting services and financial assistance provided by the project.

(2) The grantee will develop and implement a plan for identifying and using the resources of the participating IHE and the community to supplement and enhance the services provided by the project.

Further, CAMP projects must provide follow-up services for project participants after they have completed their first year of college (34 CFR 206.11). Follow-up services may include—

(1) Monitoring and reporting the academic progress of students who participated in the project during their first year of college and their subsequent years in college;

(2) Referring these students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating those services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and

(3) For students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of those students.

CAMP grantees may not use more than 10 percent of funds awarded to them for follow-up services.

V. *Application Review Information*

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210¹ and are as follows:

(a) Need for project (Up to 10 points).

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (Up to 10 points)

¹ Although updates to the Education Department General Administrative Regulations (EDGAR), including updates to 34 CFR 75.210, are scheduled to be published in the **Federal Register** on August 29, 2024, the selection criteria that apply to this competition are the ones in effect on the date of publication of this NIA.

(b) Quality of the project design (Up to 24 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 7 points)

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 5 points)

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (Up to 5 points)

(iv) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (Up to 7 points)

(c) Quality of project services (Up to 24 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (Up to 7 points)

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (Up to 7 points)

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (Up to 7 points)

(d) Quality of project personnel (Up to 10 points).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for

employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel. (Up to 7 points)

(e) Adequacy of resources (Up to 12 points).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (Up to 4 points)

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (Up to 4 points)

(iii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (Up to 4 points)

(f) Quality of the project evaluation (Up to 20 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 10 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (Up to 5 points)

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in this notice) about the project's effectiveness. (Up to 5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or

submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in section 418A of the HEA. In accordance with section 418A, the Secretary makes CAMP awards based on the number, quality, and promise of the applications. Additionally, in accordance with section 418A, if the final FY 2025 CAMP and High School Equivalency Program appropriations exceed \$40,000,000, the Secretary will consider the need to provide an equitable geographic distribution of CAMP awards. The Secretary may consider the need to provide equitable geographic distribution of CAMP awards when—

1. Two or more applicants receive the same score at the funding cutoff for this competition;

2. The Secretary determines that a geographic region is overserved by current CAMP projects;

3. The Secretary determines that a geographic region is underserved by current CAMP projects; or

4. Two or more applicants propose to operate similar CAMP projects in the same geographical region.

When evaluating a potentially overserved or underserved geographic region, the Secretary may consider factors such as migrant or seasonal farmworker population data for a State or region, approximate distance between current and proposed projects, the type of entity of the current or proposed project (e.g., private nonprofit organization, 2-year IHE, 4-year IHE), and the number of students proposed to be served by the current or proposed CAMP project.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General:* In accordance with the Guidance for Federal Financial Assistance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S.

Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We also may notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. Administrative and National Policy Requirements: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. Open Licensing Requirements: Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. Reporting: (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR

75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. Performance Measures: For the purposes of reporting under 34 CFR 75.110, the Department developed the following performance measures to evaluate the overall effectiveness of CAMP: (1) the percentage of CAMP participants completing the first academic year of their postsecondary program, and (2) the percentage of CAMP participants who, after completing the first academic year of college, continue their postsecondary education. These measures are referred to as CAMP performance measures 1 and 2, respectively.

Applicants must propose annual targets for these measures and establish annual student enrollment targets in their applications. Applicants should identify these targets within their application abstracts. The national target for performance measure 1 for FY 2025 is that 86 percent of CAMP participants will complete the first academic year of their postsecondary program. The national target for performance measure 2 for FY 2025 is that 92 percent of CAMP participants continue their postsecondary education after completing the first academic year of college. The national targets for subsequent years may be adjusted based on additional baseline data.

Peer reviewers evaluate how well applicants propose to meet their application's goals and objectives. Peer reviewers will score related selection criteria on the basis of how well an applicant addresses these performance measures in addition to any other goals and objectives included in the application. Therefore, applicants will want to consider how to demonstrate a sound capacity to provide reliable data on the performance measures, including the project's annual performance targets for addressing the performance measures, as is required by the OMB-approved annual performance report that is included in the application package. All grantees will be required to submit, as part of their annual performance report, information with respect to these performance measures.

6. Continuation Awards: In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things, whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement

requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF), text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site, you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access Department documents published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Adam Schott,

Principal Deputy Assistant Secretary, delegated the authority to perform the functions and duties of the Assistant Secretary Office of Elementary and Secondary Education.

[FR Doc. 2024–19595 Filed 8–28–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION**[Docket No.: ED–2024–SCC–0105]****Agency Information Collection Activities; Comment Request; Education Act of 2006 Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical****AGENCY:** Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).**ACTION:** Notice.**SUMMARY:** In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).**DATES:** Interested persons are invited to submit comments on or before October 29, 2024.**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2024–SCC–0105. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 4C210, Washington, DC 20202–1200.**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Braden Goetz, 202–245–7405.**SUPPLEMENTARY INFORMATION:** The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and

minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Education Act of 2006 Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical.

OMB Control Number: 1830–0569.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 12,632.

Abstract: This information collection is used by the U.S. Department of Education (Department) to gather annual performance and financial data from eligible agencies under the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V). To enable eligible agencies to meet their annual reporting requirements for Fiscal Year 2023 by January 31, 2025, we are requesting an extension of the Consolidated Annual Report (CAR) for nine months. The Department will later submit a request to revise the CAR for future years, as well as a request to revise the information collection for the Perkins V State Plan Guide (1830–0029) for State Plan submissions for Fiscal Years 2025 through 2027.

Dated: August 26, 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. 2024–19475 Filed 8–29–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2411–000]****Eagle Creek Schoolfield, LLC, City of Danville; Notice of Authorization for Continued Project Operation**

The license for the Schoolfield Hydroelectric Project No. 2411 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2411 is issued to Eagle Creek Schoolfield, LLC and the City of Danville for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Eagle Creek Schoolfield, LLC and the City of Danville is authorized to continue operation of the Schoolfield Hydroelectric Project under the terms and conditions of the prior license until

the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19499 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER24–1970–000.
Applicants: Flemington Solar, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5183.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1971–000.
Applicants: Frenchtown I Solar, LLC.
Description: Refund Report: Frenchtown I Solar, LLC submits tariff filing per 35.19a(b): Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5187.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1972–000.
Applicants: Frenchtown II Solar, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5191.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1973–000.
Applicants: Frenchtown III Solar, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5193.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1974–000.
Applicants: PA Solar Park, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5195.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1975–000.
Applicants: PA Solar Park II, LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5197.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1976–000.
Applicants: Pilesgrove Solar, LLC.
Description: Refund Report: Refund Report to be effective N/A.

Filed Date: 8/22/24.
Accession Number: 20240822–5198.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–1977–000.
Applicants: Lakehurst Solar, L.L.C.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 8/22/24.
Accession Number: 20240822–5199.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–2580–000.
Applicants: White Pine Hydro, LLC.
Description: Supplement to 07/23/2024 Application for Market-Based Rate Authority of White Pine Hydro, LLC.
Filed Date: 8/22/24.
Accession Number: 20240822–5238.
Comment Date: 5 p.m. ET 9/3/24.
Docket Numbers: ER24–2834–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 6029; Queue No. AG1–140 to be effective 10/22/2024.
Filed Date: 8/22/24.
Accession Number: 20240822–5207.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–2835–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Designated Entity Agreement, SA No. 7331 between PJM and PEPCO to be effective 7/24/2024.
Filed Date: 8/22/24.
Accession Number: 20240822–5211.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–2836–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Designated Entity Agreement, SA No. 7332 between PJM and BGE to be effective 7/24/2024.
Filed Date: 8/22/24.
Accession Number: 20240822–5214.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–2837–000.
Applicants: Unbridled Solar, LLC.
Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 8/23/2024.
Filed Date: 8/22/24.
Accession Number: 20240822–5221.
Comment Date: 5 p.m. ET 9/12/24.
Docket Numbers: ER24–2838–000.
Applicants: Keystone Appalachian Transmission Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Keystone Appalachian Transmission Company submits tariff filing per 35.13(a)(2)(iii): KATCo submits Operating and Interconnection Agreement, SA No. 6650 to be effective 10/23/2024.

Filed Date: 8/23/24.
Accession Number: 20240823–5027.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2839–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2024–08–23 SA 4335 NSP-Harmony Solar ND GIÄ (J1588) to be effective 8/13/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5030.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2840–000.
Applicants: Georgia Power Company.
Description: § 205(d) Rate Filing: Amendment of GPC Rate Schedule No. 850—OPC & GSOC Control Area Compact to be effective 7/31/2023.
Filed Date: 8/23/24.
Accession Number: 20240823–5072.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2841–000.
Applicants: Atrisco BESS SF LLC.
Description: § 205(d) Rate Filing: Amended and Restated Shared Facilities Agreement to be effective 8/24/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5079.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2842–000.
Applicants: Atrisco BESS SF LLC.
Description: § 205(d) Rate Filing: Amended and Restated Lease Agreement to be effective 8/24/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5080.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2843–000.
Applicants: Atrisco Solar SF LLC.
Description: § 205(d) Rate Filing: Amended and Restated Lease Agreement to be effective 8/24/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5083.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2844–000.
Applicants: Wildflower Energy LP.
Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff to be effective 8/24/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5085.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2845–000.
Applicants: Interstate Power and Light Company, ITC Midwest LLC.
Description: § 205(d) Rate Filing: Interstate Power and Light Company submits tariff filing per 35.13(a)(2)(iii): Update to O&T Agreement Exhibits and Appendices (2024) to be effective 10/22/2024.
Filed Date: 8/23/24.
Accession Number: 20240823–5086.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24–2847–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Paper Shell Solar 1 LGIA Termination Filing to be effective 8/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5095.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2848–000.

Applicants: Troutdale Grid, LLC.

Description: Baseline eTariff Filing: Troutdale Grid, LLC Application for Market-Based Rate Authorization to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5102.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2849–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2024–08–23 SA 4328 NSP-Three Waters Wind Farm GIA (S1013) to be effective 8/9/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5109.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2850–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5596; Queue No. AD1–020 to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5115.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2851–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 14 to be effective 10/22/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5120.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2852–000.

Applicants: New England Power Company.

Description: Tariff Amendment: 2024–08–23 Notice of Cancellation of CRA with Holden Municipal Light Dept. to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5121.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2853–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Amendment: DEF-City of Mount Dora, FMPP, OUC RS No. 366 Cancellation to be effective 10/31/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5123.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2854–000.

Applicants: Aron Energy Prepay 44 LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5127.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2855–000.

Applicants: Aron Energy Prepay 45 LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5132.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2856–000.

Applicants: Aron Energy Prepay 46 LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5133.

Comment Date: 5 p.m. ET 9/13/24.

Docket Numbers: ER24–2857–000.

Applicants: Aron Energy Prepay 47 LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 10/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5138.

Comment Date: 5 p.m. ET 9/13/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–19489 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5679–000]

Energy Stream, LLC; Notice of Authorization for Continued Project Operation

The license for the M.S.C. Hydroelectric Project No. 5679 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 5679 is issued to Energy Stream, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c),

an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Energy Stream, LLC is authorized to continue operation of the M.S.C. Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19504 Filed 8–29–24; 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: RP24–991–000.

Applicants: Texas Eastern Transmission, LP.

Description: Compliance filing: 2024 Operational Entitlements Filing to be effective N/A.

Filed Date: 8/26/24.

Accession Number: 20240826–5044.

Comment Date: 5 p.m. ET 9/9/24.

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: RP20–1060–010.

Applicants: Columbia Gas Transmission, LLC.

Description: Report Filing: Annual LPS Informational Filing to be effective N/A.

Filed Date: 8/23/24.

Accession Number: 20240823–5073.

Comment Date: 5 p.m. ET 9/4/24.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: August 26, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19573 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2326–000]

Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation

The license for the Cross Power Hydroelectric Project No. 2326 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the

minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2326 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Cross Power Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19497 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–135–000.

Applicants: Freeman Solar LLC v. PJM Interconnection, L.L.C.

Description: Complaint of Freeman Solar LLC v. PJM Interconnection, L.L.C.

Filed Date: 8/23/24.

Accession Number: 20240823–5162.

Comment Date: 5 p.m. ET 9/12/24.

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

Docket Numbers: ER17–2386–005.

Applicants: Great Bay Solar I, LLC.

Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential ER17-2386—to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5169.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER19-1195-005.
Applicants: GSG 6, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential (ER19-1195) to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5175.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER19-1506-005.
Applicants: Minonk Wind, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential ER19-1506 to be effective N/A.
Filed Date: 8/26/24.
Accession Number: 20240826-5003.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER20-2108-006.
Applicants: Great Bay Solar II, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential (ER20-2108) to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5171.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER21-1501-004.
Applicants: Sandy Ridge Wind, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential ER21-1501 to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5203.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER21-1937-003.
Applicants: Altavista Solar, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential (ER21-1937) to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5166.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER22-69-002.
Applicants: Indeck Niles, LLC.
Description: Supplement to 06/23/2023 notice of non-material change in status of Indeck Niles, LLC.
Filed Date: 5/31/24.
Accession Number: 20240531-5449.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER23-2112-004.
Applicants: Sandy Ridge Wind 2, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential ER23-2112 to be effective N/A.

Filed Date: 8/26/24.
Accession Number: 20240826-5001.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER24-81-004.
Applicants: Shady Oaks Wind 2, LLC.
Description: Compliance filing: Informational Filing Re: Upstream Transfer of Ownership Confidential ER24-81 to be effective N/A.
Filed Date: 8/23/24.
Accession Number: 20240823-5199.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-1638-001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2024-08-26_Deficiency Response to Resource Accreditation Reform to be effective 9/1/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5089.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER24-2860-000.
Applicants: Southwest Power Pool, Inc.
Description: Request for Waiver of Tariff Provisions of Southwest Power Pool, Inc.
Filed Date: 8/23/24.
Accession Number: 20240823-5164.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-2861-000.
Applicants: Portland General Electric Company.
Description: § 205(d) Rate Filing: PGE Concurrence Filing Colstrip Glendive I LGIA RS332 to be effective 6/18/2024.
Filed Date: 8/23/24.
Accession Number: 20240823-5193.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-2862-000.
Applicants: Portland General Electric Company.
Description: § 205(d) Rate Filing: PGE Concurrence Filing Colstrip Glendive II LGIA RS333 to be effective 6/17/2024.
Filed Date: 8/23/24.
Accession Number: 20240823-5194.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-2863-000.
Applicants: Southwest Power Pool, Inc.
Description: Request for Waiver of Tariff Provisions of Southwest Power Pool, Inc.
Filed Date: 8/23/24.
Accession Number: 20240823-5206.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-2864-000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance Filing in EL22-85 to be effective 7/26/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5049.
Comment Date: 5 p.m. ET 9/16/24.

Docket Numbers: ER24-2865-000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2024-08-26 SA 4341 SMMPA-Lake Charlotte Solar GIA (J1566) to be effective 8/15/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5052.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER24-2866-000.
Applicants: Altavista Solar, LLC, Great Bay Solar I, LLC, Great Bay Solar II, LLC, GSG 6, LLC, Minonk Wind, LLC, Sandy Ridge Wind, LLC, Sandy Ridge Wind 2, LLC, Shady Oaks Wind 2, LLC.
Description: Petition for Limited Waiver of Altavista Solar, LLC, et. al.
Filed Date: 8/23/24.
Accession Number: 20240823-5211.
Comment Date: 5 p.m. ET 9/13/24.
Docket Numbers: ER24-2867-000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Service Agreement No. 410, Amendment No. 1 to be effective 10/26/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5085.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER24-2868-000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: § 205(d) Rate Filing: WPC Amendments Ex A, Ex D and Rider D to be effective 10/26/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5097.
Comment Date: 5 p.m. ET 9/16/24.
Docket Numbers: ER24-2869-000.
Applicants: Downeast Wind, LLC.
Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 11/1/2024.
Filed Date: 8/26/24.
Accession Number: 20240826-5117.
Comment Date: 5 p.m. ET 9/16/24.
Take notice that the Commission received the following electric reliability filings:
Docket Numbers: RR24-5-000.
Applicants: North American Electric Reliability Corporation.
Description: Request of North American Electric Reliability Corporation for Acceptance of 2025 Business Plans and Budgets of NERC and Regional Entities and for Approval of Proposed Assessments to Fund Budgets.
Filed Date: 8/23/24.
Accession Number: 20240823-5209.
Comment Date: 5 p.m. ET 9/13/24.
The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/>)

fercgensearch.asp) by querying the docket number.

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Dated: August 26, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-19572 Filed 8-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2300-000]

Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation

The license for the Shelburne Hydroelectric Project No. 2300 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on

section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2300 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Shelburne Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-19494 Filed 8-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2311-000]

Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation

The license for the Upper Gorham Hydroelectric Project No. 2311 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at

the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2311 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Upper Gorham Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-19495 Filed 8-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2422–000]****Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation**

The license for the Sawmill Hydroelectric Project No. 2422 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2422 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Sawmill Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other

disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–19500 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2423–000]****Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation**

The license for the Riverside Hydroelectric Project No. 2423 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2423 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Riverside Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–19501 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2288–000]****Central Rivers Power NH, LLC; Notice of Authorization for Continued Project Operation**

The license for the Gorham Hydroelectric Project No. 2288 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2288 is issued to Central Rivers Power NH, LLC for a period effective August 1, 2024, through July 31, 2025, or until the

issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Central Rivers Power NH, LLC is authorized to continue operation of the Gorham Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19493 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2287–000]

Central Rivers Power NH, LLC; Notice of Authorization for Continued Project Operation

The license for the J. Brodie Smith Hydroelectric Project No. 2287 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b),

to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2287 is issued to Central Rivers Power NH, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Central Rivers Power NH, LLC is authorized to continue operation of the J. Brodie Smith Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19492 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–513–000]

WBI Energy Transmission, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 15, 2024, WBI Energy Transmission, Inc. (WBI Energy), 1250 West Century Avenue, Bismarck, North Dakota 58503, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.208(b) of the Commission's regulations under the Natural Gas Act (NGA), and WBI Energy's blanket certificate issued in Docket No. CP82–487–000, et al., for authorization to acquire from ONEOK Rockies Midstream, L.L.C. and operate an approximately 28-mile, 10.75-inch-diameter pipeline (Ft. Buford Pipeline System) located in McKenzie County, North Dakota. The purchase will provide operational flexibility on WBI

Energy's Line Section 6. The purchase price is \$17 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Lori Myerchin, Vice President, Regulatory Affairs and Transportation Services, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, by phone at (701) 530–1563, or by email at lori.myerchin@wbienenergy.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on October 22, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to

contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is October 22, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is October 22, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before October 22, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How to File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–513–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–513–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Lori Myerchin, Vice President, Regulatory Affairs and Transportation Services, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, or by email at *lori.myerchin@wbienrgy.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–19491 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2715–000]****Kaukauna Utilities; Notice of Authorization for Continued Project Operation**

The license for the Combined Locks Hydroelectric Project No. 2715 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2715 is issued to Kaukauna Utilities for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Kaukauna Utilities is authorized to continue operation of the Combined Locks Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other

disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–19502 Filed 8–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 3451–000]****Beaver Falls Municipal Authority; Notice of Authorization for Continued Project Operation**

The license for the Townsend Water Power Project No. 3451 was issued for a period ending July 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 3451 is issued to Beaver Falls Municipal Authority for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Beaver Falls Municipal Authority is authorized to continue operation of the Townsend Water Power Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–19503 Filed 8–29–24; 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: RP24–987–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Compliance filing: Penalties Assessed Compliance Filing 2024 to be effective N/A.

Filed Date: 8/22/24.

Accession Number: 20240822–5156.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: RP24–988–000.

Applicants: Venture Global Gator Express, LLC.

Description: § 4(d) Rate Filing: Part 2 Section 1 Service Rate changes 2024 to be effective 9/23/2024.

Filed Date: 8/22/24.

Accession Number: 20240822–5170.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: RP24–989–000.

Applicants: Spire MoGas Pipeline LLC.

Description: § 4(d) Rate Filing: Spire MoGas Annual Fuel Filing to be effective 10/1/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5029.

Comment Date: 5 p.m. ET 9/4/24.

Docket Numbers: RP24–990–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera Energy eff 8–23–24 to be effective 8/23/2024.

Filed Date: 8/23/24.

Accession Number: 20240823–5046.

Comment Date: 5 p.m. ET 9/4/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-19490 Filed 8-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2327-000]

Great Lakes Hydro America, LLC; Notice of Authorization for Continued Project Operation

The license for the Cascade Hydroelectric Project No. 2327 was issued for a period ending June 1, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable

section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2327 is issued to Great Lakes Hydro America, LLC for a period effective August 1, 2024, through July 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before July 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Lakes Hydro America, LLC is authorized to continue operation of the Cascade Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: August 23, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-19498 Filed 8-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam—Rate Order No. SWPA-84

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator, Southwestern Power Administration

(Southwestern), has confirmed, approved and placed into effect on an interim basis Rate Order No. SWPA-84 (Rate Order), which provides the rate schedule *Wholesale Rates for Hydro Power and Energy at Sam Rayburn Dam and Reservoir* (SRD-23). This new rate schedule for the Sam Rayburn Dam and Reservoir (Rayburn) replaces the existing power rate under Rate Schedule SRD-15 which expires on September 30, 2024. Rate Schedule SRD-23 increases the annual wholesale power rate for Rayburn by 21.1 percent.

DATES: The effective period for the rate schedule specified in Rate Order No. SWPA-84 is October 1, 2024, through September 30, 2027, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis, or until superseded.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Southwestern Power Administration, (918) 595-6646 or fritha.ohlson@swpa.gov.

SUPPLEMENTARY INFORMATION: On June 30, 2016, FERC confirmed and approved Rate Schedule SRD-15 under Rate Order No. SWPA-69 on a final basis through September 30, 2019. Rate Schedule SRD-15 was subsequently extended through September 30, 2024. Southwestern published a **Federal Register** notice (Proposed FRN) on December 5, 2023 (87 FR 84318), proposing to increase the annual rate by approximately 21.10% from \$4,563,792 to \$5,526,588. The Proposed FRN also initiated a 90-day public consultation and comment period and set the date of the public information and public comment forum to be January 17, 2024. No written comments were received and there were no outstanding comments or questions from the public information and public comment forum.

Following review of the proposal, Rate Order No. SWPA-84, which provides the rate for the hydro power and energy from Sam Rayburn Dam and Reservoir, is hereby confirmed, approved, and placed into effect on an interim basis. Southwestern will submit Rate Order No. SWPA-84 to FERC for confirmation and approval on a final basis.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

In the matter of: Southwestern Power Administration, Sam Rayburn Dam Rate Schedule, Rate Order No. SWPA-84

Order Confirming, Approving, and Placing the Sam Rayburn Dam Rate Schedule in Effect on an Interim Basis (8/26/2024)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to, and vested in the Secretary of Energy. By Delegation Order No. S1-DEL-RATES-2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S3-2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3-DEL-SWPA1-2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On December 17, 2015, in Rate Order No. SWPA-69, the Deputy Secretary of Energy placed into effect the current Sam Rayburn Dam rate schedule (SRD-15) on an interim basis for the period January 1, 2016, to September 30, 2019. FERC confirmed and approved SRD-15 on a final basis on June 30, 2016, for a period ending September 30, 2019. On September 22, 2019, in Rate Order No. SWPA-75, the Assistant Secretary for Electricity extended SRD-15 for two years, for the period of October 1, 2019, through September 30, 2021. On August 30, 2021, in Rate Order No. SWPA-78, the Administrator, Southwestern, extended SRD-15 for two years, for the period of October 1, 2021, through September 30, 2023. On September 20, 2023, in Rate Order No. SWPA-82, the Administrator, Southwestern, extended SRD-15 for one year, for the period of October 1, 2023, through September 30, 2024, and FERC issued an ordering

accepting the extension on January 18, 2024.

Discussion

Southwestern's current rate schedule for the Sam Rayburn Dam isolated rate system, SRD-15, is based on the 2015 Power Repayment Studies (PRS). Each subsequent annual PRS through 2022 indicated the need for a revenue adjustment within a plus or minus five percent range of the current revenue estimate. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for isolated rate systems that are within plus or minus five percent of the revenue estimated from the current rate schedule. Therefore, the Administrator deferred revenue adjustments annually for Sam Rayburn Dam through 2022. Southwestern prepared a 2023 Current PRS which indicated that the existing power rate would not satisfy present financial criteria regarding repayment of investment within a 50-year period due to increased operations and maintenance expenses as well as increase cost of replacements in the hydroelectric generating facilities. The 2023 Revised PRS indicates the need for an increase in annual revenues of \$962,796 (21.1 percent) is necessary, to accomplish repayment in the required number of years. Accordingly, Southwestern has prepared a new proposed rate schedule (SRD-23) based on the additional revenue requirement to ensure repayment.

Southwestern conducted the rate adjustment proceeding in accordance with title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR part 903), "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions." Opportunities for public review and comment during a 90-day period on the proposed Sam Rayburn Dam power rate were announced by a **Federal Register** notice published on December 5, 2023 (88 FR 84318), with written comments due March 4, 2024. A combined public information and comment forum was held virtually on January 17, 2024. Southwestern published the **Federal Register** notice, the proposed rate schedule, and the draft 2023 PRS on its website for customers and interested parties to review and comment upon during the public comment period.

Following the conclusion of the comment period on March 4, 2024, Southwestern finalized the Power Repayment Studies and Rate Schedule SRD-23 for the proposed annual rate of \$5,526,588 which is the lowest possible rate needed to satisfy the repayment

criteria set forth within the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2. This rate represents an annual increase of 21.1 percent. The Administrator made the decision to approve the rate proposal for implementation.

Southwestern will continue to perform its Power Repayment Studies annually, and if the 2024 results should indicate the need for additional revenues, another rate adjustment proceeding will be conducted to implement the updated revenue requirements.

Comments and Responses

Southwestern did not receive any written comments during the 90-day public review and comment period. Southwestern did receive oral comments from Mr. James Striedel of GDS Associates, representing Sam Rayburn Dam Electrical Cooperative, Inc., during Southwestern's January 17, 2024, public information and comment forum which are summarized below. The comments are also included verbatim as part of the transcript of the public comment forum which will be submitted to FERC along with other applicable documents for final confirmation and approval of Rate Schedule SRD-23.

Mr. Striedel was the only member of the public who attended the public comment forum. Mr. Striedel commended Southwestern for its diligence in managing costs and asked three questions. First, Mr. Striedel asked Southwestern to confirm that the power repayment study (PRS) estimate of U.S. Army Corps of Engineers (Corps) operations and maintenance costs includes an estimate of the reduction in cost for centralized dispatch of Sam Rayburn Dam. Southwestern confirmed this in the affirmative. Second, Mr. Striedel asked for confirmation that the PRS does not include costs for transformers that were gifted by customers to the Corps. Southwestern confirmed this in the affirmative. Finally, Mr. Striedel asked for confirmation that the PRS does not include transmission cost from the Blakely Mountain and DeGray projects to the system of Southwestern. Southwestern confirmed this in the affirmative.

Availability of Information

Information regarding the rate adjustment proceeding, including the Final 2023 PRS and Rate Proposal, for Rate Schedule SRD-23 is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third

Street Suite 1500, Tulsa, Oklahoma 74103. Rate Schedule SRD–23 is available on Southwestern’s website at www.energy.gov/swpa/rates-and-repayment.

Certification of Rates

I have certified that the provisional rate under Rate Schedule SRD–23 is the lowest possible rate consistent with sound business principles. The rate was developed following administrative policies and applicable laws.

Ratemaking Procedure Requirements

Environmental Compliance

Southwestern has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR 1021.410: B4.3 (Electric power marketing rate changes). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment. A copy of the categorical exclusion determination is available on Southwestern’s website at <https://www.energy.gov/swpa/southwestern-power-administration>.

Determination Under Executive Order 12866

Southwestern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

Rate Schedule SRD–23 herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective October 1, 2024, Rate Schedule SRD–23, *Wholesale Rates for Hydro Power and Energy at Sam Rayburn Dam and Reservoir*. The rate schedule shall remain in effect on a temporary basis through September 30, 2027, or until the FERC confirms and approves the rate on a final basis, or until it is superseded by a subsequent rate.

Signing Authority

This document of the Department of Energy was signed on August 26, 2024, by Michael S. Wech, Administrator for Southwestern Power 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 DOE. 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 27, 2024.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

Rate Schedule SRD–23¹

Wholesale Rates for Hydro Power and Energy

At Sam Rayburn Dam and Reservoir Effective

During the period October 1, 2024, through September 30, 2027, in accordance with interim approval from Rate Order No. SWPA–84 issued by the Administrator on October 1, 2024, and pursuant to final approval by the Federal Energy Regulatory Commission.

Applicable

To wholesale customers which have contractual rights from Southwestern Power Administration (Southwestern) to purchase the Hydro Power and Energy generated at the Sam Rayburn Dam and Reservoir.

Character and Conditions of Service

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage, at the point of delivery, and in such quantities as are specified by contract.

1. Wholesale Rates, Terms, and Conditions for Hydro Power and Energy

1.1. This rate shall be applicable regardless of the quantity of Hydro Power and Energy available or delivered from the Sam Rayburn Dam and Reservoir; *provided, however*, that if an Uncontrollable Force prevents utilization of both of the project’s power generating units for an entire billing period, and if during such billing period water releases were being made which

otherwise would have been used to generate Hydro Power and Energy, then Southwestern shall, upon request by the customer(s), suspend billing for subsequent billing periods, until such time as at least one of the project’s generating units is again available.

1.2. The term “Uncontrollable Force,” as used herein, shall mean any force which is not within the control of the party affected, including, but not limited to, failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, war, acts of war, terrorist acts, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

1.3. Hydro Power Rates, Terms, and Conditions

1.3.1. Monthly Charge for the Period of October 1, 2024, through September 30, 2027

\$460,549 per month (\$5,526,588 per year) for Sam Rayburn Dam Hydro Power and Energy purchased from October 1, 2024, through September 30, 2027.

[FR Doc. 2024–19564 Filed 8–29–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice concerning fiscal year 2025 base charge and rates for electric service.

SUMMARY: The Deputy Secretary confirms, approves, and places into effect on a final basis the Western Area Power Administration (WAPA) Desert Southwest Region’s (DSW) fiscal year (FY) 2025 base charge and rates for Boulder Canyon Project (BCP) electric service under Rate Schedule BCP–F11. The FY 2025 base charge is unchanged from FY 2024 and will remain at \$74.3 million.

DATES: The FY 2025 base charge and rates are effective October 1, 2024, and will remain in effect through September 30, 2025.

FOR FURTHER INFORMATION CONTACT: Jack D. Murray, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, or Tina Ramsey, Rates Manager, Desert Southwest Region, Western Area Power

¹ Supersedes Rate Schedule SRD–15

Administration, (602) 605–2565, or email: dswpwrnrk@wapa.gov.
SUPPLEMENTARY INFORMATION: On March 31, 2023, the Federal Energy Regulatory Commission (FERC) approved and confirmed Rate Schedule BCP–F11, under Rate Order No. WAPA–204, on a final basis through September 30, 2027.¹ WAPA published a **Federal Register** notice (Proposed FRN) on April 19, 2024 (89 FR 28767), proposing the FY 2025 base charge and rates under Rate Schedule BCP–F11. The Proposed FRN also initiated a 90-day public consultation and comment period and

set forth the date and location of the public information and public comment forums.
The rate-setting methodology for BCP electric service requires calculation of an annual base charge rather than a unit rate for Hoover Dam hydropower. The base charge recovers an annual revenue requirement that includes projected costs of investment repayment, interest, operations, maintenance, replacements, payments to states, and Hoover Dam visitor services. Non-power revenue projections such as water sales, Hoover Dam visitor revenue, ancillary services,

and late fees help offset these projected costs. Hoover power contractors are billed a percentage of the base charge in proportion to their power allocation. Unit rates are calculated for comparative purposes but are not used to determine the charges for electric service.
Rate Schedule BCP–F11 and the BCP Electric Service Contract require WAPA to calculate the annual base charge and rates for the next fiscal year before October 1 of each year. The FY 2024 BCP base charge and rates expire on September 30, 2024.

COMPARISON OF BASE CHARGE AND RATES

	FY 2024	FY 2025	Amount change	Percent change
Base Charge (\$)	74,334,285	74,334,285	0.00	0.0
Composite Rate (mills/kWh)	23.10	24.39	1.29	5.6
Energy Rate (mills/kWh)	11.55	12.20	0.65	5.6
Capacity Rate (\$/kW-Mo)	2.15	2.17	0.02	0.9

The FY 2025 base charge for BCP electric service is unchanged and will remain at \$74.3 million, the same as FY 2024.
The Bureau of Reclamation’s (Reclamation) FY 2025 budget is decreasing \$700,000 from \$87.9 million to \$87.2 million, a 0.8 percent decrease from FY 2024. Reflected in this budget, operation and maintenance (O&M) costs are increasing \$1.1 million primarily due to higher projected labor costs for salaries, benefits, and overhead. Several large projects are being delayed, decreasing replacements costs by \$2.2 million. Post-retirement benefit costs are increasing \$109,000 based on a higher five-year average of recent actual expenses. Visitor services costs are increasing by \$270,000 primarily due to higher projected labor costs for salaries, benefits, overhead, and overtime. The FY 2024 budget amounts cited for Reclamation do not include approximately \$20.8 million in costs that are funded by prior year carryover from FY 2023.
WAPA’s FY 2025 budget is increasing approximately \$600,000 from \$9.6 million to \$10.1 million, a 5.9 percent increase from FY 2024. WAPA’s O&M costs are increasing \$770,000 from FY 2024 due to higher projected labor costs for salaries, benefits, overhead, and overtime. The increase in O&M costs is offset by a \$208,000 decrease in replacement costs and modest decreases in WAPA’s post-retirement benefit costs and interest expenses due to lower five-

year averages of recent actual expenses. The FY 2024 budget amounts for WAPA do not include approximately \$282,000 in costs that are funded by prior year carryover from FY 2023.
Non-power revenue projections for Reclamation and WAPA are decreasing \$2.1 million due to lower estimated revenue for the Commercial Use Fee program and ancillary services. Prior year carryover is projected to be \$4.1 million, a \$1.9 million increase from FY 2024.
The composite and energy rates are both increasing 5.6 percent and the capacity rate is increasing 0.9 percent from FY 2024. These unit rate calculations use forecasted energy and capacity values, which have been decreasing due to the ongoing drought in the Lower Colorado River Basin.
Public Notice and Comment
DSW followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR part 903) and General Regulations for the Charges for the Sale of Power from the BCP (10 CFR part 904). DSW took the following steps to involve interested parties in the rate process:
1. DSW provided a website where information is posted about this rate process. The website is located at <https://www.wapa.gov/about-wapa/regions/dsw/rates/boulder-canyon-project-rates/>.
2. On April 19, 2024, a **Federal Register** notice (89 FR 28767) (Proposed

FRN) announced the proposed FY 2025 base charge and rates and initiated a 90-day public consultation and comment period.
3. On April 19, 2024, DSW notified contractors and interested parties of the proposed rates and provided a copy of the published Proposed FRN by email.
4. On May 20, 2024, DSW held a public information forum, with options to attend virtually or in person, at the Desert Southwest Regional Office, Phoenix, Arizona. DSW representatives explained the proposed base charge and provided contractors and interested parties an opportunity to ask questions and provide comments for the record.
5. On June 20, 2024, DSW held a public comment forum, with options to attend virtually or in person, at the Desert Southwest Regional Office, Phoenix, Arizona, to provide an opportunity for contractors and other interested parties to provide comments for the record.
6. On July 18, 2024, the public consultation and comment period ended with DSW receiving no comments.
Certification of Rates
WAPA’s Administrator certified the FY 2025 base charge and rates under Rate Schedule BCP–F11 are the lowest possible rates consistent with sound business principles. The base charge and rates were developed following administrative policies and applicable laws.

¹ Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF22–4–000.

Availability of Information

Information used by WAPA to develop the base charge and rates for electric service is available for inspection and copying at the Desert Southwest Regional Office, located at 615 South 43rd Avenue, Phoenix, Arizona, 85009. Many of these documents are also available on DSW's website at <https://www.wapa.gov/about-wapa/regions/dsw/rates/boulder-canyon-project-rates/>.

Legal Authority

DOE is setting rates for BCP electric service in accordance with section 302 of the DOE Organization Act (42 U.S.C. 7152). This provision transferred to, and vested in, the Secretary of Energy certain functions of the Secretary of the Interior, along with the power marketing functions of Reclamation.

DOE regulations governing charges for the sale of BCP power, 10 CFR 904.7(e), requires annual review of the BCP base charge and an "adjust[ment], either upward or downward, when necessary and administratively feasible, to assure sufficient revenues to effect payment of all costs and financial obligations associated with the [p]roject." WAPA's Administrator provided all BCP contractors an opportunity to comment on the proposed base charge adjustment, consistent with DOE procedures for public participation in rate adjustments. The BCP Electric Service Contract states that for years other than the first year and each fifth year thereafter, when the rate schedule is approved by the Deputy Secretary of Energy on a provisional basis and by FERC on a final basis, adjustments to the base charge "shall become effective upon approval by the Deputy Secretary of Energy." Accordingly, the Deputy Secretary of Energy may approve the FY 2025 base charge and rates for BCP electric service, as authorized by the BCP Electric Service Contract and DOE's procedures for public participation in rate adjustments set forth at 10 CFR parts 903 and 904.²

Following DOE's review of WAPA's proposal, and as authorized by applicable provisions of the BCP Electric Service Contract, I have confirmed, approved, and placed the FY 2025 base charge and rates for BCP electric service, under Rate Schedule BCP F-11, into effect on a final basis through September 30, 2025.

² 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

Ratemaking Procedure Requirements Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR part 1021: B4.3 (Electric power marketing rate changes). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.³ A copy of the categorical exclusion determination is available on WAPA's website at www.wapa.gov/regions/DSW/Environment/Pages/environment.aspx.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on August 23, 2024, by David M. Turk, Deputy 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 27, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S.
Department of Energy.

[FR Doc. 2024-19562 Filed 8-29-24; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12223-01-OA]

Local Government Advisory Committee: Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

³ The determination was done in compliance with NEPA (42 U.S.C. 4321-4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

ACTION: Notice of a public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice of a meeting for the Local Government Advisory Committee (LGAC) on the date and time described below. This meeting will be open to the public. For information on public attendance and participation, please see the registration information under **SUPPLEMENTARY INFORMATION**.

DATES: The LGAC will meet in-person and virtually from approximately 9 a.m.-3 p.m. central time on Thursday, September 26, 2024. The LGAC will also meet from approximately 8-11 a.m. Friday September 27, 2024.

FOR FURTHER INFORMATION CONTACT: Frank Sylvester, LGAC Designated Federal Officer (DFO) at Sylvester.Frank.J@epa.gov or 202-603-8133.

Information on Accessibility: For information on access or services for individuals requiring accessibility accommodations, please contact Frank Sylvester, LGAC Designated Federal Officer, at Sylvester.Frank.J@epa.gov or 202-603-8133. To request accommodation, please do so ten (10) business days prior to meeting dates, to give the EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION:

Content

The LGAC will discuss several priority issues at EPA, including climate communication, environmental justice, the EPA's efforts to address cumulative impacts, and water system restructuring. Agenda and meeting materials will be posted online (link below) one week prior to the meeting. For more information on the LGAC, including member biographies, recent meeting summaries and recommendations, visit: <https://www.epa.gov/ocir/local-government-advisory-committee-lgac>.

Registration

The meeting will be held virtually as well as in person. Members of the public who wish to participate should register by contacting the Designated Federal Officer (DFO) at Sylvester.Frank.J@epa.gov or LGAC@epa.gov by September 12, 2024. Online participation will be via Zoom. In-person participation will be at the Embassy Suites in Lincoln, Nebraska: 1040 P Street, Lincoln, NE 68508.

Once available, the agenda and other supportive meeting materials will be available online at <https://www.epa.gov/>

ocir/local-government-advisory-committee-lgac and will be emailed to all registrants. In the event of cancellation for unforeseen circumstances, please contact the DFO or check the website above for rescheduling information.

Dated: August 23, 2024.

Frank Sylvester,

EPA Designated Federal Officer Local Government Advisory Committee.

[FR Doc. 2024–19506 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–141]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa>.

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 19, 2024 10 a.m. EST

Through August 26, 2024 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20240152, Draft, TVA, IL, Sugar Camp Energy, LLC Mine No. 1 Significant Boundary Revision 8, Comment Period Ends: 10/15/2024, Contact: Elizabeth Smith 865–632–3053.

EIS No. 20240153, Final, BLM, UT, Grand Staircase-Escalante National Monument Resource Management Plan, Review Period Ends: 09/30/2024, Contact: Scott Whitesides 801–539–4054.

EIS No. 20240154, Final, BLM, DC, Utility-Scale Solar Energy Development PEIS, Review Period Ends: 09/30/2024, Contact: Jeremy Bluma 208–789–6014.

Dated: August 26, 2024.

Timothy Witman,

Acting Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 2024–19536 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–02–2024–2012; FRL–12208–01–R2]

Proposed CERCLA Cost Recovery Settlement for the Lake Erie Smelting Corp. Superfund Site, Buffalo, Erie County, New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (“CERCLA”), notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 2, of a proposed cost recovery settlement agreement (Settlement) pursuant to CERCLA with the City of Buffalo and Metalico Buffalo, Inc. (Settling Parties) relating to the Lake Erie Smelting Corp. Superfund Site (Site), located in Buffalo, Erie County, New York.

DATES: Comments must be submitted on or before September 30, 2024.

ADDRESSES: Requests for copies of the proposed Settlement and submission of comments must be via electronic mail. Comments should reference the Lake Erie Smelting Corp. Superfund Site, Buffalo, Erie County, New York, Index No. CERCLA–02–2024–2012. For those unable to communicate via electronic mail, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT:

Andrea Leshak, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: leshak.andrea@epa.gov. Telephone: 212–637–3197.

SUPPLEMENTARY INFORMATION: The Settling Parties will pay to the United States \$100,000.00 for past costs incurred by EPA at the Site. The Settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to EPA's past response costs as provided in the Settlement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Settlement. EPA will consider all comments received and may modify or withdraw its consent to the proposed Settlement if comments received disclose facts or considerations that

indicate that the proposed Settlement is inappropriate, improper, or inadequate.

EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Pasquale Evangelista,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency Region 2.

[FR Doc. 2024–19580 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0139 and OMB 3060–0979; FR ID 242002]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before September 30, 2024.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–0139.

Title: Application for Antenna Structure Registration.

Form Number: FCC Form 854.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

Number of Respondents and Responses: 2,400 respondents; 57,100 responses.

Estimated Time per Response: .33 hours to 2.5 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third-party disclosure reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303, and 309(j), section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), and section 1506.6 of the regulations of the Council on Environmental Quality, 40 CFR 1506.6.

Total Annual Burden: 25,682 hours.

Total Annual Cost: \$1,176,813.

Needs and Uses: The purpose of FCC Form 854 (Form 854) is to register antenna structures that are used for radio communication services which are regulated by the Commission; to make changes to existing antenna structure registrations or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations, Chapter 1, Sections 1.923, 1.1307, 1.1311, 17.1, 17.2, 17.4, 17.5, 17.6, 17.7, 17.57 and 17.58.

Any person or entity proposing to construct or alter an antenna structure that is more than 60.96 meters (200 feet) in height, or that may interfere with the approach or departure space of a nearby airport runway, must notify the Federal Aviation Administration (FAA) of proposed construction. The FAA determines whether the antenna structure constitutes a potential hazard and may recommend appropriate painting and lighting for the structure. The Commission then uses the FAA’s recommendation to impose specific painting and/or lighting requirements on radio tower owners and subject licensees. When an antenna structure owner for one reason or another does not register its structure, it then becomes the responsibility of the tenant licensees to ensure that the structure is registered with the Commission.

Section 303(q) of the Communications Act of 1934, as amended, gives the Commission authority to require painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna

structure may cause a hazard to air navigation. In 1992, Congress amended Sections 303(q) and 503(b)(5) of the Communications Act to make radio tower owners, as well as Commission licensees and permittees responsible for the painting and lighting of radio tower structures, and to provide that non-licensee radio tower owners may be subject to forfeiture for violations of painting or lighting requirements specified by the Commission.

OMB Control Number: 3060–0979.

Title: License Audit Letter.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 25,000 respondents; 25,000 responses.

Estimated Time per Response: .50 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534 and 535.

Total Annual Burden: 12,500 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission is seeking OMB approval for an extension of this information collection in order to obtain their full three-year approval. There is no change to the reporting requirement. There is no change to the Commission’s burden estimates. The Wireless Telecommunications (WTB) and Public Safety and Homeland Security Bureaus (PSHSB) of the FCC periodically conduct audits of the construction and/or operational status of various Wireless radio stations in its licensing database that are subject to rule-based construction and operational requirements. The Commission’s rules for these Wireless services require construction within a specified timeframe and require a station to remain operational in order for the license to remain valid. The information will be used by FCC personnel to assure that licensees’ stations are constructed and currently operating in accordance with the parameters of the current FCC authorization and rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–19532 Filed 8–29–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION**Privacy Act of 1974; System of Records**

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the FDIC proposes to establish a new FDIC system of records titled FDIC-042, "Insider Risk Program Records." This system of records enables FDIC to implement the requirements of Executive Order 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information*, and the *National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs*. The system supports the operation of the FDIC Insider Risk Program, which seeks to deter, detect, and mitigate risk to FDIC personnel, facilities, assets, resources and information from insiders.

DATES: Written comments should be submitted on or before September 30, 2024. The routine uses in this action will become effective on September 30, 2024.

ADDRESSES: Written comments may be submitted via any of the following methods:

- **Agency Website:** <https://www.fdic.gov/resources/regulations/federal-register-publications>. Follow the instructions for submitting comments on the FDIC website.
- **Email:** Comments@fdic.gov. Include "Comments-SORN (FDIC-042)" in the subject line of communication.
- **Mail:** James P. Sheesley, Assistant Executive Secretary, Attention: Comments SORN (FDIC-042), Legal Division, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- **Public Inspection:** Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases

will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act (FOIA).

FOR FURTHER INFORMATION CONTACT: Shannon Dahn, Chief, Privacy Program, 703-516-5500, privacy@fdic.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the FDIC is establishing a new system of records titled FDIC-042, Insider Risk Program Records, to support the operation of the FDIC Insider Risk (InR) Program. The FDIC InR Program seeks to deter, detect, prevent and mitigate risk to FDIC personnel, facilities, assets, resources and information by insiders. This risk can include damage to the FDIC through espionage, terrorism, unauthorized disclosure of information, or through the loss or degradation of FDIC information, resources, and capabilities. The risk also includes the effects of workplace-related violence on FDIC personnel.

The FDIC InR Program will use records maintained in this system of records to deter, detect, prevent, and mitigate risks or threats from insiders, including the analysis, monitoring, and auditing of information of such records. The InR Program was established to provide an integrated framework for personnel to affirmatively protect the FDIC with a defensive program to address risks posed to its personnel, facilities, assets, resources, and information by insiders as mandated by Executive Order (E.O.) 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information*, issued on October 7, 2011. E.O. 13587 requires Federal agencies to establish an insider threat detection and prevention program and ensure the security of networks and the responsible sharing and safeguarding of information consistent with the appropriate protections for privacy and civil liberties.

This newly established system will be included in the FDIC's inventory of record systems. The FDIC is also proposing to exempt this system of records from certain requirements of the Privacy Act to protect against harm to law enforcement and national security interests.

SYSTEM NAME AND NUMBER:

Insider Risk Program Records, FDIC-042.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

The Federal Deposit Insurance Corporation (FDIC) located at 550 17th Street NW, Washington, DC 20429, and other FDIC office locations. Information may be stored within an appropriately authorized cloud environment or in other secure locations.

SYSTEM MANAGER(S):

Program Manager, Insider Risk (InR) Program, Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order (E.O.) 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information*, dated October 7, 2011, and *National Insider Threat Policy and the Minimum Standards*, dated November 21, 2012.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to support the operation of the FDIC InR Program in deterring, detecting, and mitigating risk to FDIC personnel, facilities, assets, resources and information by insiders. By identifying and managing insider risks, the InR Program and this system of records help the FDIC execute its mission to insure deposits; examine and supervise financial institutions for safety, soundness, and consumer protection; make large and complex financial institutions resolvable; and manage receiverships.

The FDIC will use the system of records to manage InR matters; identify and track potential and verified risks to FDIC; manage referrals of potential risks to and from internal and external partners; provide authorized assistance to lawful administrative, civil, and criminal investigations; generate statistical reports; and meet InR reporting requirements. Information in the system of records may also be used to support the development and operation of current and future information technology to support the objectives of the InR Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The subjects of InR reporting and individuals who exhibit or demonstrate insider risk or threat behaviors or activities, which may include FDIC

employees, contractors, detailees, assignees, interns, and authorized FDIC visitors or guests.

In addition, information about other individuals who are not covered by this system of records may be collected, such as individuals who report concerns about insider risk or threat behaviors or activities, witnesses, and relatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

The particular information collected for any InR matter may vary widely depending on the facts and nature of the potential risk or threat being assessed and/or mitigated. The system of records may maintain information about covered individuals that is relevant to the assessment and mitigation of the InR matter, including but not limited to the following:

Biographic, descriptive, and contact information, such as name, aliases, physical description/photograph, physical addresses, email addresses and phone numbers (personal and work), date and place of birth, Social Security Number, immigration identifier numbers, citizenship and immigration status, driver's license and vehicle registration information.

Personnel and employment-related information, such as employer name and location, office location, telework location, current and past titles, government-held travel records, nature of affiliation with the FDIC (e.g., works for FDIC contractor, visitor to FDIC facilities), FDIC contract information, work and education history, FDIC or other Government access card/credential information, facility and data access privileges, personnel history (e.g., disciplinary or performance records), reports of investigations or inquiries regarding security violations or misconduct.

Security-related information, such as data and forms gathered and compiled for personnel security, security incidents, visitor security screening, or security clearance purposes, including background investigative reports and supporting documentation; current and former security clearance status(es); raw reporting and finished intelligence products pertaining to adversarial risks or threats; other information related to an individual's eligibility for access to classified information; non-disclosure agreements; document control registries; courier authorization requests; records reflecting personal and official foreign travel; facility access records; visitor access records; records of contacts with foreign persons; and briefing/debriefing statements for special programs, sensitive positions, and other related information and documents required in

connection with personnel security clearance determinations.

Activity information, such as logs of an individual's access to and use of FDIC information systems and facilities, or those of other facilities and systems (e.g., other agency classified or unclassified facilities and systems to which the individual has access) if pertinent to the insider risk being assessed and/or mitigated.

Other information, such as medical information relevant to the insider risk (e.g., an individual's hospitalization status); images, recordings, transcripts, or other media (e.g., CCTV footage, voicemails, news reports, social media postings) relevant to the insider risk being assessed or mitigated; police reports and other law enforcement records; publicly available information; information on family members, dependents, relatives and other personal associations, to the extent relevant to the particular harm or risk at issue; and other information provided to the InR Program by law enforcement, employers, witnesses, other Government agencies, or FDIC employees and contractors.

RECORD SOURCE CATEGORIES:

Information in the system is received from individuals, to include FDIC personnel and contractors; FDIC recordkeeping systems, information assurance databases, and other files; other U.S. Government agencies, to include User Activity Monitoring (UAM) repositories; law enforcement agencies; the Office of the Inspector General; and publicly available information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local, tribal, territorial, and foreign agencies responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

(2) To a court, magistrate, or other administrative body in the course of

presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant.

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record.

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(5) To another Federal agency or Federal entity when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach; or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, local, tribal, and territorial agencies in connection with hiring or retaining an individual; conducting a background security or suitability investigation; adjudication of liability; or eligibility for a license, contract, grant, or other benefit, to the extent that the information shared is relevant and necessary to the requesting agency's decision on the matter.

(7) To contractors, grantees, experts, consultants, students, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC or the Office of Inspector General for use in carrying out their obligations under such contract, grant, agreement or project.

(8) To such recipients and under such circumstances and procedures as are

mandated by Federal statute, treaty, or other international agreement.

(9) To a Federal, State, local, tribal, or territorial agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

(10) To appropriate Federal, State, local, territorial, and tribal authorities, agencies, arbitrators, and other parties responsible for hearing, deciding, or processing any personnel actions, controversies, corrective actions, grievances or appeals, or if needed in the performance of other authorized personnel-related duties, but only to the extent the disclosure directly relates to or results from the insider risk matter.

(11) To a Federal, State, local, territorial, or tribal agency in order to obtain information that may be relevant to the FDIC's handling of an insider risk matter.

(12) To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored electronically or in paper format in secure facilities. Electronic records may be stored locally on digital media, in FDIC-owned cloud environments, or in vendor cloud service offerings that are appropriately authorized and/or certified.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name of the covered individual, email address, computer assigned identification number, business affiliation, and/or event name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of FDIC InR Program matters initiated from referrals that meet approved insider risk reporting thresholds are maintained for 25 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Access to

these records within the FDIC is strictly limited to those with a need to know. External disclosure of information from this system of records may only occur with the approval of the InR Program Office. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all FDIC staff are required to take annual privacy, security, and InR training. Technical security measures within the FDIC include restrictions on computer access to authorized individuals who have a legitimate need to know the information, required use of strong passwords that are frequently changed, multi-factor authentication for remote access and access to many FDIC network components, use of encryption for certain data types and transfers, firewalls and intrusion detection applications, and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals requesting access to records about them in this system of records should submit their request online through the FDIC FOIA Service center at <https://www.fdic.gov/foia>. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. Individuals will be required to provide a detailed description of the records you seek including time period when the records were created and other supporting information where possible, and the reason for amendment or correction. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of or requesting an amendment to their records in this system of records should submit their request online through the FDIC FOIA Service center at <https://www.fdic.gov/foia>. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. Individuals will be required to provide proof of identity and should include the individual's reason for requesting the amendment and a description of the record (including the

name of the appropriate designated system and category thereof) sufficient to enable the FDIC to identify the particular record or portion thereof with respect to which amendment is sought. Requests must specify which information is being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals seeking to know whether this system contains information about them should submit their request online through the FDIC FOIA Service Center at <https://www.fdic.gov/foia>. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system of records has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). Records maintained in this system that originated in another system of records shall be governed by both the exemptions claimed for this system as well as any additional exemptions claimed in the originating system of records.

HISTORY:

None.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 26, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024-19510 Filed 8-29-24; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL HOUSING FINANCE AGENCY

[No. 2024-N-13]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 30-Day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or Agency) is seeking public comments on a generic information collection called the “National Survey of Mortgage Originations” (NSMO). FHFA intends to submit the information collection to OMB for review and approval of a three-year control number.

DATES: Interested persons may submit comments on or before September 30, 2024.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–3047, Email: OIRA_submission@omb.eop.gov. Please also submit comments to FHFA, identified by “Proposed Collection; Comment Request: ‘National Survey of Mortgage Originations, (No. 2024–N–13)’ ” by any of the following methods:

- **Agency Website:** <https://www.fhfa.gov/regulation/federal-register?comments=open>.
- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail/Hand Delivery:** Federal Housing Finance Agency, Fourth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: “National Survey of Mortgage Originations, (No. 2024–N–13).” Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FHFA will post all public comments on the FHFA public website at <http://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA’s internal file and considered as required by all applicable laws. Commenters that would like

FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA’s *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information, or the identity of the commenter, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and the FHFA *FOIA Reference Guide* at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

FOR FURTHER INFORMATION CONTACT:

Jonathan Spader, Manager, National Mortgage Database Program, Jonathan.Spader@fhfa.gov, (202) 649–3213; or Angela Supervielle, Senior Counsel, Angela.Supervielle@fhfa.gov, (202) 649–3973, (these are not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

The NSMO is a recurring quarterly survey of individuals who have recently obtained a loan secured by a first mortgage on single-family residential property. The survey questionnaire is mailed to a representative sample of approximately 6,000 recent mortgage borrowers each calendar quarter and typically consists of about 96 multiple choice and short answer questions designed to obtain information about borrowers’ experiences in choosing and in taking out a mortgage. The questionnaire may be completed either on paper (in English only) or electronically online (in either English or Spanish). FHFA is also seeking clearance to pretest future iterations of the survey questionnaire and related materials from time to time through the use of cognitive pre-testing.

The NSMO is a component of the “National Mortgage Database” (NMDB) Program which is a joint effort of FHFA and the Consumer Financial Protection Bureau (CFPB). The NMDB Program is designed to satisfy the Congressionally-mandated requirements of section 1324(c) of the Federal Housing

Enterprises Financial Safety and Soundness Act (Safety and Soundness Act).¹ Section 1324(c) requires that FHFA conduct a monthly survey to collect data on the characteristics of individual prime and subprime mortgages, and on the borrowers and properties associated with those mortgages, in order to enable it to prepare a detailed annual report on the mortgage market activities of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) for review by the appropriate Congressional oversight committees. Section 1324(c) also authorizes and requires FHFA to compile a database of otherwise unavailable residential mortgage market information and to make that information available to the public in a timely fashion.

As a means of fulfilling those and other statutory requirements, as well as to support policymaking and research regarding the residential mortgage markets, FHFA and CFPB jointly established the NMDB Program in 2012. The Program is designed to provide comprehensive information about the U.S. mortgage market and has three primary components: (1) the NMDB; (2) the NSMO; and (3) the American Survey of Mortgage Borrowers (ASMB).

The NMDB is a de-identified loan-level database of closed-end first-lien residential mortgage loans that is representative of the market as a whole, contains detailed loan-level information on the terms and performance of the mortgages and the characteristics of the associated borrowers and properties, is continually updated, has an historical component dating back to 1998, and provides a sampling frame for surveys to collect additional information. The core data in the NMDB are drawn from a random 1-in-20 sample of all closed-end first-lien mortgage files outstanding at any time between January 1998 and the present in the files of Experian, one of the three national credit repositories, with a random sample of mortgages newly reported to Experian added each quarter.

The NMDB draws additional information on mortgages in the NMDB datasets from other existing sources, including the Home Mortgage Disclosure Act (HMDA) data that are maintained by the Federal Financial Institutions Examination Council (FFIEC), property valuation models, and administrative data files maintained by Fannie Mae and Freddie Mac and by federal agencies. FHFA also obtains data from the ASMB, which historically

¹ 12 U.S.C. 4544(c).

solicited information on borrowers' experience with maintaining their existing mortgages, including their experience maintaining mortgages under financial stress, their experience in soliciting financial assistance, their success in accessing federally-sponsored programs designed to assist them, and, where applicable, any challenges they may have had in terminating a mortgage loan.²

While the ASMB focused on borrowers' experience with maintaining existing mortgages, the NSMO solicits information on newly-originated mortgages and the borrowers' experiences with the mortgage origination process. It was developed to complement the NMDB by providing critical and timely information—not available from existing sources—on the range of nontraditional and subprime mortgage products being offered, the methods by which these mortgages are being marketed, and the characteristics of borrowers for these types of loans. In particular, the survey questionnaire is designed to elicit directly from mortgage borrowers information on the characteristics of the borrowers and on their experiences in finding and obtaining a mortgage loan, including: their mortgage shopping behavior; their mortgage closing experiences; their expectations regarding house price appreciation; and critical financial and other life events affecting their households, such as unemployment, expenses or divorce. The survey questions do not focus on the terms of the borrowers' mortgage loans because these fields are available in the Experian data. However, the NSMO collects a limited amount of information on each respondent's mortgage to verify that the Experian records and survey responses pertain to the same mortgage.

Each wave of the NSMO is sent to the primary borrowers on about 6,000 mortgage loans, which are drawn from a simple random sample of the newly originated mortgage loans that are added to the NMDB from the Experian files each quarter. Because the volume of originations varies across time, the sampling rate for the 6,000 sampled loans also varies from one quarter to the next. On average, the NSMO sample represents an approximately 1-in-15 sample of loans added to the NMDB and an approximately 1-in-300 sample of all mortgage loan originations. By contract with FHFA, the conduct of the NSMO is administered through Experian, which has subcontracted the survey administration through a competitive

process to Westat, a nationally-recognized survey vendor.³ Westat also carries out the pre-testing of the survey materials.

B. Need For and Use of the Information Collection

FHFA views the NMDB Program as a whole, including the NSMO, as the monthly "survey" that is required by section 1324 of the Safety and Soundness Act. Core inputs to the NMDB, such as a regular refresh of the Experian data, occur monthly, though NSMO itself does not. In combination with the other information in the NMDB, the information obtained through the NSMO is used to prepare the report to Congress on the mortgage market activities of Fannie Mae and Freddie Mac that FHFA is required to submit under section 1324, as well as for research and analysis by FHFA and CFPB in support of their regulatory and supervisory responsibilities related to the residential mortgage markets. The NSMO is especially critical in ensuring that the NMDB contains uniquely comprehensive information on the range of nontraditional and subprime mortgage products being offered, the methods by which these mortgages are being marketed and the characteristics—and particularly the creditworthiness—of borrowers for these types of loans.

Since November 2018 FHFA and CFPB have periodically released loan-level datasets collected through the NSMO for public use. Each release incrementally adds loans collected from additional waves of the survey. The most recent release was in July 2024 covering loans originated through 2021.⁴ Prior to each release, FHFA and the CFPB implement a series of disclosure avoidance analyses and protections to ensure that the confidentiality of study participants is protected. The loan-level datasets provide a resource for research and analysis by federal agencies, by Fannie Mae and Freddie Mac, and by academics and other interested parties outside of the government.

FHFA is also seeking OMB approval to continue to conduct cognitive pre-testing of the survey materials. The Agency uses information collected through that process to assist in drafting and modifying the survey questions and

instructions, as well as the related communications, to read in the way that will be most readily understood by the survey respondents and that will be most likely to elicit usable responses. Such information is also used to help the Agency decide on how best to organize and format the survey questionnaires.

FHFA previously maintained a standard clearance for this information collection, the OMB control number for that clearance was 2590–0012.

C. Burden Estimate

FHFA has analyzed the hour burden on members of the public associated with conducting the survey (10,080 hours) and with pre-testing the survey materials (50 hours) and estimates the total annual hour burden imposed on the public by this information collection to be 10,130 hours. The estimate for each phase of the collection was calculated as follows:

I. Conducting the Survey

FHFA estimates that the NSMO questionnaire will be sent to 24,000 recipients annually (6,000 recipients per quarterly survey $\times$ 4 calendar quarters). Although, based on historical experience, the Agency expects that only 20 to 30 percent of those surveys will be returned, it has assumed that all of the surveys will be returned for purposes of this burden calculation. Based on the reported experience of respondents to prior NSMO questionnaires, FHFA estimates that it will take each respondent 25 minutes to complete the survey, including the gathering of necessary materials to respond to the questions. This results in a total annual burden estimate of 10,080 hours for the survey phase of this collection (24,000 respondents $\times$ 25 minutes per respondent = 10,080 hours annually).

II. Pre-Testing the Materials

FHFA estimates that it will pre-test the survey materials with 50 cognitive testing participants annually. The estimated participation time for each participant is one hour, resulting in a total annual burden estimate of 50 hours for the pre-testing phase of the collection (50 participants $\times$ 1 hour per participant = 50 hours annually).

D. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published an initial notice and request for public comments regarding this information collection in the **Federal Register** on

² OMB has assigned the ASMB control no. 2590–0015, which expires on August 31, 2027.

³ The Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, requires that the survey process, because it utilizes borrower names and addresses drawn from credit reporting agency records, must be administered through Experian in order to maintain consumer privacy.

⁴ The July 2024 NSMO public use dataset can be accessed here: <https://www.fhfa.gov/data/national-survey-mortgage-originations-nsmo-public-use-file>.

June 25, 2024.⁵ The 60-day comment period closed on August 26, 2024. FHFA received no comments.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has

practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Shawn Bucholtz,

Chief Data Officer, Federal Housing Finance Agency.

BILLING CODE 8070-01-P



Improving Mortgage Experiences in America

National Survey of Mortgage Originations

You have been selected to participate in an important national survey. Learning directly from borrowers like you about your experiences obtaining a mortgage to purchase or refinance your home will help us improve lending practices and the mortgage process for future borrowers like you.

To Complete the Survey Online

PC/TABLET

Go to: www.NSMOSurvey.com and enter the unique access code provided in the letter and your 5-digit zip code.

MOBILE DEVICE

Text your unique access code to (202) 759-2029 to receive a link to the survey or scan the QR code.



ESPAÑOL

Vaya a: www.NSMOSurvey.com e ingrese el código de acceso único que se le envió en la carta y su código postal de 5 dígitos.

Para contestar la encuesta en un aparato móvil/teléfono inteligente Envíe en un mensaje de texto su código de acceso único al (202) 759-2029 o escanee el código QR.

While we prefer online to help us save costs for processing, it is important we hear from you. If you prefer paper, you can mail back the completed survey in the enclosed pre-paid postage envelope.

If you have any questions or need assistance completing this due to a disability, please call us toll free at 1-855-531-0724, TTY #711 or visit our web sites www.fhfa.gov/nsmo or www.consumerfinance.gov.

⁵ See 89 FR 53086 (June 25, 2024).

National Survey of Mortgage Originations

Who is sponsoring this survey?

The **Federal Housing Finance Agency (FHFA)**, is an independent regulatory agency responsible for the effective supervision, regulation, and housing mission oversight of Fannie Mae, Freddie Mac, the Federal Home Loan Bank System, and the Office of Finance, and ensures a competitive, liquid, efficient, and resilient housing finance market.

The **Consumer Financial Protection Bureau (CFPB)** is a Federal agency created in 2010 to make mortgages, credit cards, automobile and other consumer loans work better and ensure that these markets are fair, transparent, and competitive.

How was I selected for this survey?

Survey recipients were selected at random from across the United States. Your answers will not be connected to your name or any other identifying information.

How long will it take?

The time will vary based on your experiences, but you can expect to spend 15-25 minutes.

Privacy Act Notice: In accordance with the Privacy Act, as amended (5 U.S.C. § 552a), the following notice is provided. The information requested on this Survey is collected pursuant to 12 U.S.C. 4544 for the purposes of gathering information for the National Mortgage Database. Routine uses which may be made of the collected information can be found in the Federal Housing Finance Agency's System of Records Notice (SORN) FHFA-21 National Mortgage Database. Providing the requested information is voluntary. Submission of the survey authorizes FHFA to collect the information provided and to disclose it as set forth in the referenced SORN.

Paperwork Reduction Act Statement: Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB No. 2590-0012
Expires 6/30/23

1. Did you take out or co-sign for a mortgage loan sometime in the last couple of years including a purchase or any refinance/modification of an existing loan?

☐ Yes
☐ No → Skip to 71 on page 7

2. When did you take out this mortgage? If you took out or co-signed for more than one mortgage, please refer to your experience with the most recent refinance, modification, or new mortgage.

____ / ____
month year

3. Did we mail this survey to the address of the property you financed with this mortgage?

☐ Yes ☐ No

4. Who signed or co-signed for this mortgage? *Mark all that apply.*

☐ I signed
☐ Spouse/partner including a former spouse/partner
☐ Parents
☐ Children
☐ Other relatives
☐ Other (e.g. friend, business partner)

→ If you co-signed this loan with others, take into account all co-signers as best you can when answering the survey. If no co-signers, answer based on your own situation.

5. When you began the process of getting this mortgage, how familiar were you (and any co-signers) with each of the following?

	Very	Somewhat	Not At All
The mortgage interest rates available at that time	☐	☐	☐
The different types of mortgages available	☐	☐	☐
The mortgage process	☐	☐	☐
The down payment needed to qualify for a mortgage	☐	☐	☐
The income needed to qualify for a mortgage	☐	☐	☐
Your credit history or credit score	☐	☐	☐
The money needed at closing	☐	☐	☐

6. When you began the process of getting this mortgage, how concerned were you about qualifying for a mortgage?

☐ Very ☐ Somewhat ☐ Not at all

7. How firm an idea did you have about the mortgage you wanted?

☐ Firm idea ☐ Some idea ☐ Little idea

8. How much did you use each of the following sources to get information about mortgages or mortgage lenders?

	A Lot	A Little	Not At All
Your mortgage lender/broker	☐	☐	☐
Other mortgage lenders/brokers	☐	☐	☐
Real estate agents or builders	☐	☐	☐
Material in the mail	☐	☐	☐
Websites that provide information on getting a mortgage	☐	☐	☐
Newspaper/TV/Radio	☐	☐	☐
Friends/relatives/co-workers	☐	☐	☐
Bankers, credit unions or financial planners	☐	☐	☐
Housing counselors	☐	☐	☐
Other (specify) _____	☐	☐	☐

9. Which one of the following best describes your shopping process?

☐ I picked the loan type first, and then I picked the mortgage lender/broker
☐ I picked the mortgage lender/broker first, and then I picked the loan type

10. Which one of the following best describes how you applied for this mortgage?

☐ Directly to a lender, such as a bank or credit union
☐ Through a mortgage broker who works with multiple lenders to get you a loan
☐ Through a builder who arranged financing
☐ Other (specify) _____

11. How many different mortgage lenders/brokers did you seriously consider before choosing where to apply for this mortgage?

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

12. How many different mortgage lenders/brokers did you end up applying to?

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

13. Did you apply to more than one mortgage lender/broker for any of the following reasons?

	Yes	No
Searching for better loan terms	☐	☐
Concern over qualifying for a loan	☐	☐
Information learned from the "Loan Estimate"	☐	☐
Turned down on earlier application	☐	☐

14. How important were each of the following in choosing the mortgage lender/broker you used for the mortgage you took out?

	Important	Not Important
Having an established banking relationship	☐	☐
Having a local office or branch nearby	☐	☐
Used previously to get a mortgage	☐	☐
Mortgage lender/broker is a personal friend or relative	☐	☐
Paperless online mortgage process	☐	☐
Recommendation from a friend/relative/co-worker	☐	☐
Recommendation from a real estate agent/home builder	☐	☐
Reputation of mortgage lender/broker	☐	☐
Spoke my primary language, which is not English	☐	☐
Accommodations for people with disabilities	☐	☐

15. Who initiated the first contact between you and the mortgage lender/broker you used for the mortgage you took out?

☐ I (or one of my co-signers) did
☐ The mortgage lender/broker did
☐ We were put in contact by a third party (such as a real estate agent or home builder)

16. While you were getting your mortgage, how did you primarily interact with your mortgage lender/broker?

☐ Online (web portal, email)
☐ Phone (voice calls, text messages, fax)
☐ Mail
☐ In person
☐ No primary way

17. How open were you to suggestions from your mortgage lender/broker about mortgages with different features or terms?

☐ Very ☐ Somewhat ☐ Not at all

18. How important were each of the following in determining the mortgage you took out?

	Important	Not Important
Lower interest rate	☐	☐
Lower APR (Annual Percentage Rate)	☐	☐
Lower closing fees	☐	☐
Lower down payment	☐	☐
Lower monthly payment	☐	☐
An interest rate fixed for the life of the loan	☐	☐
A term of 30 years	☐	☐
No mortgage insurance	☐	☐

19. Your lender may have given you a booklet "Your home loan toolkit: A step-by-step guide," do you remember receiving a copy?

☐ Yes
☐ No
☐ Don't know

20. In the process of getting this mortgage from your mortgage lender/broker, did you...

	Yes	No
Have to add another co-signer to qualify	☐	☐
Resolve credit report errors or problems	☐	☐
Answer follow-up requests for more information about income or assets	☐	☐
Have more than one appraisal	☐	☐
Redo/refile paperwork due to processing delays	☐	☐
Delay or postpone closing date	☐	☐
Have your "Loan Estimate" revised to reflect changes in your loan terms	☐	☐
Check other sources to confirm that terms of this mortgage were reasonable	☐	☐

21. Did the "Loan Estimate" you received from your mortgage lender/broker...

	Yes	No
Have easy to understand information	☐	☐
Contain valuable information	☐	☐
Cause you to take an action, such as seek a change in your loan or closing	☐	☐

22. During the application process were you told about mortgages with any of the following?

	Yes	No
An interest rate that is fixed for the life of the loan	☐	☐
An interest rate that could change over the life of the loan	☐	☐
A term of less than 30 years	☐	☐
A higher interest rate in return for lower closing costs	☐	☐
A lower interest rate in return for paying higher closing costs (<i>discount points</i>)	☐	☐
Interest-only monthly payments	☐	☐
An escrow account for taxes and/or homeowner insurance	☐	☐
A prepayment penalty (<i>fee if the mortgage is paid off early</i>)	☐	☐
Reduced documentation or "easy" approval	☐	☐
An FHA, VA, USDA or Rural Housing loan	☐	☐

23. In selecting your settlement/closing agent did you use someone...

	Yes	No
Selected/recommended by the mortgage lender/broker, or real estate agent	☐	☐
You used previously	☐	☐
Found shopping around	☐	☐
☐ Did not have a settlement/closing agent		

24. Do you have title insurance on this mortgage?

- ☐ Yes
☐ No
☐ Don't know
- } Skip to 26

25. Which one best describes how you picked the title insurance?

- ☐ Reissued previous title insurance
☐ Used title insurance recommended by mortgage lender/broker or settlement agent
☐ Shopped around

26. Overall, how satisfied are you that the mortgage you got was the one with the...

	Very	Somewhat	Not At All
Best terms to fit your needs	☐	☐	☐
Lowest interest rate for which you could qualify	☐	☐	☐
Lowest closing costs	☐	☐	☐

27. Overall, how satisfied are you with the...

	Very	Somewhat	Not At All
Mortgage lender/broker you used	☐	☐	☐
Application process	☐	☐	☐
Documentation process required for the loan	☐	☐	☐
Property appraisal	☐	☐	☐
Loan closing process	☐	☐	☐
Information in mortgage disclosure documents	☐	☐	☐
Timeliness of mortgage disclosure documents	☐	☐	☐
Settlement agent	☐	☐	☐

28. Did you take a course about home-buying or talk to a professional housing counselor?

- ☐ Yes
☐ No → Skip to 32 on page 4

29. Was your home-buying course or counseling...

	Yes	No
In person, one-on-one	☐	☐
In person, in a group	☐	☐
Over the phone	☐	☐
Online	☐	☐
Required	☐	☐

30. How many hours was your home-buying course or counseling?

- ☐ Less than 3 hours
☐ 3 – 6 hours
☐ 7 – 12 hours
☐ More than 12 hours

31. Overall, how helpful was your home-buying course or counseling?

- ☐ Very ☐ Somewhat ☐ Not at all

32. Which one of these reasons best describes this most recent mortgage?

- ☐ To buy a property
☐ To refinance or modify an earlier mortgage
☐ To add/remove co-signer(s)/co-owner(s)
☐ To finance a construction loan
☐ To take out a new loan on a mortgage-free property
☐ Some other purpose (specify)

Skip to 36

33. Did you do the following before or after you made an offer on this house or property?

	Before Offer	After Offer	Did Not Do
Contacted a lender to explore mortgage options	☐	☐	☐
Got a pre-approval or pre-qualification from a lender	☐	☐	☐
Decided on the type of loan	☐	☐	☐
Made a decision on which lender to use	☐	☐	☐
Submitted an official loan application	☐	☐	☐

34. Did you use any of the following sources of funds to buy this property?

	Used	Not Used
Proceeds from the sale of another property	☐	☐
Savings, retirement account, inheritance, or other assets	☐	☐
Assistance or loan from a nonprofit or government agency	☐	☐
A second lien, home equity loan, or home equity line of credit (HELOC)	☐	☐
Gift or loan from family or friend	☐	☐
Seller contribution	☐	☐

35. What percent of the purchase price was the down payment to buy this property (including money from a prior home sale, gifts, etc.)?

_____ % ☐ Don't know

Skip to 39

36. How important were the following in your decision to refinance, modify or obtain a new mortgage?

	Important	Not Important
Change to a fixed-rate loan	☐	☐
Get a lower interest rate	☐	☐
Remove private mortgage insurance	☐	☐
Get a lower monthly payment	☐	☐
Consolidate or pay down other debt	☐	☐
Repay the loan more quickly	☐	☐
Take out cash	☐	☐

37. Approximately how much was owed, in total, on the old mortgage(s) and loan(s) you refinanced?

\$ _____ .00

☐ Zero (the property was mortgage-free)

38. Did you use the money you got from this new mortgage for any of the following?

	Yes	No
College expenses	☐	☐
Auto or other major purchase	☐	☐
Buy out co-signer(s)/co-owner(s)	☐	☐
Pay off other bills or debts	☐	☐
Home repairs or new construction	☐	☐
Savings	☐	☐
Closing costs of new mortgage	☐	☐
Business or investment	☐	☐
Other (specify) _____	☐	☐

☐ Did not get money from refinancing

This Mortgage

39. When you took out this most recent mortgage or refinance, what was the dollar amount you borrowed?

\$ _____ .00 ☐ Don't know

40. What is the monthly payment, including the amount paid to escrow for taxes and insurance?

\$ _____ .00 ☐ Don't know

41. What is the interest rate on this mortgage?

_____ % ☐ Don't know

29332

42. Which one of the following best describes how you decided on the interest rate of your mortgage?
- ☐ Paid higher closing costs to get lower interest rate
- ☐ Paid lower closing costs with a higher interest rate
- ☐ Got a balance between closing costs and interest rate
43. Does this mortgage have...
- | | Yes | No | Don't Know |
|---|--------------------------|--------------------------|--------------------------|
| A prepayment penalty (<i>fee if the mortgage is paid off early</i>) | ☐ | ☐ | ☐ |
| An escrow account for taxes and/or homeowner insurance | ☐ | ☐ | ☐ |
| An adjustable rate (<i>one that can change over the life of the loan</i>) | ☐ | ☐ | ☐ |
| A balloon payment | ☐ | ☐ | ☐ |
| Interest-only payments | ☐ | ☐ | ☐ |
| Private mortgage insurance | ☐ | ☐ | ☐ |
| Lender-required flood insurance | ☐ | ☐ | ☐ |
44. At any time after you made your final loan application did any of the following change?
- | | Higher | Same | Lower |
|--------------------------------------|--------------------------|--------------------------|--------------------------|
| Monthly payment | ☐ | ☐ | ☐ |
| Interest rate | ☐ | ☐ | ☐ |
| Other fees | ☐ | ☐ | ☐ |
| Amount of money needed to close loan | ☐ | ☐ | ☐ |
45. The "Closing Disclosure" statement you received at closing shows the loan closing costs and other closing costs separately. What were the loan closing costs you paid on this loan?
- \$.00 ☐ Don't know
46. How were the total closing costs (loan costs and other costs) for this loan paid?
- | | Yes | No | Don't Know |
|--|--------------------------|--------------------------|--------------------------|
| By me or a co-signer with a check or wire transfer | ☐ | ☐ | ☐ |
| Added to the mortgage amount | ☐ | ☐ | ☐ |
| By mortgage lender/broker | ☐ | ☐ | ☐ |
| By seller/builder | ☐ | ☐ | ☐ |
| Other (specify) | ☐ | ☐ | ☐ |
- ☐ Loan had no closing costs
47. Were the loan costs you paid similar to what you had expected to pay based on the Loan Estimates or Closing Disclosures you received?
- ☐ Yes ☐ No
48. After closing on this mortgage, how much cash reserves in checking, savings, and other similar assets did you have remaining?
- ☐ Less than one month's mortgage payment
- ☐ 1-2 months' worth of mortgage payments
- ☐ 3-6 months' worth of mortgage payments
- ☐ 7 months' worth or more of mortgage payments
49. Did you seek input about your closing documents from any of the following people?
- | | Yes | No |
|---|--------------------------|--------------------------|
| Mortgage lender/broker | ☐ | ☐ |
| Settlement/closing agent | ☐ | ☐ |
| Real estate agent | ☐ | ☐ |
| Personal attorney | ☐ | ☐ |
| Title insurance agent | ☐ | ☐ |
| Trusted friend or relative who is not a co-signer on the mortgage | ☐ | ☐ |
| Housing counselor | ☐ | ☐ |
| Other (specify) | ☐ | ☐ |
50. Did you face any of the following at your loan closing?
- | | Yes | No |
|--|--------------------------|--------------------------|
| Loan documents not ready at closing | ☐ | ☐ |
| Closing did not occur as originally scheduled | ☐ | ☐ |
| Three-day rule required re-disclosure | ☐ | ☐ |
| Mortgage terms different at closing than expected, e.g. interest rate, monthly payment | ☐ | ☐ |
| More cash needed at closing than expected, e.g. escrow, unexpected fees | ☐ | ☐ |
| Less cash needed at closing than expected | ☐ | ☐ |
| Asked to sign blank documents at closing | ☐ | ☐ |
| Asked to sign pre-dated or post-dated documents at closing | ☐ | ☐ |
| Felt rushed at closing or not given time to read documents | ☐ | ☐ |
51. Is there any additional problem you encountered while getting this mortgage that you'd like to tell us about?
-
-
-



52. At the same time you took out this mortgage, did you also take out another loan on the property you financed with this mortgage (a second lien, home equity loan, or a home equity line of credit (HELOC))?

- ☐ Yes
☐ No → Skip to 54

53. What was the amount of this loan?

\$ _____ 00

☐ Don't know

54. How well could you explain to someone the...

	Very	Somewhat	Not At All
Process of taking out a mortgage	☐	☐	☐
Difference between a fixed- and an adjustable-rate mortgage	☐	☐	☐
Difference between a prime and subprime loan	☐	☐	☐
Difference between a mortgage's interest rate and its APR	☐	☐	☐
Amortization of a loan	☐	☐	☐
Consequences of not making required mortgage payments	☐	☐	☐
Difference between lender's and owner's title insurance	☐	☐	☐
Relationship between discount points and interest rate	☐	☐	☐
Reason payments into an escrow account can change	☐	☐	☐

This Mortgaged Property

55. When did you first become the owner of this property?

____ / ____
month year

56. What was the purchase price of this property, or if you built it, how much did the construction and land cost?

\$ _____ 00 ☐ Don't know

57. Which one of the following best describes how you acquired this property?

- ☐ Purchased an existing home
☐ Purchased a newly-built home from a builder
☐ Had or purchased land and built a house
☐ Received as a gift or inheritance
☐ Other (specify) _____

58. Which one of the following best describes this property?

- ☐ Single-family detached house
☐ Mobile home or manufactured home
☐ Townhouse, row house, or villa
☐ 2-unit, 3-unit, or 4-unit dwelling
☐ Apartment (or condo/co-op) in apartment building
☐ Unit in a partly commercial structure
☐ Other (specify) _____

59. Does this mortgage cover more than one unit?

- ☐ Yes ☐ No

60. About how much do you think this property is worth in terms of what you could sell it for now?

\$ _____ 00 ☐ Don't know

61. Do you rent out all or any portion of this property?

- ☐ Yes
☐ No → Skip to 63

62. How much rent do you receive annually?

\$ _____ 00 per year

63. Besides you, the mortgage co-signers, and renters, does anyone else help pay the expenses for this property?

- ☐ Yes ☐ No

64. Which one of the following best describes how you use this property?

- ☐ Primary residence (where you spend the majority of your time)
☐ It will be my primary residence soon
☐ Seasonal or second home
☐ Home for other relatives
☐ Rental or investment property
☐ Other (specify) _____
- Skip to 67 on page 7

65. If primary residence, when did you move into this property?

____ / ____
month year

66. Which one of the following best describes your willingness or ability to move from your primary residence?

- ☐ Willing and able to move
☐ Willing but unable to move
☐ Unwilling to move
☐ Unsure/Don't know at this time

67. In the last couple years, how have the following changed in the neighborhood where this property is located?

	Significant Increase	Little/No Change	Significant Decrease
Number of homes for sale	☐	☐	☐
Number of vacant homes	☐	☐	☐
Number of homes for rent	☐	☐	☐
Number of foreclosures or short sales	☐	☐	☐
Number of homes impacted by natural disasters	☐	☐	☐
House prices	☐	☐	☐
Overall desirability of living there	☐	☐	☐

68. What do you think will happen to the prices of homes in this neighborhood over the next couple of years?

- ☐ Increase a lot
☐ Increase a little
☐ Remain about the same
☐ Decrease a little
☐ Decrease a lot

69. In the next couple of years, how do you expect the overall desirability of living in this neighborhood to change?

- ☐ Become more desirable
☐ Stay about the same
☐ Become less desirable

70. How likely is it that in the next couple of years you will...

	Very	Somewhat	Not At All
Sell this property	☐	☐	☐
Move but keep this property	☐	☐	☐
Refinance the mortgage on this property	☐	☐	☐
Pay off this mortgage and own the property mortgage-free	☐	☐	☐

Your Household

71. What is your current marital status?

- ☐ Married
☐ Separated
☐ Never married
☐ Divorced
☐ Widowed

72. Do you have a partner who shares the decision-making and responsibilities of running your household but is not your legal spouse?

- ☐ Yes ☐ No

Please answer the following questions for you and your spouse or partner, if applicable.

73. Age at last birthday:

You	Spouse/ Partner
years	years

74. Sex:

	You	Spouse/ Partner
Male	☐	☐
Female	☐	☐

75. Highest level of education achieved:

	You	Spouse/ Partner
Some schooling	☐	☐
High school graduate	☐	☐
Technical school	☐	☐
Some college	☐	☐
College graduate	☐	☐
Postgraduate studies	☐	☐

76. Hispanic or Latino:

	You	Spouse/ Partner
Yes	☐	☐
No	☐	☐

77. Race: Mark all that apply.

	You	Spouse/ Partner
White	☐	☐
Black or African American	☐	☐
American Indian or Alaska Native	☐	☐
Asian	☐	☐
Native Hawaiian or Other Pacific Islander	☐	☐

29332

78. Current work status: Mark all that apply.

	You	Spouse/ Partner
Self-employed full time	☐	☐
Self-employed part time	☐	☐
Employed full time	☐	☐
Employed part time	☐	☐
Retired	☐	☐
Unemployed, temporarily laid-off or on leave	☐	☐
Not working for pay (<i>student, homemaker, disabled</i>)	☐	☐

79. Ever served on active duty in the U.S. Armed Forces, Reserves or National Guard?

	You	Spouse/ Partner
Never served in the military	☐	☐
Only on active duty for training in the Reserves or National Guard	☐	☐
Now on active duty	☐	☐
On active duty in the past, but not now	☐	☐

80. Besides you (and your spouse/partner) who else lives in your household? Mark all that apply.

- ☐ Children/grandchildren under age 18
☐ Children/grandchildren age 18 - 22
☐ Children/grandchildren age 23 or older
☐ Parents of you or your spouse or partner
☐ Other relatives like siblings or cousins
☐ Non-relative

☐ No one else

81. Do you speak a language other than English at home?

- ☐ Yes
☐ No → Skip to 84

82. Was it important to get your mortgage documents in this language?

- ☐ Yes ☐ No

83. Did you get mortgage documents in this language?

- ☐ Yes ☐ No

84. Approximately how much is your total annual household income from all sources (wages, salaries, tips, interest, child support, investment income, retirement, social security, and alimony)?

- ☐ Less than \$35,000
☐ \$35,000 to \$49,999
☐ \$50,000 to \$74,999
☐ \$75,000 to \$99,999
☐ \$100,000 to \$174,999
☐ \$175,000 or more

85. How does this total annual household income compare to what it is in a "normal" year?

- ☐ Higher than normal
☐ Normal
☐ Lower than normal

86. Does your total annual household income include any of the following sources?

	Yes	No
Wages or salary	☐	☐
Business or self-employment	☐	☐
Interest or dividends	☐	☐
Alimony or child support	☐	☐
Social Security, pension or other retirement benefits	☐	☐

87. Does anyone in your household have any of the following?

	Yes	No
401(k), 403(b), IRA, or pension plan	☐	☐
Stocks, bonds, or mutual funds (<i>not in retirement accounts or pension plans</i>)	☐	☐
Certificates of deposit	☐	☐
Investment real estate	☐	☐

88. Which one of the following statements best describes the amount of financial risk you are willing to take when you save or make investments?

- ☐ Take substantial financial risks expecting to earn substantial returns
☐ Take above-average financial risks expecting to earn above-average returns
☐ Take average financial risks expecting to earn average returns
☐ Not willing to take any financial risks

89. Do you agree or disagree with the following statements?

	Agree	Disagree
Owning a home is a good financial investment	☐	☐
Most mortgage lenders generally treat borrowers well	☐	☐
Most mortgage lenders would offer me roughly the same rates and fees	☐	☐
Late payments will lower my credit rating	☐	☐
Lenders shouldn't care about any late payments, only whether loans are fully repaid	☐	☐
It is okay to default or stop making mortgage payments if it is in the borrower's financial interest	☐	☐
I would consider counseling or taking a course about managing my finances if I faced financial difficulties	☐	☐

90. In the last couple of years, have any of the following happened to you?

	Yes	No
Separated, divorced or partner left	☐	☐
Married, remarried or new partner	☐	☐
Death of a household member	☐	☐
Addition to your household (not spouse/partner)	☐	☐
Person leaving your household (not spouse/partner)	☐	☐
Disability or serious illness of household member	☐	☐
Disaster affecting a property you own	☐	☐
Disaster affecting your (or your spouse/partner's) work	☐	☐
Moved within the area (less than 50 miles)	☐	☐
Moved to a new area (50 miles or more)	☐	☐

91. In the last couple of years, have any of the following happened to you (or your spouse/partner)?

	Yes	No
Layoff, unemployment, or reduced hours of work	☐	☐
Retirement	☐	☐
Promotion	☐	☐
Starting a new job	☐	☐
Starting a second job	☐	☐
Business failure	☐	☐
A personal financial crisis	☐	☐

92. In the last couple years, how have the following changed for you (and your spouse/partner)?

	Significant Increase	Little/No Change	Significant Decrease
Household income	☐	☐	☐
Housing expenses	☐	☐	☐
Non-housing expenses	☐	☐	☐

93. In the next couple of years, how do you expect the following to change for you (and your spouse/partner)?

	Significant Increase	Little/No Change	Significant Decrease
Household income	☐	☐	☐
Housing expenses	☐	☐	☐
Non-housing expenses	☐	☐	☐

94. How likely is it that in the next couple of years you (or your spouse/partner) will face...

	Very	Somewhat	Not At All
Retirement	☐	☐	☐
Difficulties making your mortgage payments	☐	☐	☐
A layoff, unemployment, or forced reduction in hours	☐	☐	☐
Some other personal financial crisis	☐	☐	☐

95. If your household faced an unexpected personal financial crisis in the next couple of years, how likely is it you could...

	Very	Somewhat	Not At All
Pay your bills for the next 3 months without borrowing	☐	☐	☐
Get significant financial help from family or friends	☐	☐	☐
Borrow a significant amount from a bank or credit union	☐	☐	☐
Significantly increase your income	☐	☐	☐

96. In the next ten years, what do you think could decrease the value of a property you own?

29332



Thank you for completing this survey and sharing your experiences to help improve the processes of getting a mortgage.

We have provided space below for any additional comments.

Is there anything else you would like to tell us about your experience getting a mortgage to purchase or refinance your property?

Please do not put your name or address on the questionnaire.

Please use the enclosed business reply envelope to return your completed questionnaire.

**FHFA
1600 Research Blvd, RC B16
Rockville, MD 20850**

For any questions about the survey or online access you can call toll free 1-855-531-0724.

29332

**GENERAL SERVICES
ADMINISTRATION**

**[OMB Control No. 3090-0332; Docket No.
2024-0001; Sequence No. 13]**

**Submission for OMB Review; Data
Collection for a National Evaluation of
the American Rescue Plan**

AGENCY: Office of Evaluation Sciences;
General Services Administration (GSA).

ACTION: Notice of request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, OES is proposing new data collection activities conducted for the National Evaluation of the American Rescue Plan (ARP). The objective of this project is to provide a systematic look at the contributions of selected ARP-funded programs toward achieving equitable outcomes to inform program design and delivery across the Federal Government. The project will include in-depth, cross-cutting

evaluations and data analysis of selected ARP programs, especially those with shared outcomes, common approaches, or overlapping recipient communities; and targeted, program-specific analyses to fill critical gaps in evidence needs. This information collection request is for three mixed or multi-method evaluations under the American Rescue Plan National Evaluation Generic Clearance (OMB #: 3090–0332, expires May 31, 2027).

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Elizabeth Martin, Senior Program Manager, 267–455–8556 at arp.national.evaluation@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The goal of this study is to look systematically across the selected subset of ARP programs, to provide an integrated account of whether, how, and to what extent their implementation served to achieve their intended outcomes, particularly with respect to advancing equity.

This package updates the generic requirement with instruments tailored to three specific in-depth evaluations, outlining the evaluation designs, information collection methods and instruments, and associated burden. The three evaluations are:

- Integration of Funding to Increase Equitable Access to Behavioral Health Crisis Services (Behavioral Health study)
- Local Innovations and Practices in the Equitable Implementation of ARP Programs to Reduce Homelessness (Homelessness study)
- State Coordination Strategies to Equitably Serve Children Through the American Rescue Plan (State Coordination Strategies study)

The proposed information collection activities cover mixed-method approaches to implement primarily outcome and process evaluations. Data collection activities for these studies include: (1) interviews, (2) focus groups, (3) short surveys of program participants and/or eligible non-participants, and (4) data requests.

Respondents: State and local program administrators, program staff,

community-based program partners, and individuals who participate or are eligible to participate in the relevant ARP programs.

B. Annual Burden Estimates

The burden estimates included in the supporting statements reflect the expectations for information collection and related activities associated with the conduct of this phase of three studies. During this phase, we anticipate information collection to include key informant interviews, web surveys,
Total respondents: 569.
Total Burden Hours: 432.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 3090–0332, Data Collection for a National Evaluation of the American Rescue Plan.

Lois Mandell,

*Director, Regulatory Secretariat Division,
General Services Administration.*

[FR Doc. 2024–19582 Filed 8–29–24; 8:45 am]

BILLING CODE 6820–TZ–P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

**Agency for Healthcare Research and
Quality**

Notice of Meetings

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of five AHRQ subcommittee meetings.

SUMMARY: The subcommittees listed below are part of AHRQ’s Health Services Research Initial Review Group (IRG) Committee. Grant applications are to be reviewed and discussed at these

meetings. Each subcommittee meeting will be closed to the public.

DATES: See below for dates of meetings:

1. Healthcare Effectiveness and Outcomes Research (HEOR)
Date: October 9–11, 2024
2. Healthcare Safety and Quality Improvement Research (HSQR)
Date: October 9–10, 2024
3. Healthcare Systems and Value Research (HSVR)
Date: October 10–11, 2024
4. Healthcare Research Training (HCRT)
Date: October 17–18, 2024
5. Healthcare Information Technology Research (HITR)
Date: October 24–25, 2024

ADDRESSES: The Bethesda Hotel, Tapestry Collection by Hilton, 8120 Wisconsin Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: (To obtain a roster of members, agenda or minutes of the non-confidential portions of the meetings.)

Jenny Griffith, Committee Management Officer, Division of Policy, Coordination and Analysis, Office of Extramural Research Education and Priority Populations, Agency for Healthcare Research and Quality (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 427–1557

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, 5 U.S.C. 1009 (a)(2), AHRQ announces meetings of the above-listed scientific peer review groups, which are subcommittees of AHRQ’s Health Services Research Initial Review Group Committee. The subcommittee meetings will be closed to the public in accordance with the provisions set forth in 5 U.S.C. 1009(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). 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.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: August 26, 2024.

Marquita Cullom,
Associate Director.

[FR Doc. 2024–19483 Filed 8–29–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services**

[Document Identifier: CMS–10650]

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 30, 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:

Type of Information Collection Request: Extension without change of a previously approved collection; *Title of Information Collection:* State Permissions for Enrollment in Qualified Health Plans in the Federally-Facilitated Exchange & Non-Exchange Entities; *Use:* On March 23, 2010, the Patient Protection and Affordable Care Act (PPACA; Pub. L. 111–148) was signed into law and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) was signed into law. The two laws implement various health insurance policies. This Information Collection Request (ICR) serves as the renewal of the data collection clearance related to the ability of states to permit agents and brokers, as well as web-brokers, to assist qualified individuals, qualified employers, or qualified employees enrolling in Qualified Health Plans in the Federally Facilitated Exchange (45 CFR 155.220) and data collection requirements related to non-exchange entities. (45 CFR 155.260). *Form Number:* CMS–10650 (OMB control number: 0938–1349); *Frequency:* Annually; *Affected Public:* Private Sector, State, Business, and Not-for Profits; *Number of Respondents:* 93,684; *Number of Responses:* 93,684; *Total Annual Hours:* 473,440. (For questions

regarding this collection, contact Michele Oshman at (410–786–4396).

William N. Parham, III,
Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–19558 Filed 8–29–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. FDA–2024–N–0021]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Restaurant and Retail Foodservice Facility Types

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 30, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. The OMB control number for this information collection is 0910–0744. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Restaurant and Retail Foodservice Facility Types

OMB Control Number 0910-0744—
Revision

This information collection supports food safety projects administered by FDA. The FDA's National Retail Food Team conducted a study to measure trends in the occurrence of foodborne illness risk factors, preparation practices, and employee behaviors most commonly reported to the Centers for Disease Control and Prevention as contributing factors to foodborne illness outbreaks at the retail level.

Specifically, data was collected in retail and foodservice establishments at 5-year intervals (1998, 2003, and 2008) in order to observe and document trends in the occurrence of the following foodborne illness risk factors:

- Food from Unsafe Sources,
- Poor Personal Hygiene,
- Inadequate Cooking,
- Improper Holding/Time and Temperature, and
- Contaminated Equipment/Cross-Contamination.

FDA developed reports summarizing the findings for each of the three data collection periods, released in 2000, 2004, and 2009.^{1 2 3} Data from all three data collection periods were analyzed to detect trends in improvement or

regression over time and to determine whether progress had been made toward the goal of reducing the occurrence of foodborne illness risk factors in selected retail and foodservice facility types.⁴

Using this 10-year survey as a foundation, FDA initiated a new study in full-service and fast-food restaurants. This study will include data collections completed in 2013–2014 and 2017–2018. An additional collection planned for 2021–2022 was halted due to the COVID-19 pandemic; however, an additional data collection is planned for 2023–2025 (the subject of this information collection request extension). Three data collections are necessary to trend the data.

TABLE 1—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY

Facility type	Description
Full-Service Restaurants	A restaurant where customers place their orders at their tables, are served their meals at the tables, receive the services of the wait staff, and pay at the end of the meals.
Fast-Food Restaurants	A restaurant that is not a full-service restaurant. This includes restaurants commonly referred to as quick-service restaurants and fast, casual restaurants.
Retail Food Stores	Supermarkets and grocery stores that have a deli department/operation as described as follows: • Deli department/operation—Areas in a retail food store where foods, such as luncheon meats and cheeses, are sliced for the customers and where sandwiches and salads are prepared onsite or received from a commissary in bulk containers, portioned, and displayed. Parts of deli operations may include: • Salad bars, pizza stations, and other food bars managed by the deli department manager. • Areas where other foods are cooked or prepared and offered for sale as ready-to-eat and are managed by the deli department manager. Data will also be collected in the following areas of a supermarket or grocery store, if present: • Seafood department/operation—Areas in a retail food store where seafood is cut, prepared, stored, or displayed for sale to the consumer. In retail food stores where the seafood department is combined with another department (e.g., meat), the data collector will only assess the procedures and practices associated with the processing of seafood. • Produce department/operation—Areas in a retail food store where produce is cut, prepared, stored, or displayed for sale to the consumer. A produce operation may include salad bars or juice stations that are managed by the produce manager.

The results of this study period will be used to:

- Develop retail food safety initiatives, policies, and targeted intervention strategies focused on controlling foodborne illness risk factors;
- Provide technical assistance to State, local, tribal, and territorial regulatory professionals;
- Identify FDA retail work plan priorities; and
- Inform FDA resource allocation to enhance retail food safety nationwide.

The objectives of this study are to:

- Identify the least and most often occurring foodborne illness risk factors and food safety behaviors/practices in restaurants within the United States;
- Determine the extent to which Food Safety Management Systems and the presence of a Certified Food Protection Manager impact the occurrence of foodborne illness risk factors and food safety behaviors/practices; and
- Determine whether the occurrence of foodborne illness risk factors food safety behaviors/practices in delis differs based on an establishment's risk categorization and status as a single-unit or multiple-unit operation (e.g.,

restaurants that are part of an operation with two or more units).

A geographical information system database containing a listing of businesses throughout the United States provides the establishment inventory for the data collections. FDA samples establishments from the inventory based on the descriptions in table 1. FDA does not intend to sample operations that handle only prepackaged food items or conduct low-risk food preparation activities. The "FDA Food Code" contains a grouping of establishments by risk, based on the type of food preparation that is normally conducted

¹ FDA, "Report of the FDA Retail Food Program Database of Foodborne Illness Risk Factors (2000)." Available at <https://wayback.archive-it.org/7993/20170406023019/https://www.fda.gov/downloads/Food/GuidanceRegulation/UCM123546.pdf>.

² FDA, "FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2004)." Available at <https://wayback.archive-it.org/7993/20170406023011/https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodborneIllnessRiskFactorReduction/ucm224321.htm>.

Food/GuidanceRegulation/RetailFoodProtection/FoodborneIllnessRiskFactorReduction/UCM423850.pdf.

³ FDA, "FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2009)." Available at <https://wayback.archive-it.org/7993/20170406023004/https://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/>

FoodborneIllnessRiskFactorReduction/ucm224321.htm.

⁴ FDA National Retail Food Team, "FDA Trend Analysis Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (1998–2008)." Available at <https://wayback.archive-it.org/7993/20170406022950/https://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodborneIllnessRiskFactorReduction/ucm223293.htm>.

within the operation.⁵ The intent is to sample establishments that fall under risk categories 2 through 4.

FDA has approximately 25 Retail Food Specialists (Specialists) who serve as the data collectors for the study. A standard form is used by the Specialists during each data collection. The form is divided into three sections: Section 1—“Establishment Information”; Section 2—“Regulatory Authority Information”; and Section 3—“Foodborne Illness Risk Factor and Food Safety Management System Assessment.” The information in Section 1 “Establishment Information” of the form is obtained during an interview with the establishment owner or person in charge by the Specialist and includes a standard set of questions. The information in Section 2 “Regulatory Authority Information” is obtained during an interview with the program director of the State or local jurisdiction that has regulatory responsibility for conducting inspections for the selected establishment.

Section 3 includes three parts: Part A for tabulating the Specialists’ observations of the food employees’ behaviors and practices in limiting contamination, proliferation, and survival of food safety hazards; Part B for assessing the food safety management system being implemented by the facility; and Part C for assessing the frequency and extent of food employee handwashing. The information in Part A is collected from the Specialists’ direct observations of food employee behaviors and practices. Infrequent, nonstandard questions may be asked by the Specialists if clarification is needed on the food safety procedure or practice being observed. The information in Part B is collected by making direct observations and asking follow-up questions of facility management to obtain information on the extent to which the food establishment has developed and implemented food safety management systems. The information in Part C is collected by making direct observations of food employee handwashing. No questions are asked in the completion of Section 3, Part C of the form.

FDA collects the following information associated with the establishment’s identity: establishment name, street address, city, State, ZIP Code, county, industry segment, and facility type. The establishment-identifying information is collected to ensure the data collections are not duplicative. Other information related to the nature of the operation, such as seating capacity and number of employees per shift, is also collected.

The burden associated with the completion of Sections 1 and 3 of Form FDA 3967 is specific to the persons in charge of the selected facilities. The burden includes the time it will take the person in charge to accompany the data collector during the site visit and answer the data collector’s questions. The burden related to the completion of Section 2 of the form is specific to the program directors (or designated individuals) of the respective regulatory authorities. This burden includes the time it will take to answer the data collectors’ questions and is the same regardless of the facility type. Data will be consolidated and reported in a manner that does not reveal the identity of any establishment included in the study.

FDA has collaborated with the Food Protection and Defense Institute to develop a web-based platform in FoodSHIELD to collect, store, and analyze data for the Retail Risk Factor Study. This platform is accessible to State, local, territorial, and tribal regulatory jurisdictions to collect data relevant to their own risk factor studies. Data will be consolidated and reported in a manner that does not reveal the identity of any establishment included in the study.

In the **Federal Register** of March 6, 2024 (89 FR 15996), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received. It was in favor of the study, but it was not responsive to the four collection of information topics solicited.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Fast-Food and Full-Service Restaurants—Form FDA 3966.	400	1	400	2	800
Retail Food Stores—Form FDA 3967	400	1	400	2	800
Entry Refusals—All Facility Types	24	1	24	0.08 (5 minutes)	2
Total .....	.....	.....	.....	.....	1,602

¹ There are no capital costs of operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made adjustments to our burden estimate. On our own initiative, however, and for efficiency of Agency operations, we are revising the information collection to include and consolidate related information collection found in 0910–0799. Since the publication of the 60-day notice, we made adjustments to our burden estimate. Our estimated burden for the information collection reflects a

decrease of 35 total burden hours and a corresponding decrease of 792 total annual responses.

Dated: August 27, 2024.
Lauren K. Roth,
Associate Commissioner for Policy.
[FR Doc. 2024–19574 Filed 8–29–24; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY
Coast Guard
[Docket No. USCG–2024–0740]
Policy Letter for the Application of Fishing Vessel Construction Requirements
AGENCY: Coast Guard, DHS.
ACTION: Notice of availability.

⁵ FDA, “FDA Food Code.” Available at <https://www.fda.gov/FoodCode>.

SUMMARY: The Coast Guard announces the availability, online and in the docket, of Office of Commercial Vessel Compliance Policy Letter 24–02, titled “Application of Fishing Vessel Construction Requirements.” This policy letter communicates Coast Guard thinking as it relates to construction requirements for commercial fishing vessels.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. Joseph D. Myers at the Office of Commercial Vessel Compliance COMDT (CG–CVC), Fishing Vessel Safety Division, telephone 571–608–5685, email at Joseph.D.Myers@uscg.mil.

Background and Purpose

CG–CVC has recently released CVC Policy Letter 24–02 “Application of Fishing Vessel Construction Requirements.” This directive communicates the Coast Guards thinking on applicable requirements that pertain to commercial fishing industry vessels as specified in 46 United States U.S. Code (U.S.C.) 4503.

In lieu of the classing requirements specified in U.S.C. 4503(a), certain fishing vessels and fish tender vessels that are between 50 and 180 feet overall in length and were built after the date of the enactment of the Coast Guard Authorization Act of 2016 may meet alternative requirements as specified in 46 U.S.C. 4503(d). CVC Policy Letter 24–02 provides a breakdown of the (8) relevant sections of 46 U.S.C. 4503(d) which outlines various requirements related to vessel design and construction, project oversight and certification, and post construction surveys, maintenance, and documentation. It is essential that stakeholders such as Coast Guard authorities, vessel owner/operators, ship builders, and third-party organization surveyors understand relevant parameters and applicability.

CVC Policy Letter 24–02 can be accessed at: <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/Fishing-Vessel-Safety-Division/CVC-3-Home-Page/>.

This notice is issued under authority of 46 U.S.C. 4503 and 5 U.S.C. 552(a).

M. Neeland,

Captain, U.S. Coast Guard, Chief, Office of Commercial Vessel Compliance.

[FR Doc. 2024–19590 Filed 8–29–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0114]

Agency Information Collection Activities; Extension; Crewman’s Landing Permit (CBP Form I–95)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than September 30, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Please submit written comments and/or suggestions in English. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information

collection was previously published in the **Federal Register** (89 FR 45911) on May 24, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Crewman’s Landing Permit (CBP Form I–95).

OMB Number: 1651–0114.

Form Number: I–95.

Current Actions: This submission will extend the collection’s expiration date with an increase to the number of respondents and responses received, resulting in an increased burden. No change to the information collected or method of collection.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: CBP Form I–95, *Crewman’s Landing Permit*, is prepared and presented to CBP by the master or agent of vessels and aircraft arriving in the United States for nonimmigrant crewmembers applying for landing privileges. This form is provided for by 8 CFR 251.1(c) which states that, with certain exceptions, the master, captain, or agent must present this form to CBP for each nonimmigrant crewmember on board. In addition, pursuant to 8 CFR 252.1(e), CBP Form I–95 serves as the physical evidence that a nonimmigrant crewmember has been granted a conditional permit to land temporarily, and it is also a prescribed registration

form under 8 CFR 264.1 for crewmembers arriving by vessel or air. CBP Form I-95 is authorized by section 252 of the Immigration and Nationality Act of 1952, Public Law 82-414, 66 Stat. 163, as amended (8 U.S.C. 1282) and is accessible at: <https://www.cbp.gov/sites/default/files/assets/documents/2018-Nov/CBP%20Form%20I-95.pdf>.

Type of Information Collection: Form I-95.

Estimated Number of Respondents: 1,072,428.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,072,428.

Estimated Time per Response: 4 minutes.

Estimated Total Annual Burden Hours: 71,853.

Dated: August 27, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024-19584 Filed 8-29-24; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0064]

Agency Information Collection Activities; Extension; Create/Update Importer Identity Form (CBP Form 5106)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than September 30, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Please submit written comments and/or suggestions in

English. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION:

CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (89 FR 45911) on May 24, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Create/Update Importer Identity Form.

OMB Number: 1651-0064.

Form Number: 5106.

Current Actions: This submission will extend the collection authority with an increase in the estimated numbers of respondents and annual burden. No change to the information collected or method of collection.

Type of Review: Extension (w/ change).

Affected Public: Businesses.

Abstract: The collection of the information on the “Create/Update Importer Identity Form”, commonly referred to as “CBP Form 5106,” is the basis for establishing bond coverage, release and entry of merchandise, liquidation, and the issuance of bills and refunds. Members of the trade community use the Create/Update Importer Identification Form to register an entity as an Importer of Record (IOR) in the Automated Commercial Environment (ACE). Registering as IOR with CBP is required if an entity intends to transact Customs business and be involved as an importer, consignee/ultimate consignee, any individual or organization involved as a party, such as 4811 party, or sold to party on an informal or formal entry. The number used to identify an IOR is either an Internal Revenue Service (IRS) Employer Identification Number (EIN), a Social Security Number (SSN), or a CBP-Assigned Number. Collecting this information from the importer enables CBP to verify the identity of the importers and meet regulatory requirements for collecting information.

Each person, business firm, government agency, or other organization shall file CBP Form 5106 with the first formal entry or request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. This form is also filed for the ultimate consignee for whom an entry is being made.

CBP Form 5106 is authorized by 19 U.S.C 1484 and 31 U.S.C. 7701 and provided for by 19 CFR 24.5. The current version of the form is accessible on the CBP Forms website.

Type of Information Collection: Importer ID Import Record (Form 5106).

Estimated Number of Respondents: 432,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 432,000.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 324,000.

Dated: August 27, 2024.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–19583 Filed 8–29–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0020]

Agency Information Collection Activities; Extension; Crew's Effects Declaration (Form 1304)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. **DATES:** Comments are encouraged and must be submitted (no later than September 30, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Please submit written comments and/or suggestions in English. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP

National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (89 FR 45910) on May 24, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Crew's Effects Declaration.

OMB Number: 1651–0020.

Form Number: Form 1304.

Current Actions: This submission will extend the expiration date with a change to the information collection. The burden hour estimates were adjusted to reflect accurate usage.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: CBP Form 1304, *Crew's Effects Declaration*, was developed through an agreement by the International Maritime Organization (IMO) in conjunction with the United States and various other countries. The form is used as part of the entrance and clearance of vessels pursuant to the provisions of 19 CFR 4.7 and 4.7a, 19 U.S.C. 1431, and 19 U.S.C. 1434. CBP

Form 1304 is completed by the master of the arriving vessel to record and list the crew's effects that are onboard the vessel. This form is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=1304>.

The CBP Form 1304 is part of the Vessel Entrance and Clearance System (VECS) Public Test currently on-going. The paper Form 1304 is not required if submissions are made in VECS, on a voluntary basis.

Once public testing is done, PRA approval and rulemaking will make VECS permanent.

Type of Information Collection: Form 1304.

Estimated Number of Respondents: 1,678.

Estimated Number of Annual Responses per Respondent: 52.

Estimated Number of Total Annual Responses: 87,256.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 87,256.

Dated: August 27, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–19585 Filed 8–29–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–46]

30-Day Notice of Proposed Information Collection: Mortgagee's Application for Partial Settlement (Multifamily Mortgage); OMB Control No.: 2502–0427

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 30, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.regulations.gov or 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:

Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone (202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 7, 2024 at 89 FR 16586.

A. Overview of Information Collection

Title of Information Collection: Mortgagee’s Application for Partial Settlement (Multifamily Mortgage).

OMB Approval Number: 2502–0427.

OMB Expiration Date: August 31, 2024.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–2537, HUD–2747, HUD–1044–D.

Description of the need for the information and proposed use: When a Federal Housing Administration insured Multifamily mortgage goes into default, the Mortgagee may file a claim with the Secretary to receive the insurance benefits. The Mortgagee is required by HUD to furnish form HUD–2537, Mortgagee’s Application for Partial Settlement (Multifamily Mortgage), prior to assignment. Once the email or telefax is received with form HUD–2537, HUD pays 70 or 90% of the Unpaid Principal Balance (UPB) plus interest within 24 to 48 hours after assignment or conveyance. Interest will continue to accrue on the claim until the partial settlement is paid. Interest paid on each claim is based on the default date, the escrows reported on form HUD–2537 and the UPB reported.

Respondents: Business or other for-profit; State, Local, or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: 1.

Average Hours per Response: 1.75.

Estimated Burden: 193 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency’s estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2024–19571 Filed 8–29–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–42]

30-Day Notice of Proposed Information Collection: State Community Development Block Grant (CDBG) Program, OMB Control No.: 2506–0085

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice

is to allow for 30 days of public comment.

DATES: *Comments Due Date:* September 30, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna Guido, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; email PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone (202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The Federal Register notice that solicited public comment on the information collection for a period of 60 days was published on May 21, 2024 at 89 FR 44697.

A. Overview of Information Collection

Title of Information Collection: 30-Day Notice of Proposed Information Collection: State Community Development Block Grant (CDBG) Program.

OMB Approval Number: 2506–0085

Type of Request: Extension of currently approved collection.

Form Number: HUD–40108.

Description of the need for the information and proposed use: The Housing and Community Development Act of 1974, as amended (HCDA), requires grant recipients that receive CDBG funding to retain records necessary to document compliance with statutory and regulatory requirements

on an on-going basis. The statute also requires [section 104(e)(2)] that HUD conduct an annual review to determine whether states have distributed funds to units of general local government in a timely manner. Additionally, section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990,

prescribes a consultation with representatives of the interests of the residents of the colonias.

Respondents: This information collection applies to 50 State CDBG Grantees (49 states and Puerto Rico but not Hawaii).

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Recordkeeping:						
States	50	1	126.00	6,300	\$41.67	\$262,521.00
Localities	3,500	1	26.13	91,455	41.67	3,810,929.85
Timely Distribution	50	1	2.60	130	41.67	5,417.10
Colonias Consultation	54	1	4.00	216	41.67	9,000.72
Total				98,101		4,087,868.67

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) 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.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

*Department Reports Management Officer,
Office of Policy Development and Research,
Chief Data Officer.*

[FR Doc. 2024-19526 Filed 8-29-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/
A0A501010.999900; OMB Control Number
1076-0094]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Law and Order on Indian Reservations—Marriage & Dissolution Applications

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection request (ICR) should be sent within 30 days of publication of this notice to the Office of Information and Regulatory Affairs (OIRA) through https://www.reginfo.gov/public/do/PRA/ICRPublicCommentRequest?ref_nbr=202405-1076-006 or by visiting <https://www.reginfo.gov/public/do/PRAMain> and selecting “Currently under Review—Open for Public Comments” and then scrolling down to the “Department of the Interior.”

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and

Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; comments@bia.gov; (202) 924-2650. 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. You may also view the ICR at <https://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=1076-0094>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 21, 2024 (89 FR 52076). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the

agency, including whether or not the information will have practical utility;

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

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

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Bureau of Indian Affairs (BIA) is seeking renewal of the approval for the information collection conducted under 25 CFR 11.600(c) and 11.606(c). This information collection allows the Clerk of the Court of Indian Offenses to collect personal information necessary for a Court of Indian Offenses to issue a marriage license or dissolve a marriage. Courts of Indian Offenses have been established on certain Indian reservations under the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2, 9, and 13, which authorize appropriations for “Indian judges.” The courts provide for the administration of justice for Indian tribes in those areas where the tribes retain jurisdiction over Indians, exclusive of State jurisdiction, but where tribal courts have not been established to exercise that jurisdiction and the tribes has, by resolution or constitutional amendment, chosen to use the Court of Indian Offenses. Accordingly, Courts of Indian Offenses exercise jurisdiction under 25 CFR 11. Domestic relations are governed by 25 CFR 11.600, which authorizes the Court of Indian Offenses to conduct and dissolve marriages.

In order to obtain a marriage licenses in a Court of Indian Offenses, applicants must provide the six items of information listed in 25 CFR 11.600(c), including identifying information, such

a Social Security number, information on previous marriage, relationship to the other applicant, and a certificate of the results of any medical examination required by applicable tribal ordinances or the laws of the State in which the Indian country under the jurisdiction of the Court of Indian Offenses is located. To dissolve a marriage, applicants must provide the six items of information listed in 25 CFR 11.606(c), including information on occupation and residency (to establish jurisdiction), information on whether the parties have lives apart for at least 180 days or if there is serious marital discord warranting dissolution, and information on the children of the marriage and whether the wife is pregnant (for the court to determine the appropriate level of support that may be required from the non-custodial parent). See 25 CFR 11.601. Two forms are used as part of this information collection, the Marriage License Application and the Dissolution of Marriage Application.

Title of Collection: Law and Order on Indian Reservations—Marriage & Dissolution Applications, 25 CFR 11.

OMB Control Number: 1076–0094.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 260 per year, on average.

Total Estimated Number of Annual Responses: 260 per year, on average.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 65 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$6,500 (approximately \$25 per application for processing fees).

Authority

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Steven Mullen,

*Information Collection Clearance Officer,
Office of Regulatory Affairs and Collaborative
Action—Indian Affairs.*

[FR Doc. 2024–19485 Filed 8–29–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO 4500181783]

Notice of Availability of the Final Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development and Proposed Resource Management Plan Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Programmatic Environmental Impact Statement (EIS) and Proposed Resource Management Plan (RMP) Amendments for Utility-scale Solar Energy Development and by this notice is announcing the start of a 30-day protest period.

DATES: This notice announces the beginning of a 30-day protest period to the BLM on the Proposed RMP Amendments. Protests must be postmarked or electronically submitted on the BLM's ePlanning site within 30 days of the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Final Programmatic EIS, Proposed RMP Amendments, and associated documents are available for review on the BLM ePlanning project website at <https://eplanning.blm.gov/eplanning-ui/project/2022371/510>.

Instructions for filing a protest with the BLM can be found at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest> and at 43 CFR 1610.5–2.

All protests must be submitted in writing through one of the following two methods:

- **Project website:** <https://eplanning.blm.gov/eplanning-ui/project/2022371/510>.

- **Regular Mail and Overnight Delivery:** BLM Director, Attention: Protest Coordinator (HQ210), Denver Federal Center, Building 40 (Door W–4), Lakewood, CO 80215.

Emailed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular mail or overnight delivery postmarked by the close of the protest period. Under these conditions, the

BLM will consider an emailed protest as an advance copy, and it will receive full consideration. If you wish to provide the BLM with such advance notifications, please direct emails to protest@blm.gov.

FOR FURTHER INFORMATION CONTACT:

Jeremy Bluma, Senior Advisor, National Renewable Energy Coordination Office, BLM Headquarters, email: solar@blm.gov or telephone: (208) 789-6014. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Bluma. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: The Proposed RMP Amendments would change existing land use plans as described in the Final Programmatic EIS/Proposed RMP Amendments. On January 19, 2024 (89 FR 3687), the BLM published a Draft Programmatic EIS for Utility-Scale Solar Energy Development. Public comments were accepted through April 18, 2024. The public and cooperating agencies provided comments that informed revisions to the Final Programmatic EIS/Proposed RMP Amendments. The Final Programmatic EIS/Proposed RMP Amendments would support an updated planning framework for the BLM's management of utility-scale solar energy development on public lands.

The planning area is located within the States of Arizona, California (excluding the lands covered by the Desert Renewable Energy Conservation Plan in 7 southern California counties), Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (hereinafter referred to as the 11 Western States) and encompasses approximately 162 million acres of public land.

The BLM has assessed the potential environmental, cultural, and economic impacts of modifying its current management of utility-scale solar energy development across the 11 Western States. It is considering the Proposed RMP Amendments to improve its management consistency with respect to utility-scale solar energy development, address changes in solar energy technology that have occurred since the BLM's last solar energy planning effort in 2012 (2012 Western Solar Plan), support national renewable energy and climate goals, and incorporate updated information about important resource values. As the BLM seeks to advance its

solar energy program, it does so while managing other important land uses. These include recreational use; agricultural use, such as grazing; other energy and mineral development; resource protection, including National Monuments and National Conservation Areas, wilderness areas and wilderness study areas, other specially designated areas, wildlife and big game, water resources, and cultural, historical, and paleontological resources; and the restoration of lands and resources, in all cases where appropriate and consistent with the principles of multiple use and sustained yield, as defined by FLPMA.

Purpose and Need

The purpose of the proposed action is to improve initial siting of utility-scale photovoltaic (PV) solar energy development proposals by identifying "solar application areas," which are broad areas of BLM-administered lands where proposals for solar energy projects are anticipated to encounter fewer resource conflicts compared to areas unsuitable for solar development due to significant resource conflicts. There is a need to improve the solar development application process by providing development opportunities in specified solar application areas while maintaining sufficient flexibility to account for site-specific resource considerations on a case-by-case basis during consideration of specific project applications and associated NEPA analysis.

This programmatic effort evaluates potential updates that respond to key changes since the BLM issued the 2012 Western Solar Plan. First, there has been an increase in utility-scale solar energy development, both on and off public lands, driven by the urgent need to replace fossil fuel energy sources with renewable energy sources in order to reduce the impacts of climate change. Second, advancements in technology and economic factors have shifted the focus to the use of PV technology. Third, the BLM is seeing increasing interest (represented through applications for PV solar energy development) on public lands in the 5 northern states not covered by the 2012 Western Solar Plan (Idaho, Montana, Oregon, Washington, and Wyoming).

In response, the BLM needs to update its planning framework for public lands to help guide responsible solar energy development. This includes amending land use plans in the 11 Western States to exclude solar energy development in areas that need protection. The amendments would also update design features and environmental evaluation

processes and incorporate new information and analysis.

Alternatives Evaluated and the Proposed Plan

The BLM analyzed 6 alternatives in detail, including the no action alternative. The BLM evaluated making varying amounts of public lands available for solar energy project applications. The BLM also considered 7 additional alternatives but did not include those alternatives for detailed analysis for the reasons discussed in the Final Programmatic EIS.

The BLM developed the Proposed RMP based on public comment and cooperating agency feedback on the Draft Programmatic EIS. The Proposed RMP, which is a blend of elements from the range of alternatives analyzed in the Draft Programmatic EIS, describes the BLM's proposed approach for implementing utility-scale PV solar energy development on BLM-administered land. The Proposed RMP would exclude approximately 131 million acres of public lands from solar applications to protect sensitive resources as described in the exclusion criteria in the Final Programmatic EIS. Approximately 31 million acres of public lands would be available for solar applications under the Proposed RMP. Public lands would be available if, after accounting for the resource-based exclusions and the exclusion for slopes exceeding 10 percent, they are within 15 miles of an existing or planned transmission line with capacity of at least 69 kilovolts, or they are identified as "previously disturbed" based on criteria described in the Final Programmatic EIS. The Proposed RMP would improve the solar energy project application process by excluding project applications from areas where protection is warranted and providing development siting opportunities in solar application areas while maintaining sufficient siting flexibility to account for site-specific resource considerations on a case-by-case basis under subsequent project-specific decisions.

Mitigation

Mitigation in the Final Programmatic EIS generally involves avoidance and minimization strategies. Avoidance is achieved by excluding specific public lands from solar energy development applications, based on the likelihood that projects in those locations would cause unacceptable resource impacts. Minimization is accomplished by requiring that various programmatic design features be incorporated into solar project proposals. At the project

review stage, the BLM may determine that additional mitigation—such as further avoidance, minimization, and compensation—is required.

Schedule for the Decision-Making Process

The Record of Decision and Approved RMP Amendments are anticipated to be finalized in December 2024.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Consultation will continue on an individual basis with interested Tribes.

Protest of the Proposed RMP Amendments

BLM planning regulations state that any person who participated in the preparation of the RMP and has an interest that will or might be adversely affected by approval of the Proposed RMP Amendments may protest its approval to the BLM. Protest on the Proposed RMP Amendments constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM approving RMP Amendments. Instructions for filing a protest with the BLM regarding the Proposed RMP Amendments may be found online (see **ADDRESSES**). All protests must be in writing and mailed to the appropriate address or submitted electronically through the BLM ePlanning project website (see **ADDRESSES**). Protests submitted electronically by any means other than the ePlanning project website will be invalid unless a hard copy of the protest is also submitted. The BLM will render a written decision on each protest. The protest decision of the BLM shall be the final decision of the Department of the Interior. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports>. Upon resolution of protests, the BLM will issue a Record of Decision and Approved RMP Amendments.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While

you may ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.9; 40 CFR 1506.9; 43 CFR 1610.2; 43 CFR 1610.5)

David Rosenkrance,

Assistant Director, Energy, Minerals, and Realty Management.

[FR Doc. 2024–19478 Filed 8–29–24; 8:45 am]

BILLING CODE 4331–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500181099]

Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Grand Staircase-Escalante National Monument in Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Grand Staircase-Escalante National Monument (GSENM) and by this notice is announcing the start of a 30-day protest period of the Proposed RMP.

DATES: This notice announces a 30-day protest period to the BLM on the Proposed RMP. Protests must be postmarked or electronically submitted on the BLM's ePlanning site within 30 days of the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the Proposed RMP and Final EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Proposed RMP and Final EIS is available on the BLM ePlanning project website at <https://eplanning.blm.gov/eplanning-ui/project/2020343/510>. Documents pertinent to this proposal may be examined online at: <https://eplanning.blm.gov/eplanning-ui/project/2020343/570> and at the BLM Paria River District Office, 669 US–89A, Kanab, Utah 84741.

Instructions for filing a protest with the BLM for the Grand Staircase-Escalante National Monument RMP/EIS

can be found at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest> and at 43 CFR 1610.5–2.

FOR FURTHER INFORMATION CONTACT:

Scott M. Whitesides, Project Manager, telephone: 801–539–4054; address: Bureau of Land Management Utah, 440 West 200 South Suite 500, Salt Lake City, Utah 84101; email: swhitesides@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Whitesides. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The planning area includes approximately 1.87 million acres of public land in Kane and Garfield counties in southern Utah. Management of GSENM is currently guided by the GSENM and Kanab Escalante Planning Area (KEPA) RMPs to the extent consistent with Presidential Proclamation 10286. Where the GSENM and KEPA RMPs conflict with Proclamation 10286, Proclamation 10286 controls.

The Final EIS evaluates five alternatives: the no action alternative (Alternative A) and four action alternatives (Alternatives B, C, D, and E) that are based on known use and issues in the planning area. Alternative B emphasizes flexibility in planning-level direction to maximize the potential for an array of discretionary actions that may be compatible with the protection of GSENM objects. Alternative C emphasizes the protection and maintenance of intact and resilient landscapes using a management area approach to selectively allow for discretionary uses in appropriate settings. Four management areas, similar to those used in the 2000 GSENM Monument Management Plan, would be established: the front country, passage, outback, and primitive. The BLM would use these areas to identify the allowable uses that meet the goals and objectives of the areas while also protecting GSENM objects. Alternative D strives to maximize natural processes by minimizing active management and limiting discretionary uses. Land use allocations would curtail discretionary uses, including recreation, livestock grazing, rights-of-ways, and activities under special recreation permits. This alternative would also constrain management actions to emphasize natural conditions, such as passive

vegetation management. The State Director identified Alternative C as the preferred alternative in the Draft EIS.

The BLM received a total of 6,820 letter submissions during the public comment period on the Draft RMP/EIS, including 5,216 letters that contained non-unique, preformulated language that appeared in other letter submissions. There were 1,604 unique submissions, from which the BLM identified substantive comments. Most submissions were focused on suggestions for specific alternatives or alternative elements, statements of support or lack thereof for an alternative, and detailed input pertaining to various resource topics analyzed in the draft EIS, such as livestock grazing, travel and transportation, fish and wildlife, and vegetation.

Based on public comments on the Draft RMP/EIS, the BLM has prepared the Final EIS and developed new appendices that provide additional consistency, clarity, and accuracy. In Appendix J, the BLM has provided responses to substantive comments on the Draft RMP/EIS, proposed recreational shooting closures, and Areas of Critical Environment Concern/Research Natural Areas.

The BLM also developed the Proposed RMP (Alternative E) as presented in the Final EIS. Alternative E is based on Alternative C with a combination of components from the various other action alternatives, and as such, is within the range of alternatives considered in the Draft RMP/EIS. Alternative E was developed and refined based on consideration of public comments received during the 90-day comment period on the Draft RMP/EIS, consultation with cooperating agencies, government-to-government consultation with interested Tribal Nations, and updates to the best available science and information.

The primary changes from the Draft RMP/EIS to the Proposed RMP/Final EIS include: the addition of Alternative E and associated analysis; the use of updated assessment, inventory, and monitoring data to revise the list of departed watersheds (watersheds with a high degree of departure from reference conditions); supplemental Areas of Critical Environmental Concern and Research Natural Area nominations and evaluations; management of recreational shooting; the inclusion of public comment process, summary, and responses; the development of a monitoring plan; the inclusion of a final air quality emissions inventory; the completion and inclusion of the Old Spanish National Historic Trail Corridor

Assessment and Inventory Report and associated management direction and analysis; and the review of applicable State and local land use plans for plan consistency.

Protest of the Proposed RMP

The BLM planning regulations state that any person who participated in the preparation of the RMP and has an interest that will or might be adversely affected by approval of the Proposed RMP may protest its approval to the BLM Director. Protest on the Proposed RMP constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM adopting an approved RMP. Instructions for filing a protest regarding the Proposed RMP with the BLM Director may be found online at <https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest> and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section earlier or submitted electronically through the BLM ePlanning project website as described previously. Protests submitted electronically by any means other than the ePlanning project website will be invalid unless a protest is also submitted as a hard copy. The BLM Director will render a written decision on each protest. The Director's decision shall be the final decision of the Department of the Interior. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports>. Upon resolution of protests, the BLM will issue a Record of Decision and Approved RMP.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5)

Gregory Sheehan,

BLM Utah State Director.

[FR Doc. 2024–19486 Filed 8–29–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO4500181706]

Notice of Public Meetings of the Sierra Front-Northern Great Basin Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Sierra Front-Northern Great Basin Resource Advisory Council (RAC) will meet as follows.

DATES: The RAC will hold a public meeting on October 3, 2024, and participate in a field tour on October 4, 2024. The meeting will be held from 8 a.m. to 4:30 p.m. Pacific time (PT) and a virtual participation option will be available. The October 4, 2024, field tour will be from 8 a.m. to 12 p.m. PT. The meeting and field tour are open to the public.

ADDRESSES: The October 3, 2024, meeting, and the October 4, 2024, field tour will commence and conclude at the California Trail Interpretive Center, 1 Interpretive Center Way, Elko, Nevada 89801. The final agenda and virtual participation instructions will be made available to the public via social media, the BLM Sierra Front-Northern Great Basin RAC's website at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/nevada/sierra-front-northern-great-basin-rac>, and through personal contacts two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Lisa Ross, RAC Coordinator, by telephone at (775) 885–6107, or by email at lross@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. For sign language interpretation services, language translation services, assistive listening devices, or other reasonable accommodations, please contact the individual listed above at least 14 business days before the meeting to ensure there is sufficient time to process the request. The Department of the Interior manages accommodation requests on a case-by-case basis.

SUPPLEMENTARY INFORMATION: The 15-member BLM Sierra Front-Northern Great Basin RAC serves in an advisory capacity concerning issues relating to land use planning and the management of the public land resources located within the BLM's Elko, Winnemucca, and Carson City Districts. Meetings are open to the public in their entirety and a public comment period will be held near the end of the meeting.

Agenda topics for the October 3, 2024, meeting include reports from the Carson City, Winnemucca, and Elko District Managers; an update on wild horse and burro activities; an update on fire restoration and rehabilitation efforts; and presentations on the Draft Solar Programmatic EIS, Lahontan Cutthroat Trout, and sage grouse management.

On October 4, 2024, the RAC will tour the Maggie Creek Ranch, a key BLM partner working in a collaborative effort to restore the Susie Creek watershed on both public and private lands with the goal of re-establishing Lahontan cutthroat trout. The RAC will view watershed improvements made through a combination of fencing and application of prescriptive grazing practices. Members of the public are welcome to participate in the field tour but must provide their own transportation and meals.

A public comment period will be held on October 3, 2024, at 4 p.m. PT. Depending on the number of persons wishing to speak and the time available, the amount of time for oral comments may be limited. Written public comments may be sent to the BLM office listed in the **ADDRESSES** section of this notice. All comments received will be provided to the RAC.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 1784.4–2

Kimberly D. Dow,

Designated Federal Officer, BLM Carson City District Manager.

[FR Doc. 2024–19484 Filed 8–29–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2024–0006; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0003]

Agency Information Collection Activities; Oil and Gas Production Safety Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 29, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE–2024–0006 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email nikki.mason@bsee.gov, fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0003 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at nikki.mason@bsee.gov or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections

require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR 250, subpart H requirements concern Oil and Gas Production Safety Systems and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional

guidance on some aspects of our regulations.

BSEE uses the information collected under subpart H (see the burden table under A.12 to see what specific information BSEE collects) to:

- review safety system designs prior to installation to ensure that minimum safety standards will be met;
- evaluate equipment and/or procedures used during production operations;
- review records of erosion control to ensure that erosion control programs are effective;
- review plans to ensure safety of operations when more than one activity is being conducted simultaneously on a production facility;
- review records of safety devices to ensure proper maintenance during the useful life of that equipment; and
- verify proper performance of safety and pollution prevention equipment (SPPE).

Title of Collection: 30 CFR 250, subpart H, *Oil and Gas Production Safety Systems*.

OMB Control Number: 1014–0003.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 3,273.

Estimated Completion Time per Response: Varies from 1 hour to 134 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 137,940.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally on occasion, weekly, and daily.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–19563 Filed 8–29–24; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2024–0007; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0007]

Agency Information Collection Activities; Oil-Spill Response Requirements for Facilities Located Seaward of the Coastline

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 29, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE–2024–0007 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

- Email nikki.mason@bsee.gov, fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0007 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at nikki.mason@bsee.gov or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA), requires that a spill-response plan be submitted for offshore facilities prior to February 18, 1993. The OPA specifies that after that date, an offshore facility may not handle, store, or transport oil unless a plan has been submitted. Regulations at 30 CFR 254 establish requirements for spill-response plans for oil-handling facilities seaward of the coastline, including associated pipelines.

BSEE uses the information collected under 30 CFR part 254 to determine compliance with OPA by lessees/operators. Specifically, BSEE needs the information to:

- Determine that lessees/operators have an adequate plan and are sufficiently prepared to implement a quick and effective response to a discharge of oil from their facilities or operations.
- Review plans prepared under the regulations of a State and submitted to BSEE to satisfy the requirements in 30 CFR 254 to ensure that they meet minimum requirements of OPA.
- Verify that personnel involved in oil-spill response are properly trained and familiar with the requirements of the spill-response plans and to lead and witness spill-response exercises.
- Assess the sufficiency and availability of contractor equipment and materials.
- Verify that enough quantities of equipment are available and in working order.
- Oversee spill-response efforts and maintain official records of pollution events.
- Assess the efforts of lessees/operators to prevent oil spills or prevent substantial threats of such discharges.

Title of Collection: 30 CFR 254, Oil-Spill Response Requirements for Facilities Located Seaward of the Coastline.

OMB Control Number: 1014-0007.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 1,675.

Estimated Completion Time per Response: Varies from .5 hour to 165 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 60,989.

Respondent's Obligation: Most responses are mandatory; while some are required to obtain or retain a benefit.

Frequency of Collection: Submissions are on occasion, monthly, annually, and biennially.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024-19561 Filed 8-29-24; 8:45 am]

BILLING CODE 4310-VH-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-732 and 731-TA-1701 (Preliminary)]

Tungsten Shot From China

Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports of tungsten shot from China, provided for in subheadings 9306.29.00 and 8101.99.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV") and alleged to be subsidized by the government of China.^{2 3}

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² 89 FR 65852 and 89 FR 65856 (August 13, 2024).

³ Commissioner Jason E. Kearns did not participate.

published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce ("Commerce") of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Any other party may file an entry of appearance for the final phase of the investigations after publication of the final phase notice of scheduling. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations. As provided in section 207.20 of the Commission's rules, the Director of the Office of Investigations will circulate draft questionnaires for the final phase of the investigations to parties to the investigations, placing copies on the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>), for comment.

Background

On July 10, 2024, Tungsten Parts Wyoming, Inc., Laramie, Wyoming, filed petitions with the Commission and Commerce, alleging that the establishment of a domestic industry is materially retarded or that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of tungsten shot from China. Accordingly, effective July 10, 2024, the Commission instituted countervailing duty investigation No. 701-TA-732 and antidumping duty investigation No. 731-TA-1701 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 16, 2024 (89 FR 57941). The Commission conducted its conference on July 31, 2024. All persons

who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on August 26, 2024. The views of the Commission are contained in USITC Publication 5542 (August 2024), entitled *Tungsten Shot from China: Investigation Nos. 701-TA-732 and 731-TA-1701 (Preliminary)*.

By order of the Commission.

Issued: August 26, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024-19511 Filed 8-29-24; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1414]

Certain Semiconductor Devices and Products Containing the Same; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 26, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Infineon Technologies Americas Corp. of El Segundo, California and Infineon Technologies Austria AG of Villach, Austria. Supplements to the complaint were filed on July 29 and August 13, 2024. The complaint alleges violations of 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 semiconductor devices and products containing the same by reason of the infringement of certain claims of U.S. Patent No. 9,899,481 (“the ‘481 patent”); U.S. Patent No. 8,686,562 (“the ‘562 patent”); U.S. Patent No. 9,070,755 (“the ‘755 patent”); and U.S. Patent No. 8,264,003 (“the ‘003 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the

Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Susan Orndoff, The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 26, 2024, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–4, 6, 9, and 17 of the ‘481 patent; claims 1, 2, 8–10, and 13–15 of the ‘562 patent; claims 1–4, 8, and 9 of the ‘755 patent; and claims 1, 2, and 10 of the ‘003 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “GaN-on-Si semiconductor devices, GaN Field Effect Transistors (‘FETs’), GaN high electron mobility transistors, and products incorporating such transistors, which are discrete chips, integrated circuits (ICs), wafers, modules, and demo boards”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which

this notice of investigation shall be served:

(a) The complainants are:

Infineon Technologies Americas Corp.,
101 North Pacific Coast Highway, El Segundo, California 90245
Infineon Technologies Austria AG,
Siemensstraße 2, A–9500, Villach, Austria

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Innoscence (Suzhou) Technology Company, Ltd., No. 98, Xinli Road, Lili Town, Wujiang, District Suzhou, Jiangsu, 215000 China
Innoscence (Suzhou) Semiconductor Co., Ltd., No. 98, Xinli Road, Lili Town, Wujiang, District Suzhou, Jiangsu, 215000 China
Innoscence (Zhuhai) Technology Company, Ltd., No. 39, Jinyuan 2nd Road, High-Tech Zone, Zhuhai, Guangdong, 519099 China
Innoscence America, Inc., 5451 Great America Parkway, Suite 125, Santa Clara, CA 95054

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant[s] of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondents to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may

result in the issuance of an exclusion order or a cease and desist order or both directed against the respondents.

By order of the Commission.

Issued: August 27, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–19542 Filed 8–29–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1368]

Certain Vaporizer Devices, Cartridges Used Therewith, and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on August 23, 2024, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

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: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in

the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain vaporizer devices, cartridges used therewith, and components thereof imported, sold for importation, and/or sold after importation by respondents (1) NJOY, LLC of Phoenix, Arizona; (2) NJOY Holdings, Inc. of Scottsdale, Arizona; (3) Altria Group, Inc. of Richmond, Virginia; (4) Altria Group Distribution Company of Richmond, Virginia; and (5) Altria Client Services LLC of Richmond, Virginia (collectively, “Respondents”); and cease and desist orders directed to Respondents. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on August 23, 2024. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant’s licensees, and/or third-

party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on September 24, 2024.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission’s paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (“Inv. No. 337–TA–1368”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. Government employees and contract

personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 26, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–19480 Filed 8–29–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0184]

Agency Information Collection Activities; Proposed eCollection Comments Requested; Revision of a Currently Approved Collection: School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until September 30, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Alexandra Thompson (email: Alexandra.Thompson@usdoj.gov; telephone: 202–532–5472).

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on June 18, 2024, allowing a 60-day comment period. The proposed information collection was previously published in the **Federal Register** at 89 FR 51550–51551 on June 18, 2024, allowing a 60-day comment period.

Written comments and suggestions from the public and affected agencies

concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number [1121–0184]. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.
2. *Title of the Form/Collection:* 2025 School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS).
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number for the

questionnaire is SCS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The survey will be administered to persons ages 12 to 18 in NCVS sample households in the United States from January through June 2025.

The SCS collects information on the students' victimization, perceptions of school environment, and safety at school. The SCS includes questions on preventive measures used by schools; students' participation in after school activities; students' perceptions of safety and belonging in schools; students' perception of school rules and enforcement of these rules; the presence of weapons, illegal and prescription drugs including opioids, alcohol, and gangs in school; student bullying; hate-related incidents; and attitudinal questions relating to the fear of victimization at school. Minor edits were made to the 2022 SCS questionnaire for the 2025 administration. Some items were removed as they were not applicable in 2025. This included specific questions or responses related to the COVID–19 pandemic and how it impacted how students attended school. Changes were also made to the series of questions on drug and alcohol availability, based on language from the National Survey on Drug Use and Health (NSDUH).

5. *Obligation to Respond:* The survey is voluntary, and respondents are not required to respond.

6. *Total Estimated Number of Respondents:* 5,530.

7. *Estimated Time per Respondent:* 17 minutes to complete the full SCS questionnaire. For an estimated 13% of respondents, the SCS will take about 2 minutes to complete, due to respondents screening out of the survey for not being in school.

8. *Frequency:* Approximately every two years.

9. *Total Estimated Annual Time Burden:* 1,387 hours.

10. *Total Estimated Annual Other Costs Burden:* \$0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: August 27, 2024.

Darwin Arceo,

*Department Clearance Officer for PRA, U.S.
Department of Justice.*

[FR Doc. 2024-19549 Filed 8-29-24; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection

Activities: Comment Request;

Information Collections: Davis-Bacon Certified Payroll

AGENCY: Wage and Hour Division,
Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), is soliciting comments concerning a proposed revision of the information collection request (ICR) titled “Davis-Bacon Certified Payroll.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA). The PRA comment process helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 29, 2024.

ADDRESSES: You may submit comments, identified by Control Number 1235-0008, by either one of the following methods: *Email: WHDPRAComments@dol.gov. Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Commenters are encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public

record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT:

Robert Waterman, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats of this notice, e.g., braille, audiotape, or other accessible formats, are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. *Background:* The Davis-Bacon Act (DBA), as enacted in 1931 and subsequently amended, requires the payment of minimum prevailing wages determined by the Department of Labor to laborers and mechanics working on federal contracts in excess of \$2,000 for the construction, alteration, or repair, including painting and decorating, of public buildings and public works. See 40 U.S.C. 3141 *et seq.* Congress has also included the Davis-Bacon requirements in numerous other laws, known as the Davis-Bacon Related Acts (the Related Acts and, collectively with the Davis-Bacon Act, the DBRA), which provide federal assistance for construction projects through grants, loans, loan guarantees, insurance, and other methods.

The Copeland Act (40 U.S.C. 3145) requires the Secretary of Labor to prescribe reasonable regulations for contractors and subcontractors engaged in construction work subject to Davis-Bacon labor standards. While the federal contracting or assistance-administering agencies have a primary responsibility for enforcement of these labor standards, Reorganization Plan Number 14 of 1950 assigns to the Secretary of Labor responsibility for developing government-wide policies, interpretations and procedures to be observed by the contracting and assisting agencies, in order to assure coordination of administration and consistency of DBRA enforcement. 15 FR 3176, *reprinted as amended in* 5 U.S.C. app. 1.

The Copeland Act provision cited above specifically requires the regulations to “include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the

prior week.” This requirement is implemented by 29 CFR 3.3 and 3.4 and the standard Davis-Bacon contract clauses set forth at 29 CFR 5.5. The regulation at 29 CFR 5.5 (a)(3)(ii)(A) (“Frequency and method of submission”) requires contractors to submit weekly a copy of all payrolls to the federal agency contracting for or financing the construction project. If the agency is not a party to the contract, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the contracting agency. This provision requires that the payrolls submitted shall set out, accurately and completely, the information that is required to be maintained under 29 CFR 5.5(a)(3)(ii)(B) (“Information required”).

The information that must be included in the weekly transmittals includes the name of each covered worker; each worker’s correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid. The weekly transmittals also must include an individually identifying number for each employee (e.g., the last four digits of the employee’s Social Security number).

The provision at 29 CFR 5.5(a)(3)(ii)(B) also states what must not be included in the weekly transmittal. The weekly transmittal must not include workers’ full social security numbers, last known addresses, telephone numbers, and email addresses. That information must be recorded and maintained by the contractors as part of the record-keeping provisions in the regulations at 29 CFR 5.5(a)(3)(i)(B), but it must not be included in the weekly transmittals.

The regulations at 29 CFR 5.5(a)(3)(ii)(C) and 29 CFR 3.3(b) require each contractor to furnish weekly a signed “Statement of Compliance” accompanying the payroll indicating the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon Act prevailing wage rate for the work performed.

The required weekly payroll information may be submitted in any form desired. The information collection request that is the subject of this notice, Optional Form WH-347, is designed to include fields for all of the necessary information so as to satisfy

the regulatory and contractual requirements. The weekly submission of a properly executed certification, with the prescribed language set forth on page 2 of Optional Form WH-347, satisfies the requirement for submission of the required "Statement of Compliance." 29 CFR 5.5(a)(3)(ii)(C). Regulations 29 CFR 3.4(b) and 5.5(a)(3)(ii)(G) require contractors to maintain these certified payrolls for three years after all the work on the prime contract is completed.

The Department is now proposing revisions to form WH-347, to simplify and clarify certain fields and to obtain more specific information about fringe benefits. The revisions also provide for check boxes and electronically fillable fields, which will provide for efficiency, and update the instructions for form WH-347.

II. *Review Focus*: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. *Current Actions*: The Department seeks approval to revise this information collection to ensure effective administration of the requirements governing the Davis-Bacon Certified Payroll.

Type of Review: Revision.

Agency: Wage and Hour Division.

Title: Davis-Bacon Certified Payroll.

OMB Control Number: 1235-0008.

Agency Numbers: Form WH-347.

Affected Public: Private Sector.

Total Estimated Respondents:

122,936.

Total Annual responses: 11,310,112.

Estimated Total Burden Hours:

10,556,105.

Estimated Time per Response: 55 minutes to complete the WH-347 form or its equivalent plus 1 minute for recordkeeping (total of 56 minutes per form).

Frequency: Weekly, during the course of a covered construction project.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$1,764,379.

Dated: August 23, 2024.

Daniel Navarrete,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2024-19482 Filed 8-29-24; 8:45 am]

BILLING CODE 4510-27-P

NUCLEAR REGULATORY COMMISSION

[NRC-2024-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 2, 9, 16, 23, and 30, and October 7, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of September 2, 2024

Wednesday, September 4, 2024

1:45 p.m. Affirmation Session (Public Meeting) (Tentative) Final Rule: Non-Power Production or Utilization Facility License Renewal. (Contact: Sarah Turner: 301-287-9058)

Additional Information: The public is invited to attend the Commission's meeting live; via teleconference. Details

for joining the teleconference in listen only mode at <https://www.nrc.gov/pmns/mtg>.

Thursday, September 5, 2024

10:00 a.m. All Employees Meeting (Public Meeting) (Contact: Sarah Turner 301-287-9058)

Additional Information: The meeting will be held in the Two White Flint North auditorium, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting live by webcast at the Web address—<https://video.nrc.gov/>.

Week of September 9, 2024—Tentative

There are no meetings scheduled for the week of September 9, 2024.

Week of September 16, 2024—Tentative

There are no meetings scheduled for the week of September 16, 2024.

Week of September 23, 2024—Tentative

There are no meetings scheduled for the week of September 23, 2024.

Week of September 30, 2024—Tentative

There are no meetings scheduled for the week of September 30, 2024.

Week of October 7, 2024—Tentative

Tuesday, October 8, 2024

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Jeffrey Lynch: 301-415-5041)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Sarah Turner at 301-287-9058 or via email at Sarah.Turner@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 28, 2024.

For the Nuclear Regulatory Commission.

Monika G. Cofflin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2024-19734 Filed 8-28-24; 4:15 pm]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**[NRC–2024–0143]****Draft Interim Staff Guidance: Guidance for the Implementation of Training and Experience Requirements****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Draft guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG), NMSS–ISG–03, “Guidance for the Implementation of Training and Experience Requirements.” The purpose of this ISG is to provide guidance on the implementation of the training and experience (T&E) requirements in NRC regulations. This ISG clarifies the roles and responsibilities of individuals subject to T&E requirements, outlines the information needed to demonstrate compliance with NRC regulations, and provides step-by-step instructions for adding authorized individuals to medical-use licenses. If finalized, this ISG is intended for use by licensees, applicants, and NRC staff. This guidance is also available to Agreement States and the public.

DATES: Submit comments by November 4, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0143. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT:

Cindy Flannery, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0223; email: Cindy.Flannery@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC–2024–0143 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0143.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The draft ISG, NMSS–ISG–03, “Guidance for the Implementation of 10 CFR part 35 Training and Experience Requirements,” is available in ADAMS under Accession No. ML24200A183.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2024–0143 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC is issuing this draft ISG to clarify the roles and responsibilities of individuals subject to T&E requirements in part 35 of title 10 of the *Code of Federal Regulations* (10 CFR), “Medical Use of Byproduct Material” and to explain how individuals can fulfill these requirements. To do so, the draft ISG outlines applicable regulatory requirements, consolidates and clarifies existing guidance, and provides insight into the NRC staff’s evaluation of applications or license amendment requests seeking to add authorized individuals to a license. If finalized, this ISG is intended for use by licensees and applicants that are seeking to add authorized individuals to their license. Authorized individuals include authorized users, radiation safety officers, associate radiation safety officers, authorized nuclear pharmacists, authorized medical physicists, and ophthalmic physicists. Further, if finalized, this ISG can be used by NRC staff and Agreement State regulators when evaluating applications and license amendment requests.

The draft ISG does not contain new expectations or requirements for implementing the T&E requirements. Rather, it consolidates the guidance previously contained in various sources into a streamlined format to improve clarity and accessibility. In the Staff Requirements Memorandum for SECY–20–0005, “Staff Requirements—SECY–20–0005—Rulemaking Plan for Training and Experience Requirements for Unsealed Byproduct Material (10 CFR part 35),” dated January 27, 2022 (ADAMS Accession No. ML22027A519), the Commission directed the staff to develop implementation guidance to clarify expectations on how individuals fulfill T&E requirements and clarify the roles and responsibilities of persons subject to the T&E requirements. This draft ISG supplements NUREG–1556, “Consolidated Guidance About Materials Licenses,” Volume 9, Revision 3, “Program-Specific Guidance About Medical Use Licenses, Final Report,” issued September 2019 (ADAMS

Accession No. ML19256C219), which contains guidance on medical T&E criteria. NUREG-1556 is updated periodically, concurrent with regulatory changes. However, given the types of questions that the NRC and Agreement States routinely receive about T&E requirements, the NRC staff has determined that supplemental guidance would benefit individuals applying for authorized individual status, until the next update to NUREG-1556, Volume 9, Revision 3.

The staff is also issuing for public comment a draft regulatory analysis for this ISG (ADAMS Accession No. ML24205A116).

Dated: August 27, 2024.

For the Nuclear Regulatory Commission.

Kevin Williams,

Director, Division of Materials Safety, Security, Sate, and Tribal Programs, Office of Nuclear Material Safety and Safeguards.
[FR Doc. 2024-19556 Filed 8-29-24; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. N2024-1; Order No. 7414]

Service Standard Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a filing by the Postal Service of its intent to conduct a pre-filing conference regarding proposed changes to its processing and transportation networks and revisions to its service standards to align with these changes. This document informs the public of this proceeding and the pre-filing conference, and takes other administrative steps.

DATES: *Pre-filing conference:* September 5, 2024, 1 p.m. to 3 p.m., eastern daylight time—Virtual Online.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION: Pursuant to 39 CFR 3020.111(d), on August 22, 2024, the Postal Service filed a notice of its intent to conduct a pre-filing conference on September 5, 2024, regarding proposed changes to its

processing and transportation networks and revisions to its service standards to align with these changes.¹

As part of its Delivering for America strategic plan, the Postal Service intends to implement certain initiatives to “to achieve greater operational precision and efficiency, significantly reduce costs, and enhance service.”² Specifically, the Postal Service intends to create a network of regional processing and distribution centers or campuses (RPDCs) and local processing centers (LPCs). Notice at 3. It also intends to implement a Regional Transportation Optimization (RTO) initiative to transform its transportation network. *Id.* The RTO initiative is an evolution of the Local Transportation Optimization (LTO) initiative that the Postal Service asserts had been piloted in certain geographic areas. *Id.* The Postal Service estimates that these initiatives will result in costs savings between \$2.8 billion to \$3.3 billion per year once fully implemented. *Id.* at 4.

To align with these initiatives, the Postal Service proposes to change its service standards for end-to-end Market Dominant and Competitive products. *Id.* The Postal Service states that it will transition from plant-to-plant (*i.e.*, 3-Digit to 3-Digit ZIP Code) to Post Office to Post Office (*i.e.*, 5-Digit to 5-Digit ZIP Code) service standards that “maintain the existing delivery day ranges for both First-Class Mail and USPS Ground Advantage while accurately and logically reflecting the three operational legs applicable to the movement of mail and packages: collection to origin processing (Leg 1), origin processing to destination processing (Leg 2), and destination processing to delivery (Leg 3).” *Id.* The Postal Service also plans to revise the service standards for end-to-end USPS Marketing Mail and Package Services so that they are based on the standards for First-Class Mail and USPS Ground Advantage. *Id.* at 4–5. In addition, the Postal Service plans to exclude Sundays and holidays as transit days for mail and packages entered on a Saturday or the day before a holiday. *Id.* at 5.

The Postal Service states that “these revisions will create standards that are more operationally precise and specific for customers, enable the Postal Service to maintain or upgrade the service

standards for a majority of volume, and enhance the Postal Service’s ability to reliably achieve [its] standards.” *Id.* at 4. The Postal Service claims that most volume will retain the same service standard or see service standard improvements, but some mail and packages will experience a longer service standard. *Id.* at 5. Although it may implement discrete aspects of these initiatives due to pilot testing, the Postal Service states that the proposed service standard changes will not be implemented until the next calendar year and will not impact Election Mail or Peak Season 2024. *Id.* at 6–7.

The pre-filing conference regarding the proposed changes will be held virtually on September 5, 2024, from 1 p.m. to 3 p.m. eastern daylight time (EDT). *Id.* at 1, 7. At this conference, Postal Service representatives capable of discussing the Postal Service’s proposal will be available to educate the public and to allow interested persons to provide feedback to the Postal Service. *Id.* Registration instructions are available at <https://about.usps.com/what/strategic-plans/delivering-for-america/details.htm>. *Id.* at 7. Unless all available spaces are taken sooner, registration is open until September 3, 2024, at 12 p.m. EDT. *Id.*

The Commission establishes Docket No. N2024-1 to consider the Postal Service’s proposed initiatives and accompanying revisions to its service standards. The Postal Service must file its formal request for an advisory opinion with the Commission at least 90 days before implementing any of the proposed changes. 39 CFR 3020.112. This formal request must certify that the Postal Service has made good faith efforts to address the concerns raised at the pre-filing conference and meet other content requirements. 39 CFR 3020.113. After the Postal Service files the formal request for an advisory opinion, the Commission will set forth a procedural schedule and provide additional information in a notice and order that will be published in the **Federal Register**. 39 CFR 3020.110. Before issuing its advisory opinion, the Commission must provide an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). The procedural rules in 39 CFR part 3020 apply to Docket No. N2024-1.

Pursuant to 39 U.S.C. 3661(c) and 39 CFR 3020.111(d), the Commission appoints Ping Gong to represent the interests of the general public (Public Representative) in this proceeding. Pursuant to 39 CFR 3020.111(d), the Secretary shall arrange for publication of this order in the **Federal Register**.

¹ Notice of Pre-Filing Conference, August 22, 2024, at 1 (Notice).

² Notice at 3; *see also* United States Postal Service, Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence, March 23, 2021, available at https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS_Delivering-For-America.pdf.

It is ordered:

1. The Commission establishes Docket No. N2024–1 to consider the Postal Service’s proposed changes to the service standards for end-to-end Market Dominant and Competitive products to align with certain operational initiatives.

2. The Postal Service shall conduct a virtual pre-filing conference regarding its proposal on September 5, 2024, from 1:00 p.m. to 3:00 p.m. EDT.

3. Pursuant to 39 U.S.C. 3661(c) and 39 CFR 3020.111(d), Ping Gong is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. Pursuant to 39 CFR 3020.111(d), the Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,
Secretary.

[FR Doc. 2024–19551 Filed 8–29–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100816; File No. SR–NASDAQ–2024–019]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Granting Approval of a Proposed Rule Change, to Rules 5605, 5615 and 5810 To Amend Phase-In Schedules for Certain Corporate Governance Requirements and Applicability of Certain Cure Periods

August 26, 2024.

I. Introduction

On May 8, 2024, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² a proposed rule change to amend Exchange Rules 5605, 5615, and 5810 regarding the phase-in schedules for certain corporate governance requirements and the applicability of certain cure periods. The proposed rule change was published for comment in the **Federal Register** on May 29, 2024.³ On July 12, 2024, the Commission designated a longer period for Commission action on

the proposed rule change.⁴ The Commission has received no comment letters on the proposal. As discussed further below, the Commission is approving the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend the phase-in schedules for compliance with the independent board director and committee requirements for certain companies and codify its practices regarding the applicability of certain cure periods. As discussed below, the changes to the phase-in provisions are similar to those previously approved for another national securities exchange. The Exchange also proposes to renumber several rules and make non-substantive clarifications.

A. Modifications to Phase-In Schedules Initial Public Offerings

Currently, Exchange Rule 5615(b)(1) references that a company listing in connection with an IPO is permitted to phase in its independent audit committee requirements in accordance with Rule 10A–3(b)(1)(iv)(A) under the Act⁵ but does not restate the provisions of this rule. Nasdaq proposes to amend Rule 5615(b)(1) by specifically restating the phase-in provisions in the text of the rule.⁶

Further, Rule 5615(b)(1) currently allows companies listing in connection with an IPO to phase in the requirements for their independent nominations and compensation committees but requires one member to satisfy the requirements at the time of listing. The Exchange states that some companies expressed a concern that this requirement interferes with a common practice to hold a meeting of a board of directors in order to appoint additional independent directors shortly after the Listing Date, but prior to the date IPO closes.⁷ Therefore, to accommodate this

practice, Nasdaq has proposed to amend Rule 5615(b)(1) to allow companies to comply with the requirement to have one independent director on the compensation and nominations committees by appointing an independent director to such a committee no later than the earlier of the date the initial public offering closes or five business days from the Listing Date.⁸ The Exchange is also proposing, as to the requirement for a company to have at least two members on the compensation committee, that the company have at least one member by the Listing Date and at least two members within one year of the Listing Date.

Rule 5605(c)(2)(A) requires a company to have a minimum of three members on the audit committee. Nasdaq proposes to amend Rule 5615(b)(1) to provide that companies listing in conjunction with an IPO may also phase in compliance with the three-person minimum on the following schedule: at least one member by the Listing Date, at least two members within 90 days of the Listing Date and at least three members within one year of the Listing Date.

Companies Emerging From Bankruptcy

Currently, Rule 5615(b)(2) allows a company that is emerging from bankruptcy to phase in independent nominations and compensation committees and majority independent boards requirements. Nasdaq proposes to amend Rule 5615(b)(2) to specifically state that a company emerging from bankruptcy must comply with the audit committee requirements set forth in Rule 5605(c)(2)⁹ by the Listing Date unless an exemption is available pursuant to Rule 10A–3 under the Act.¹⁰ Nasdaq also states that it proposes to make additional clarifications to improve the readability of the rule without changing its substance, including to provide that the applicable

⁴ See Securities Exchange Act Release No. 100523 (July 12, 2024), 89 FR 58450 (July 18, 2024) (designating August 27, 2024 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

⁵ 17 CFR 240.10A–3(b)(1)(iv)(A).

⁶ See 17 CFR 240.10A–3(b)(1)(iv)(A). Accordingly, a company shall be permitted to phase in its compliance with the audit committee requirements set forth in Rule 5605(c)(2) as follows: (1) one member must satisfy the requirements by the date the company’s securities first trade on Nasdaq (the “Listing Date”); (2) a majority of members must satisfy the requirements within 90 days of the effective date of its registration statement; and (3) all members must satisfy the requirements within one year of the effective date of its registration statement.

⁷ See Notice, *supra* note 3, at 46528. See also, e.g., New York Stock Exchange (“NYSE”) IPO Guide, at 41, available at https://www.nyse.com/publicdocs/nyse/listing/nyse_ipo_guide.pdf.

⁸ See Notice, *supra* note 3, at 46528.

⁹ Rule 5605(c)(2) requires a company to have an audit committee of at least three members, which must meet certain independence, professional competence and other requirements as specified in the rule.

¹⁰ This is a non-substantive change and simply codifies how the current rule works for companies emerging from bankruptcy because there is currently no phase-in provision from the audit committee requirements of Rule 5605(c)(2) for such companies under the Exchange rules. Additionally, Rule 5605(c)(2)(A)(ii) requires a listed company to meet the criteria for independence in Rule 10A–3(b)(1) under the Act subject to the exemptions provided in Rule 10A–3(c) under the Act. See 17 CFR 240.10A–3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100208 (May 22, 2024), 89 FR 46528 (“Notice”).

phase-in periods will be computed beginning on the Listing Date.¹¹

Companies Transferring From National Securities Exchanges Registered Under Section 12(b) of the Act and Companies Listing Securities Previously Registered Under Section 12(g) of the Act

Currently, Rule 5615(b)(3) provides that companies transferring from other markets with a substantially similar requirement shall be afforded the balance of any grace period afforded by the other market. Rule 5615(b)(3) further provides that companies transferring from other listed markets that do not have a substantially similar requirement shall be afforded one year from the date of listing on Nasdaq. The current rule also states that this transition period is not intended to supplant any applicable requirements of Rule 10A-3 under the Act.¹²

Nasdaq proposes to state that the phase-in period currently contained in Rule 5615(b)(3) is applicable only to companies that transfer securities registered pursuant to Section 12(b) of the Act¹³ from another national securities exchange to Nasdaq. The other provisions in the rule on any applicable phase-in periods and the application of Rule 10A-3 under the Act¹⁴ will remain the same as in the current rule as to companies transferring to the Exchange from another national securities exchange.

The Exchange is also proposing to specify requirements applicable to a company listing securities registered pursuant to Section 12(g) of the Act immediately prior to listing.¹⁵ Nasdaq proposes to modify Rule 5615(b)(3) to provide that a company with securities registered pursuant to Section 12(g) of the Act¹⁶ that lists those securities on Nasdaq must satisfy the audit committee requirements set forth in the Rule 5605(c) except for the requirement to have at least three members on the audit committee, as described below, by the Listing Date, unless an exemption is available pursuant to Rule 10A-3 under the Act.¹⁷

Nasdaq proposes to modify Rule 5615(b)(3) to also provide that a company with securities registered pursuant to Section 12(g) of the Act that lists those securities on Nasdaq will be provided a similar phase-in period as available to companies listing in connection with an IPO, other than with respect to the audit committee requirements. The Exchange states that, like a company conducting an IPO, these companies would not have been subject to another exchange's corporate governance standards at the time of their listing.¹⁸ Therefore, Nasdaq proposes to allow these companies a similar phase-in period as currently provided to an IPO, other than for the audit committee requirements, and require, on the nominations and compensation committee, one independent director upon listing, a majority of independent directors within 90 days of Listing Date, and a fully independent committee within one year of Listing Date.¹⁹ The company also would have twelve months from its Listing Date to comply with the majority independent board requirement set forth in Rule 5605(b).

Under the revised rule, for a company with securities registered pursuant to Section 12(g) of the Act that lists those securities on Nasdaq, only directors who are independent, as defined in Rule 5605(a)(2), and meet the criteria for independence set forth in Rule 10A-3(b)(1) under the Act²⁰ would be permitted on the audit committee during the transition period (unless an exemption is available under Rule 10A-3 under the Act²¹).²² However, a phase-in period would be permitted with respect to the committee size requirement: at least one independent director member is required as of the date of listing, two independent director members within ninety days of the Listing Date, and three independent director members within one year of the Listing Date.²³ The revised rule would

also specify that a company's compensation committee must have at least one member at the time of listing and at least two members within one year of listing.²⁴

Companies Listing in Connection With a Carve-Out or Spin-Off Transaction

Nasdaq proposes to provide that a company listing in connection with a carve-out or spin-off transaction will have a similar phase-in period as currently available to companies listing in connection with an IPO. The Exchange states that, like a company conducting an IPO, these companies would not have been subject to another exchange's corporate governance standards at the time of their listing. Therefore, Nasdaq proposes to adopt Rule 5615(b)(4)²⁵ specifying the phase-in provisions and stating that a company shall be permitted to phase in its compliance with the audit committee requirements set forth in Rule 5605(c)(2) as follows: (1) one member must satisfy the requirements by the Listing Date; (2) a majority of members must satisfy the requirements within 90 days of the effective date of its registration statement; and (3) all members must satisfy the requirements within one year of the effective date of its registration statement.

Nasdaq also proposes to allow these companies a similar phase-in period as an IPO and require that a company listing in connection with a carve-out or spin-off transaction shall have twelve months from its Listing Date to comply with the majority independent board requirement set forth in Rule 5605(b), and, on the nominations and compensation committee, one independent director by the date the transaction closes, a majority of independent directors within 90 days of the Listing Date, and a fully independent committee within one year of the Listing Date.²⁶ Nasdaq also proposes to provide that, regarding the requirement to have at least two

have at least one member who has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication.

²⁴ See Securities Exchange Act Release No. 68013 (Oct. 9, 2012), 77 FR 62563, 62569, n.67 (Oct. 15, 2012) (Notice of Filing for SR-NASDAQ-2012-109). See also Securities Exchange Act Release No. 68640 (Jan. 11, 2013), 78 FR 4554 (Jan. 22, 2013) (approving SR-NASDAQ-2012-109).

²⁵ Nasdaq proposes to renumber current Rule 5615(b)(4) regarding phase-in schedule for a company ceasing to be a Smaller Reporting Company to Rule 5615(b)(5).

²⁶ The independent directors serving on the compensation committee would also be required to satisfy the requirements of Rule 10C-1 under the Act. See 17 CFR 240.10(C)-1.

¹⁸ See Notice, *supra* note 3, at 46529.

¹⁹ The independent directors serving on the compensation committee would also be required to satisfy the requirements of Rule 10C-1 under the Act. See 17 CFR 240.10(C)-1.

²⁰ 17 CFR 240.10A-3(b)(1).

²¹ 17 CFR 240.10A-3.

²² Each member of the audit committee must also: (1) not have participated in the preparation of the financial statements of the company or any current subsidiary of the company at any time during the past three years; and (2) be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement. See Rule 5605(c)(2)(A). See also *infra* note 23.

²³ During the phase-in period a company must comply with the requirement in Rule 5605(c)(2)(A) that every listed company's audit committee—without distinction as to the committee's size—

¹¹ See Notice, *supra* note 3, at 46529. The proposal makes clear that for companies emerging from bankruptcy all the phase in periods commence at the beginning of the Listing Date. This is in contrast to companies listing in connection with an IPO that are permitted to compute the compensation and nominating committee phase-in periods by the earlier of the date the IPO closes or five business days from the Listing Date.

¹² See 17 CFR 240.10A-3.

¹³ 15 U.S.C. 78l(b).

¹⁴ 17 CFR 240.10A-3.

¹⁵ 15 U.S.C. 78l(g).

¹⁶ 15 U.S.C. 78l(g).

¹⁷ See 17 CFR 240.10A-3.

members on the compensation committee, a company's compensation committee must have at least one member by the date the transaction closes and at least two members within one year of the Listing Date.²⁷

Nasdaq states that its current policy is to treat companies listing in connection with a carve-out or spin-off transaction as IPOs for purposes of phase-in periods.²⁸ Thus, Nasdaq allows such companies to phase in the requirements for their independent nominations and compensation committees but require one member to satisfy the requirements at the time of listing.²⁹ The Exchange states that some companies expressed a concern that this requirement interferes with a common practice to hold a meeting of a board of directors in order to appoint additional independent directors shortly after the Listing Date, but prior to the date a carve-out or spin-off transaction closes.³⁰ To accommodate this practice, Nasdaq proposes to allow the companies to comply with the requirement to have one independent director on the compensation and nominations committees by appointing an independent director to such a committee no later than the date such carve-out or spin-off transaction closes.³¹

Currently, Rule 5605(c)(2)(A) requires a company to have a minimum of three members on the audit committee. Nasdaq proposes to provide that companies listing in connection with a carve-out or spin-off transaction may also phase in compliance with the three-person minimum on the following schedule: at least one member by the Listing Date, at least two members within 90 days of the Listing Date and at least three members within one year of the Listing Date.³²

²⁷ See Securities Exchange Act Release No. 68013 (Oct. 9, 2012), 77 FR 62563 (Oct. 15, 2012) (Notice of Filing for SR-NASDAQ-2012-109) at footnote 67. See also Securities Exchange Act Release No. 34-68640 (Jan. 11, 2013), 78 FR 4554 (Jan. 22, 2013) (approving SR-NASDAQ-2012-109).

²⁸ See Notice, *supra* note 3, at 46530.

²⁹ See *id.*

³⁰ See *id.*

³¹ See *id.*

³² See *supra* notes 22 and 23. As discussed below, as with an IPO, if a company has only one member on the audit committee by the Listing Date as permitted by the phase-in periods, that audit committee member, in addition to meeting the independence requirements in Rule 5605(c)(2), must also meet the requirements to have accounting or finance experience and financial sophistication in accordance with Rule 5605(c)(2)(iv) as well meet the other requirements set forth in 5605(c)(2).

Companies Ceasing To Qualify as a Foreign Private Issuer

Currently, Rule 5615(a)(3) provides that a "Foreign Private Issuer," as defined pursuant to Rule 3b-4 under the Act,³³ may follow its home country practice in lieu of the requirements of the Rule 5600 Series, provided, however, that such a Company must comply with, among other requirements,³⁴ the requirement to have an audit committee that satisfies Rule 5605(c)(3), and ensure that such audit committee's members meet the independence requirement in Rule 5605(c)(2)(A)(ii). A Foreign Private Issuer that ceases to qualify as such under Commission rules becomes subject to all relevant corporate governance requirements of Rule 5605.

Pursuant to Rule 3b-4 under the Act,³⁵ a company must test its status as a Foreign Private Issuer on an annual basis at the end of its most recently completed second fiscal quarter (for purposes of this subsection, the "Foreign Private Issuer Determination Date"). Nasdaq proposes to modify its rules to take into consideration Rule 3b-4 under the Act.³⁶ Under Rule 3b-4 under the Act³⁷ a company's determination that it fails to qualify as a Foreign Private Issuer governs its eligibility to use the forms and rules designated for Foreign Private Issuers beginning on the first day of the fiscal year following the determination date, effectively providing the company with a six-month grace period. Similarly, Nasdaq proposes to require a company that ceases to be a Foreign Private Issuer to be in compliance with the domestic company requirements within the same timeframe of six months, except for the requirement set forth in Rule 5605(c)(2)(A)(ii).

Specifically, the company shall have six months from the Foreign Private Issuer Determination Date to comply with the majority independent board and executive sessions requirements set forth in Rule 5605(b); the independent compensation and nominations committee requirements set forth in Rules 5605(d)(2) and (e)(1)(B); and audit committee requirements set forth in Rule 5605(c)(2), including the three-person audit committee requirement, with the exception of Rule 5605(c)(2)(A)(ii) that, as noted below,

³³ 17 CFR 240.3b-4.

³⁴ See Nasdaq Rule 5615(a)(3) and IM-5615-3 for the other requirements under the Exchange's rules a Foreign Private Issuer must comply with and cannot follow home country practice.

³⁵ See *id.*

³⁶ See *id.*

³⁷ See *id.*

must continually be complied with by a Foreign Private Issuer. During the phase-in period, a company shall have an audit committee that satisfies Rule 5605(c)(3) and members of such audit committee shall meet the criteria for independence referenced in Rule 5605(c)(2)(A)(ii) (the criteria set forth in Rule 10A-3(b)(1) under the Act,³⁸ subject to the exemptions provided in Rule 10A-3(c) under the Act³⁹).

Companies Ceasing to be a Controlled Company

Nasdaq proposes to amend Rule 5615(c)(3) to state that the applicable phase-in periods for companies ceasing to be a Controlled Company for purposes of the independent compensation and nominations committees and majority of independent boards will be computed beginning on the date the company ceases to be a Controlled Company.⁴⁰

Noncompliance During the Phase-In Period

Nasdaq also proposes to codify its current policy that a company that demonstrates compliance with a requirement during a phase-in period but subsequently falls out of compliance with that requirement before the end of the phase-in period, would not be considered deficient with the requirement until the end of the phase-in period. The Exchange states that this treatment is consistent with treatment of a company that relied on a phase-in period throughout its duration although, as discussed below, there are differences in the availability of a cure period at the end of the phase-in period.

B. Unavailability of Cure Periods Following the Expiration of Phase-In Periods

Nasdaq proposes to amend Rules 5605(b)(1), 5605(c)(4), 5605(d)(4), and 5810(c)(3)(E) to codify its current position that a company relying on any phase-in period in Rule 5615(b) is not eligible for a cure period provided by Rule 5810(c)(3)(E), immediately following the expiration of the phase-in period, unless the company complied with the audit committee composition

³⁸ 17 CFR 240.10A-3(b)(1).

³⁹ 17 CFR 240.10A-3(c).

⁴⁰ Under current Rule 5615(c)(2), Controlled Companies are exempt from the requirements of Rules 5605(b) (Independent Directors), 5605(d) (Compensation Committee Requirements) and 5605(e) (Independent Director Oversight of Director Nominations), except for the requirements of subsection (b)(2) which pertains to executive sessions of independent directors. Under the proposal, this provision is being moved unchanged to new Rule 5615(a)(1) (Exemptions Afforded to a Controlled Company).

requirement in Rule 5605(c)(2)(A), the compensation committee composition requirement in Rule 5605(d)(2)(A), or the majority independent board requirement in Rule 5605(b)(1), as applicable, during such phase-in period but fell out of compliance with such requirement after having complied with the requirement before the end of the phase-in period. Nasdaq also proposes to codify its current policy that, if a company demonstrated compliance with the applicable requirement during the phase-in period, but subsequently fell out of compliance before the end of the phase-in period, for purposes of computing the applicable cure period, the event that caused the failure to comply is the event causing the company to fall out of compliance after having complied with the requirement, and not the end of the phase-in period. In these circumstances, as described above, the company would not be considered deficient with the requirement until the end of the phase-in period.

In a situation where a company lists on Nasdaq or becomes subject to the requirements after it lists, relies on the phase-in period for one of the independent committees or the independent board requirements, and allows the phase-in period to run out without demonstrating compliance with the rule, the Exchange states that it is not appropriate for the company to rely on the grace period immediately thereafter because it would effectively extend the phase-in period.⁴¹ In such a case, Nasdaq states that it will issue a Staff Delisting Determination letter to delist the Company's securities.⁴²

Nasdaq also proposes to amend Rule 5810(c)(3)(E) to provide that if a company fails to meet the compensation committee composition requirement under Rule 5605(d)(2)(A) due to one vacancy, or one compensation committee member ceases to be independent due to circumstances beyond the member's reasonable control, the Listing Qualifications Department will promptly notify the company and inform it has until the earlier of its next annual shareholders meeting or one year from the occurrence of the event that caused the failure to comply with this requirement to cure the deficiency. However, if the company's next annual shareholders' meeting is held sooner than 180 days after the event that caused the deficiency, then the company has 180 days from the event that caused the deficiency to cure it.

C. Renumbering of Certain Rules and Non-Substantive Clarifications

Nasdaq proposes to renumber Rules 5615(c)(1), 5615(c)(2), and 5615(c)(3) as 5615(a)(7)(A), 5615(a)(7)(B), and 5615(b)(7), respectively. Nasdaq also proposes to amend the title of the proposed Rule 5615(b)(7) to improve the readability of the rule without changing its substance and update cross references to account for renumbering of the rules.

Additionally, Nasdaq proposes to amend the title of Rule 5615(b)(4), concerning companies that cease to be a Smaller Reporting Company, and renumber it to Rule 5615(b)(5) and add an introductory sentence to improve the readability of the rule without changing its substance.

Nasdaq is also proposing to correct a misleading rule reference in Rule 5615(b)(1), which makes references to the nominations committee's responsibilities under Rule 5605(b). The responsibilities of the nominations committee are found in Rule 5605(e), not Rule 5605(b). Accordingly, new Rule 5615(b)(1)(C) allows a majority of the Independent Directors to discharge responsibilities of the nominations committee outlined in Rule 5605(e).

Further, Nasdaq proposes to eliminate the reference to Rule 5625 in Rule 5615(b)(1), which states that: "For purposes of . . . Rule 5625, a Company shall be considered to be listing in conjunction with an initial public offering only if it meets the conditions in Rule 10A-3(b)(1)(iv)(A) under the Act, namely, that the Company was not, immediately prior to the effective date of a registration statement, required to file reports with the Commission pursuant to Section 13(a) or 15(d) of the Act." By its terms, Rule 5625 (Notification of Noncompliance) applies to any company listed on Nasdaq, including in conjunction with an IPO, and requires that a "Company must provide Nasdaq with prompt notification after an Executive Officer of the Company becomes aware of any noncompliance by the Company with the requirements of this Rule 5600 Series." Moreover, Rule 5615(b)(1) does not provide an exemption from Rule 5625 for any company. Accordingly, Nasdaq states it is proposing to eliminate the references to Rule 5625 in Rule 5615(b)(1) to eliminate potential confusion without any substantive impact.

Finally, Nasdaq proposes to add an introductory paragraph to the phase-in rules in Rule 5615(b). The Exchange believes the change will improve the

readability of the rules without changing its substance.⁴³

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁴ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁴⁵ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The development and enforcement of meaningful listing standards for a national securities exchange is of critical importance to financial markets and the investing public.⁴⁶ Meaningful listing standards are especially important given investor expectations regarding the nature of companies that have achieved an exchange listing for their securities, and the role of an exchange in overseeing its market and ensuring compliance with its listing standards.⁴⁷ The corporate governance standards embodied in the listing rules of national securities exchanges, in particular, play an important role in

⁴³ See *id.*

⁴⁴ 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁵ 15 U.S.C. 78f(b)(5).

⁴⁶ See, e.g., Securities Exchange Act Release Nos. 99238 (Dec. 26, 2023), 89 FR 113, 116 (Jan. 2, 2024) (SR-NYSE-2023-34) and 81856, (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31). Among other things, the Commission has stated that listing standards provide the means for an exchange to screen issuers that seek to become listed, and to provide listed status only to those that are bona fide companies and that have or will have sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly markets. See e.g., Securities Exchange Act Release No. 93256 (Oct. 4, 2021), 86 FR 56338, 56342 (Oct. 8, 2021) ("SR-NASDAQ-2021-007 Approval Order").

⁴⁷ See SR-NASDAQ-2021-007 Approval Order, *supra* note 46, at 56342. The Commission has also stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. See *id.* at 56342, n.59.

⁴¹ See Notice, *supra* note 3, at 46531.

⁴² See *id.*

assuring that companies listed for trading on the exchanges' markets observe good governance practices,⁴⁸ including the maintenance of fair and impartial boards and on key committees such as the audit, compensation, and nominating committees. The Commission believes that Nasdaq's proposal will foster greater transparency, accountability, and objectivity in the oversight of listed companies.

As described above, the Exchange proposes to amend, or adopt new, phase-in schedules for certain listed companies to comply with corporate governance requirements relating to audit, compensation and nominating committees and majority independent boards. Specifically, the proposal would clarify and amend existing phase-in schedules for companies listing in connection with an IPO; companies emerging from bankruptcy,⁴⁹ and companies transferring from other national securities exchanges with or without substantially similar requirements. The Exchange is also proposing to adopt new rules that provide certain corporate governance phase-in schedules for companies (i) listing securities that were, immediately prior to listing, registered pursuant to Section 12(g) of the Act; (ii) listing in connection with a carve-out or spin-off transaction; or (iii) ceasing to qualify as a Foreign Private Issuer. The Exchange states in support of the changes to, or additions of, these phase-in periods that they are substantially similar to those available for similar companies listing under the NYSE.⁵⁰

Consistent with the Commission's previous order approving NYSE's analogous corporate governance requirements,⁵¹ the Commission believes phase-in periods for specified companies newly listing on the Exchange or newly becoming subject to certain corporate governance listing standards as a result of a change in status are reasonable. The proposal would permit a phase-in schedule similar to that allowed under the current rules for a company listing in

conjunction with an IPO, and would extend such a phase-in schedule appropriately, to companies listing in connection with a carve-out or spin-off transaction.⁵² As the Commission has previously stated in reference to approving similar NYSE rule changes, the proposed rules offer an acceptable minimal tolerance for the special circumstances of each of these types of new listings with respect to the point in time that the standards would begin to apply.⁵³ The proposal provides a listed company with a limited phase-in period to assure that the listed company's board of directors and key committees are comprised in a manner that is designed to provide an objective oversight role and are consistent with phase-in periods previously approved by the Commission.⁵⁴ Further, the Commission notes that the Exchange's proposal on the phase-in periods does not make any changes to the requirements for companies to comply with any of the provisions of Rule 10A-3 under the Act.⁵⁵

The proposal also would allow companies listing in conjunction with an IPO, a carve-out, or a spin-off, in addition to companies listing securities previously registered under Section 12(g) of the Act, a phase-in period with respect to the Exchange requirement that the audit committee have a minimum of three members. As the Commission previously stated in approving NYSE's similar phase-in provisions, permitting a company to have only one member on its audit committee by the listing date, at least two members within 90 days of the listing date and at least three members within a year of the listing date, affords a reasonable accommodation for such companies.⁵⁶

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See NYSE 2009-89 Approval Order, *supra* note 50.

⁵⁵ See 17 CFR 240.10A-3. As the Exchange states, the proposal also makes no adjustments for compliance with Rule 10C-1 under the Act as well. See Notice, *supra* note 3, at 46532.

⁵⁶ Under existing Exchange Rule 5615(b)(1) companies listing in connection with an IPO are allowed to phase in the requirements for independent compensation and nomination committees and must have one independent director member at the time of listing. Consistent with NYSE rules, Nasdaq is also proposing to provide that companies listing in connection with an IPO can comply with the requirement to have one independent director on the compensation and nomination committee no later than the earlier of the date the IPO closes or five business days from the Listing Date and for purposes of the listing of carve-outs and spin-offs that such committees have an independent director by the date the transaction closes. The Commission believes this is reasonable and has previously approved similar NYSE rules as consistent with the Act. See Section 303A.00

The Commission further states that the proposed rule change does not grant an exemption or phase-in period to any newly-listed company with respect to the provision set forth in Rule 5605(c) that requires every listed company's audit committee, and without distinction as to the committee's size, to have at least one member who has past accounting or finance experience and other comparable experience or background which results in financial sophistication.⁵⁷ In addition, Rule 10A-3 under the Act⁵⁸ requires at least one member of a listed company's audit committee to be independent as of the listing date, even when the company is allowed a phase-in period with respect to the independence of other audit committee members.⁵⁹ Thus, if a newly-listed company that is eligible for a phase-in period with respect to the size requirement chooses to have initially only one member on its audit committee, that member would need to be independent and also have to meet the Exchange's financial sophistication requirement.

The Exchange is also proposing, as described above, to provide a phase-in to certain corporate governance requirements for companies that cease to be Foreign Private Issuers. As the Exchange explained in its proposal, Foreign Private Issuers can follow home country practice for certain corporate governance provisions.⁶⁰ The Exchange is proposing to allow a Foreign Private Issuer that ceases to qualify as such to comply with certain corporate governance requirements (e.g. the majority independent board requirement), six months after the date it was determined to no longer qualify as a Foreign Private Issuer.⁶¹ Foreign Private Issuers are not permitted to follow home country practice with respect to the independent audit committee requirements under Rule 5605(c)(2)(A)(ii) and the audit committee requirements in Rule 5605(c)(3)⁶² and the phase-in rule for Foreign Private Issuers makes clear that the company must continue to have an audit committee meeting these requirements during any phase in for other corporate governance requirements provided for in the new

(Introduction) of the NYSE Listed Company Manual; NYSE 2009-89. Approval Order, *supra* note 50.

⁵⁷ See Notice, *supra* note 3, at 46532.

⁵⁸ 17 CFR 240.10A-3.

⁵⁹ See 17 CFR 240.10A-3(b)(1)(iv).

⁶⁰ See Notice, *supra* note 3, at 46530.

⁶¹ See *supra* section II.A, "Companies Ceasing to Qualify as a Foreign Private Issuer."

⁶² See Nasdaq IM-5615-3 (Foreign Private Issuers).

⁴⁸ See e.g., Securities Exchange Act Release No. 48745 (Nov. 4, 2003), 68 FR 64154, 64175 (Nov. 12, 2003) (relating to approval of corporate governance rule filings SR-NYSE-2002-33, SR-NASD-2002-77, SR-NASD-2002-80, SR-NASD-2002-138, SR-NASD-2002-139, and SR-NASD-2002-141).

⁴⁹ See *supra* note 10.

⁵⁰ See Notice, *supra* note 3, at 46531. See also Section 303A.00 (Introduction) of the NYSE Listed Company Manual. See also Securities Exchange Act Release No. 61067 (Nov. 25, 2009), 74 FR 63808 (Dec. 4, 2009) (approving SR-NYSE-2009-89) ("NYSE 2009-89 Approval Order").

⁵¹ NYSE 2009-89 Approval Order, *supra* note 50, at 63810-12.

provision. The phase-in provisions for companies ceasing to be Foreign Private Issuers are consistent with NYSE rules and appear to be a reasonable accommodation.

The amended rules will also address the treatment of companies that wish to avail themselves of a cure period following the expiration of a phase-in period with respect to the independence requirements applicable to the board of directors, audit committee and compensation committee, the permissibility of which the rules are currently silent.⁶³ In prohibiting a cure period following the expiration of a phase-in period (unless the company demonstrated compliance with the applicable requirement during such phase-in period and then fell out of compliance before the expiration of the phase-in period), the Exchange states it seeks to limit the maximum time a company may remain listed without fully complying with independent committees or the independent board requirements. The Commission believes, given the importance of these requirements to assure adequate oversight, that it is reasonable not to provide a cure period under such circumstances because the company has already had a phase-in period and failed to comply throughout that period.⁶⁴ The greater clarity and uniformity of treatment afforded by the proposal can help to foster accountability of companies' corporate governance practices.

In addition, the Commission believes that the renumbering of certain rules and other non-substantive changes, clarifications and corrections will add clarity to the Exchange's corporate governance listing rules, as well as remove any confusion regarding the application of phase-in periods.

Finally, as described above, many of the changes proposed by Nasdaq are similar to rules that were previously approved for the NYSE and found to be consistent with the Act.

⁶³ The Exchange states it is codifying its current position. See Notice, *supra* note 3, at 46532. The Exchange proposal is also amending Rule 5810(c)(3)(E) to describe procedures for administering a cure period if one member of the compensation committee fails to comply with the compensation requirement in Rule 5605(d)(2)(A) in certain circumstances. See also Rule 5805(d)(4) (Cure Period for Compensation Committee).

⁶⁴ While the Exchange is proposing to allow a cure period if the company came into compliance and then fell out of compliance during the phase-in period, any cure period will be measured from the earlier period when the company fell out of compliance as opposed to end of the phase-in period.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁶⁵ that the proposed rule change (SR-NASDAQ-2024-019) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-19496 Filed 8-29-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35307; 812-15602]

Gladstone Alternative Income Fund and Gladstone Management Corporation

August 26, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges.

Applicants: Gladstone Alternative Income Fund and Gladstone Management Corporation.

Filing Dates: The application was filed on July 12, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on September 20, 2024, and should be accompanied by proof of

⁶⁵ 15 U.S.C. 78s(b)(2).

⁶⁶ 17 CFR 200.30-3(a)(12).

service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission:

Secretarys-Office@sec.gov. Applicants: William J. Tuttle, P.C., Kirkland & Ellis LLP, william.tuttle@kirkland.com and Erin M. Lett, Kirkland & Ellis LLP, erin.lett@kirkland.com.

FOR FURTHER INFORMATION CONTACT:

Trace W. Rakestraw, Senior Special Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated July 12, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-19512 Filed 8-29-24; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 12493]

Notice of Determinations; Additional Culturally Significant Objects Being Imported for Exhibition—

Determinations: "Art and War in the Renaissance: The Battle of Pavia Tapestries" Exhibition

SUMMARY: On February 27, 2024, notice was published in the **Federal Register** of determinations pertaining to certain objects to be included in an exhibition entitled "Art and War in the Renaissance: The Battle of Pavia Tapestries." Notice is hereby given of the following determinations: I hereby determine that certain additional objects being imported from abroad pursuant to an agreement with their foreign owner

or custodian for temporary display in the aforesaid exhibition at the Fine Arts Museums of San Francisco, de Young Museum, San Francisco, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made by the Deputy Assistant Secretary for Professional and Cultural Exchanges in the Bureau of Educational and Cultural Affairs in the U.S. Department of State, Nicole L. Elkon, pursuant to the authority vested in her by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021. The notice of determinations published on February 27, 2024, appears at 89 FR 14555.

Kevin E. Bryant,

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

[FR Doc. 2024–19513 Filed 8–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 12514]

30-Day Notice of Proposed Information Collection: Training/Internship Placement Plan

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information: Training/Internship Placement Plan.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this

collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to September 30, 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:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Jennifer Nupp, Private Sector Exchange Directorate (ECA/EC), U.S. Department of State, SA–5, 2200 C Street NW, Washington, DC 20522–0505, ATTN: Federal Register Notice Response, which may be reached at phone: (202) 826–4364, or via email: jexchanges@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Training/Internship Placement Plan.
- *OMB Control Number:* 1405–0170.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs (ECA/EC).
- *Form Number:* DS–7002.
- *Respondents:* Entities designated by the Department of State as sponsors of exchange visitor programs in the trainee, intern, and student intern categories and U.S. businesses that provide the training or internship opportunity.

- *Estimated Number of Respondents:* 220.

- *Estimated Number of Responses:* 33,000.

- *Average Time per Response:* 1.5 hours.

- *Total Estimated Burden Time:* 49,500 hours.

- *Frequency:* On occasion depending on the number of exchange participants annually.

- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the

validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The collection contains information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-Nonimmigrant) under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended. Training/Internship Placement Plans are to be completed by designated program sponsors. A Training/Internship Placement Plan is required for each trainee or intern participant. It will set forth the training or internship program to be followed, methods of supervision, the skills the trainee or intern will obtain, and trainee or intern compensation. The plan must be signed by the trainee or intern, sponsor, and the third-party placement organization, if a third-party organization is used in the conduct of the training or internship. Upon request, trainees or interns must present a fully executed Training/Internship Placement Plan on Form DS–7002 to any Consular Official interviewing them in connection with the issuance of J–1 visas.

Methodology

Information will be collected through electronic submission.

Mark Howard,

Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–19528 Filed 8–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12499]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Design Agendas: Modern Architecture in St. Louis, 1930s–1970s” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby

determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition "Design Agendas: Modern Architecture in St. Louis, 1930s–1970s" at the Mildred Lane Kemper Art Museum at Washington University in St. Louis, in St. Louis, Missouri, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made by the Deputy Assistant Secretary for Professional and Cultural Exchanges in the Bureau of Educational and Cultural Affairs in the U.S. Department of State, Nicole L. Elkon, pursuant to the authority vested in her by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Kevin E. Bryant,

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

[FR Doc. 2024–19514 Filed 8–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–0086]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2024. The collection involves regulations that prescribe the requirements governing air carrier operations. The information collected is necessary to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification.

DATES: Written comments should be submitted by September 30, 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: Sandra L. Ray by email at: Sandra.ray@faa.gov; phone: 412–546–7344.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0008.

Title: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 17, 2024 (89 FR 3020). Under the authority of title 49 CFR 44701, title 14 CFR prescribes the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Title 14 CFR part 121 prescribes the requirements governing air carrier operations. The information collected is

used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification. Each operator which seeks to obtain or is in possession of an air carrier operating certificate, must comply with the requirements of part 121 which include maintaining data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

Respondents: 90 Part 121 Air Carriers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Varies per response and requirement type.

Estimated Total Annual Burden: 1,472,143 hours.

Issued in Washington, DC, on August 27, 2024.

Sandra L. Ray,

Aviation Safety Inspector, AFS–260.

[FR Doc. 2024–19529 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–2103]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aircraft Registration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to add two new forms to a previously approved information collection. The information in this collection is used by the FAA Aircraft Registration Branch (Aircraft Registry) to register aircraft or record a security interest in a registered aircraft.

DATES: Written comments should be submitted by October 29, 2024.

ADDRESSES: Please send written comments:

By Electronic Docket:

www.regulations.gov (Enter docket number into search field)

By mail: Gianna DeMoor, Acting Manager, Aircraft Registration Branch, AFB–710, PO Box 25504, Oklahoma City, OK 73125

By fax: 405–954–8068

FOR FURTHER INFORMATION CONTACT: Bonnie Lefko by email at: bonnie.lefko@faa.gov; phone: 405-954-7461.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-0042.

Title: Aircraft Registration.

Form Numbers: Existing AC Forms 8050-1, 8050-1B, 8050-2, 8050-4, 8050-88, 8050-88A, 8050-98 and 8050-117. New AC Forms 8050-88UA and 8050-138.

Type of Review: Revision of an existing information collection.

Background: Public Law 103-272 states that all aircraft must be registered before they may be flown. It sets forth registration eligibility requirements and provides for applications for registration as well as suspension and/or revocation of registrations. The information collected is used by the FAA to determine eligibility to register an aircraft and record a security interest in a registered aircraft.

The Aircraft Registry has determined there is a need to create two new forms for this collection as follows: AC Form 8050-88UA, Affidavit of Ownership for Unmanned Aircraft (UA) and AC Form 8050-138, Declaration of International Operation (DIO).

The AC Form 8050-88UA was created to make it easier for registration applicants to supply the FAA Aircraft Registry with the minimal information needed to register a UA. Most UA owners don't have the required evidence of ownership to register. The affidavit will be used in lieu of a recordable bill of sale for any new registrations. The registrant may still submit any other proof of ownership with the affidavit or declare that evidence of ownership is not available.

The AC Form 8050-138 was created to allow registrants to request priority handling of their registration documents due to an impending international flight. The Aircraft Registry is required to process all incoming documents in the order of their receipt. Newly registered aircraft may only be flown within the continental United States by

carrying a second copy of the Aircraft Registration Application in the aircraft unless the aircraft has never been on the U.S. Registry. There are instances where applicants need to fly aircraft outside the continental United States. Many of those applicants are major Air Carriers and small businesses. When an applicant files a DIO, the applicants' registration documents will be worked on a priority basis, alleviating any undue hardship. The form will collect the pertinent information of the scheduled international flight.

Respondents: Approximately 5,000 international flights and 2,000 new UA applicants annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 minutes for each new form.

Estimated Total Annual Burden: 1,750 hours.

Issued in Oklahoma City, OK on August 27, 2024.

Bonnie Lefko,

Program Analyst, Civil Aviation Registry, Aircraft Registration Branch, AFB-711.

[FR Doc. 2024-19525 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0122; FMCSA-2013-0124; FMCSA-2014-0106; FMCSA-2014-0387; FMCSA-2015-0326; FMCSA-2015-0328; FMCSA-2016-0002; FMCSA-2017-0059; FMCSA-2017-0060; FMCSA-2020-0026; FMCSA-2022-0033; FMCSA-2022-0034]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 15 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below. Comments must be received on or before September 30, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA-2013-0122, Docket No. FMCSA-2013-0124, Docket No. FMCSA-2014-0106, Docket No. FMCSA-2014-0387, Docket No. FMCSA-2015-0326, Docket No. FMCSA-2015-0328, Docket No. FMCSA-2016-0002, Docket No. FMCSA-2017-0059, Docket No. FMCSA-2017-0060, Docket No. FMCSA-2020-0026, Docket No. FMCSA-2022-0033, or Docket No. FMCSA-2022-0034 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov/, insert the docket number (FMCSA-2013-0122, FMCSA-2013-0124, FMCSA-2014-0106, FMCSA-2014-0387, FMCSA-2015-0326, FMCSA-2015-0328, FMCSA-2016-0002, FMCSA-2017-0059, FMCSA-2017-0060, FMCSA-2020-0026, FMCSA-2022-0033, or FMCSA-2022-0034) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001, (202) 366-4001, fmcsamedical@dot.gov. Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2013-0122, Docket No. FMCSA-2013-0124, Docket No. FMCSA-2014-0106, Docket No.

FMCSA–2014–0387, Docket No. FMCSA–2015–0326, Docket No. FMCSA–2015–0328, Docket No. FMCSA–2016–0002, Docket No. FMCSA–2017–0059, Docket No. FMCSA–2017–0060, Docket No. FMCSA–2020–0026, Docket No. FMCSA–2022–0033, or Docket No. FMCSA–2022–0034), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to www.regulations.gov/, insert the docket number (FMCSA–2013–0122, FMCSA–2013–0124, FMCSA–2014–0106, FMCSA–2014–0387, FMCSA–2015–0326, FMCSA–2015–0328, FMCSA–2016–0002, FMCSA–2017–0059, FMCSA–2017–0060, FMCSA–2020–0026, FMCSA–2022–0033, or FMCSA–2022–0034) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA–2013–0122, FMCSA–2013–0124, FMCSA–2014–0106, FMCSA–2014–0387, FMCSA–2015–0326, FMCSA–2015–0328, FMCSA–2016–0002, FMCSA–2017–0059, FMCSA–2017–0060, FMCSA–2020–0026, FMCSA–2022–0033, or FMCSA–2022–0034) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through

Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

The 15 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 15 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 15 drivers in this notice remain in good standing with the Agency. In addition, for commercial driver’s license (CDL) holders, the Commercial Driver’s License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver’s Licensing Agency. These factors provide an adequate basis for predicting each driver’s ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of September and are discussed below. As of September 6, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 14 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Weston Arthurs (CA)
Jerritt Boehle (IL)
Barry Carpenter (SD)
Michael Cover (MI)
Lyle Eash (VA)
Richard Hoots (AR)
Sean Jackson (AZ)
Michael McCarthy (MN)
Marcel Paul (WA)
Kelly Pulvermacher (WI)
D’Nielle Smith (OH)
Michael Sweet (GA)
Darren Talley (NC)
Carlos Torres (FL)

The drivers were included in docket number FMCSA–2013–0122, FMCSA–

2013–0124, FMCSA–2014–0106, FMCSA–2014–0387, FMCSA–2015–0326, FMCSA–2015–0328, FMCSA–2016–0002, FMCSA–2017–0059, FMCSA–2017–0060, FMCSA–2022–0033, or FMCSA–2022–0034. Their exemptions are applicable as of September 6, 2024 and will expire on September 6, 2026.

As of September 14, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Jonathan Kelly (TX) has satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

This driver was included in docket number FMCSA–2020–0026. Their exemption is applicable as of September 14, 2024 and will expire on September 14, 2026.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must report any crashes or accidents as defined in § 390.5T; and (2) report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 15 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each

exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–19509 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0014]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 10 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before September 30, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2024–0014 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov/, insert the docket number (FMCSA–2024–0014) in the keyword box and click “Search.” Next, choose the only notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.

- **Hand Delivery:** West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.

- **Fax:** (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224,

Washington, DC 20590–0001, (202) 366–4001, fmcsamedical@dot.gov. Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2024–0014), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2024-0014>. Next, sort the results by “Posted (Newer-Older),” choose the only notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA–2024–0014) in the keyword box and click “Search.” Next, choose the only notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 10 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, "Qualification of Drivers; Application for Exemptions; National Association of the Deaf," (78 FR 7479), its decision to grant requests

from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

III. Qualifications of Applicants

Kevin Finlayson

Kevin Finlayson, 57, holds a class AM commercial driver's license (CDL) in Alabama.

Gary Gessner

Gary Gessner, 70, holds a class A CDL in Minnesota.

Andre Hood

Andre Hood, 43, holds a class C driver's license in California.

Marcos Ibarra

Marcos Ibarra, 28, holds a class C driver's license in Texas.

Stephen Justice

Stephen Justice, 21, holds a class D driver's license in Delaware.

Konstantino Koutoufarris

Konstantino Koutoufarris, 47, holds a class C driver's license in Pennsylvania.

Marshall Marcee

Marshall Marcee, 38, holds a class C driver's license in Texas.

Gary Michel

Gary Michel, 50, holds a class D driver's license in Kentucky.

Roberto Nunez

Roberto Nunez, 45, holds a class C driver's license in California.

Eric Rutter

Eric Rutter, 56, holds a class A driver's CDL in Kansas.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024-19508 Filed 8-29-24; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0320; FMCSA-2017-0252; FMCSA-2017-0253; FMCSA-2022-0044]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for eight individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have "no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV." The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on September 16, 2024. The exemptions expire on September 16, 2026. Comments must be received on or before September 30, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA-2015-0320, Docket No. FMCSA-2017-0252, Docket No. FMCSA-2017-0253, or Docket No. FMCSA-2022-0044 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov, insert the docket number (FMCSA-2015-0320, FMCSA-2017-0252, FMCSA-2017-0253, or FMCSA-2022-0044) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590-0001.

- **Hand Delivery:** West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, fmcsamedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2015–0320, Docket No. FMCSA–2017–0252, Docket No. FMCSA–2017–0253, or Docket No. FMCSA–2022–0044), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to www.regulations.gov/, insert the docket number (FMCSA–2015–0320, FMCSA–2017–0252, FMCSA–2017–0253, or FMCSA–2022–0044) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA–2015–0320, FMCSA–2017–0252, FMCSA–2017–0253, or

FMCSA–2022–0044) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria¹ to assist Medical Examiners in determining whether drivers with

certain medical conditions are qualified to operate a CMV in interstate commerce.

The eight individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the eight applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The eight drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver’s license (CDL) holders, the Commercial Driver’s License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver’s Licensing Agency. These factors provide an adequate basis for predicting each driver’s ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of September 16, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

¹ These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

Nathan Dermer (AK)
 Bradley Fullmer (UT)
 Cole Funk (PA)
 Joseph Hammond (OR)
 Anthony Kornuszko (PA)
 Michael Modica (FL)
 David Pamperin (WI)
 Dominick Sempervive (NJ)

The drivers were included in docket number FMCSA–2015–0320, FMCSA–2017–0252, FMCSA–2017–0253, or FMCSA–2022–0044. Their exemptions are applicable as of September 16, 2024 and will expire on September 16, 2026.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the eight exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be

valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–19507 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0065]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Crash Injury Research and Engineering Network Data Collection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of an information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes an information collection request for which NHTSA intends to seek a new OMB approval for NHTSA's Crash Injury Research and Engineering Network (CIREN) investigation-based crash data study. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published. Two comments were received, and burden estimates were adjusted based on the input.

DATES: Comments must be submitted on or before September 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select “Currently under Review—Open for Public Comment” or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Rodney Rudd, Office of Vehicle Safety Research, Human Injury Research Division (NSR–220), West Building, W46–324, 1200

New Jersey Avenue SE, Washington, DC 20590, (202) 366–5932.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Crash Injury Research and Engineering Network (CIREN) Data Collection.

OMB Control Number: New.

Form Number: NHTSA Form 1770, NHTSA Form 1771, NHTSA Form 1772, NHTSA Form 1773, NHTSA Form 1774, NHTSA Form 1775, NHTSA Form 1776, NHTSA Form 1777, NHTSA Form 1778, NHTSA Form 1779, NHTSA Form 1780, NHTSA Form 1781, NHTSA Form 1782, NHTSA Form 1783, NHTSA Form 1784, NHTSA Form 1785, NHTSA Form 1786, NHTSA Form 1787, NHTSA Form 1788, NHTSA Form 1789, NHTSA Form 1790, NHTSA Form 1791, NHTSA Form 1792, NHTSA Form 1793, NHTSA Form 1794, NHTSA Form 1795, NHTSA Form 1796.

Type of Request: Request for approval of a new information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information:

NHTSA proposes to collect information from the public as part of a study to improve NHTSA's understanding of injury causation in motor vehicle crashes. NHTSA is authorized, under 49 U.S.C. 30182 and 23 U.S.C. 403 to collect data on motor vehicle traffic crashes to aid in the identification of issues and the development, implementation, and evaluation of motor vehicle and highway safety countermeasures. For decades, NHTSA has been investigating crashes and collecting crash data through its investigation-based data collection systems. The Crash Injury Research and Engineering Network (CIREN) is a multidisciplinary, injury-focused crash data collection program using trauma centers under contract to NHTSA's Office of Vehicle Safety Research. NHTSA also investigates crashes through the Crash Investigation Sampling System (CISS), Special Crash Investigation (SCI), and specific issue-based Special Study data collection studies. Although each of these systems

satisfy different purposes and collect data in different manners, they all utilize similar core data elements, procedures, information technology, and protocols for data collection.

NHTSA is seeking a new, independent approval of an information collection request for the CIREN program separate from NHTSA's other investigation-based crash data collection systems. The method of case subject identification and selection is unique for CIREN. CIREN collects a purposive sample of injured traffic crash victims from a small number of sites to extensively examine and document injury causation in motor vehicle crashes. The CIREN program enrolls case subjects (crash victims) who have been admitted to contracted level-one trauma centers for treatment of injuries sustained in a crash. CIREN requires case subjects admitted to the contracted trauma centers to consent to participate in the study, which facilitates detailed review and analysis of medical and engineering data by multidisciplinary teams to evaluate injury causation. The focus of the CIREN program has historically been on seriously injured occupants of recent model-year motor vehicles, though the program intends to expand to include pedestrians, pedalcyclists, and micromobility (non-motorist) users who have been injured in crashes.

Study personnel at each contracted CIREN site review trauma registry data to identify potential case subjects based on the study's inclusion criteria. Study teams obtain informed consent from eligible patients according to institutional policies and consent documents. Eligible patients who do not provide consent to participate in the study are dropped from consideration and no data are collected. Participation in CIREN does not affect the case subject's medical treatment. Observations from the CIREN program inform NHTSA research priorities and the data support improvements in motor vehicle safety. CIREN provides non-private data to the public through an online case viewer, database files, and reports.

After an eligible patient provides consent, study personnel retrieve the case subject's medical information and commence the crash investigation. Study personnel retrieve the medical information directly from the hospital's electronic medical record (EMR) system including case subject anthropometry, past medical history, radiological imaging and reports, operative procedure reports, and injury diagnoses. Study personnel also request emergency medical services (EMS) response reports

from first responders. Study personnel also conduct an interview with the case subject (or a surrogate in cases where the case subject is unable to communicate) to develop an understanding about the crash circumstances. Study personnel may capture photographs of integumentary injuries (e.g., lacerations, hematomas, abrasions) if the case subject agrees to have such photos taken. A trained crash investigator locates, visits, measures, and photographs the crash scene and the case subject's vehicle (or the striking vehicle for non-motorist case subjects). They also obtain the police crash report. These data are used to characterize the performance of vehicle safety systems and biomechanical responses of injured individuals in motor vehicle crashes.

Description of the Need for the Information and Proposed Use of the Information: NHTSA investigates real-world crashes and collects detailed crash and medical data in the CIREN program to identify human and vehicle factors related to injury causation in support of NHTSA research. Biomechanical engineers and medical doctors collaboratively review case evidence to establish injury causation scenarios. These detailed factors and scenarios inform research priorities. They may also guide the development and evaluation of effective safety countermeasures such as testing tools and criteria. The data collected also act as a sentinel, providing NHTSA with advanced notice of emerging crash injury problems, and are used to generate research hypotheses. These efforts give motor vehicle researchers an opportunity to specify areas in which improvements may be possible, design countermeasure programs, and evaluate the effects of existing and proposed safety measures. The resulting deidentified database provides NHTSA and the public with access to crash data which contains extensive medical detail, including medical imaging, which is a unique resource among available crash data systems. There is no other source for the biomechanics-focused data which is critical to support crash injury mitigation and prevention research.

60-Day Notice: A Federal Register notice with a 60-day comment period soliciting public comments on the following information collection was published on December 8, 2023 (88 FR 85725). Two individuals submitted comments in response to the notice, which are summarized below.¹

¹ The comments are available at [https://www.regulations.gov/comment/NHTSA-2023-0065-](https://www.regulations.gov/comment/NHTSA-2023-0065-0002)

The commenters, individuals who both had experience as former project coordinators for CIREN centers, described patient interaction times, for both obtaining consent and conducting the interview, shorter than the estimates included in the 60-day notice. In the 60-day notice, NHTSA estimated that it would approximately 30 minutes for the consent form and one hour for each interview. One of the commenters stated that time for obtaining consent took between five and ten minutes. The other commenter stated that the consent process involved five to ten minutes for describing the program, leaving the consent form with the patient, and returning to discuss the program further and answer any questions, adding an additional ten to fifteen minutes. Since the second commenter estimated that the total estimated time for consent could take up to 25 minutes, not including any time the patient read the consent form on their own, NHTSA has decided not to change its burden estimates for the consent form.

Both commenters also commented about the total to conduct interviews with patients. The first commented that the interviews normally take approximately ten to twenty minutes, with photographs taking about three minutes. The first commenter also stated that the longest interview took 30 minutes. The second commenter stated that interviews took approximately five to ten minutes, with photographs taking five to twenty minutes. The highest of the estimates provided by the commenters suggest that, at most, interviews take up to 35 minutes. This is less than the one-hour estimate NHTSA provided in its 60-day notice. After considering these comments, NHTSA has opted to retain its more conservative one-hour estimate for patient interviews to account for variability on interview lengths and to ensure that its estimate is not too low.

The second commenter noted that obtaining police reports could require several weeks of waiting and could involve CIREN contractor personnel checking in police report databases repeatedly by CIREN contractor personnel. NHTSA appreciates this comment and notes that the burden on CIREN contractor personnel is not counted in total burden hours as it is not a burden on a respondent.

The second commenter also noted that the process to obtain vehicle location information and inspection approval involves contact with the case subject's vehicle insurance provider.

0002 and <https://www.regulations.gov/comment/NHTSA-2023-0065-0003>.

This was not considered in the original 60-day notice. For most CIREN cases, the case subject's vehicle has sustained sufficient damage to be deemed a total loss by the insurer and it becomes necessary to obtain approval from the insurer to conduct the vehicle inspection. This process requires contacting the claims adjuster to obtain permission as well as confirm the disposition of the vehicle (*i.e.*, salvage facility). The commenter stated that the amount of time spent getting insurance approval could be between 30 minutes to four hours collectively. While this estimate was provided from the perspective of the time the CIREN contractor personnel spent obtaining such information and approval, NHTSA does believe it to be a good indication of the time spent by the insurance provider as well. Accordingly, and based on this estimate, NHTSA estimates that insurance providers spend approximately two hours providing information and approval to inspect the case subject's vehicle. This burden estimate is included in the discussion of burden hours below. In response to this comment regarding insurer involvement, NHTSA is also updating the burden associated with tow facilities providing information. In the 60-day notice, NHTSA estimated that it would take the tow facility was five minutes of time to direct the investigator to the subject vehicle. Since part of the insurance approval process involves the insurance adjuster contacting the salvage facility in possession of the case subject's vehicle, NHTSA has increased the burden for the tow facilities by ten minutes to account for the interaction regarding inspection approval from the insurance provider.

Affected Public: The information collections affect people involved in select motor vehicle crashes admitted to contracted trauma centers for treatment; law enforcement jurisdictions that provide access to and a copy of crash reports from the investigated crashes; EMS providers responding to investigated crashes; insurance companies responsible for case subject vehicles; and tow or salvage facilities possessing case subject vehicles.

Estimated Number of Respondents: 1,394.

Study personnel screen trauma records for potentially eligible case subjects, and then approach potential case subjects to gain consent. It is estimated that 362 potential case subjects are approached for consent each year. Of those, an average of 258 provide consent and participate in the

interview process. For each of the 258 consented case subjects, study personnel contact the police, EMS agencies, insurance companies, and a tow facility for report documentation and to coordinate the vehicle inspection. The combination of patients (362) and associated contacts (4×258) yields 1,394 total respondents each year, on average.

The 60-day notice indicated 1,136 respondents, which was increased to 1,394 in this notice due to the inclusion of insurance company involvement for each consented case subject (258). This increase was in response to a submitted comment noting the necessity to communicate with the insurance claim representative to receive permission to inspect the involved case vehicle.

Frequency: On occasion.

Number of Responses: One.

Estimated Total Annual Burden Hours: 1,059.

The CIREN program consists of six (6) information collections. The first information collection covers the consent process for individuals involved in crashes who are deemed potentially eligible for the study at contracted trauma centers. Based on historical data, approximately 362 potential case subjects are approached for study consent each year. The consent process generally requires thirty (30) minutes of the respondent's time during their acute hospital admission, which includes explanation of the study risks and benefits and review of consent language. This burden would apply for every patient approached for consent, regardless of their decision to participate in the study. The estimated total annual burden hours for seeking study consent from eligible case subjects is 181 hours ($362 \text{ respondents} \times 0.5 \text{ hours}$).

The second information collection is from individuals who agree to participate in the study. After providing consent, CIREN contractor personnel conduct an interview that requires approximately one hour of the respondent's time during their acute hospital admission. The CIREN program has historically conducted interviews of approximately 258 case subjects per year. Therefore, the estimated total annual burden for case subject interviews is 258 hours ($258 \text{ respondents} \times 1.0 \text{ hour}$).

The third and fourth information collections for CIREN is obtaining first responder reports to complete the cases. The reports are obtained from police and EMS agencies, and reports are only requested for crash subjects who have

consented to participate in the study. NHTSA estimates each query to police agencies takes three (3) minutes (0.05 hours) and each query to EMS agencies takes six (6) minutes (0.1 hours). Therefore, the total estimated annual burden for crash reports is 13 hours ($258 \text{ requests} \times 0.05 \text{ hours}$) and EMS reports is 26 hours ($258 \text{ requests} \times 0.1 \text{ hours}$).

The fifth information collection for CIREN is gaining permission from the case vehicle's insurance company to inspect the vehicle. Most cases involve contacting the insurance claims representative to determine the location of the vehicle and obtain the necessary approval to perform the inspection. The insurance claims representative must then notify the salvage facility operator that the CIREN investigator has been approved to perform the inspection. NHTSA estimates this process takes an average of two (2) hours per case vehicle for which approval is sought. Therefore, the total estimated annual burden for insurance companies is 516 hours ($258 \text{ requests} \times 2.0 \text{ hours}$). This step has been added based on comments received from the 60-day notice.

The sixth information collection for CIREN is associated with towing and salvage facility requests for access to case vehicles. Typically, a towing or salvage facility operator will provide the crash investigator permission to enter the facility to inspect the case-involved vehicle as well as provide guidance regarding the location of the vehicle. This process is estimated to take approximately five (5) minutes (0.08 hours) of staff time. The communication between the insurance claim representative and salvage facility operator is estimated to take approximately ten (10) minutes (0.17 hours) of staff time. CIREN averages 258 visits to towing and salvage facilities each year since most CIREN cases involve inspection of one case vehicle. The total annual burden for towing and salvage facilities is 64.5 hours ($258 \text{ requests} \times 0.25 \text{ hours}$). This step was modified based on comments received from the 60-day notice.

Accordingly, NHTSA estimates that the total burden associated with the CIREN program is 1,059 hours ($52 + 387 + 39 + 516 + 64.5$). This represents an increase of 560 hours from what was in published in the 60-day notice, with the difference being associated with the inclusion of insurance company involvement. Table 1 includes a summary of the annual estimated burden hours.

TABLE 1—ANNUAL BURDEN ESTIMATES

Information collection	Number of respondents	Number of responses (per respondent)	Burden per response	Burden per respondent	Total burden
Potential case subject consent	362	362 (1)	30 minutes ...	30 minutes ...	181 hours.
Case subject interview	258	258 (1)	1.0 hours	1.0 hours	258 hours.
Police report requests	258	258 (1)	3 minutes	3 minutes	13 hours.
EMS report requests	258	258 (1)	6 minutes	6 minutes	26 hours.
Insurance company	258	258 (1)	2.0 hours	2.0 hours	516 hours.
Access to towing/salvage facility	258	258 (1)	15 minutes ...	15 minutes ...	64.5 hours.
Total					1,059 hours.

Estimated Total Annual Burden Cost: \$0.

There are no capital, start-up, or annual operation and maintenance costs involved in this collection of information. The respondents would not incur any reporting costs from the information collection beyond the opportunity or labor costs associated with the burden hours. The respondents also would not incur any recordkeeping burden or recordkeeping costs from the information collection.

Public Comments Invited: You are asked to comment on any aspects of this information collection, 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, 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 respondents, including 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2024–19437 Filed 8–29–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Customer Identification Program Regulatory Requirements for Certain Financial Institutions

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 30, 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.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927–5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Customer Identification Program Regulatory Requirements for Certain Financial Institutions.

OMB Control Numbers: 1506–0022, 1506–0026, 1506–0033, 1506–0034.

Type of Review: Extension without change of a currently approved collection.

Description: The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act). The BSA is codified at 12 U.S.C. 1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, including notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against terrorism, and to implement anti-money laundering/countering the financing of terrorism (AML/CFT) programs and compliance procedures. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

Title 31 U.S.C. 5318(l) requires the Secretary to issue regulations prescribing minimum standards for customer identification programs (CIPs) for financial institutions. Regulations implementing section 5318(l) are as follows: (i) banks (31 CFR 1020.220); (ii) brokers-dealers (31 CFR 1023.220); (iii) mutual funds (31 CFR 1024.220); and (iv) futures commission merchants and introducing brokers in commodities (31 CFR 1026.220). Under the CIP regulations, the minimum requirements include: (1) implementation of a written customer identification program appropriate for the financial institution's size and type of business; (2) identity verification procedures; (3)

recordkeeping; (4) comparison with government lists; and (5) customer notice. The CIP may also include procedures specifying when a financial institution may rely on another financial institution to perform any of the financial institution's CIP procedures, provided certain conditions are met.

Form: None.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Estimated Number of Respondents: 16,232 financial institutions.

Frequency of Response: On occasion.
Estimated Recordkeeping Burden and Cost:

In Part 1 of this notice, FinCEN describes the distribution of the estimated number of covered financial institutions, by type, and the estimated number of new accounts opened per year, by type of covered financial institution. In addition, Part 1 describes the primary characteristics of covered financial institutions' CIP requirements. In Part 2, FinCEN describes calculations of the estimated annual PRA burden

based on methodology that was updated in response to public comments received following the initial **Federal Register** notice published on June 20, 2024 (89 FR 51940).

Part 1. Distribution of the Financial Institutions and New Accounts Covered by This Notice

The distribution of financial institutions and new accounts opened annually that are covered by this notice, by type of financial institution, is as follows:

TABLE 1—DISTRIBUTION OF FINANCIAL INSTITUTIONS AND NEW ACCOUNTS COVERED BY THIS NOTICE, BY TYPE OF FINANCIAL INSTITUTION

Type of financial institution	Number of financial institutions	Number of new accounts opened annually
0022 Futures commission merchants and introducing brokers in commodities	954	557,000
0026 Banks	10,400	53,615,000
0033 Mutual Funds	1,400	16,150,000
0034 Brokers-dealers	3,478	28,000,000
Total	16,232	98,322,000

In connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN intends to conduct, in the future, additional assessments of the PRA burden associated with BSA requirements.

Part 2. Annual PRA Burden and Cost

For all covered financial institutions, FinCEN continues estimating the incremental annual PRA recordkeeping burden associated with maintaining and updating the CIP ("maintenance") at ten hours per financial institution. This estimate covers: (a) an average of approximately nine hours per financial institution per year associated with the

burden of updating the records necessary to demonstrate compliance with CIP requirements to take into consideration any regulatory changes and any modifications required as a result of a financial institution making changes to the type of accounts maintained, the methods used to open accounts, and the types of documentary or nondocumentary methods for verifying identifying information the financial institution intends to use; and (b) an average of approximately one hour per financial institution associated with the burden of presenting the updated CIP to the appropriate level of management within the financial institution and obtaining approval.

In addition, FinCEN continues estimating the incremental annual PRA recordkeeping burden associated with providing customers with notification of the CIP ("notification") at one hour per financial institution. FinCEN has increased the estimate of the incremental annual PRA recordkeeping burden associated with obtaining and verifying a customer's identity (*i.e.*, verification and recordkeeping requirements, and consulting government lists) ("implementation") to three minutes per new account opened.

Under these assumptions, FinCEN's estimate of the annual incremental PRA burden is 5,094,652 hours, as detailed in tables 2 and 3.

TABLE 2—INCREMENTAL ANNUAL BURDEN ASSOCIATED WITH UPDATING AND MAINTAINING THE CIP AND CUSTOMER NOTIFICATION FOR ALL COVERED FINANCIAL INSTITUTIONS

Type of financial institution	Number of financial institutions	Time per financial institution		Burden hours per step		Total burden hours
		Maintenance (hours)	Notification (hour)	Maintenance	Notification	
0022 Futures commission merchants and introducing brokers in commodities	954	10	1	9,540	954	10,494
0026 Banks	10,400	10	1	104,000	10,400	114,400
0033 Mutual Funds	1,400	10	1	14,000	1,400	15,400
0034 Brokers-dealers	3,478	10	1	34,780	3,478	38,258
Total	16,232	.....	.....	162,320	16,232	178,552

TABLE 3—INCREMENTAL ANNUAL BURDEN ASSOCIATED WITH IMPLEMENTING THE IDENTITY VERIFICATION, RECORDKEEPING, AND CONSULTING GOVERNMENT LISTS REQUIREMENTS FOR ALL COVERED FINANCIAL INSTITUTIONS

Type of financial institution	Number of financial institutions	New accounts opened per year	Time per new account (minutes)	Total burden in minutes	Total burden converted to hours
0022 Futures commission merchants and introducing brokers in commodities	954	557,000	3	1,671,000	27,850

TABLE 3—INCREMENTAL ANNUAL BURDEN ASSOCIATED WITH IMPLEMENTING THE IDENTITY VERIFICATION, RECORD-KEEPING, AND CONSULTING GOVERNMENT LISTS REQUIREMENTS FOR ALL COVERED FINANCIAL INSTITUTIONS—Continued

Type of financial institution	Number of financial institutions	New accounts opened per year	Time per new account (minutes)	Total burden in minutes	Total burden converted to hours
0026 Banks	10,400	53,615,000	3	160,845,000	2,680,750
0033 Mutual Funds	1,400	16,150,000	3	48,450,000	807,500
0034 Brokers-dealers	3,478	28,000,000	3	84,000,000	1,400,000
Total	16,232	98,322,000	.....	294,966,000	4,916,100

FinCEN is utilizing the same fully loaded composite hourly wage rate of \$106.30 utilized in other OMB control

number renewals and notices of proposed rulemakings (NPRMs) recently opened to public review and comment.

The total estimated cost of the annual PRA burden is \$541,561,508, as reflected in table 4 below:

TABLE 4—TOTAL COST OF ANNUAL PRA BURDEN

Task	Hours	Hourly cost	Total cost
Maintaining and updating the CIP (10 hours per FI)	162,320	\$106.30	\$17,254,616
Customer notification of CIP (1 hour per FI)	16,232	106.30	1,725,462
Implementing the CIP (identifying and verifying customer information, maintain records, and consulting government lists) (2 minutes per account)	4,916,100	106.30	522,581,430
Total	5,094,652	.....	\$541,561,508

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

Spencer W. Clark,
Treasury PRA Clearance Officer.

[FR Doc. 2024–19593 Filed 8–29–24; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Clean Energy Storytelling Program

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury 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. The public is invited to submit comments on this request.

DATES: Comments should be received on or before September 30, 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.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927–5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Clean Energy Storytelling Program.

OMB Control Number: 1505–NEW.

Type of Review: Request for a new OMB Control Number.

Description: Treasury’s Inflation Reduction Act Program Office proposes to establish a Clean Energy Storytelling Program that would engage the public and enable more effective communication of their Inflation Reduction Act (IRA) incentive and program-related stories.

The goal would be to increase awareness of the IRA’s tax incentives and other impacts so that more Americans, companies, and non-profits are aware of and understand the benefits now available to them, thereby promoting uptake, and the IRA’s broader purpose. Located on the Treasury.gov/IRA website, the Clean Energy Storytelling Program would feature a participation consent form and a series of questions. These forms are designed to offer a voluntary way for members of the public to share information about their experience with claiming IRA-related clean energy incentives or using IRS modernization

programs and resources, and enable Treasury officials to communicate their stories to the broader American public.

Form: Clean Energy Storytelling Program Consent and Participation Forms.

Affected Public: Individuals & Households, Businesses.

Estimated Number of Respondents: 1,000.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 1,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 500.

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

Spencer W. Clark,
Treasury PRA Clearance Officer.

[FR Doc. 2024–19474 Filed 8–29–24; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0219]

Agency Information Collection Activity: CHAMPVA Benefits—Application, Claim, Other Health Insurance, Potential Liability & Miscellaneous Expenses

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before October 29, 2024.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-specific information:

Rebecca Mimmall, 202–695–9434, vhacopra@va.gov.

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: CHAMPVA Benefits—Application, Claim, Other Health Insurance, Potential Liability & Miscellaneous Expenses.

OMB Control Number: 2900–0219. <https://www.reginfo.gov/public/do/PRASearch>. (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection.)

Type of Review: Revision of a currently approved collection.

Abstract: This information collection includes several forms, as well as a review and appeal process, which are used to administer the Civilian Health and Medical Program of the Department

of Veterans Affairs (CHAMPVA). Although the burden numbers have not changed since the last PRA clearance, the collection is being revised to include a portal for submission of the information in the 10–10d program application form, which is expected to be completed by the end of calendar year 2024. This portal will allow applicants to complete and submit VA Form 10–10d electronically rather than by submission of a hard copy form, which has been the standard application process prior to technological advancement allowing electronic submission and processing. This portal represents a separate avenue for applicants to submit VA Form 10–10d; however, it does not affect the burden of collection for applicants or VA.

VA Form 10–10d: Application for CHAMPVA Benefits

VA Form 10–7959a: CHAMPVA Claim Form

VA Form 10–7959c: CHAMPVA Other Health Insurance (OHI) Certification

VA Form 10–7959d: CHAMPVA Potential Liability Claim

VA Form 10–7959e: VA Claim for Miscellaneous Expenses

Review and Appeal Process

Clinical Review

a. VA Form 10–10d, Application for CHAMPVA Benefits, is used to determine eligibility of persons applying for healthcare benefits under the CHAMPVA program in accordance with 38 U.S.C. 501 and 1781.

b. VA Form 10–7959a, CHAMPVA Claim Form, is used to adjudicate claims for CHAMPVA benefits in accordance with 38 U.S.C. 501 and 1781, and 10 U.S.C. 1079 and 1086. This information is required for accurate adjudication and processing of beneficiary submitted claims. The claim form is also instrumental in the detection and prosecution of fraud. In addition, the claim form is the only mechanism to obtain, on an interim basis, other health insurance (OHI) information.

c. VA Form 10–7959c, CHAMPVA Other Health Insurance (OHI) Certification, is used to systematically obtain OHI information and to correctly coordinate benefits among all liable parties. Except for Medicaid and health insurance policies that are purchased exclusively for the purpose of supplementing CHAMPVA benefits, CHAMPVA is always the secondary payer of healthcare benefits (38 U.S.C. 501 and 1781, and 10 U.S.C. 1086).

d. VA Form 10–7959d, CHAMPVA Potential Liability Claim, provides basic information from which potential third

party liability can be assessed. The Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) mandates recovery of costs associated with healthcare services related to an injury/illness caused by a third party. Additional authority includes 38 U.S.C. 501; 38 CFR 1.900 *et seq.*; 10 U.S.C. 1079 and 1086; 42 U.S.C. 2651–2653; and Executive Order 9397.

e. VA Form 10–7959e, VA Claim for Miscellaneous Expenses, is used to adjudicate claims for certain children of Korea, Vietnam, and Thailand veterans authorized under 38 U.S.C., chapter 18, as amended by section 401, Public Law 106–419 and section 102, Public Law 108–183. VA's medical regulations 38 CFR part 17 (17.900 through 17.905) establish regulations regarding provision of health care for certain children of Korea, Vietnam, and Thailand veterans and women Vietnam veterans' children born with spina bifida and certain other covered birth defects. These regulations also specify the information to be included in requests for preauthorization and claims from approved health care providers.

f. Review and Appeal Process pertains to the approval of health care, or approval for payment relating to the provision of health care, under the Veteran Family Member Programs. The provisions of the Veterans Appeals Improvement and Modernization Act of 2017 (AMA, Pub. L. 115–55), chapter 51 of 38 U.S.C., or legacy claims under 38 CFR 17.277 and 38 CFR 17.904 establish a review process regarding disagreements by an eligible beneficiary of a Veteran Family Member Program, provider, veteran, or other representative of the veteran or beneficiary, with a determination concerning provision of health care or a health care provider's disagreement with a determination regarding payment. The person or entity requesting reconsideration of such determination is required to submit such a request in writing (including electronic where available). If such person or entity remains dissatisfied with the determination, the person or entity is permitted to submit a written request for additional review (VHA Notice 2024–07).

g. Clinical Review pertains to the requirement of VHA to preauthorize certain medical services under 38 CFR 17.273 and 38 CFR 17.902. Clinical review determines if services are medically necessary and appropriate to allow under the Veteran Family Member Programs. The person requesting the services must submit medical documentation or applicable supporting material for review.

Affected Public: Individuals or Households.
Estimated Annual Burden: 34,548 total hours.
VA Form 10–10d—8,963 hours.
VA Form 10–7959a—9,167 hours.
VA Form 10–7959c—8,947 hours.
VA Form 10–7959d—239 hours.
VA Form 10–7959e—200 hours.
Review and Appeal Process—6,255 hours.
Clinical Review—777 hours.
Estimated Average Burden Per Respondent:
VA Form 10–10d—10 minutes.
VA Form 10–7959a—10 minutes.
VA Form 10–7959c—10 minutes.
VA Form 10–7959d—7 minutes.
VA Form 10–7959e—15 minutes.
Review and Appeal Process—30 minutes.
Clinical Review—20 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: 180,142 total.
VA Form 10–10d—53,775.
VA Form 10–7959a—55,000.
VA Form 10–7959c—53,680.
VA Form 10–7959d—2,045.
VA Form 10–7959e—800.
Review and Appeal Process—12,510.
Clinical Review—2,332.
Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,
VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.
[FR Doc. 2024–19505 Filed 8–29–24; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatric and Gerontology Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (5 U.S.C. ch. 10), that the Geriatric and Gerontology Advisory Committee will be held virtually Tuesday, September 17–Wednesday, September 18, 2024. The meeting sessions will begin and end as shown in the following table:

Date	Time
September 17, 2024	9:00 a.m.–4:00 p.m. Eastern Daylight Time (EDT)
September 18, 2024	9:00 a.m.–12:00 noon EDT

This meeting sessions are open to the public.
The purpose of the Committee is to provide advice to the Secretary of VA and the Under Secretary for Health on

all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans, and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.
During this meeting, the Committee will receive briefings on the activities of the Office of Geriatrics and Extended Care, updates on the provision of GEC long term services and supports to Veterans, and presentations from VHA Program Offices, administrators and investigators relevant to the care of older Veterans. The meeting will also feature updates on accomplishments of the VHA Geriatric Research, Education and Clinical Centers Programs, the 20 geriatric Centers of Excellence located throughout the U.S. The specific agenda will be available by request for registered attendees prior to the meeting.
Time will be allocated for receiving public comments on September 18, 2024, at 11:00 a.m. (Eastern Daylight Time). Individuals wishing to present public comments should contact Marianne Shaughnessy, Ph.D., AGPCNP–BC, GS–C, FAAN., Designated Federal Officer, Veterans Health Administration by email at Marianne.Shaughnessy@va.gov or at 202–407–6798 no later than close of business on September 6, 2024. Only those members of the public (first 6 public comment registrants) who have confirmed registrations to present public comment will be allowed to speak at this meeting. In the interest of time, each speaker will be held to 5-minute time limit. Individuals who are unable to attend but would like to have comment included in the meeting record may send them to Marianne.Shaughnessy@va.gov by close of business on September 6, 2024. All individuals wishing to present public comments must provide a written summary of the comment for inclusion in the meeting record that includes name and organization/association of persons they represent.
Any member of the public wishing to attend virtually or seeking additional information should email Marianne.Shaughnessy@va.gov or call 202–407–6798, no later than close of business on September 6, 2024, to provide their name, professional affiliation, email address and phone number. The WebEx link for September 17, 2024: <https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=mb2cfe77035d60ecea3b7362847586a78>, meeting number

(access code): 2823 778 6846, meeting password: ZnpustA?283 or September 18, 2024: <https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m1e390eaafa645f70a4fd1e27617951d7>, meeting number (access code): 2819 443 9243, meeting password: vxRvGr6u@46 or to join by phone either day: 1–404–397–1596.
Dated: August 26, 2024.
LaTonya L. Small,
Federal Advisory Committee Management Officer.
[FR Doc. 2024–19472 Filed 8–29–24; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Tribal and Indian Affairs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10., that the Advisory Committee on Tribal and Indian Affairs will meet on September 24 through September 26, 2024 at the VA Central Office, 811 Vermont Ave NW, Washington, DC 20571. The meeting sessions will begin, and end as follows:

Dates	Times
September 24, 2024 ..	9:00 a.m. to 5:00 p.m.— Eastern Daylight Time (EDT).
September 25, 2024 ..	9:00 a.m. to 5:00 p.m. EDT.
September 26, 2024 ..	9:00 a.m. to 12:00 p.m. EDT.

The meeting sessions will be open to the public.
The purpose of the Committee is to advise the Secretary on all matters relating to Indian tribes, tribal organizations, Native Hawaiian organizations, and Native American Veterans. This includes advising the Secretary on the administration of healthcare services and benefits to American Indian/Alaska Natives (AI/AN) and Native Hawaiian Veterans; thereby assessing those needs and whether VA is meeting them.
On September 24, 2024, the agenda will include opening remarks from the Committee Chair, Executive Sponsor, and other VA officials. There will be remarks by the VA Deputy Secretary Tanya Bradsher, updates from the VA Office of Tribal Government Relations, VA Office of Tribal Health, VA Office of Behavioral Health/Suicide Prevention, panel discussions with Veteran advocates and Federal partners, and an update from the VA Tribal Representation Expansion Project. To

join virtually on Microsoft Teams: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTYyODhlZDAtNjZkYS00ODYxLTg1NDEtMjE3ZmMzNjg4ZmM1%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%227ba1f948-b5ea-400d-ac6e-5d8de1560180%22%7d. Meeting ID: 217 417 253 380. Passcode: 4vYiSX.

On September 25, 2024, the agenda will include updates from the VA Native American Direct Loan/Specially Adapted Housing programs, VA Homelessness Program, VA Office of Rural Health, VA Office of Academic Affiliation, VA Reimbursement Agreement program, VA National Cemetery Advisory Committee, Veterans Benefits Administration/Outreach, Transition, and Economic Development/PACT ACT, and the VA Office of Connected Care. There is a planned site visit to the Eisenhower Executive Office Building in the afternoon. To join virtually on Microsoft Teams: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NmM1MTZjZDMtMDI2YS00ZGRjLWJhYjQtNzEyNjgzMzYyMzk4%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%227ba1f948-b5ea-400d-ac6e-5d8de1560180%22%7d. Meeting ID: 236 281 847 48. Passcode: 7ufBwA.

On September 26, 2024, the agenda will include the health and benefits subcommittees to propose recommendations, followed by public comment from 11:00 a.m. to 12:00 p.m. To join virtually on Microsoft Teams: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MThhZTU4NzYtZGI1Mi00YjlkLTkyOTQtN2JmZDY3MDEzMDIw%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%227ba1f948-b5ea-400d-ac6e-5d8de1560180%22%7d. Meeting ID: 232 612 197 60. Passcode: N8Rd5r.

The meeting sessions will be recorded. Individuals who wish to speak during the public comment session are invited to submit a 1–2-page summary of their comments no later than September 17, 2024, for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Veronica Duncan, at Veronica.Duncan@va.gov. Any member of the public seeking additional information should contact Veronica Duncan at the email address above or by calling 202–905–7294.

Dated: August 27, 2024.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2024–19570 Filed 8–29–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Rural Health Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Veterans Rural Health Advisory Committee will hold its virtual meeting through TEAMS Channel on Monday, September 16, 2024, this is an afternoon event.

The meeting will convene at 1:00 p.m., Eastern Daylight Time (EDT) and adjourn at 5:00 p.m. (EDT). The meeting sessions are open to the public. Additionally, a meeting link is available for individuals who cannot attend in person and would like to join online. The meeting can be accessed through the Microsoft Teams link (https://teams.microsoft.com/l/meetup-join/19%3aMrht0AeJKdFsEo-ElE17AFxengr2_Qmk_VQ-q2pUQ1%40thread.tacv2/1724343214735?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%2261c0682f-c912-48e3-ac92-0284e7a48c1a%22%7d), or by telephone, +1 872–701–0185, Conference ID 49841998#.

The purpose of the Committee is to advise the Secretary of VA on rural health care issues affecting Veterans. The Committee examines programs and policies that impact the delivery of VA rural health care to Veterans and discusses ways to improve and enhance VA access to rural health care services for Veterans.

The agenda will include updates from Department leadership; the Executive Director, VA Office of Rural Health; and the Committee Chair; as well as presentations by subject-matter experts on general rural health care access.

Time will be allocated for receiving public comments on September 16, 2024, at 4:30 p.m. EDT. Interested parties should contact Mr. Paul Boucher, by email at VHAORH@va.gov, at (207) 458–7129, or send by mail to 810 Vermont Avenue NW (12RH), ATTN: VRHAC Committee, Washington, DC 20420 no later than close of business on September 6, 2024. Individuals wishing to speak are invited to submit a 1–2-page summary of their comment

for inclusion in the official meeting record no later than close of business on September 6, 2024. Any member of the public seeking additional information should contact Mr. Boucher at the email address noted above or 207–458–7129.

Dated: August 26, 2024.

LaTonya L. Small,
Federal Advisory Committee Management Officer.

[FR Doc. 2024–19515 Filed 8–29–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0166]

Agency Information Collection Activity Under OMB Review: Applications for Ordinary Life Insurance Age 65 & 70

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link <http://www.reginfo.gov/public/do/PRAMain>, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0166.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, (202) 461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for Ordinary Life Age 65 & 70, VA Form 29–8584 and VA Form 29–8485a.

OMB Control Number: 2900–0166 <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Extension of a currently approved collection.

Abstract: These forms are used by the policyholder to apply for replacement insurance for Modified Life Reduced at Age 65 and 70. The information is

required by law, 38 U.S.C. 1904. The expiration date is being added to the forms.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period

soliciting comments on this collection of information was published at 89 FR 50666, June 14, 2024, page 50666.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,284 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 15,400.

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

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–19554 Filed 8–29–24; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

Vol. 89

Friday,

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August 30, 2024

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910, 1915, 1917, et al.

Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings;
Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910, 1915, 1917, 1918, 1926, and 1928

[Docket No. OSHA–2021–0009]

RIN 1218–AD39

Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: OSHA is proposing to issue a new standard, titled *Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings*. The standard would apply to all employers conducting outdoor and indoor work in all general industry, construction, maritime, and agriculture sectors where OSHA has jurisdiction, with some exceptions. It would be a programmatic standard that would require employers to create a plan to evaluate and control heat hazards in their workplace. It would more clearly set forth employer obligations and the measures necessary to effectively protect employees from hazardous heat. OSHA requests comments on all aspects of the proposed rule.

DATES: Comments to this NPRM (including requests for a hearing) and other information must be submitted by December 30, 2024.

Informal public hearing: OSHA will schedule an informal public hearing on the proposed rule if requested during the comment period. If a hearing is requested, the location and date of the hearing, procedures for interested parties to notify the agency of their intention to participate, and procedures for participants to submit their testimony and documentary evidence will be announced in the **Federal Register**.

ADDRESSES:

Written comments: You may submit comments and attachments, identified by Docket No. OSHA–2021–0009, electronically at <https://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions. After accessing “all documents and comments” in the docket (Docket No. OSHA–2021–0009), check the “proposed rule” box in the column headed “Document Type,” find the document posted on the date of publication of this document, and click

the “Comment Now” link. When uploading multiple attachments to [regulations.gov](https://www.regulations.gov), please number all of your attachments because [regulations.gov](https://www.regulations.gov) will not automatically number the attachments. This will be very useful in identifying all attachments. For example, Attachment 1—title of your document, Attachment 2—title of your document, Attachment 3—title of your document. For assistance with commenting and uploading documents, please see the Frequently Asked Questions on [regulations.gov](https://www.regulations.gov).

Instructions: All submissions must include the agency’s name and the docket number for this rulemaking (Docket No. OSHA–2021–0009). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

Docket citations: This **Federal Register** document references material in Docket No. OSHA–2021–0009, which is the docket for this rulemaking.

Citations to documents: The docket referenced most frequently in this document is the docket for this rulemaking, docket number OSHA–2021–0009, cited as Document ID OSHA–2021–0009. Documents in the docket get an individual document identification number, for example “OSHA–2021–0009–0047.” Because this is the most frequently cited docket, the citation is shortened to indicate only the document number. The example is cited in the NPRM as “Document ID 0047.”

Documents cited in this NPRM are available in the rulemaking docket (Docket ID OSHA–2021–0009). They are available to read and download by searching the docket number or document ID number at <https://www.regulations.gov>. Each docket index lists all documents in that docket, including public comments, supporting materials, meeting transcripts, and other documents. However, some documents (e.g., copyrighted material) in the dockets are not available to read or download from that website. All documents in the dockets are available for inspection at the OSHA Docket Office. This information can be used to search for a supporting document in the docket at www.regulations.gov. Contact the OSHA Docket Office at (202) 693–2350 (TTY number: 877–889–5627) for

assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Contact Frank Meilinger, Director, OSHA Office of Communications, Occupational Safety and Health Administration; telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General information and technical inquiries: Contact Stephen Schayer, Director, Office of Physical Hazards and Others, OSHA Directorate of Standards and Guidance; telephone: (202) 693–1950; email: osha.dsg@dol.gov.

Copies of this Federal Register notice: Electronic copies are available at <https://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA’s web page at <https://www.osha.gov>.

The docket is available at <https://www.regulations.gov>, the Federal eRulemaking Portal. A “100-word summary” is also available on <https://www.regulations.gov>. For additional information on submitting items to, or accessing items in, the docket, please refer to the **ADDRESSES** section of this NPRM. Most exhibits are available at <https://www.regulations.gov>; some exhibits (e.g., copyrighted material) are not available to download from that web page. However, all materials in the dockets are available for inspection and copying at the OSHA Docket Office.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Executive Summary
- II. Pertinent Legal Authority
 - A. Introduction
 - B. Significant Risk
 - C. Feasibility
 - D. High Degree of Employee Protection
- III. Background
 - A. Introduction
 - B. Need for Proposal
 - C. Events Leading to Proposal
 - D. Other Standards
- IV. Health Effects
 - A. Introduction
 - B. General Mechanisms of Heat-Related Health Effects
 - C. Identifying Cases of Heat-Related Health Effects
 - D. Heat-Related Deaths
 - E. Heat Stroke
 - F. Heat Exhaustion
 - G. Heat Syncope
 - H. Rhabdomyolysis
 - I. Hyponatremia
 - J. Heat Cramps
 - K. Heat Rash
 - L. Heat Edema
 - M. Kidney Health Effects
 - N. Other Health Effects
 - O. Factors That Affect Risk for Heat-Related Health Effects
 - P. Heat-Related Injuries

- V. Risk Assessment
 - A. Risk Assessment
 - B. Basis for Initial and High Heat Triggers
 - C. Risk Reduction
- VI. Significance of Risk
 - A. Material Harm
 - B. Significant Risk
 - C. Preliminary Conclusions
- VII. Explanation of Proposed Requirements
 - A. Paragraph (a) Scope and Application
 - B. Paragraph (b) Definitions
 - C. Paragraph (c) Heat Injury and Illness Prevention Plan
 - D. Paragraph (d) Identifying Heat Hazards
 - E. Paragraph (e) Requirements at or Above the Initial Heat Trigger
 - F. Paragraph (f) Requirements at or Above the High Heat Trigger
 - G. Paragraph (g) Heat Illness and Emergency Response and Planning
 - H. Paragraph (h) Training
 - I. Paragraph (i) Recordkeeping
 - J. Paragraph (j) Requirements Implemented at no Cost to Employees
 - K. Paragraph (k) Dates
 - L. Paragraph (l) Severability
- VIII. Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis
 - A. Market Failure and Need for Regulation
 - B. Profile of Affected Industries
 - C. Costs of Compliance
 - D. Economic Feasibility
 - E. Benefits
 - F. Initial Regulatory Flexibility Analysis
 - G. Distributional Analysis
 - H. Appendix A. Description of the Cost Savings Approach
 - I. Appendix B. Review of Literature on Effects of Heat Exposure on Non-Health Outcomes
 - J. Appendix C. Heat Exposure Methodology Used in Distributional Analysis
 - K. Appendix D. Definitions of Core Industry Categories Used in Cost Analysis
- IX. Technological Feasibility
- X. Additional Requirements
 - A. Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*
 - B. Consultation and Coordination With Indian Tribal Governments/Executive Order 13175
 - C. Consultation With the Advisory Committee on Construction Safety and Health
 - D. Environmental Impacts
 - E. Consensus Standards
 - F. Incorporation by Reference
 - G. Protection of Children From Environmental Health Risks and Safety Risks
 - H. Federalism
 - I. Requirements for States With OSHA-Approved State Plans
 - J. OMB Review Under the Paperwork Reduction Act of 1995
- XI. Authority and Signature

I. Executive Summary

Heat is the leading cause of death among all weather-related phenomena in the United States. Excessive heat in the workplace can cause a number of adverse health effects, including heat stroke and even death, if not treated

properly. Yet, there is currently no Federal OSHA standard that regulates heat stress hazards in the workplace. Although several governmental and non-governmental organizations have published regulations and guidance to help protect workers from heat hazards, OSHA believes that a mandatory Federal standard specific to heat-related injury and illness prevention is necessary to address the hazards posed by occupational heat exposure. OSHA has preliminarily determined that this proposed rule would substantially reduce the risk posed by occupational exposure to hazardous heat by clearly setting forth employer obligations and the measures necessary to effectively protect exposed workers.

OSHA is proposing this standard pursuant to the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.* (OSH Act or Act). The Act authorizes the agency to issue safety or health standards that are “reasonably necessary or appropriate” to provide safe or healthful employment and places of employment (29 U.S.C. 652(8)). A standard is reasonably necessary or appropriate when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. Applicable legal requirements are more fully discussed in Section II., Pertinent Legal Authority.

Workers in both outdoor and indoor work settings without adequate climate controls are at risk of hazardous heat exposure. Certain heat-generating processes, machinery, and equipment (*e.g.*, hot tar ovens, furnaces) can also cause heat hazards when cooling measures are not in place. Based on the best available evidence, as discussed in this preamble, OSHA has preliminarily determined that exposure to hazardous heat in the workplace poses a significant risk of serious injury and illness. This finding of a significant risk of material harm is based on the health consequences associated with exposure to heat (see Section IV., Health Effects) as well as the risk assessment (see Section V., Risk Assessment and Section VI., Significance of Risk). In Section V.C., Risk Reduction, OSHA demonstrates the efficacy of the controls relied on in this proposed rule to reduce the risk of heat-related injury and illness in the workplace. Employees working in workplaces without these controls are at higher risk of severe health outcomes from exposure to hazardous heat.

On October 27, 2021, OSHA published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor and Indoor Work

Settings (86 FR 59309). The ANPRM outlined key issues and challenges in occupational heat-related injury and illness prevention and aimed to collect evidence, data, and information critical to informing how OSHA proceeds in the rulemaking process. The ANPRM included background information on injuries, illnesses, and fatalities due to heat, underreporting, scope, geographic region, and inequality in exposures and outcomes. The ANPRM also covered existing heat injury and illness prevention efforts including OSHA’s efforts, the National Institute for Occupational Safety and Health (NIOSH) criteria documents, State standards, and other standards.

OSHA received 965 unique public comments, which largely supported the need for continued rulemaking. The agency then worked with the National Advisory Committee on Occupational Safety and Health (NACOSH) to assemble a Heat Injury and Illness Prevention Work Group. The Work Group was tasked with evaluating stakeholder input to the ANPRM and developing recommendations on potential elements of a proposed heat injury and illness prevention standard. The Work Group presented its recommendations on potential elements of a proposed heat injury and illness prevention standard for consideration by the full NACOSH committee. On May 31, 2023, NACOSH amended the report to ask OSHA to include a model written plan and then unanimously voted to submit the Work Group’s recommendations to the Secretary of Labor.

In accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA), OSHA next convened a Small Business Advocacy Review (SBAR) Panel in August 2023. The Panel, comprised of members from the Small Business Administration’s (SBA) Office of Advocacy, OSHA, and OMB’s Office of Information and Regulatory Affairs, heard comments directly from Small Entity Representatives (SERs) on the potential impacts of a heat-specific standard. The Panel received advice and recommendations from the SERs and reported its findings and recommendations to OSHA. OSHA has taken the SER’s comments and the Panel’s findings and recommendations into consideration in the development of this proposed rule (see Section VIII.F., Initial Regulatory Flexibility Analysis).

In accordance with 29 CFR parts 1911 and 1912, OSHA also consulted with and considered feedback from the Advisory Committee on Construction

Safety and Health (ACCSH). On April 24, 2024, the Committee unanimously passed a motion recommending that OSHA proceed expeditiously with proposing a standard on heat injury and illness prevention. In addition, in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000), OSHA held a listening session on May 15, 2024, with Tribal representatives regarding this Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings rulemaking and provided an opportunity for the representatives to offer feedback.

The proposed rule is a programmatic standard that requires employers to create a heat injury and illness prevention plan to evaluate and control heat hazards in their workplace. It establishes requirements for identifying heat hazards, implementing engineering and work practice control measures at or above two heat trigger levels (*i.e.*, an initial heat trigger and a high heat trigger), developing and implementing a heat illness and emergency response plan, providing training to employees and supervisors, and retaining records. The proposed rule would apply to all employers conducting outdoor and indoor work in all general industry, construction, maritime, and agriculture sectors, with some exceptions (see Section VII.A., Paragraph (a) Scope and Application). Throughout this document, OSHA seeks input on alternatives and potential exclusions.

Organizations affected by heat hazards vary significantly in size and workplace activities. Accordingly, many of the provisions of the proposed standard provide flexibility for affected employers to choose the control measures most suited to their workplace. The flexible nature of the proposed rule may be particularly beneficial to small organizations with limited resources.

Additionally, to determine whether the proposed rule is feasible for affected employers, and in accordance with Executive Orders 12866 and 13563, the Regulatory Flexibility Act (RFA), and the Unfunded Mandates Reform Act (2 U.S.C 1501 *et seq.*), OSHA has prepared a Preliminary Economic Analysis (PEA), including an Initial Regulatory Flexibility Analysis (see Section VIII., Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis). Supporting materials prepared by OSHA are available in the public docket for this rulemaking, Document ID OSHA–2021–0009, through [regulations.gov](https://www.regulations.gov).

II. Pertinent Legal Authority

A. Introduction

In the Occupational Safety and Health Act, 29 U.S.C. 651 *et seq.*, Congress authorized the Secretary of Labor (“the Secretary”) “to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce” (29 U.S.C. 651(b)(3); see *Nat’l Fed’n of Indep. Bus. v. Dep’t of Labor*, 595 U.S. 109, 117 (2022) (*per curiam*); see also 29 U.S.C. 654(a)(2) (requiring employers to comply with OSHA standards)). Section 6(b) of the Act authorizes the promulgation, modification or revocation of occupational safety or health standards pursuant to detailed notice and comment procedures (29 U.S.C. 655(b)).

Section 3(8) of the Act defines a safety or health standard as a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes “reasonably necessary or appropriate” to provide safe or healthful employment and places of employment (29 U.S.C. 652(8)). A standard is reasonably necessary or appropriate within the meaning of section 3(8) when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk (see *Indus. Union Dep’t, AFL–CIO v. Am. Petroleum Inst.*, 448 U.S. 607 (1980) (“*Benzene*”). OSHA’s authority extends to, for example, removing workers from environments where workplace hazards exist (see, *e.g.*, *United Steelworkers of America v. Marshall*, 647 F.2d 1189, 1228–38 (D.C. Cir. 1981); 29 CFR 1910.1028(i)(8); 29 CFR 1910.1024(l); cf. *Whirlpool Corp. v. Marshall*, 445 U.S. 1, 12 (1980) (upholding regulation allowing employees to refuse dangerous work in certain circumstances because “[t]he Act does not wait for an employee to die or become injured.”)).

In addition to the requirement that each standard address a significant risk, standards must also be technologically feasible (see *UAW v. OSHA*, 37 F.3d 665, 668 (D.C. Cir. 1994)). A standard is technologically feasible when the protective measures it requires already exist, when available technology can bring the protective measures into existence, or when that technology is reasonably likely to develop (see *Am. Iron and Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991)).

Finally, a standard must be economically feasible (see *Forging Indus. Ass’n v. Secretary of Labor*, 773 F.2d 1436, 1453 (4th Cir. 1985)). A standard is economically feasible if

industry can absorb or pass on the costs of compliance without threatening its long-term profitability or competitive structure (see *American Textile Mfrs. Inst., Inc.*, 452 U.S. 490, 530 n.55 (“*Cotton Dust*”). Each of these requirements is discussed further below.

B. Significant Risk

As noted above, OSHA’s workplace safety and health standards must address a significant risk of material harm that exists in the workplace (see *Benzene*, 448 U.S. at 614–15). The agency’s risk assessments are based on the best available evidence, and its final conclusions are made only after considering all information in the rulemaking record. Reviewing courts have upheld the Secretary’s significant risk determinations where supported by substantial evidence and “a reasoned explanation for [their] policy assumptions and conclusions” (*Bldg & Constr. Trades Dep’t v. Brock*, 838 F.2d 1258, 1266 (D.C. Cir. 1988) (“*Asbestos II*”).

The Supreme Court in *Benzene* explained that “[i]t is the agency’s responsibility to determine, in the first instance, what it considers to be a ‘significant’ risk” (*Benzene*, 448 U.S. at 655). The Court declined to “express any opinion on the . . . difficult question of what factual determinations would warrant a conclusion that significant risks are present which make promulgation of a new standard reasonably necessary or appropriate” (*Benzene*, 448 U.S. at 659). The Court stated, however, that the substantial evidence standard applicable to OSHA’s significant risk determination (see 29 U.S.C. 655(b)(f)) does not require the agency “to support its finding that a significant risk exists with anything approaching scientific certainty” (*Benzene*, 448 U.S. at 656). Rather, OSHA may rely on “a body of reputable scientific thought” to which “conservative assumptions in interpreting the data” may be applied, “risking error on the side of overprotection” (*Benzene*, 448 U.S. at 656). The D.C. Circuit has further explained that OSHA may thus act with a pronounced bias towards worker safety in making its risk determinations (*Asbestos II*, 838 F.2d at 1266). The Supreme Court also recognized that the determination of what constitutes “significant risk” is “not a mathematical straitjacket” and will be “based largely on policy considerations” (*Benzene*, 448 U.S. at 655 & n.62).

Once OSHA makes its significant risk finding, the standard it promulgates must be “reasonably necessary or appropriate” to reduce or eliminate that

risk (29 U.S.C. 652(8)). In choosing among regulatory alternatives, however, “[t]he determination that [one standard] is appropriate, as opposed to a marginally [more or less protective] standard, is a technical decision entrusted to the expertise of the agency” (*Nat’l Mining Ass’n v. Mine Safety and Health Admin.*, 116 F.3d 520, 528 (D.C. Cir. 1997) (analyzing a Mine Safety and Health Administration standard under the *Benzene* significant risk standard)).

C. Feasibility

The statutory mandate to consider the feasibility of the standard encompasses both technological and economic feasibility; OSHA has performed these analyses primarily on an industry-by-industry basis (*United Steelworkers of Am., AFL-CIO-CLC v. Marshall*, 647 F.2d 1189, 1264, 1301 (D.C. Cir. 1980) (“*Lead I*”). The agency has also used application groups, defined by common tasks, as the structure for its feasibility analyses (*Pub. Citizen Health Research Grp. v. OSHA*, 557 F.3d 165, 177–79 (3d Cir. 2009)). The Supreme Court has broadly defined feasible as “capable of being done” (*Cotton Dust*, 452 U.S. at 509–10).

I. Technological Feasibility

A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be expected to be developed (*Lead I*, 647 F.2d at 1272; *Amer. Iron & Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991) (“*Lead II*”). Courts have also interpreted technological feasibility to mean that a typical firm in each affected industry or application group will reasonably be able to implement the requirements of the standard in most operations most of the time (see *Public Citizen v. OSHA*, 557 F.3d 165, 170–71 (3d Cir. 2009); *Lead I*, 647 F.2d at 1272; *Lead II*, 939 F.2d at 990)). OSHA’s standards may be “technology forcing,” so long as the agency gives an industry a reasonable amount of time to develop new technologies to comply with the standard. Thus, OSHA is not bound by the “technological status quo” (*Lead I*, 647 F.2d at 1264).

II. Economic Feasibility

In addition to technological feasibility, OSHA is required to demonstrate that its standards are economically feasible. A reviewing court will examine the cost of compliance with an OSHA standard “in relation to the financial health and profitability of the industry and the likely effect of such costs on unit

consumer prices” (*Lead I*, 647 F.2d at 1265 (citation omitted)). As articulated by the D.C. Circuit in *Lead I*, “OSHA must construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms” (*Lead I*, 647 F.2d at 1272). A reasonable estimate entails assessing “the likely range of costs and the likely effects of those costs on the industry” (*Lead I*, 647 F.2d at 1266). As with OSHA’s consideration of scientific data and control technology, however, the estimates need not be precise (*Cotton Dust*, 452 U.S. at 528–29 & n.54), as long as they are adequately explained.

OSHA standards satisfy the economic feasibility criterion even if they impose significant costs on regulated industries so long as they do not cause massive economic dislocations within a particular industry or imperil the very existence of the industry (*Lead II*, 939 F.2d at 980; see also *Lead I*, 647 F.2d at 1272; *Asbestos I*, 499 F.2d at 478). As with its other legal findings, OSHA “is not required to prove economic feasibility with certainty, but is required to use the best available evidence and to support its conclusions with substantial evidence” (*Lead II*, 939 F.2d at 980–81 (citing *Lead I*, 647 F.2d at 1267)).

In addition to determining economic feasibility, OSHA estimates the costs and benefits of its proposed and final rules to ensure compliance with other requirements such as those in Executive Orders 12866 and 13563.

D. High Degree of Employee Protection

Safety standards must provide a high degree of employee protection to be consistent with the purpose of the Act (see Control of Hazardous Energy Sources (Lockout/Tagout) Final Rule, Supplemental Statement of Reasons, 58 FR 16612, 16614–15 (March 30, 1993)). OSHA has preliminarily determined that this proposed standard is a safety standard because the health effects associated with exposure to occupational heat are generally acute. As explained in Section IV., Health Effects, the proposed standard aims to address the numerous acute health effects of occupational exposure to hazardous heat. These include, among other things, heat stroke, heat exhaustion, heat syncope, and physical injuries (e.g., falls) due to fatigue or other heat-related impairments. These harms occur after relatively short-term exposures to hazardous heat and are typically apparent at the time of the exposure or shortly thereafter.

Consequently, the link between these harms and heat exposures is also often apparent and they do not implicate the concerns about latent, hidden harms that underly health standards (see *Benzene*, 448 U.S. at 649 n. 54; *UAW v. OSHA*, 938 F.2d 1310, 1313 (D.C. Cir. 1991) (“*Lockout/Tagout I*”); *National Grain & Feed Ass’n v. OSHA*, 866 F.2d 717, 733 (5th Cir. 1989) (“*Grain Dust*”).

Finally, although OSHA acknowledges that there is growing evidence occupational exposure to hazardous heat may lead to some chronic adverse health outcomes like chronic kidney disease, much of the science in this area is still developing (see Section IV., Health Effects). In any event, the agency expects that addressing the acute hazards posed by heat would also protect workers from potential chronic health outcomes by reducing workers’ overall heat strain.

III. Background

A. Introduction

The Occupational Safety and Health Administration (OSHA) is proposing a new standard to protect outdoor and indoor workers from hazardous heat in the workplace. OSHA promulgates and enforces occupational safety and health standards under authority granted by the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*).

In the absence of a Federal occupational heat standard, five States have issued heat injury and illness prevention regulations to protect employees exposed to heat hazards in the workplace: Minnesota (Minn. R. 5205.0110 (1997)); California (Cal. Code of Regs. tit. 8, section 3395 (2005)); Oregon (Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022)); Colorado (7 Colo. Code Regs. section 1103–15 (2022)); and Washington (Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023)). Although Minnesota was the first State to adopt a standard covering employees exposed to indoor environmental heat conditions, California was the first State to adopt a standard covering employees exposed to outdoor environmental heat conditions. Washington, Oregon, and Colorado have since enacted similar regulations to California’s, requiring employers to implement controls and monitor for signs and symptoms of heat-related injury or illness, among other requirements. In 2023, California proposed a new standard that would cover indoor work environments (California, 2023). In 2024, Maryland

published a proposed standard that would cover both outdoor and indoor work environments (Maryland, 2024).

Workers in many industries are at risk for heat-related injury and illness stemming from hazardous heat exposure (see Section V.A., Risk Assessment). While the general population may be able to avoid and limit prolonged heat exposure, workers across a wide range of indoor and outdoor settings often are required to work through shifts with prolonged heat exposure. Some workplaces have heat generation from industrial processes and expose workers to sources of radiant heat, such as ovens and furnaces. Additionally, employers may not take adequate steps to protect their employees from exposure to hazardous heat (e.g., not providing rest breaks in cool areas). Many work operations also require the use of personal protective equipment (PPE) that can reduce the worker's heat tolerance because it can decrease the body's ability to cool down. Workers may also face pressure, or incentivization through pay structures, to push through and continue working despite high heat exposure, which can increase the risk of heat-related injury and illness (Billikopf and Norton, 1992; Johansson et al., 2010; Spector et al., 2015; Pan et al., 2021).

OSHA uses several terms related to excessive heat exposure throughout this proposal. Heat stress is the combined load of heat that a person experiences from sources of heat (*i.e.*, metabolic heat and the environment) and heat retention (e.g., from clothing or personal protective equipment). Heat strain refers to the body's response to heat stress (American Conference of Governmental Industrial Hygienists (ACGIH), 2023). Heat-related illness means adverse clinical health outcomes that occur due to heat exposure, such as heat exhaustion or heat stroke. Heat-related injury means an injury linked to heat exposure, such as a fall or cut. OSHA sometimes refers to these collectively as "heat-related injuries and illnesses."

B. Need for Proposal

Occupational heat exposure affects millions of workers in the United States. Each year, thousands of workers experience heat-related injuries and illnesses, and some of these cases result in fatalities (BLS, 2023b; BLS, 2024c). OSHA has relied on the General Duty Clause of the OSH Act (discussed further below), as well as enforcement emphasis programs and hazard alerts and other guidance, to protect workers and inform employers of their legal obligations. However, a standard specific to heat-related injury and

illness prevention would more clearly set forth enforceable employer obligations and the measures necessary to effectively protect employees from hazardous heat.

Workers in both outdoor and indoor work settings without adequate climate controls are at risk of hazardous heat exposure. In addition to weather-related heat, certain heat-generating processes, machinery, and equipment (e.g., hot tar ovens, furnaces) can cause hazardous heat exposure when cooling measures are not in place. An evaluation of 66 heat-related illness enforcement investigations from 2011–2016 found heat-related injuries and illnesses, including fatalities, occurring in both outdoor (n=34) and indoor (n=29) work environments (Tustin et al., 2018a). Excessive heat exacerbates existing health conditions like asthma, diabetes, kidney failure, and heart disease, and can cause heat stroke and death if not treated properly and promptly. Some groups may be more likely to experience adverse health effects from heat, such as pregnant workers (NIOSH, 2024), while others are disproportionately exposed to hazardous levels of heat, such as workers of color in essential jobs, who are more often employed in work settings with a high risk of hazardous heat exposure (Gubernot et al., 2015).

The Bureau of Labor Statistics (BLS), in its Census of Fatal Occupational Injuries, documented 1,042 U.S. worker deaths due to occupational exposure to environmental heat from 1992–2022, with an average of 34 fatalities per year during that period (BLS, 2024c). In 2022 alone, BLS reported 43 work-related deaths due to environmental heat exposure (BLS, 2024c). The BLS Annual Survey of Occupational Injuries and Illnesses (SOII) estimates 33,890 work-related heat injuries and illnesses involving days away from work from 2011–2020, which is an average of 3,389 injuries and illnesses occurring each year during this period (BLS, 2023b).

Workers across hundreds of industries are at risk for hazardous heat exposure and resulting heat-related injuries and illnesses. From January 1, 2017, to December 31, 2022, 1,054 heat-related injuries, illnesses, and fatalities were reported to and investigated by OSHA, including 625 heat-related hospitalizations and 211 heat-related fatalities, as well as 218 heat-related injuries and illnesses that did not result in hospitalization. During this time, hospitalizations occurred most frequently in construction, manufacturing, and postal and delivery service. Fatalities were most frequently reported in construction, landscaping, agriculture, manufacturing, and postal

and delivery service (as identified by 2-digit NAICS codes).

However, as explained in Section V.A., Risk Assessment, these statistics likely do not capture the true magnitude and prevalence of heat-related injuries, illnesses, and fatalities. Recent studies demonstrate significant undercounting of occupational injuries and illnesses by both the BLS SOII and OSHA's enforcement data. One reason for this undercounting is that the BLS SOII only reports the number of heat-related injuries and illnesses involving days away from work and thus does not capture the full picture of heat-related injuries and illnesses. An examination of workers' compensation claims in California, which include more than only cases involving days away from work, identified 3 to 6 times the number of annual heat-related illness and injury cases than reported by BLS SOII (Heinzerling et al., 2020). In addition, evidence has shown significant underreporting as employers and employees are disincentivized from reporting injuries and illnesses due to several factors, including potential increases in workers' compensation costs or impacts on the employer's reputation, or an employee's fear of retaliation or lack of awareness of their right to speak out about workplace conditions (BLS, 2020b).

Heat-related injuries and illnesses may present unique challenges to surveillance efforts. As the nature of heat-related symptoms (e.g., headache, fatigue) vary, some cases may be attributed to other illnesses rather than heat (as discussed in Section IV., Health Effects). Furthermore, heat is not always identified as a contributing factor to fatality, as heat exposure may exacerbate existing medical conditions and medical professionals may not witness the symptoms and events preceding death (Luber et al., 2006).

Finally, exposure to heat can interfere with routine occupational tasks and impact workers' psychomotor and mental performance, which can lead to workplace injuries. Particularly, heat can impair performance of job tasks related to complex cognitive function (Hancock and Vasmatazidis, 2003; Piil et al., 2017) and reduce decision making abilities (Ramsey et al., 1983; Xiang et al., 2014a) and productivity (Foster et al., 2021). A growing body of evidence has demonstrated that heat-induced impairments may result in significant occupational injuries that are not currently factored into official statistics for heat-related cases (Spector et al., 2016; Calkins et al., 2019; Dillender, 2021; Park et al., 2021). See Section V.A., Risk Assessment, for further

discussion on underreporting of heat-related injuries, illnesses, and fatalities.

While a significant percentage of heat-related incidents are unreported, OSHA's investigations of reported heat-related fatalities point to many gaps in employee protections. OSHA has identified the following circumstances in its review of 211 heat-related fatality investigations from 2017–2022: employees left alone by employers after symptoms started; employers not providing adequate medical attention to employees with symptoms; employers preventing employees from taking rest breaks; employers not providing water on-site; employers not providing on-site access to shade; employers not providing cooling measures on-site; and employers not having programs to acclimatize employees to hot work environments (<https://www.osha.gov/fatalities>). OSHA has relied on multiple mechanisms to protect employees from hazardous heat, however, OSHA's efforts to prevent the aforementioned circumstances have been met with challenges without a heat-specific standard (as discussed in Section III.C.III., OSHA's Heat-Related Enforcement).

Many U.S. States run their own OSHA-approved State Plans (e.g., State heat standards, voluntary consensus standards) (see Section III.D., Other Standards), however OSHA has preliminarily determined that this standard is still needed to protect workers from the persistent and serious hazards posed by occupational heat exposure. As explained in Section VI., Significance of Risk, OSHA has preliminarily determined that a significant risk of material harm from occupational exposure to hazardous heat exists, and issuance of this standard would substantially reduce that risk. Therefore, to more clearly set forth employer obligations and the measures necessary to more effectively protect employees from hazardous heat, and reduce the number and frequency of occupational injuries, illness, and fatalities caused by exposure to hazardous heat, OSHA is proposing a Federal standard for Heat Injury and Illness Prevention for Outdoor and Indoor Work Settings.

C. Events Leading to the Proposal

I. History of Heat as a Recognized Occupational Hazard

Heat exposure has long been recognized as an occupational hazard. For example, in the United States, the occupational hazards associated with the construction of the Hoover Dam between 1931 and 1935 brought

attention to the effects of heat on worker health. The Bureau of Reclamation reported that 14 dam workers and two others residing in the work area died from “heat prostration” in 1931 (Bureau of Reclamation, 2015). According to a local newspaper, temperatures at the dam site that summer reached 140 °F in the sun and 120 °F in the shade (Turk, 2018; Rogers, 2012). In response to the extreme heat of the summer and other unsafe working conditions, the Industrial Workers of the World convinced Hoover Dam workers to strike over safety concerns (Turk, 2018; Rogers, 2012). Six Companies, the conglomerate of companies hired by the Bureau of Reclamation to construct most of the dam, was forced to make concessions, including protections against HRI such as providing potable water in dormitories, bringing ice water to workers at their work sites, and adding first aid stations closer to the job site (Rogers, 2012). The heat-related deaths that occurred during 1931 also prompted Harvard University researchers from the Harvard Fatigue Laboratory to travel to the Hoover Dam and study the relationship between hot, dry temperatures, physical performance, and heart rate (Turk, 2018).

Heat-related illnesses were identified as a major concern for the U.S. military in the 1940s and 1950s. Between 1942 and 1944, 198 soldiers died of heat stroke at U.S.-based training camps, 157 of which did not have a known history of cardiac diseases or other conditions that may predispose them to heat illness (Schickele, 1947, p. 236). This led to investigations of the environmental conditions at the time of these deaths, and eventually to the development of wet bulb globe temperature (WBGT) to measure heat stress (Yaglou and Minard, 1957; Minard, 1961; Department of the Army, 2022; Department of the Navy, 2023).

Research on the effects of occupational heat exposure continued in the 1960s, as researchers conducted trials examining the physiological effects of work at various temperatures (e.g., Lind, 1963). Findings from these trials would eventually underpin the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV), as well as the National Institute of Occupational Safety and Health (NIOSH) Recommended Exposure Limit (REL) (Dukes-Dobos and Henschel, 1973). ACGIH first proposed guidelines for a TLV in 1971, which were later adopted in 1974.

Heat was recognized as a preventable workplace hazard in the legislative history of the OSH Act. Senator

Edmund Muskie submitted a letter in support of the OSH Act into the Congressional record on behalf of “a distinguished group of citizens, including a former Secretary of Labor and several noted scientists.” (Senate Debate on S. 2193, Nov. 16, 1970), reprinted in Legislative History of the Occupational Safety and Health Act of 1970, pp. 513–14 (1971) (Committee Print) (“Leg. Hist.”). The letter states, “Most industrial diseases and accidents are preventable. Modern technological and medical sciences are capable of solving the problems of noise, dust, heat, fumes, and toxic substances in the plants. However, existing legislation in this area does not begin to meet the problems” (Leg. Hist., pp. 513–14).

In 1972, just two years after promulgation of the OSH Act, NIOSH first recommended a potential OSHA heat standard in its *Criteria for a Recommended Standard* (NIOSH, 1972). This criteria document, issued under the authority of section 20(a) of the OSH Act, recommended an OSHA standard based on a critical review of scientific and technical information. In response, an OSHA Standards Advisory Committee on Heat Stress was appointed in 1973 and presented recommendations for a standard for work in hot environments in 1974. At the time, 12 of 15 members of the advisory committee agreed that occupational heat stress warranted a standard (Ramsey, 1975).

NIOSH's criteria document for a recommended standard has since been updated in 1986 (NIOSH, 1986) and again in 2016 (NIOSH, 2016). The 2016 criteria document recommends various provisions to protect workers from heat stress, including rest breaks, hydration, shade, acclimatization plans, and worker training (NIOSH, 2016). The 2016 criteria document also recommends that no worker be “exposed to combinations of metabolic and environmental heat greater than” the recommended alert limit (RAL) for unacclimatized workers or the recommended exposure limit (REL) for acclimatized workers). The document recommends that environmental heat be assessed with measurements of WBGT (NIOSH, 2016).

A detailed report of the history of heat as a recognized occupational hazard is available in the docket (ERG, 2024a). The report summarizes historical documentation of occupational heat-related illness beginning in ancient times and from the eighteenth century through the regulatory interest in the twentieth century.

II. OSHA's Heat Injury and Illness Prevention Efforts

In 2011, OSHA issued a memorandum to inform regional administrators and State Plan designees of inspection guidance for heat-related illnesses (OSHA, 2011). That same year, OSHA launched the Heat Illness Prevention Campaign (<https://www.osha.gov/heat>) to build awareness of prevention strategies and tools for employers and workers to reduce occupational heat-related illness. In its original form, the Campaign delivered a message of "Water. Rest. Shade." The agency updated Campaign materials in 2021 to recognize both indoor and outdoor heat hazards, as well as the importance of protecting new and returning workers from hazardous heat with an acclimatization period.

In addition, OSHA maintains on its website a Heat Topics page on workplace heat exposure (<https://www.osha.gov/heat-exposure/>), which provides additional information and resources. The page provides information on planning and supervision in hot work environments, identification of heat-related illness and first aid, information on prevention such as training, calculating heat stress and controls, personal risk factors, descriptions of other heat standards and case study examples of situations where workers developed heat-related illness. OSHA and NIOSH also co-developed a Heat Safety Tool Smartphone App for both Android and iPhone devices (see www.osha.gov/heat/heat-app). The app provides outdoor, location-specific temperature, humidity, and heat index (HI) readings. Measurements for indoor work sites must be collected and manually entered into the app by the user for accurate calculations. The app also provides relevant information on identifying signs and symptoms of heat-related illness and steps to prevent heat-related injuries and illnesses. Despite the strengths and reach of the Campaign, Heat Topics page, and Heat Safety Tool App, these guidance and communication materials are not legally enforceable requirements.

III. OSHA's Heat-Related Enforcement

Without a specific standard governing hazardous heat conditions at workplaces, the agency currently enforces section 5(a)(1) (the General Duty Clause) of the OSH Act against employers that expose their workers to this recognized hazard. Section 5(a)(1) states that employers have a general duty to furnish to each of their employees "employment and a place of employment which are free from

recognized hazards that are causing or are likely to cause death or serious physical harm" to employees (29 U.S.C. 654(a)(1)). To prove a violation of the General Duty Clause, OSHA must establish—in each individual case—that: (1) the employer failed to keep the workplace free of a hazard to which its employees were exposed; (2) the hazard was recognized; (3) the hazard was causing or likely to cause death or serious injury; and (4) a feasible means to eliminate or materially reduce the hazard existed (see, e.g., *A.H. Sturgill Roofing, Inc.*, 2019 O.S.H. Dec. (CCH) ¶ 33712, 2019 WL 1099857 (No. 13–0224, 2019)).

OSHA has relied on the General Duty Clause to cite employers for heat-related hazards for decades (see, e.g., *Duriron Co.*, 11 BNA OSHC 1405, 1983 WL 23869 (No. 77–2847, 1983), *aff'd*, 750 F.2d 28 (6th Cir. 1984)). According to available OSHA enforcement data, between 1986 and 2023, Federal OSHA issued at least 348 hazardous heat-related citations under the General Duty Clause. Of these citations, 85 were issued between 1986–2000 (OSHA, 2024b). Citations were identified using multiple queries of OSHA enforcement data and then manually reviewed to ensure the inclusion of only citations due to heat exposure and no other exposures (e.g., burns or explosions). Several keywords were utilized to filter the data for inclusion (e.g., "heat," "heat stress," "heat illness," "WBGT") and exclusion (e.g., "explosion," "flash," "electrical burn," "fire"). Due to limitations of the data set on which OSHA relied, OSHA did not have access to violation text descriptions of citations issued before the mid-1980s and thus did not determine how many are related to heat exposure prior to this time period. Additionally, over half of the citations from 1986–1989 are missing violation text descriptions, which likely resulted in an undercount of heat-related citations.

OSHA has used its general inspection authority (29 U.S.C. 657) to target heat-related injuries and illnesses in various Regional Emphasis Programs (REPs). OSHA enforcement emphasis programs focus the agency's resources on particular hazards or high-hazard industries (see *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 321 (1978) (affirming OSHA's use of an administrative plan containing specific neutral criteria to focus inspections)). OSHA's Region VI regional office, located in Dallas, TX, has a heat-related special REP (OSHA, 2019). This region covers Texas, New Mexico, Oklahoma, Arkansas, and Louisiana. OSHA's Region IX regional office, located in San Francisco, CA,

also has a heat-related REP (OSHA, 2022). This region covers American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands. These REPs allow field staff to conduct heat illness inspections of outdoor work activities on days when the high temperature is forecasted to be above 80 °F.

On September 1, 2021, OSHA issued updated Inspection Guidance for Heat-Related Hazards, which established a new enforcement initiative to protect employees from heat-related injuries and illnesses while working in hazardous hot indoor and outdoor environments (OSHA, 2021). The guidance provided that days when the heat index exceeds 80 °F would be considered heat priority days. It announced that enforcement efforts would be increased on heat priority days for a variety of indoor and outdoor industries, with the aim of identifying and mitigating potential hazards and preventing heat-illnesses before they occur.

In April 2022, OSHA launched a National Emphasis Program (NEP) to protect employees from heat-related hazards and resulting injuries and illnesses in outdoor and indoor workplaces. The NEP expanded the agency's ongoing heat-related injury and illness prevention initiatives and campaign by setting forth a targeted enforcement component and reiterating its compliance assistance and outreach efforts. The NEP targets specific industries expected to have the highest exposures to heat-related hazards and resulting illnesses and deaths. This approach is intended to encourage early interventions by employers to prevent illnesses and deaths among workers during high heat conditions (CPL 03–00–024). As of June 26, 2024, OSHA has conducted 5,038 Heat NEP Federal inspections. More than 1,229 of these were initiated by complaints and 117 were due to the occurrence of a fatality or catastrophe. As a result of these inspections, OSHA issued 56 General Duty Clause citations and 736 Hazard Alert Letters (HALs). Inspections occurred across various industries (as identified by 2-digit NAICS codes) including construction, which had the highest number of inspections, as well as manufacturing, maritime, agriculture, transportation, warehousing, food services, waste management, and remediation services.

On July 27, 2023, OSHA issued a heat hazard alert to remind employers of their obligation to protect workers against heat injury and illness in outdoor and indoor workplaces. The alert highlights what employers can and

should be doing to protect employees. It also serves to remind employees of their rights, including protections against retaliation. In addition, the alert highlights steps OSHA is currently taking to protect workers and directs employers, employees, and the public to OSHA resources, including guidance and fact sheets on heat.

OSHA's efforts to protect employees from hazardous heat conditions using the General Duty Clause, although important, have limitations leaving many workers vulnerable to heat-related hazards. For example, the Commission has struggled to determine exactly what conditions create a recognized heat hazard under the General Duty Clause, and has therefore suggested the necessity of a standard (see, A.H. Sturgill Roofing, Inc., 2019 OSHD (CCH) ¶ 33712, 2019 WL 1099857, at *2–5 and n.8 (No. 13–0224, 2019) (“The Secretary’s failure to establish the existence of an excessive heat hazard here illustrates the difficulty in addressing this issue in the absence of an OSHA standard.”); U.S. Postal Service, 2023 OSHD (CCH) ¶ 33908, 2023 WL 2263313, at *3 n.7 (Nos. 16–1713, 16–1872, 17–0023, 17–0279, 2023) (noting Commissioner Laihow’s opinion that “A myriad of factors, such as the geographical area where the work is being performed and the nature of the tasks involved, can impact” whether excessive heat is present, and indicating that a standard is therefore necessary to define the hazard)).

Under the General Duty Clause, OSHA cannot require abatement before proving in an enforcement proceeding that specific workplace conditions are hazardous; whereas a standard would establish the existence of the hazard at the rulemaking stage, thus allowing OSHA to identify and require specific abatement measures without having to prove the existence of a hazard in each case (see *Sanderson Farms, Inc. v. Perez*, 811 F.3d 730, 735 (5th Cir. 2016) (“Since OSHA is required to determine that there is a hazard before issuing a standard, the Secretary is not ordinarily required to prove the existence of a hazard each time a standard is enforced.”)). Given OSHA’s burden under the General Duty Clause, it is currently difficult for OSHA to ensure necessary abatement before employee lives and health are unnecessarily endangered. Further, under the General Duty Clause OSHA must largely rely on expert witness testimony to prove both the existence of a hazard and the availability of feasible abatement measures that will materially reduce or eliminate the hazard in each individual case (see, e.g., *Industrial Glass*, 15 BNA

OSHC 1594, 1992 WL 88787, at *4–7 (No. 88–348, 1992)).

Moreover, as OSHA has noted in similar contexts, standards have the advantage of providing greater clarity to employers and employees of the measures required to protect employees and are developed with the benefit of information gathered in the notice and comment process (see 86 FR 32376, 32418 (Jun. 21, 2021) (COVID–19 Healthcare ETS); 56 FR 64004, 64007 (Dec. 6, 1991) (Bloodborne Pathogens Standard)).

OSHA currently has other existing standards that, while applicable to some issues related to hazardous heat, have not proven to be adequate in protecting workers from exposure to hazardous heat. For example, OSHA’s Recordkeeping standard (29 CFR 1904.7) requires employers to record and report injuries and illnesses that meet recording criteria. Additionally, the agency’s Sanitation standards (29 CFR 1910.141, 1915.88, 1917.127, 1926.51, and 1928.110) require employers to provide potable water readily accessible to workers. While these standards require that drinking water be made available in “sufficient amounts,” they do not specify quantities, and employers are not required to encourage workers to frequently hydrate on hot days.

OSHA’s Safety Training and Education standard (29 CFR 1926.21) requires employers in the construction industry to train employees in the recognition, avoidance, and prevention of unsafe conditions in their workplaces. OSHA’s PPE standards (29 CFR 1910.132, 1915.152, 1917.95, and 1926.28) require employers to conduct a hazard assessment to determine the appropriate PPE to be used to protect employees from the hazards identified in the assessment. However, hazardous heat is not specifically identified as a hazard for which workers need training or PPE, complicating the application of these requirements to hazardous heat.

IV. Rulemaking Activities Leading to This Proposal

OSHA has received multiple petitions to promulgate a heat injury and illness prevention standard, including in 2018 from Public Citizen, on behalf of approximately 130 organizations (Public Citizen et al., 2018). OSHA has also been urged by members of Congress to initiate rulemaking for a Federal heat standard, as well as by the Attorneys General of several States in 2023.

On October 27, 2021, OSHA published an advance notice of proposed rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor

and Indoor Work Settings in the **Federal Register** (86 FR 59309) (referred to as “the ANPRM” hereafter). The ANPRM outlined key issues and challenges in occupational heat-related injury and illness prevention and aimed to collect evidence, data, and information critical to informing how OSHA proceeds in the rulemaking process. The ANPRM included background information on injuries, illnesses, and fatalities due to heat, underreporting, scope, geographic region, and inequality in exposures and outcomes. The ANPRM also covered existing heat injury and illness prevention efforts, including OSHA’s efforts, the NIOSH criteria documents, State standards, and other standards. The initial public comment period was extended and closed on January 26, 2022. In response to the ANPRM, OSHA received 965 unique comments. The comments covered several topics, including the scope of a standard, heat stress thresholds for workers across various industries, heat acclimatization planning, and heat exposure monitoring, as well as the nature, types, and effectiveness of controls that may be required as part of a standard.

Following the publication of the ANPRM, OSHA presented topics from the ANPRM and updates on the heat rulemaking to several stakeholders, including several trade associations, the Office of Advocacy of the Small Business Administration’s (SBA’s Office of Advocacy) Labor Safety Roundtable (November 19, 2021), and NIOSH National Occupational Research Agenda (NORA) councils, including the Construction Sector Council (November 17, 2021), Landscaping Safety Workgroup (January 12, 2022), and Oil and Gas Extraction Sector (April 7, 2022).

On May 3, 2022, OSHA held a virtual public stakeholder meeting on the agency’s “Initiatives to Protect Workers from Heat-Related Hazards.” A total of over 1,300 people attended the virtual meeting, and the recorded video has been viewed over 3,500 times (see www.youtube.com/watch?v=Ud29WsnsOw8) as of June 2024. The six-hour meeting provided stakeholders an opportunity to learn about and comment on efforts OSHA is taking to protect workers from heat-related hazards and ways the public can participate in the agency’s rulemaking process.

OSHA also established a Heat Injury and Illness Prevention Work Group of the National Advisory Committee on Occupational Safety and Health (NACOSH) to support the agency’s rulemaking and outreach efforts. The Work Group was tasked with reviewing

and developing recommendations on OSHA's heat illness prevention guidance materials, evaluating stakeholder input, and developing recommendations on potential elements of any proposed heat injury and illness prevention standard. On May 31, 2023, the Work Group presented its recommendations on potential elements of a proposed heat injury and illness prevention standard for consideration by the full NACOSH committee. The Work Group recommended that any proposed heat injury and illness prevention standard include: a written exposure control plan/heat illness prevention plan; training; environmental monitoring; workplace control measures; acclimatization; worker participation; and emergency response (Document ID OSHA–2023–0003–0007). After deliberations, NACOSH amended the report to ask OSHA to include a model written plan and then submitted its recommendations to the Secretary of Labor (Document ID OSHA–2023–0003–0012).

As an initial rulemaking step, OSHA convened a Small Business Advocacy Review Panel (SBAR Panel) on August 25, 2023, in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996. This SBAR Panel consisted of members from OSHA, SBA's Office of Advocacy, and the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget (OMB). The SBAR Panel identifies individual representatives of affected small entities, termed small entity representatives (SERs), which includes small businesses, small local government entities, and non-profits. This process enabled OSHA, with the assistance of SBA's Office of Advocacy and OIRA, to obtain advice and recommendations from SERs about the potential impacts of the regulatory options outlined in the regulatory framework and about additional options or alternatives to the regulatory framework that may alleviate those impacts while still meeting the objectives and requirements of the OSH Act.

The SBAR Panel hosted six online meetings on September 9, 12, 13, 14, 18, and 19, 2023, with participation from a total of 82 SERs from a wide range of industries. A final report containing the findings, advice, and recommendations of the SBAR Panel was submitted to the Assistant Secretary of Labor for Occupational Safety and Health on November 3, 2023, to help inform the

agency's decision making with respect to this rulemaking (Document ID OSHA–2021–0009–1059).

In accordance with 29 CFR parts 1911 and 1912, OSHA presented to the Advisory Committee on Construction Safety and Health (ACCSH) on its framework for a proposed rule for heat injury and illness prevention in outdoor and indoor work settings on April 24, 2024. The Committee then passed unanimously a motion recommending that OSHA proceed expeditiously with proposing a standard on heat injury and illness prevention. The Committee also recommended that OSHA consider the feedback and questions discussed by Committee members during the meeting in formulating the proposed rule (see the minutes from the meeting, Docket No. 2024–0002). OSHA has considered the Committee's feedback in the development of this proposal.

In accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000), OSHA held a listening session with Tribal representatives regarding this Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings rulemaking on May 15, 2024. OSHA provided an overview of the rulemaking effort and sought comment on what, if any, tribal implications would result from the rulemaking. A summary of the meeting and list of attendees can be viewed in the docket (DOL, 2024a).

D. Other Standards

Various other organizations have also either identified the need for standards to prevent occupational heat-related injury and illness or published their own standards. In 2024, the American National Standards Institute/American Society of Safety Professionals A10 Committee (ANSI/ASSP) published a consensus standard on heat stress management in construction and demolition operations. The International Organization for Standardization (ISO) also has a standard for evaluating heat stress: ISO 7243: Ergonomics of the thermal environments—Assessment of heat stress using the WBGT (wet bulb globe temperature) index (ISO, 2017). ISO 7243 uses WBGT values, along with metabolic rate, to assess hot environments, similar to ACGIH and NIOSH recommendations. Additional ISO standards address predicting sweat rate and core temperature (ISO 7933), and determining metabolic rate (ISO 8996), physiological strain (ISO 9886), and thermal characteristics for clothing (ISO 9920). In 2021, the American Society for Testing and Materials

(ASTM) finalized its Standard Guide for Managing Heat Stress and Heat Strain in Foundries (E3279–21) which establishes “best practices for recognizing and managing occupational heat stress and heat strain in foundry environments.” The standard outlines employer responsibilities and recommends elements for a “Heat Stress and Heat Strain Management Program” (ASTM, 2021).

ACGIH has identified TLVs for heat stress (ACGIH, 2023). The TLVs utilize WBGT and take into consideration metabolic rate or workload categories. Additionally, ACGIH provides clothing adjustment factors which are added to the measured WBGT for certain types of work clothing to account for the impaired thermal regulation.

The U.S. Armed Forces has developed extensive heat-related illness prevention and management strategies. The Warrior Heat and Exertion Related Events Collaborative is a tri-service group of military leaders focused on clinical, educational, and research efforts related to exercise and exertional heat-related illnesses and medical emergencies (HPRC, 2023). The U.S. Army has a Heat Center at Fort Benning which focuses on management, research, and prevention of heat-related illness and death (Galer, 2019). In 2023, the U.S. Army updated its Training and Doctrine Command (TRADOC) Regulation 350–29 addressing heat and cold casualties. The regulation includes requirements for rest and water consumption according to specific WBGT levels and work intensity (Department of the Army, 2023). The U.S. Navy has developed Physiological Heat Exposure Limit curves that are based on metabolic and environmental heat loads and represent the maximum allowable heat exposure limits, which were most recently updated in 2023. The Navy monitors WBGT and has guidelines based on these measurements, with physical training diminishing as WBGTs increase and all nonessential outdoor activity stopped when WBGTs exceed 90 °F (Department of the Navy, 2023). The U.S. Marine Corps follows the Navy's guidelines for implementation of the Marine Corps Heat Injury Prevention Program (Commandant of the Marine Corps, 2002). In 2022, the U.S. Army and U.S. Air Force issued an update to their technical heat stress bulletin, which outlines measures to prevent indoor and outdoor heat-related illness in soldiers. The bulletin includes recommended acclimatization planning, work-rest cycles, fluid and electrolyte replacement, and limitations on work based on WBGT (Department of the Army, 2022).

As of April 2024, five States have promulgated heat standards requiring employers in various industries and workplace settings to implement protections to reduce the risk of heat-related injuries and illnesses for their employees: California, Minnesota, Oregon, Washington, and Colorado. In addition, Maryland and California are currently engaged in rulemaking. State standards differ in the scope of coverage (see tables III–1 and 2). For example, Minnesota’s standard covers only indoor workplaces. California and Washington standards cover only outdoor workplaces, although California’s proposal would include coverage of indoor workplaces. Oregon’s rule covers both indoor and outdoor workplaces. State rules also differ in the methods used for triggering protections against hazardous heat. Minnesota’s standard considers the type of work being performed (light, moderate, or heavy) and provides WBGT trigger levels based on the type of work activity. California’s heat-illness prevention protections go into effect at

an ambient temperature of 80 °F. Washington’s rule also relies on ambient temperature readings combined with considerations for the breathability of workers’ clothing. Oregon’s rule uses a heat index 80 °F as a trigger.

California, Washington, Colorado, and Oregon all have additional protections that are triggered by high heat. However, they differ as to the trigger for these additional protections. In California, high heat protections are triggered at an ambient temperature reading of 95 °F (and only apply in certain industries). In Washington, high heat protections are triggered at an ambient temperature reading of 90 °F. In Colorado, additional protections are triggered at an ambient temperature reading of 95 °F or by other factors such as unhealthy air quality, length of workday, heaviness of clothing or gear, and acclimatization status. These additional protections only apply to the agricultural industry. Finally, in Oregon, high heat protections are triggered at a heat index of 90 °F.

All the State standards require training for employees and supervisors.

All the State standards, except for Minnesota, require employers to provide at least one quart of water per hour for each employee, require some form of emergency response plan, include provisions related to acclimatization for workers, and require access to shaded break areas. Washington and Oregon require that employers provide training in a language that the workers understand. Similarly, California’s standard requires that employers create a written heat-illness prevention plan in English as well as in whatever other language is understood by the majority of workers at a given workplace. California also requires close monitoring of new employees for the first fourteen days and monitoring of all employees during a heat wave. Table III–1 below provides an overview of the provisions included in the existing and proposed State standards on heat injury and illness prevention. Table III–2 provides an overview of the additional provisions required when the high heat trigger is met or exceeded.

TABLE III–1—INITIAL HEAT TRIGGERS AND PROVISIONS IN STATE HEAT STANDARDS

	Threshold	Provision of water	Shade or cool-down means	Rest breaks if needed	Emergency response	Acclimatization	Training	Heat illness prevention plan	Observation/supervision
General									
California: Outdoor	80 °F (Ambient) ¹	•	•	•	•	•	•	• (accident prevention).	•
Washington: Outdoor	80 °F (Ambient), All other clothing; 52 °F, Non-breathable clothes.	•	•	•	•	•	•	•	•
Colorado: Agriculture	80 °F (Ambient)	•	•	•	•	•	•	•	•
California (proposal): Indoor.	82 °F (Ambient)	•	•	•	•	•	•	•	•
Maryland (proposal): Indoor & Outdoor.	80 °F (Heat Index)	•	•	•	•	•	•	•	•
Minnesota: ² Indoor	86 °F (WBGT), Light work; 80 °F, Moderate work; 77 °F, Heavy work.	•	•	•	•	•	•	•	•
Oregon: Indoor & Outdoor.	80 °F (Heat Index)	•	•	•	•	•	•	•	•

¹ Some provisions, including water, emergency response, training, and heat illness prevention plan, apply to covered employers regardless of the temperature threshold.

² Minnesota uses a 2-hour time-weighted average permissible exposure limit rather than a trigger.

TABLE III–2—HIGH HEAT TRIGGERS AND ADDITIONAL PROVISIONS IN STATE HEAT STANDARDS

	Threshold	Work-rest schedule	Observation/supervision	Pre-shift meetings	Assessment and control measures ¹
Additional High Heat Provisions					
California: Outdoor ²	95 °F (Ambient)	• (only agriculture)	•	•	•
Washington: Outdoor	90 °F (Ambient)	•	•	•	•
Colorado: Agriculture	95 °F (Ambient) or other condition ³ .	•	covered in general provisions above.	•	•
California (proposal): Indoor	87 °F (Ambient or Heat Index) or other conditions ⁴ .	•	•	•	•
Maryland (proposal): Indoor & Outdoor.	90 °F (Heat Index)	•	•	•	•
Oregon: Indoor & Outdoor	90 °F (Heat Index)	•	•	•	•

¹ Assessment and control measures include measuring temperature and heat index, identifying and evaluating all other environmental risk factors for heat illness, and using specified control measures to minimize the risk of heat illness.

² High heat procedures apply in agriculture; construction; landscaping; oil and gas extraction; transportation or delivery of agricultural products, construction materials or other heavy materials, except for employment that consists of operating an air-conditioned vehicle and does not include loading or unloading.

³ Other conditions include unhealthy air quality, shifts over 12 hours, heavy clothing or gear required, or the employee is new or returning from absence.

⁴ Other conditions include wearing clothing that restricts heat removal, or working in a high radiant heat area, when the ambient temperature is at or above 82 °F.

IV. Health Effects

A. Introduction

I. Health Effects of Occupational Heat Exposure

Exposure to workplace heat can be seriously detrimental to workers' health and safety and, in some cases, can be fatal. Workplace heat contributes to heat stress, which is a person's total heat load (NIOSH, 2016) from the following sources combined: (1) heat from the environment, including heat generated by equipment or machinery; (2) metabolic heat generated through body movement, which is proportional to one's relative level of exertion (Sawka et al., 1993; Astrand 1960); and (3) heat retained due to clothing or personal protective equipment (PPE), which is highly dependent on the breathability of the clothing and PPE worn (Bernard et al., 2017). Heat is routinely an occupation-specific risk because, for example, workers may experience greater heat stress than non-workers, particularly when they are required to work through shifts with prolonged heat exposure, complete tasks that require physical exertion, and/or their employers do not take adequate steps to protect them from exposure to hazardous heat. In addition, many work operations require the use of PPE. PPE can increase heat stress and can reduce workers' heat tolerance by decreasing the body's ability to cool down. Workers may also face pressure, or incentivization through pay structures (e.g., piece-rate, bonuses), to work through hazardous heat. Pressure to produce results and be seen as a good worker can have a direct impact on worker self-care choices that impact health (Wadsworth et al., 2019). Pay structures and production quotas intended to motivate workers may also compromise worker safety (Iglesias-Rios et al., 2023). These pressures can increase their risk of heat-related injury and illness (Billikopf and Norton, 1992; Johansson et al., 2010; Spector et al., 2015; Pan et al., 2021). The body's response to heat stress is called heat strain (NIOSH, 2016). As the heat stress a person experiences increases, the body attempts to cool itself by releasing heat into the surrounding environment. If the body begins to acquire heat faster than it can release it, the body will store heat. As stored heat accumulates, the body can show signs of excessive heat strain, such as increased core temperature and

heart rate, as well as symptoms of heat strain, such as sweating, dizziness, or nausea.

Two large meta-analyses (n=2,409 and n=11,582)¹ have confirmed that occupational heat exposure is associated with both signs and symptoms of heat strain (Ioannou et al., 2022; Flouris et al., 2018). In one, the authors found a high prevalence of heat strain (35%) among workers in hot conditions, defined by the authors as WBGT greater than 26 °C (78.8 °F); they also found that workers in hot conditions were four times more likely to experience signs and symptoms of heat strain than workers in more moderate conditions (Flouris et al., 2018).

II. Literature Review for Health Effects Section

OSHA conducted a non-systematic review of the medical and scientific literature to identify evidence on the relationship between heat exposure and illnesses and death. OSHA's literature review focused on meta-analyses, systematic reviews, and studies cited in NIOSH's *Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments*, published in 2016. OSHA separately searched for additional meta-analyses and systematic reviews that were not cited in the NIOSH Criteria document, including those that were published after the document was released (i.e., 2016 and on).

OSHA also reviewed sentinel epidemiological evidence including observational, experimental, and randomized controlled studies. OSHA primarily reviewed epidemiological studies focusing on worker populations, athletes, and military members, but also included studies in non-worker populations where appropriate. For example, when there was limited occupation-specific research or data for some heat-related health effects, OSHA sometimes considered general population studies as they relate to understanding physiological mechanisms of heat-related illness, severity of an illness, and prognosis. In addition to the evidence of heat-related illnesses and deaths, OSHA reviewed a

¹ In the Health Effects section, OSHA refers to statistics that were reported by authors when describing results from their research studies. These include the sample size (n), the odds ratio (OR), the confidence interval (CI), and the p-value (p). These statistics provide information about effect size, error, and statistical significance.

large body of evidence that evaluated the association of occupational heat exposure with workplace injuries such as falls, collisions, and other accidents. OSHA also reviewed evidence regarding individual factors such as age, medication use, and certain medical conditions that may affect one's risk for heat-related health effects.

III. Summary

The best available evidence in the scientific and medical literature, as summarized in this Health Effects section, demonstrates that occupational heat exposure can result in death; illnesses, including heat stroke, heat exhaustion, heat syncope, rhabdomyolysis, heat cramps, hyponatremia, heat edema, and heat rash; and heat-related injuries, including falls, collisions, and other workplace accidents.

B. General Mechanisms of Heat-Related Health Effects

This section briefly describes the mechanisms of heat-related health effects, i.e., how the body's physiological responses to heat exposure can lead to the heat-related health effects identified in OSHA's literature review. More detailed information about the mechanisms underpinning each specific heat-related health effect is described in the relevant subsections that follow.

As explained above, occupational heat exposure contributes to heat stress. The resulting bodily responses are collectively referred to as heat strain (Cramer and Jay, 2016). The bodily responses included in heat strain serve to decrease stored heat by increasing heat loss to the environment to maintain a stable body temperature (NIOSH, 2016). When the brain recognizes that the body is storing heat, it activates the autonomic nervous system to initiate cooling (Kellogg et al., 1995; Wyss et al., 1974). Blood is shunted towards the skin and vasodilation begins, meaning that the blood vessels near the skin's surface become wider, thereby increasing blood flow near the surface of the skin (Kamijo et al., 2005; Hough and Ballantyne, 1899). The autonomic nervous system also triggers the body's sweat response, in which sweat glands release water to wet the skin (Roddie et al., 1957; Grant and Holling, 1938). These processes allow the body to cool in four ways: (1) radiation, i.e., when heat is released directly into the

surrounding air; (2) convection, *i.e.*, when there is air movement that moves heat away from the body; (3) evaporation, *i.e.*, when sweat on the skin diffuses into surrounding air (as clothing/PPE permits) and (4) conduction, *i.e.*, when heat is directly transferred through contact with a cooler surface (*e.g.*, wearing an ice-containing vest (Cramer and Jay, 2016; Leon and Kenefick, 2012)).

Importantly, the extent of heat release through radiation, convection, and evaporation depends on environmental conditions such as the speed of air flow, temperature, and relative humidity (Clifford et al., 1959; Brebner et al., 1958). For example, when relative humidity is high, sweat is less likely to evaporate off the skin, which significantly reduces the cooling effect of evaporation. Additionally, when sweat remains on the skin and irritates the sweat glands, it can cause a condition known as heat rash, whereby itchy red clusters of pimples or blisters develop on the skin (DiBeneditto and Worobec, 1985; Sulzberger and Griffin, 1968).

While the purpose of the sweat response is to cool the body, in doing so, it can deplete the body's stores of water and electrolytes (*e.g.*, sodium [Na], potassium [K], chloride [Cl], calcium [Ca], and magnesium [Mg]) that are essential for normal bodily function (Shirreffs and Maughan, 1997). The condition resulting from abnormally low sodium levels is known as hyponatremia. When stores of electrolytes are depleted, painful muscle spasms known as heat cramps can occur (Kamiyo and Nose, 2006). Additionally, depletion of the body's stored water causes dehydration, which is known to reduce the body's circulating blood volume (Trangmar and Gonzalez-Alonso, 2017; Dill and Costill, 1974).

During vasodilation that happens as the body attempts to cool, blood can pool in areas of the body that are most subject to gravity, and fluid can seep from blood vessels causing noticeable

swelling under the skin (known as heat edema). Upright standing would further encourage blood to pool in the legs, and thus, the heart has an even lower blood volume available for circulation (Smit et al., 1999). A large reduction in circulating blood volume will lead to (1) a continued rise in core body temperature, and (2) reduced blood flow to the brain, muscles, and organs. A rise in core body temperature and reduced blood flow to the brain can cause neurological disturbances, such as loss of consciousness, which are characteristic of heat stroke and heat syncope (Wilson et al., 2006; Van Lieshout et al., 2003). A rise in core body temperature and reduced blood flow to muscles can also cause extreme muscle fatigue (to the point of collapse) and muscle cell damage during exertion, which are characteristic of heat exhaustion and rhabdomyolysis, respectively (Torres et al., 2015; Nybo et al., 2014). Finally, a rise in core body temperature and reduced blood flow to organs can damage multiple vital organs (such as the heart, liver, and kidneys), which is often observed in heat stroke (Crandall et al., 2008; O'Donnell and Clowes, 1972). Heat stroke and rhabdomyolysis can lead to death if not treated properly and promptly.

C. Identifying Cases of Heat-Related Health Effects

In its review of the scientific and medical literature on the health effects of occupational heat exposure, OSHA found several studies that relied upon coding systems, in which medical providers or other public health professionals identify fatalities and non-fatal cases of various illnesses and injuries, including heat-related illnesses and injuries (HRIs). The medical and scientific communities use data from these coding systems to study the incidence and prevalence of illnesses and injuries, including HRIs. In both this Health Effects section and Section V., Risk Assessment, OSHA relied on several studies that make use of data

from these coding systems. A brief summary of each of the major coding systems is provided below.

I. International Statistical Classification of Diseases and Related Health Problems (ICD) Codes

The International Statistical Classification of Diseases and Related Health Problems (ICD) System is under the purview of the World Health Organization (WHO), an international agency that, as the leading authority on health and disease, regularly publishes evidence-based guidelines to advance clinical practice and public health policy. The ICD System harmonizes the diagnosis of disease across many countries, and ICD codes are used routinely in the U.S. healthcare system by medical personnel to record diagnoses in patients' medical records, as well as to identify cause of death. These codes are utilized as part of a standardized system for recording diagnoses, as well as organizing and collecting data into public health surveillance systems. Each ICD code is a series of letters and/or numbers that corresponds to a highly specific medical diagnosis. Healthcare providers may record multiple ICD codes if an individual presents with multiple diagnoses. The ICD system has multiple codes that medical personnel can use when diagnosing HRIs.

The ICD system was first developed in the 18th century and was adopted under the purview of the World Health Organization (WHO) in 1948 (Hirsch et al., 2016). Since then, the ICD system has been revised 11 times—ICD-11 was released in 2022. However, because the ICD-11 system has not yet been implemented in the United States, many of the epidemiological studies cited throughout this Health Effects section used the ICD-9 and ICD-10 systems to survey heat-related deaths and HRIs. Table IV-1 provides a list of heat-related ICD-9 and ICD-10 codes.

TABLE IV-1—ICD-9 AND ICD-10 CODES FOR HEAT-RELATED HEALTH EFFECTS *

ICD-9 code	ICD-10 code equivalent
992 <i>Effects of heat and light</i>	T67 <i>Effects of heat and light</i> .
992.0 <i>Heatstroke and sunstroke</i>	T67.0 <i>Heatstroke and sunstroke</i> .
992.1 <i>Heat syncope</i>	T67.1 <i>Heat syncope</i> .
992.2 <i>Heat cramps</i>	T67.2 <i>Heat cramp</i> .
992.3 <i>Heat exhaustion, anhydrotic</i>	T67.3 <i>Heat exhaustion, anhydrotic</i> .
992.4 <i>Heat exhaustion due to salt depletion</i>	T67.4 <i>Heat exhaustion due to salt depletion</i> .
992.5 <i>Heat exhaustion, unspecified</i>	T67.5 <i>Heat exhaustion, unspecified</i> .
992.6 <i>Heat fatigue, transient</i>	T67.6 <i>Heat fatigue, transient</i> .
992.7 <i>Heat edema</i>	T67.7 <i>Heat edema</i> .
992.8 <i>Other effects of heat and light</i>	T67.8 <i>Other effects of heat and light</i> .
992.9 <i>Effects of heat and light, unspecified</i>	T67.9 <i>Effects of heat and light, unspecified</i> .
E900 <i>Accident caused by excessive heat</i>	NA.

TABLE IV—1—ICD-9 AND ICD-10 CODES FOR HEAT-RELATED HEALTH EFFECTS *—Continued

ICD-9 code	ICD-10 code equivalent
E900.0 <i>Accident caused by excessive heat due to weather conditions</i>	X30 <i>Exposure to excessive natural heat.</i>
E900.1 <i>Accidents due to excessive heat of man-made origin</i>	W92 <i>Exposure to excessive heat of man-made origin.</i>
E900.9 <i>Accidents due to excessive heat of unspecified origin</i>	X30 <i>Exposure to excessive natural heat.</i>

Note: The above heat-related codes exclude X32 *Exposure to sunlight* and W89 *Exposure to man-made radiation*, among others.
* These ICD codes are specific to heat as indicated by the names of the codes. There are additional codes that can be associated with diagnosed heat illness but may not be specific to heat-related illness which are not included here but may be included in text where relevant (e.g., M62.82 for rhabdomyolysis and E87.1 for hypo-osmolality and hyponatremia).

Various surveillance systems exist to track documentation of ICD codes. For example, the CDC leverages ICD-10 codes to collect nearly real-time data on heat-related deaths and HRIs through the National Syndromic Surveillance System (NSSP). The CDC also uses ICD-10 codes to collect annual data on heat-related deaths and HRIs, then reports these data via the National Vital Statistics System (NVSS) and National Center for Health Statistics (NCHS). Additionally, all branches of the U.S. Armed Forces (i.e., Army, Navy, Air Force, and Marine Corps) use ICD-10 codes to document HRIs among service members in the Defense Medical

Surveillance System (DMSS). The US Army also uses ICD-10 codes to document HRIs in the Total Army Injury and Health Outcomes Database (TAIHOD) (Bell et al., 2004).
II. Occupational Illness and Injury Classification System (OIICS) Codes
The U.S. Bureau of Labor Statistics (BLS) is a Federal agency, housed in the Department of Labor, that collects and analyzes data on the U.S. economy and workforce. In 1992, BLS developed the Occupational Illness and Injury Classification System (OIICS) to harmonize reporting of injuries and illnesses that affect U.S. workers. The

OIICS is similar to the ICD system. Each OIICS code is a series of numbers that specifies a diagnosis (referred to as the nature of an illness or injury, or a “nature code”) and event(s) leading to an illness or injury (referred to as an “event code”). OIICS was updated in 2010 (Version 2.0), and again in 2022 (Version 3.0); Version 3.0 is the most up to date version (<https://www.bls.gov/iif/definitions/occupational-injuries-and-illnesses-classification-manual.htm>; BLS, 2023e). The OIICS system has multiple codes that can be used when identifying occupational HRIs. Table IV-2 provides a list of heat-related OIICS codes (nature and event codes).

TABLE IV—2—OIICS CODES (VERSION 3.0) FOR HEAT-RELATED HEALTH EFFECTS †

- Nature Codes:
- 172 *Effects of heat and light.*
 - 1720 *Effects of heat—unspecified.*
 - 1721 *Heat stroke, syncope.*
 - 1722 *Heat exhaustion, fatigue.*
 - 1729 *Effects of heat—not elsewhere classified.*
 - 2893 *Prickly heat, heat rash, and other disorders of the sweat glands including “miliaria rubra”.*
- Event Codes:
- 53 *Exposure to temperature extremes.*
 - 530 *Exposure to temperature extremes—unspecified.*
 - 531 *Exposure to environmental heat.*
 - 5310 *Exposure to environmental heat—unspecified.*
 - 5311 *Exposure to environmental heat—indoor.*
 - 5312 *Exposure to environmental heat—outdoor.*

† Some of the data OSHA relies on uses older versions of OIICS codes (Versions 1 and 2) but the major categories for heat-related incidents did not change significantly between versions.

Through a combination of survey staff and a specialized automated coding system, BLS applies OIICS codes to data collected through their worker safety and health surveillance systems, the Census of Fatal Occupational Injuries (CFOI) and the Survey of Occupational Injuries and Illnesses (SOII), to identify and document occupational heat-related deaths and occupational HRIs, respectively. Researchers have also relied on this system for identifying occupational HRIs (e.g., Spector et al., 2016). However, BLS data does not currently specify discrete codes for all HRIs described in this health effects section. The CFOI is a cooperative program between the Federal Government and the States that relies on

various administrative records, including death certificates, to accurately produce counts of fatal work injuries (BLS, 2012). The CFOI examines all cases marked “At work” on the death certificate, and the CFOI database relies on the death certificate (among other sources) to ascertain the cause(s) of death. Further details about BLS reporting using OIICS codes, as well as rates of HRIs, can be found in Section V., Risk Assessment.
III. Limitations
A limitation to relying on these coding systems to identify heat-related fatalities and HRIs is underreporting. Numerous studies have found that HRIs are likely vastly underreported (see

Section V., Risk Assessment). Reasons for the likely underreporting include underreporting of illness and injuries by workers to their employers (Kyung et al., 2023), underreporting of injuries and illnesses by employers to BLS and OSHA (Wuellner and Phipps, 2018; Fagan and Hodgson, 2017), underutilization of workers’ compensation insurance (Fan et al., 2006; Bonauto et al., 2010), influence of structural factors and work culture on workers perceptions about seeking help (Wadsworth et al., 2019; Iglesias-Rios, 2023), and difficulties with determining heat-related causes of death (e.g., Luber et al., 2006; Pradhan et al., 2019). As a result, there are likely many heat-related fatalities and cases of HRIs that are not

captured in these coding systems. For a more detailed discussion of underreporting, see Section V., Risk Assessment.

IV. Summary

As demonstrated by these coding systems, in which medical providers or other public health professionals assign one or more codes to identify a heat-related fatality or HRI, it is well accepted in the medical and scientific communities that heat exposure, including occupational heat exposure, can result in death and HRIs. Indeed, in its review of the best available scientific and medical literature on the health effects of occupational heat exposure, OSHA identified several studies that relied upon data from these coding systems to determine the incidence or prevalence of heat-related deaths and HRIs in workers. OSHA relies on these studies in both this Health Effects section and Section V., Risk Assessment, of this preamble to the proposed rule.

D. Heat-Related Deaths

I. Introduction

Heat is the deadliest weather phenomenon in the United States (NWS, 2022). Heat as a cause of death is widely recognized in the medical and scientific communities. Studies investigating relationships between heat and mortality have long demonstrated positive associations between heat exposure and increased all-cause mortality (e.g., Weinberger et al., 2020; Basu and Samet, 2002; Whitman et al., 1997). As explained below, the connection between heat exposure, the body's physiological responses, and death (i.e., heat-related death mechanisms) is clearly established. Exposure to occupational heat can be fatal. According to BLS's CFOI, occupational heat exposure has killed 1,042 U.S. workers between 1992–2022 (BLS, 2024c).

II. Physiological Mechanisms

Death caused by exposure to heat can occur in occupational settings if the worker's body is not able to adequately cool in response to heat exposure or if treatment for symptoms of heat-related illness is not provided promptly. Nearly all body systems can be negatively affected by heat exposure. Mora et al. (2017) systematically reviewed mechanistic studies on heat-related deaths and identified five harmful physiological mechanisms triggered by heat exposure that can lead to death: ischemia (inadequate blood flow), heat cytotoxicity (damage to and breakdown

of cells), inflammatory response (inflammation that disrupts cell and organ function), disseminated intravascular coagulation (widespread dysfunction of blood clotting mechanisms), and rhabdomyolysis (breakdown of muscle tissue). These mechanisms, with the exception of rhabdomyolysis, are associated with the development of heat stroke. Rhabdomyolysis, which is a potentially fatal illness resulting from the breakdown of muscle tissue, can also occur in conjunction with or in the absence of heat stroke. For a more detailed discussion on rhabdomyolysis, see Section IV.H., Rhabdomyolysis. Mora et al. (2017) also identified seven vital organs that can be critically impacted by heat exposure—the brain, heart, kidneys, lungs, pancreas, intestines, and liver. Across the five identified mechanisms and seven vital organs, Mora et al. (2017) found medical evidence for twenty-seven pathways whereby physiological mechanisms triggered by heat exposure could lead to organ failure and fatality.

The most common cause of heat-related occupational deaths is heat stroke. Heat stroke is a potentially fatal dysregulation of multiple physiological processes and organ systems resulting in widespread organ damage. Heat stroke is typically marked by significant elevation in core body temperature and cognitive impairment due to central nervous system damage. The physiological mechanisms involved in the development and progression of heat stroke are discussed in more detail in Section IV.E., Heat Stroke.

III. Determining Heat as a Cause of Death

The identification of deaths caused by heat exposure can take place in a few different ways. Healthcare professionals may identify heat-related deaths in medical settings. For example, a heat-related death may be identified if an individual experiencing heat stroke presents to an emergency room and then later dies. The heat-related nature of the death should be documented by the healthcare professional in the chief complaint field during medical history taking and selection of relevant ICD diagnosis codes. The ICD system allows for identification of heat as either an underlying cause of death or a significant contributing condition. The ICD-10 instruction manual defines underlying cause as “(a) the disease or injury which initiated the train of morbid events leading directly to death, or (b) the circumstances of the accident or violence which produced the fatal injury” (WHO, 2016, p. 31). A

significant contributing condition is defined as a condition that “contributed to the fatal outcome, but was not related to the disease or condition directly causing death” (WHO, 2004, p. 24).

Medical examiners or coroners can also identify heat as a cause of death or significant condition contributing to death during death investigations, which should be noted on the deceased individual's death certificate. The National Association of Medical Examiners (NAME), a professional organization for medical examiners, forensic pathologists, and medicolegal affiliates and administrators, defines “heat-related death” as “a death in which exposure to high ambient temperature either caused the death or significantly contributed to it” (Donoghue et al., 1997). This definition was developed in an effort to standardize the way in which heat-related deaths were identified and documented on death certificates. According to the NAME definition, cause is ascertained based on circumstances of the death, investigative reports of high environmental temperature (e.g., a known heat wave), or a pre-death temperature $\geq 105^{\circ}\text{F}$. Cause is also indicated in cases where the person may have a lower body temperature due to attempted cooling measures, but where the individual had a history of mental status changes and specific toxicological findings of elevated muscle and liver enzymes. Heat may be designated as a “significant contributing condition” if: (1) “antemortem body temperature cannot be established but the environmental temperature at the time of collapse was high”; and/or (2) heat stress exacerbated a pre-existing disease, in which case heat and the pre-existing disease would be listed as the cause and significant contributing condition, respectively, or vice versa. Importantly, Donoghue et al. note “The diagnosis of heat-related death is based principally on investigative information; autopsy findings are nonspecific.” (Donoghue et al., 1997). While this definition is the official definition of this professional organization, other definitions or processes for determining whether or not a death is heat-related may be used. Additionally, there are processes in place to identify and document deaths that are work-related. Death certificates include a field that can be checked for “injury at work” (Russell and Conroy, 1991). Further, work-related fatalities due to heat are identified and documented through the CFOI (for more details, see Section IV.C., Overview of ICD and OIICS Codes for Heat-Related Health Effects).

IV. Occupational Heat-Related Deaths

Occupational heat exposure has led to worker fatalities in both indoor and outdoor work settings and across a variety of industries, occupations, and job tasks (Petitti et al., 2013; Arbury et al., 2014; Gubernot et al., 2015; NIOSH, 2016; Harduar Morano and Watkins, 2017). BLS's CFOI identified 1,042 U.S. worker deaths due to heat exposure between 1992 and 2022, with an average of 34 fatalities per year during that period (BLS, 2024c). Between 2011 and 2022, BLS reports 479 worker deaths (BLS, 2024c). During the latest three years for which BLS reports data (2020–2022), there was an average of 45 work-related deaths due to exposure to environmental heat per year (BLS, 2024c). However, for the reasons explained in Section V., Risk Assessment, these statistics likely do not capture the true magnitude and prevalence of heat-related fatalities because of underreporting.

There are numerous case studies documenting the circumstances under which occupational heat exposure led to death among workers. For example, in three NIOSH Fatality Assessment and Control Evaluations (FACE) investigations of worker fatalities, workers died of heat stroke after not receiving prompt treatment upon symptom onset (NIOSH, 2004; NIOSH, 2007; NIOSH, 2015). Another case report of a farmworker who died due to heat stroke indicates that confusion the worker experienced as a result of heat exposure may have played a role in his ability to seek help (Luginbuhl et al., 2008). Additional case reports show workers have collapsed and later died while working alone, such as in mail delivery (Shaikh, 2023), and that worker distress has been interpreted as drug use as opposed to symptoms of heat illness (Alsharif, 2023).

V. Summary

OSHA's review of the scientific and medical literature indicates that occupational heat exposure can and does cause death. The physiological mechanisms by which heat exposure can result in death are clearly established in the literature, and heat exposure being a cause of death is widely recognized in the medical and scientific communities. Indeed, occupational surveillance data demonstrates that numerous work-related deaths from occupational heat exposure occur every year.

E. Heat Stroke

I. Introduction

Among HRIs, the most serious and deadly illness from occupational heat exposure is heat stroke. NIOSH (2016) defines heat stroke as “an acute medical emergency caused by exposure to heat from an excessive rise in body temperature [above 41.1 °C (106 °F)] and failure of the [body's] temperature-regulating mechanism.” When this happens, an individual's central nervous system is affected, which can result in a sudden and sustained loss of consciousness preceded by symptoms including vertigo, nausea, headache, cerebral dysfunction, bizarre behavior, and excessive body temperature (NIOSH 2016).

Because progression of symptoms varies and involves central nervous system function, it may be difficult for individuals, or those they are with, to know when they are experiencing serious heat illness or to understand that they need urgent medical care (Alsharif, 2023). If not treated promptly, early symptoms of heat stroke may progress to seizures, coma, and death (Bouchama et al., 2022). Thus, heat stroke is often referred to as a life-threatening form of hyperthermia (*i.e.*, elevated core body temperature) because it can cause damage to multiple organs such as the liver and kidneys. Of note, the term “stroke” in “heat stroke” is a misnomer in that it does not involve a blockage or hemorrhage of blood flow to the brain.

There are two types of heat stroke: classic heat stroke (CHS) and exertional heat stroke (EHS). CHS can occur without any activity or physical exertion, whereas EHS occurs as a result of physical activity. CHS typically occurs in environmental conditions where ambient temperature and humidity are high and is most often reported during heat waves (Bouchama et al., 2022). It is most likely to affect young children and the elderly (Laitano et al., 2019). Studies have found that EHS can occur with any amount of physical exertion, even within the first 60 minutes of exertion (Epstein and Yanovich, 2019; Garcia et al., 2022). Additionally, EHS can occur in healthy individuals who would otherwise be considered low risk performing physical activity, regardless of hot or cool environmental conditions (Periard et al., 2022; Epstein et al., 1999).

Cases of heat stroke can be identified in a few ways. Medical personnel who make a formal diagnosis of heat stroke record the corresponding ICD code in the patient's medical record. Medical examiners also identify heat stroke as a

cause of death or significant condition contributing to death and note it on the deceased individual's death certificate.

II. Physiological Mechanisms

Heat stroke happens when the body is under severe heat stress and is unable to dissipate excessive heat to keep the body temperature at 37 °C (98.6 °F), resulting in an elevated core body temperature (Epstein and Yanovich, 2019). The hallmark characteristics of heat stroke are: (1) central nervous system (CNS) dysfunction, including encephalopathy (*i.e.*, brain dysfunction manifesting as irrational behavior, confusion, coma, or convulsions); and (2) damage to multiple organs, including the kidneys, liver, heart, pancreas, gastrointestinal tract, as well as the circulatory system. There are three accepted mechanisms through which heat exposure can cause CNS dysfunction and/or multi-organ damage (Bouchama et al., 2022; Garcia et al., 2022; Iba et al., 2022). All three mechanisms share a common origin: heat exposure contributes to excessive heat stress, which results in hyperthermia.

One mechanism of heat stroke is reduced cerebral blood velocity (CBV) (an indicator of blood flow to the brain) that results in orthostatic intolerance (*i.e.*, the inability to remain upright without symptoms) (Wilson et al., 2006). As individuals experience whole body heating, CBV is reduced and cerebral vascular resistance (the ratio of carbon dioxide stimulus to cerebral blood flow) increases. These changes ultimately contribute to reduced cerebral perfusion (flow of blood from the circulatory system to cerebral tissue) and blood flow, as well as orthostatic intolerance (Wilson et al., 2006).

Another mechanism is damage to the vascular endothelium. Hyperthermia can damage or kill cells in the lining of blood vessels, known as the vascular endothelium. The body responds to vascular endothelium damage through a process called disseminated intravascular coagulation (DIC). DIC is characterized by two processes: (1) tiny clots form in the tissues of multiple organs, and (2) bleeding occurs at the sites of those tiny clots. DIC is extremely damaging and results in injury to organs (Bouchama and Knochel, 2002). Namely, DIC limits the delivery of oxygen and nutrients to several organs including the brain, heart, kidneys, and liver. Thus, DIC can result in both CNS dysfunction and multi-organ damage. Additionally, damage to the vascular endothelium makes it more permeable and creates an imbalance in the substances that control blood clotting,

which promotes abnormal and increased blood clotting (Bouchama and Knochel, 2002; Wang et al., 2022).

A third mechanism is damage to the cells in the lining of the gut, known as the gut epithelium. Hyperthermia can alter the cell membranes' permeability (Roti Roti et al., 2008), or directly cause cells to die (Bynum et al., 1978). In either case, cells in the gut epithelium will leak endotoxins into the blood, a process known as endotoxemia. When these endotoxins circulate throughout the body, the immune system aggressively responds by activating cells to fight infection and inflammation, known as systemic inflammatory response syndrome (SIRS) (Leon and Helwig, 2010). The presence of endotoxins, as well as the body's aggressive immune response, can cause serious multi-organ damage (Epstein and Yanovich, 2019; Wang et al., 2022). In particular, the liver is usually one of the first organs to be damaged and is often what causes a heat stroke death (Wang et al., 2022).

III. Occupational Heat Stroke

Heat stroke is life-threatening and can severely impair workers' safety and health (Lucas et al., 2014). A study of work-related HRIs in Florida using hospital data reported that, during the warm seasons from May through October between 2005 through 2012, heat stroke was the primary diagnosis in 91% (21 of 23) of deaths. In total, they reported 160 cases of work-related heat stroke (Harduar Morano and Watkins, 2017). Analyses of heat stroke among military members indicate that roughly 73% of EHS patients require hospitalization for at least two days (Carter et al., 2007).

IV. Treatment and Recovery

Heat stroke is a serious medical emergency that requires immediate rest, cooling, and usually hospitalization. Prognosis for heat stroke is highly dependent on how quickly heat stroke is recognized and how quickly an affected worker can be cooled. When an affected person can be diagnosed early and cooled rapidly, the prognosis is generally good. For example, rapid cooling within one hour of presentation of symptoms of CHS was found to reduce the mortality rate from 33% to 15% (Vicario et al., 1986). For EHS, cooling the body below 104 °F within 30 minutes of collapse is associated with very good outcomes (Casa et al., 2012; Casa et al., 2015). The authors also reported that they were unaware of any cases of fatalities among EHS victims where it was recorded that the body was

cooled below 104 °F within 30 minutes of collapse (Casa et al., 2012).

Comparably, others have found that the risk of morbidity and mortality from heat stroke increases as treatment is delayed (Demartini et al., 2015; Schlader et al., 2022). Schlader et al. (2022) found that a delay in cooling can result in tissue damage, multi-organ dysfunction, and eventually death. Similarly, Zeller et al. (2011) found in their retrospective cohort study that patients who did not receive early or immediate cooling had worse outcomes, such as more severe forms of disease or death, although their study design does not allow for conclusions regarding causality (Zeller et al., 2011). Khogali and Weiner's (1980) case study report on 18 cases of heat stroke found that 72% of the patients took between 30–90 minutes to cool, whereas the other 28% were resistant to cooling, taking two to five hours to reach 38 °C (100.4 °F). This means that there is variation in how individuals respond to heat stroke treatment and that some individuals will respond quicker to treatment than others. Prompt treatment is likely even more critical for the individuals who take longer to cool.

Data from the general population also demonstrate the serious nature of heat stroke. One analysis of nationwide data estimated that nearly 55% of emergency department visits for heat stroke required hospitalization and roughly 3.5% of patients died in the emergency department or at the hospital (Wu et al., 2014). This study also found that heat stroke medical emergencies are more severe than other non-heat-related emergencies, with a 2.6-fold increase in admission rate and a 4.8-fold increase in case fatality compared to those other conditions (Wu et al., 2014).

Complete recovery for individuals who are affected by heat stroke may require time away from work. Some research suggests the length of recovery time and the need for time away from work is based on how long a person was at or above the critical core body temperature of 41 °C (105.8 °F), and how long it takes for biomarkers in blood to normalize (McDermott et al., 2007). Relevant biomarkers include those for acute liver dysfunction, myolysis (the breakdown of muscle tissue), and other organ system biomarkers (Ward et al., 2020; Schlader et al., 2022).

Guidelines for military personnel and athletes suggest that it may be weeks or months before a worker who has suffered heat stroke can safely return to work or perform the same level of work they did before suffering heat stroke. U.S. military members have clear return-to-work protocols post-heat

stroke where members are assigned grades of functional capacity in six areas: physical capacity or stamina, upper extremities, lower extremities, hearing and ears, eyes, and psychiatric functioning (O'Connor et al., 2007). For example, when a soldier/airman experiences heat stroke, they automatically receive a reduced function capacity grade status in physical capacity. This also results in an automatic referral to a medical examination board. Soldiers and airmen are not cleared to return to duty until their laboratory results normalize, and even then, their status remains a trial of duty. If the individual has not exhibited any heat intolerance after three months, they are returned to a normal work schedule. However, maximal exertion and significant heat exposure remains prohibited for these individuals. If a military member experiences any heat intolerance during the period of restriction, or subsequent resumption to normal duty, a referral to the physical examination board for a hearing regarding their health status is required (O'Connor et al., 2007).

The U.S. Navy has its own set of guidelines, which does not distinguish between heat exhaustion and heat stroke, but uses laboratory tests, especially liver function tests, to determine when sailors are allowed to return to duty. For those who have suffered heat stroke, full return to duty is usually not granted until somewhere between two days to three weeks later (O'Connor et al., 2007).

In 2023, the American College of Sports Medicine (ACSM) published their consensus statement which provides evidence-based strategies to reduce and eliminate HRIs, including a return to activity protocol for athletes recovering from EHS (Roberts et al., 2023). Of note, ACSM names athletes (whether elite, recreational, or tactical) and occupational laborers as groups who are active and regularly perform exertional activities that could lead to EHS. Specifically, ACSM recommendations include refraining from exercise for at least seven days following release from the initial medical care for EHS treatment. Once all laboratory results and vital signs have normalized, ACSM recommends an individual can exercise in cool environments and gradually increase duration, intensity, and heat exposure over a two to four-week period to initiate environmental acclimatization (Roberts et al., 2023). If the affected athlete does not return to pre-EHS activity levels within four to six weeks, further medical evaluation is needed. ACSM recommends a full return to

activity between two to four weeks after the individual has demonstrated exercise acclimatization and heat tolerance with no abnormal symptoms or test results during the re-acclimatization period (Roberts et al., 2023). Similarly, the National Athletic Trainer's Association proposes that individuals who experience EHS should complete a 7 to 21-day rest period, be asymptomatic, have normal blood-work values, and obtain a physician's clearance prior to beginning a gradual return to activity (Casa et al., 2015).

In the military setting it is accepted that returning to work too early and/or without adequate work restrictions can result in incomplete recovery from heat stroke, which may necessitate a prolonged restricted work status (McDermott et al., 2007). About 10–20% of people who have had heat stroke have been shown to experience heat intolerance roughly two months after having the heat stroke (Binkley et al., 2002). In some instances, this has lasted for five years and has increased the risk for another heat stroke (Binkley et al., 2002; McDermott et al., 2007). Similarly, a case study report of EHS cases amongst the U.S. Army found that in one of the ten cases examined, the person was heat intolerant for 11.5 months post-EHS (Armstrong et al., 1989).

Only a limited number of studies have focused on the long-term effects of heat stroke. This includes research by Wallace et al. (2007), whose retrospective review of military service members found that those who suffered an EHS event earlier in life were more likely to die due to cardiovascular disease and ischemic heart disease. Similarly, Wang et al. (2019) report that prior exertional heat illness was associated with a higher prevalence of acute ischemic stroke, acute myocardial infarction, and an almost three-fold higher prevalence of chronic kidney disease. Other research in mice support these claims and indicate that epigenetic effects post-EHS result in immunosuppression and an altered heat shock protein response as well as development of metabolic disorders that could negatively impact long-term cardiovascular health (Murray et al., 2020; Laitano et al., 2020).

V. Summary

OSHA's review of the scientific and medical literature indicates that occupational heat exposure can cause heat stroke, a medical emergency. The physiological mechanisms by which heat exposure can result in heat stroke are well-established in the literature, and heat exposure as a cause of heat

stroke is well-recognized in the medical and scientific communities. The best available research demonstrates that heat stroke must be treated as soon as possible and that prolonged time between experiencing heat stroke and seeking treatment increases the likelihood of death and may result in long-term health effects.

F. Heat Exhaustion

I. Introduction

NIOSH defines heat exhaustion as “[a] heat-related illness characterized by elevation of core body temperature above 38 °C (100.4 °F) and abnormal performance of one or more organ systems, without injury to the central nervous system” (NIOSH, 2016). Heat exhaustion can progress to heat stroke if not treated properly and promptly, and may require time away from work for a full recovery.

Signs and symptoms of heat exhaustion typically include profuse sweating, changes in mental status, dizziness, nausea, headache, irritability, weakness, decreased urine output and elevated core body temperature up to 40 °C (104 °F) (NIOSH, 2016; Kenny et al., 2018). Collapse may or may not occur. Significant injury to the central nervous system, and significant inflammatory response do not occur during heat exhaustion. However, there appears to be a fine line between heat exhaustion and heat stroke. Kenny et al. 2018 state that it can be difficult to clinically differentiate between heat exhaustion and early heat stroke. NIOSH also states that heat exhaustion “may signal impending heat stroke” (NIOSH, 2016). Armstrong et al. (2007) recommend that rectal temperature be taken to distinguish between heat exhaustion and heat stroke.

II. Physiological Mechanisms

Heat exhaustion occurs when heat stress results in elevated body temperature between 98.6 °F and 104 °F (37 °C and 40 °C) and physiological changes occur (Kenny et al., 2018). Under these significant heat stress conditions, heavy sweating occurs, tissue perfusion is reduced, and inflammatory mediators are released. Electrolyte imbalances can occur due to fluid and electrolyte losses through sweating paired with inadequate replenishment. Voluntary and involuntary dehydration can exacerbate this process (Hendrie et al., 1997; Brake and Bates, 2003). “Voluntary dehydration,” as used by Brake and Bates, refers to the circumstance where a dehydrated worker does not adequately rehydrate, despite the

availability of water. Upon review of several studies, Kenny et al. (2018) report that dehydration among workers is common, even when water is readily available. There is also evidence that even when water intake increases, as sweat rate and dehydration increase, intake may not be adequate to fully replace losses (Hendrie et al., 1997).

Brake and Bates (2003) summarized various hypothesized reasons for voluntary and involuntary dehydration. One hypothesized reason for voluntary dehydration is a delayed or decreased thirst response (Brake and Bates, 2003). Other reasons include mechanisms that affect fluid retention, such as the dependence of fluid retention on solutes such as sodium, which may be in imbalance under heat stress (Brake and Bates, 2003). Lack of adequate hydration could also be due to workplace pressures or concerns about sanitation (Rao, 2007; Iglesias-Rios, 2023).

The combination of heat stress, upright posture, and low vascular fluid volume (hypovolemia) can further dysregulate the circulatory system and affect clotting mechanisms (Kenny et al., 2018). Heat stress reduces blood flow to the abdominal organs, kidneys, muscles, and brain and increases blood flow to the skin to aid in cooling. These changes in the circulatory system and blood flow to the brain can potentially lead to dizziness or faintness upon standing (orthostatic intolerance), or collapse. Other factors that affect the development of heat exhaustion include individual health status, preparedness (such as acclimatization level), individual characteristics, knowledge, access to fluids, environmental factors, personal protective equipment use and work pacing and intensity (Kenny, 2018).

III. Occupational Heat Exhaustion

Heat exhaustion is one of the more common heat-related illnesses (Armstrong et al., 2007; Harduar Morano and Watkins, 2017; Lewandowski and Shaman, 2022). In their study of heat-illness hospitalizations in Florida during May to October from 2005–2012, Harduar Morano and Watkins (2017) reported that there were 2,659 cases of work-related heat exhaustion that resulted in emergency department visits or hospitalization, versus 181 cases of work-related heat stroke that resulted in emergency department visits, hospitalization, or death. Similar results have been reported in studies of heat-related illness among the United States Armed Forces and miners showing the frequency of heat exhaustion (Dickinson, 1994; Armed Forces Health Surveillance Division, 2022b;

Lewandowski and Shaman, 2022; Donoghue et al., 2000; Donoghue, 2004). While in some studies heat exhaustion is not specifically diagnosed, several qualitative studies describe self-reported symptoms in workers that may be indicative of heat exhaustion (e.g., Mirabelli et al., 2010; Fleischer et al., 2013; Kearney et al., 2016; Mutic et al., 2018). These symptoms included headache, nausea, vomiting, feeling faint, and heavy sweating.

IV. Treatment and Recovery

Heat exhaustion may require treatment beyond basic first aid to prevent progression to heat stroke (Kenny et al., 2018). In cases where the degree of severity of heat illness is unclear, the individual should be treated as if they have heat stroke (Armstrong, 1989). For a worker experiencing heat exhaustion, NIOSH recommends the following steps to ensure the worker receives proper and adequate treatment: “Take worker to a clinic or emergency room for medical evaluation and treatment; If medical care is unavailable, call 911; Someone should stay with worker until help arrives; Remove worker from hot area and give liquids to drink; Remove unnecessary clothing, including shoes and socks; Cool the worker with cold compresses or have the worker wash head, face, and neck with cold water; Encourage frequent sips of cool water” (NIOSH, 2016).

Complete recovery from heat exhaustion may require a restricted work status (or limited work duties). Donoghue et al. (2000) reported that following heat exhaustion, 29% (22 of 77) of miners included in the study required a restricted work status for at least one shift. The military has specific protocols for return to duty following heat exhaustion. For example, the U.S. Army and Air Force follow the protocol outlines in AR 40–501 (O’Connor et al., 2007). Three instances of heat exhaustion in less than 24 months can result in referral to a Medical Evaluation Board before a full return to service. Some military units have additional or more specific guidelines. For example, one military unit, at Womack Army Medical Center in North Carolina, has guidelines that allow individuals who are considered to have mild illness, fully recovered in the emergency room, and have no abnormal laboratory findings to return to light duty the following day and limited duty the day after that. However, they also indicate that some effects of heat illness may be subtle or delayed and recommend individuals avoid strenuous exercise for

several days and remain under observation (O’Connor et al., 2007).

V. Summary

The scientific and medical literature presented here clearly demonstrate that heat exhaustion is a recognized health effect of occupational heat exposure. The best available evidence on the symptoms, treatment, and recovery of heat exhaustion demonstrates that heat exhaustion can progress to heat stroke, a medical emergency, if not treated promptly and that heat exhaustion may require time away from work for a full recovery.

G. Heat Syncope

I. Introduction

Occupational heat exposure can result in heat syncope. Syncope is the medical term for “fainting,” and heat syncope is defined as “fainting, dizziness, or light-headedness after standing or suddenly rising from a sitting/lying position” due to heat exposure (NIOSH, 2023a). Heat syncope may sometimes be referred to as “exercise-associated collapse” (EAC), but heat syncope can happen without significant levels of exertion (Asplund et al., 2011; Pearson et al., 2014). As explained below, heat syncope is an acknowledged and documented health effect of occupational heat exposure.

II. Physiological Mechanisms

There are two mechanisms for how heat exposure can cause heat syncope (Schlader et al., 2016; Jimenez et al., 1999). One mechanism for heat syncope is reduced blood flow to the brain. Elevated core temperature induces vasodilation, sweating, and may result in blood pooling in certain areas of the body (see Section IV.B., General Mechanisms of Heat-Related Health Effects). Thus, there is a lower circulating blood volume, which can reduce blood flow to the brain and cause loss of consciousness (Wilson et al., 2006; Van Lieshout et al., 2003).

A second mechanism for heat syncope is reduced cerebral blood velocity (CBV) (indicative of reduced blood flow to the brain) that results in orthostatic intolerance (the inability to remain upright without symptoms) during a heat stress episode (Wilson et al., 2006). As individuals experience whole body heating, CBV is reduced and cerebral vascular resistance (the ratio of carbon dioxide stimulus to cerebral blood flow) increases. These changes ultimately contribute to reduced cerebral perfusion and blood flow, as well as orthostatic intolerance (Wilson et al., 2006). The orthostatic response to heat stress during “rest” (i.e., standing/sitting) is

essentially equivalent to the orthostatic response to heat stress after exercise if skin temperature is similarly elevated (Pearson et al., 2014). While core temperature is not always elevated in cases of heat syncope, skin temperature typically is (Department of the Army, 2022; Noakes et al., 2008).

Differentiating between heat syncope, heat exhaustion, and heat stroke is a critical step in proper diagnosis (Santelli et al., 2014; Coris et al., 2004). As stated above, heat syncope always involves loss of consciousness, but it does not require elevated core body temperature (Santelli et al., 2014; Holtzhausen et al., 1994). Conversely, heat exhaustion and stroke do not require loss of consciousness. Though central nervous system (CNS) disturbances are possible in heat stroke and heat stroke is always characterized by significantly elevated core temperature. Further, recovery of mental status is faster in heat syncope than in exhaustion and heat stroke, since cooling may not be required for treatment of heat syncope (Howe and Boden, 2007).

III. Occupational Heat Syncope

Workers have experienced heat syncope when exposed to heat. A survey-based study in southern Georgia found that 4% of 405 farmworkers experienced fainting within the previous week (Fleischer et al., 2013). Another survey-based study in North Carolina asked 281 farmworkers if they had ever experienced heat-related illness and found that 3% of workers had fainted (Mirabelli et al., 2010). While these cases were not formally diagnosed as heat syncope, Fleischer reported temperatures ranging from 34–40 °C (94–104 °F) and a heat index of 37–42 °C (100–108 °F) at the time workers fainted, and Mirabelli described the working conditions at the time of fainting as being in “extreme heat.”

IV. Treatment and Recovery

NIOSH recommends treating heat syncope by having the worker sit down in a cool environment and hydrate with either water, juice, or a sports drink (NIOSH, 2016). The Department of the Army recommends that “victims of heat/parade syncope will recover rapidly once they sit or lay supine, though complete recovery of stable blood pressure and heart rate (resolution of orthostasis or ability to stand without fainting) in some individuals may take 1 to 2 hours” (Department of the Army, 2022). Treatment recommendations for athletes consist of moving the athlete to a cool area and laying them supine with elevated legs to assist in venous return,

possibly with oral or intravenous rehydration (Peterkin et al., 2016; Howe and Boden, 2007; Seto et al., 2005; Lugo-Amador et al., 2004).

An episode of heat syncope may require time away from work for a thorough evaluation to ascertain one's risk for recurrent/future episodes of heat syncope. No studies have evaluated recurring episodes of syncope among workers specifically, but a study found that, for the general population, 1-year syncope recurrence (any type) was 14% in working-age people (18–65 years) (Barbic et al., 2019). The U.S. Army has a requirement to “obtain a complete history to rule out other causes of syncope, including an exertional heat illness or other medical diagnosis (for example, cardiac disorder)” (Department of the Army, 2022). Recommendations for athletes include thorough evaluation “for injury resulting from a fall, and all cardiac, neurologic, or other potentially serious causes for syncope” (Howe and Boden, 2007; Lugo-Amador et al., 2004; Binkley et al., 2002). Indeed, if an injury (e.g., fall, collision) is sustained because of heat syncope, treatment beyond first aid (including hospitalization) may be necessary. Supporting this point, more general syncope has been linked to occupational accidents requiring hospitalizations (Nume et al., 2017).

V. Summary

The scientific and medical literature presented in this section demonstrate that heat syncope is a recognized health effect of occupational heat exposure. Studies suggest that heat syncope may require time away from work for further evaluation. Additionally, heat syncope can lead to injuries (e.g., injury from a fall), some of which may require hospitalization.

H. Rhabdomyolysis

I. Introduction

Rhabdomyolysis is a life-threatening illness that can affect workers exposed to occupational heat. NIOSH defines rhabdomyolysis as “a medical condition associated with heat stress and prolonged physical exertion, resulting in the rapid breakdown of muscle and the rupture and necrosis of the affected muscles” (NIOSH, 2016). This definition is specific to exertional rhabdomyolysis. Another form of rhabdomyolysis, called traumatic rhabdomyolysis, is caused by direct muscle trauma (e.g., from a fall or crush injury). Workers can experience such injuries, and consequently suffer from traumatic rhabdomyolysis, because of occupational heat exposure (see Section

IV.P., Heat-Related Injuries). However, this section will focus only on exertional rhabdomyolysis. Unless otherwise specified, all references to rhabdomyolysis are shorthand for exertional rhabdomyolysis.

Signs and symptoms of rhabdomyolysis include myalgia (muscle pain), muscle weakness, muscle tenderness, muscle swelling, and/or dark-colored urine (Armed Forces Health Surveillance Division, 2023b; Dantas et al., 2022; O'Connor et al., 2008; Cervellin et al., 2010). Notably, the onset of these symptoms may be delayed by 24–72 hours (Kim et al., 2016). Rhabdomyolysis commonly affects individuals who are exposed to heat during physical exertion. For example, the Centers for Disease Control and Prevention (CDC) investigated an incident in which an entire cohort of 50 police trainees were diagnosed with rhabdomyolysis after the first 3 days of a 14-week training program; the trainees had engaged in heavy physical exertion outdoors with limited access to water. The CDC concluded that adequate hydration is particularly important when the HI approaches 80 °F (Goodman et al., 1990).

Rhabdomyolysis has long been recognized as a heat-related illness by NIOSH, the U.S. Armed Forces, and national athletic organizations such as the American College of Sports Medicine (Armstrong et al., 2007). Specifically, NIOSH lists rhabdomyolysis as an “acute heat disorder” in its *Criteria for a Recommended Standard* (2016) and provides detailed recommendations for recognition and treatment of rhabdomyolysis. NIOSH also conducted case studies and retrospective analyses to identify cases of rhabdomyolysis among workers exposed to heat, including firefighter cadets and instructors, as well as park rangers (Eisenberg et al., 2019; Eisenberg J et al., 2015; Eisenberg and Methner, 2014).

Similarly, the U.S. Armed Forces developed a case definition that specifies rhabdomyolysis can be heat-related (Armed Forces Health Surveillance Board, 2017), and this definition is applied in their annual surveillance reports of HRIs. From 2018 to 2022, most rhabdomyolysis cases (75.9%) occurred during warmer months (i.e., May to October) (Armed Forces Health Surveillance Division, 2023b). In a retrospective study of hospital admissions for rhabdomyolysis in military members (2010–2013), 60.1% (193 out of 321) cases were deemed to be associated with exertion and exposure to heat (Oh et al., 2022).

Many studies have also found that rhabdomyolysis often coincides with exertional heat stroke and other HRIs such as heat exhaustion, heat cramps, hyponatremia, and dehydration. The frequent co-occurrence of rhabdomyolysis and other HRIs has been reported among workers, including police and firefighters (Eisenberg et al., 2019; Goodman et al., 1990), workers included in OSHA enforcement investigations (Tustin et al., 2018a), military members (Oh et al., 2022; Carter et al., 2005), athletes (Thompson et al., 2018), and in the general population (Thongprayoon et al., 2020).

II. Physiological Mechanisms

Studies have identified two interrelated mechanisms through which heat exposure, combined with exertion, can cause rhabdomyolysis. Both mechanisms share a common origin: occupational heat exposure and exertion both contribute to excessive heat stress, which in turn causes an elevated core temperature. Both mechanisms also share a common outcome: the breakdown and death of muscle tissue, which is the hallmark characteristic of rhabdomyolysis. The first mechanism is thermal injury to muscle cells. When the body's core temperature is elevated, it creates a toxic environment that can directly injure or kill muscle cells. The temperature at which this occurs, known as the thermal maximum, is estimated to be about 107.6 °F (42 °C) (Bynum et al., 1978). At the thermal maximum, the structural components of the cells' membranes are liquified and the membrane breaks down. Proteins in the cells' mitochondria, which are key to energy production, change shape and no longer function properly. Calcium, which is normally maintained at a low level inside muscle cells, will rush into the cells and activate inflammatory processes that accelerate the death of those cells (Torres et al., 2015; Khan, 2009).

The second mechanism is lack of oxygen to muscle cells. When the body attempts to cool itself, it can lose high volumes of sweat. Sweat loss can deplete the body's stores of water and electrolytes, leading to low blood volume (see Section IV.B., General Mechanisms of Heat-Related Health Effects). Low blood volume, and low potassium in the blood (known as hypokalemia), can both contribute to muscle cell death. An adequate supply of blood is necessary to deliver oxygen to muscles, and an adequate supply of potassium is needed to support vasodilation (to support increased blood flow to the muscles during exertion). When neither blood volume nor

potassium are sufficient, the muscle cells do not receive enough oxygen (known as ischemia). When this occurs, the muscle cells produce less energy and eventually will die if exertion continues (Knochel and Schlein, 1972).

III. Occupational Rhabdomyolysis

While OSHA is not aware of surveillance data on the incidence of rhabdomyolysis in the worker population in the United States, there are surveillance data on the incidence of rhabdomyolysis among active military members in the Army, Navy, Air Force, and Marine Corps. These data have been reported for the U.S. Army from 2004 to 2006 (Hill et al., 2012) and for all military branches from 2008 through 2022 (Armed Forces Health Surveillance Division, 2023b; Armed Forces Health Surveillance Division, 2018; U.S. Armed Forces, 2013). These surveillance data and the studies described above by NIOSH and others indicate that workers performing strenuous tasks in the heat are at risk of developing rhabdomyolysis. The U.S. Armed Forces has successfully identified many cases of heat-related rhabdomyolysis by searching medical records for the presence of either the ICD-10 code for rhabdomyolysis and/or the ICD-10 code for myoglobinuria, along with any other heat-related codes (table IV-1) (Armed Forces Health Surveillance Division, 2023b; Oh et al., 2022).

IV. Treatment and Recovery

Rhabdomyolysis is a serious heat-related illness that can cause life-threatening complications. Many cases of rhabdomyolysis may require hospitalization. For example, A CDC investigation into a police training program in Massachusetts found that 26% of police trainees (13 out of 50) were hospitalized for rhabdomyolysis only three days into their training (Goodman et al., 1990). The mean length of hospitalization was 6 days, with a range of 1 to 20 days (Goodman et al., 1990). Similarly, a military surveillance study identified 473 rhabdomyolysis cases among military members in 2022, with 35.3% of cases (167 out of 473) requiring hospitalization (Armed Forces Health Surveillance Division, 2023b). In a retrospective study of 193 military trainees hospitalized for rhabdomyolysis, the mean length of hospitalization was 2.6 days, with a range of 0 to 25 days (Oh et al., 2022).

The focus of treatment for rhabdomyolysis during hospitalization is to reduce levels of creatine kinase (CK) and myoglobin in the blood, as well as correct electrolyte imbalances, through aggressive administration of

intravenous fluids (generally normal saline) (O'Connor et al., 2020; Luetmer et al., 2020; Manspeaker et al., 2016; Torres et al., 2015). Monitoring is used to repeatedly measure CK levels until a peak concentration is reached (often within 1–3 days), and then to ensure that CK levels are consistently trending downwards before discharge from the hospital (Kodadek et al., 2022; Oh et al., 2022).

Complications of rhabdomyolysis are also possible. When muscle cells die, they release several electrolytes and proteins into the bloodstream that can cause severe health complications. For example, the release of potassium from muscle cells can cause hyperkalemia (high level of potassium in the blood), which then leads to heart arrhythmias (abnormal heart rhythms) (Mora et al., 2017; Sauret et al., 2002). Also, the release of myoglobin into the bloodstream can be toxic for the kidneys. When blood is filtered by nephrons (functional units of the kidneys) to produce urine, the presence of even small amounts of myoglobin can obstruct and damage the nephrons (Mora et al., 2017; Sauret et al., 2002). In some cases, these complications from rhabdomyolysis can be life-threatening (Wesdock and Donoghue, 2019) and in fact fatalities have been reported (Gardner and Kark, 1994; Goodman et al., 1990). A more detailed discussion of how rhabdomyolysis can cause acute kidney injury or other kidney damage can be found in Section IV.M., Kidney Health Effects.

Guidelines for return to work among workers diagnosed with rhabdomyolysis are limited. In the U.S. military, soldiers deemed to be at low risk for recurrence of rhabdomyolysis are restricted to light, indoor duty and encouraged to rehydrate for at least 72 hours to allow for normalization of CK levels. If CK levels do not normalize, they must continue indoor, light duty; if CK levels do normalize, they can proceed to light, outdoor duty for at least 1 week and must show no return of clinical symptoms before they can gradually return to full duty. In contrast, soldiers deemed to be at high risk for recurrence of rhabdomyolysis must undergo additional diagnostic tests, with consultation from experts, and can be given an individualized, restricted exercise program while they await clearance for full return to duty (O'Connor et al., 2020; O'Connor et al., 2008). These guidelines have been adopted by the Armed Forces and restated in their surveillance reports of rhabdomyolysis (Armed Forces Health Surveillance Division, 2023b).

V. Summary

The available scientific literature indicates that rhabdomyolysis can result from physical exertion in the heat. Based on plausible mechanistic data, studies by NIOSH and others, and surveillance data indicating incidence of rhabdomyolysis among active military members, OSHA preliminarily determines that workers performing strenuous tasks in the heat are at risk of rhabdomyolysis.

I. Hyponatremia

I. Introduction

Workers in hot environments may experience hyponatremia, a condition that occurs when the level of sodium in the blood falls below normal levels (<135 milliequivalents per liter (mEq/L)) (NIOSH, 2016). Hyponatremia is often caused by drinking too much water or hypotonic fluids, such as sports drinks, over a prolonged period of time. Without sodium replacement, the high water intake can result in losses of sodium in the blood as more sodium is lost due to increased sweating from heat exposure and urination (Korey Stringer Institute (KSI), n.d.). Mild forms of hyponatremia may not produce any signs or symptoms, or may present with symptoms including muscle weakness and/or twitching, dizziness, lightheadedness, headache, nausea and/or vomiting, weight gain, and swelling of the hands or feet (KSI, n.d.; NIOSH, 2016). In severe cases, hyponatremia may cause altered mental status, seizures, cerebral edema, pulmonary edema, and coma, which may be fatal (KSI, n.d.; NIOSH, 2016; Rosner and Kirven, 2007). NIOSH and the U.S. Army classify hyponatremia as a heat-related illness (NIOSH, 2016; Department of the Army, 2022).

II. Physiological Mechanisms

When exposed to heat, the autonomic nervous system triggers the body's sweat response, in which sweat glands release water to wet the skin (Roddie et al., 1957; Grant and Holling, 1938). The purpose of the sweat response is to cool the body. However, in doing so, it can deplete the body's stores of water and electrolytes (e.g., sodium, potassium, chloride, calcium, and magnesium) that are essential for normal bodily function (Shirreffs and Maughan, 1997). As the body's store of sodium is lessening and high quantities of water are consumed, hyponatremia may develop as sodium in the blood becomes diluted (<135 mEq/L). In some cases, this dilution may cause an osmotic disequilibrium—an imbalance in the amount of sodium inside and outside the cell resulting in

cellular swelling—which can lead to the serious and fatal health outcomes discussed above.

III. Occupational Hyponatremia

Surveillance of hyponatremia among workers is limited. However, a recent case study demonstrates the potential severity and life-threatening nature of hyponatremia. After a seven-day planned absence from work, a 34-year-old male process control operator in an aluminum smelter pot room was hospitalized due to a variety of HRI symptoms including hyponatremia, with serum (the liquid portion of blood collected without clotting factors) sodium level of 114 millimoles per liter (mmol/L) (reference range: 136–145 mmol/L) (Wesdock and Donoghue, 2019). After 13 days in the hospital, the patient was discharged with a diagnosis of “severe hyponatremia likely triggered by heat exposure” (Wesdock and Donoghue, 2019). The patient was still out of work 32 weeks after the incident. While no temperature data for the pot room were available, an exposure assessment used outdoor temperatures that day and pot room temperatures from the literature to estimate that the WBGT could have been as high as 33 °C, which the authors state exceeds the ACGIH TLV for light work for acclimatized workers (Wesdock and Donoghue, 2019).

The relationship of heat exposure and hyponatremia was examined among male dockyard workers in Dubai, United Arab Emirates (Holmes et al., 2011). This population performed long periods of manual work in the heat and consumed a diet low in sodium. A first round of plasma (*i.e.*, the liquid part of blood collected that contains water, nutrients and clotting factors) samples were taken at the end of the summer ($n=44$), with a second round taken at the end of the winter among volunteers still willing to participate ($n=38$). In the summer, 55% of participants were found to be hyponatremic (<135 millimolar (mM)), whereas only 8% were hyponatremic in the winter. Although ambient temperature conditions were not reported, the authors indicate that hyponatremia was highest during the summer because of sodium losses through sweat and inadequate sodium replacement (Holmes et al., 2011).

Hyponatremia among the military population has been well documented by the Annual Armed Forces Health Surveillance Division, which releases annual reports on exertional hyponatremia among active duty component services members, each with surveillance data for the previous 15

years (*e.g.*, Armed Forces Health Surveillance Division, 2023a; Armed Forces Health Surveillance Division, 2022a; Armed Forces Health Surveillance Division, 2021; Armed Forces Health Surveillance Division, 2020). Cases come from the Defense Medical Surveillance System and include both ambulatory medical visits and hospitalizations in both military and civilian facilities. During the period of 2004 through 2022, the number of cases of hyponatremia among U.S. Armed Forces peaked in 2010 with 180 cases. The lowest number during that time period was 2013, when 72 cases were reported. During the last 15 years in which data were reported (2007–2022), 1,690 cases of hyponatremia occurred. Of these 1,690 cases, 86.8% (1,467) were diagnosed and treated during an ambulatory care visit (Armed Forces Health Surveillance Division, 2023a). As the diagnostic code for hyponatremia may include cases that are not heat-related, these data may be overestimates. However, such overestimation is reduced in this study as the authors controlled for many other related diagnoses (*e.g.*, kidney diseases, endocrine disorders, alcohol/illicit drug abuse), which can cause hyponatremia.

IV. Treatment and Recovery

Treatment and recovery for hyponatremia can vary depending on severity and symptoms. Workers presenting with mild symptoms should increase salt intake by consuming salty foods or oral hypertonic saline and restrict fluid until symptoms resolve or sodium levels return to within normal limits (KSI, n.d.). Medical attention may be required in severe cases, which may be life-threatening, and may be sought to address symptoms and personal risk factors (*e.g.*, history of heart conditions, on a low sodium diet) (NIOSH, 2016).

V. Summary

The available evidence in the scientific literature indicates that hyponatremia can result from occupational heat exposure. The evidence on treatment and recovery demonstrates that hyponatremia can require medical attention and, in some cases, may be life-threatening.

J. Heat Cramps

I. Introduction

Workers exposed to environmental or radiant heat can experience sudden muscle cramps known as “heat cramps.” NIOSH defines heat cramps as “a heat-related illness characterized by spastic contractions of the voluntary muscles (mainly arms, hands, legs, and

feet), usually associated with restricted salt intake and profuse sweating without significant body dehydration” (NIOSH, 2016). Someone can experience heat cramps even if they are frequently hydrating with water, but they are not replenishing electrolytes. Heat cramps are recognized as a “heat-related illness” by numerous organizations, including NIOSH, U.S. Army, U.S. Navy, National Athletic Trainers’ Association (NATA), American College of Sports Medicine (ACSM), and World Medicine (formerly known as IAAF).

II. Physiological Mechanisms

It is recognized in the medical and scientific communities that heat cramps result from heat exposure. However, the exact physiological mechanism is not known. In an early study of heat cramps, investigators included the following as the diagnostic criteria for heat cramps: exposure to high temperatures at work; painful muscle cramps; rapid loss of salt in the sweat that is not replaced (which may cause hyponatremia); diminished concentration of chloride in the blood and in the body tissues (also known as hypochloremia); and rapid amelioration of symptoms after appropriate treatment (Talbot and Michelsen, 1933).

The following mechanism has been proposed for the development of heat cramps: profuse sweating can deplete electrolyte stores (*e.g.*, sodium (Na), potassium (K), calcium (Ca)), which exacerbates muscle fatigue and can cause heat cramps (Bergeron, 2003; Horswill et al., 2009; Schallig et al., 2017; Derrick, 1934). The U.S. Army further posits that “intracellular calcium is increased via a reduction in the sodium concentration gradient across the cell membrane. The increased intracellular calcium accumulation then stimulates actin-myosin interactions (that is, filaments propelling muscle filaments) causing the muscle contractions” (Department of the Army, 2022). Heat cramps are sometimes referred to, more broadly, as exercise-associated muscle cramps (EAMCs) (Bergeron et al., 2008). However, heat cramps are distinct in that they only occur in hot conditions, which exacerbate electrolyte depletion, and may or may not be associated with exercise.

III. Occupational Heat Cramps

Surveillance data and survey study data demonstrate that workers exposed to environmental or radiant heat frequently experience heat cramps in the United States. In a study of heat-related illness hospitalizations and deaths for the U.S. Army from 1980–

2002, 8% of heat-related illness hospitalizations recorded were due to heat cramps (Carter et al., 2005). Similarly, in studies of self-reported heat-related illness, workers frequently cite heat cramps as a common symptom of heat exposure. Specifically, in several studies of self-reported heat-related symptoms among farmworkers in multiple States, participants reported experiencing sudden muscle cramps in the prior week in Georgia (33.7% of 405 respondents) (Fleischer et al., 2013), North Carolina (35.7% of 158 respondents) (Kearney et al., 2016), and Florida (30% of 198 respondents) (Mutic et al., 2018). In another study of self-reported symptoms among 60 migrant farmworkers in Georgia, heat-related muscle cramps were reported by 25% of participants, the second most frequently reported HRI symptom (Smith et al., 2021). In a study examining exertional heat illness and corresponding wet bulb globe temperatures in football players at five southeastern U.S. colleges from August to October 2003, the authors found that the highest incidences of exertional heat illness (EHI) occurred in August (88%, EHI rate= 8.95/1000 athlete-exposures (Aes)) and consisted of 70% heat cramps (6.13/1000 Aes) (Cooper et al., 2016).

IV. Treatment and Recovery

Treatment for heat cramps includes electrolyte-containing fluid replacement (also known as isotonic fluid replacement), stretching, and massage (Gauer and Meyers, 2019; Peterkin et al., 2016). In some cases, sodium replacement may be a treatment for heat cramps (Talbot and Michelsen, 1933; Sandor, 1997; Jansen et al., 2002). In severe cases, it is recommended that magnesium levels of the patient are obtained and if necessary, magnesium replacement through IV therapy is provided (O'Brien et al., 2012). The ACSM recommends rest, prolonged stretching in targeted muscle groups, oral sodium chloride ingestion in fluids or foods, or intravenous normal saline fluids in severe cases (ACSM, 2007). NIOSH recommends that medical attention is needed if the worker has heart problems, is on a low sodium diet, or if cramps do not subside within 1 hour (NIOSH, 2016). If treated early and effectively, individuals may return to activity after heat cramps have subsided (Bergeron, 2007; Savioli et al., 2022; Gauer and Meyers, 2019). However, severe heat cramps may require an emergency department visit or hospitalization (Harduar Morano and Waller, 2017; Carter et al., 2005). While most cases of heat cramps do not require

restricted work status or time away from work, guidelines for military personnel suggest some cases may require light workload the next day and limited workload the following day, with observation of the affected patient because some additional deficits may be delayed or subtle (O'Connor et al., 2007). In addition, guidelines for military personnel advise that strenuous exercise be avoided for several days in some cases of heat cramps (O'Connor et al., 2007). Severe heat cramps may also elicit soreness for several days which can lead to a longer recovery period (Casa et al., 2015).

V. Summary

OSHA's review of the scientific and medical literature indicates that heat cramps are a recognized health effect of occupational heat exposure. Indeed, several studies of self-reported symptoms of HRI among farmworkers in multiple States have indicated that heat cramps are quite common. The best available evidence on treatment and recovery indicates that heat cramps can, in some cases, require medical attention and may require time away from work or an adjusted workload.

K. Heat Rash

I. Introduction

Workers in hot environments may experience heat rash. Heat rash is defined by NIOSH as "a skin irritation caused by excessive sweating during hot, humid weather" (NIOSH, 2022). NIOSH, the U.S. Army, and the U.S. Navy classify heat rash as a heat-related illness (NIOSH, 2016; Department of the Army, 2022; Department of the Navy, 2023). Also known as miliaria rubra or prickly heat, workers with heat rash develop red clusters of pimples or small blisters, which can produce itchy or prickly sensations that become more irritating as sweating persists in the affected area. Heat rash can last for several days and tends to form in areas where clothing is restrictive and rubs against the skin, most commonly on the neck, upper chest, groin, under the breasts, and in elbow creases (OSHA, 2011; NIOSH, 2022; OSHA, 2024a). If left untreated, heat rash can become infected, and more severe cases can lead to high fevers and heat exhaustion (Wenzel and Horn, 1998). In some cases, heat rash can lead to hypohidrosis (*i.e.*, the reduced ability to sweat) in the affected area, even weeks after the heat rash is no longer visible, which impairs thermoregulation and can cause predisposition for heat stress (Sulzberger and Griffin, 1969; Pandolf et al., 1980; DiBeneditto and Worobec,

1985). This can impair an employee's ability to work and prevent resumption of normal work activities in hot environments to allow for the area to heal, which in some cases can take 3–4 weeks for heat intolerance to subside (Pandolf et al., 1980).

II. Physiological Mechanisms

The development of heat rash has been studied for centuries (Renbourn, 1958). While working in hot environments with a high relative humidity, the body's ability to cool itself is greatly reduced, as sweat is less likely to evaporate from the skin (Sulzberger and Griffin, 1969; DiBeneditto and Worobec, 1985). Heat rash occurs when sweat remains on the skin and causes a blockage of sweat (eccrine) glands and ducts (Wenzel and Horn, 1998). Since the sweat ducts are blocked, sweat secretions can leak and accumulate beneath the skin, causing an inflammatory response and resulting in clusters of red bumps or pimples (DiBeneditto and Worobec, 1985). If left untreated, heat rash may become infected (Holzle and Kligman, 1978). Depending on the level of blockage, this can manifest as various types of miliaria, with miliaria rubra being the most common form of heat rash (Wenzel and Horn, 1998).

III. Occupational Heat Rash

Surveillance of heat rash in worker populations is limited. However, farmworkers have reported cases of skin rash or skin bumps while working in summer months (Bethel and Harger, 2014; Kearney et al., 2016; Luque et al., 2020). From these studies, the percentage of participants surveyed or interviewed that report experiencing skin rash or skin bumps in the previous week were 10% (n=100, Beth and Harger, 2014), 12.1% (n=158, Kearney et al., 2016) and 5% (n=101, Luque et al., 2020). Although these studies do not purport a diagnosis, presentation of skin rash or skin bumps while working in hot environments with reported average high temperatures ranging to the mid-90s °F indicates respondents may have developed heat rash.

Similar findings with diagnosis of heat rash or related symptoms have been recorded outside of the U.S. among workers in the following professions: 17% of indoor electronics store employees in air-conditioned (4%) and non-air-conditioned (13%) areas in Singapore (n=52, Koh, 1995); 2% of underground miners at a site in Australia (n=1,252, Donoghue and Sinclair, 2000); 34% of maize farmers in Nigeria (n=396, Sadiq et al., 2019); 68% of sugarcane cutters and 23% of

sugarcane factory workers in Thailand (n=183, Boonruksa et al., 2020); 41% of sugarcane farmers in Thailand (n=200, Kiatkitroj et al., 2021); 17% of autorickshaw drivers (n=78), 23% of outdoor street vendors (n=75), 16% of street sweepers (n=75) in India (n=228, Barthwal et al., 2022); and 13% of underground and open pit miners across Australia (n=515, Taggart et al., 2024). Although these studies illustrate the prevalence of heat rash in various worker populations, OSHA notes that differences in study methodologies and the populations studied mean that the results of these studies are not necessarily directly comparable to each other or to similar industries or worker populations in the United States.

The type of clothing worn may also contribute to formation of heat rash while working in higher temperatures. Heat rash was formally diagnosed among U.S. military personnel wearing flame resistant army combat uniforms in hot and arid environments (102.2 °F to 122 °F (39 °C to 50 °C), 5% to 25% relative humidity) (Carter et al., 2011). In this case series, 18 patients with heat rash presented with moderate to severe skin irritation, which was worsened by reactions to chemical additives not removed from the laundering process and increased heat retention from sweat-soaked clothing, as well as the friction from the fabric and the occlusive effect of the clothing, which allowed sweat to accumulate on the skin despite the lower humidity (Carter et al., 2011). This study calls attention to the effect of clothing on the development of heat rash and factors that may influence its severity.

IV. Treatment and Recovery

Although most cases of heat rash can be self-treated without seeking medical attention, symptoms typically last for several days (Wenzel and Horn, 1998). It is important that heat rash is kept dry and cool to avoid possible infection. Workers experiencing heat rash should move to a cooler and less humid work environment and avoid tight-fitting clothing, when possible (NIOSH, 2022). The affected area should be kept dry, and ointments and creams, especially if oil-based, should not be used (NIOSH, 2022). However, powder may be used for relief.

V. Summary

The available evidence in the scientific literature indicates that heat rash can result from occupational heat exposure. Although heat rash usually resolves on its own without medical attention, symptoms often persist for several days and more severe cases can

impair an employee's ability to work and lead to infection if left untreated.

L. Heat Edema

I. Introduction

Workers in hot environments may experience heat edema. Heat edema is the swelling of soft tissues, typically in the lower extremities (feet, ankles, and legs) and hands, and may be accompanied by facial flushing (Gauer and Meyers, 2019). Surveillance systems and the U.S. Army classify heat edema as a heat-related illness (Department of the Army, 2022). Workers who are sitting or standing for prolonged periods may be at higher risk for heat edema (Barrow and Clark, 1998). Workers who are not fully acclimatized to the work site may be more prone to developing heat edema as the body adjusts to hotter temperatures (Howe and Boden, 2007).

II. Physiological Mechanism

When exposed to heat, the body increases blood flow and induces vasodilation to cool itself and thermoregulate. This means, as blood is shunted towards the skin and vasodilation begins, the blood vessels near the skin's surface become wider (Hough and Ballantyne, 1899; Kamijo et al., 2005). However, blood can pool in areas of the body that are most subject to gravity (e.g., legs), and fluid can seep from blood vessels causing noticeable swelling under the skin—this is known as heat edema (Gauer and Meyers, 2019).

III. Occupational Heat Edema

Surveillance of heat edema is limited. Many studies include heat edema as one of many HRIs that contributed to an aggregate measure of HRI in worker, military, or general populations, but very few were found to quantify heat edema alone.

Multiple studies outside of the U.S. have examined HRIs among farm and factory workers in the sugarcane industry through surveys and interviews (Crowe et al., 2015; Boonruksa et al., 2020; Kiatkitroj et al., 2021; Debela et al., 2023). Respondents in the studies were asked if they experienced swelling of the feet or hands (with varying degrees of frequency) during periods of heat exposure, which could indicate presentation of heat edema. In different samples of sugarcane workers in two provinces of Thailand, two studies found incidence of swelling of the hands and feet. Among sugarcane cutters, 16.7% self-reported ever experiencing swelling of the hands or feet and 5.6% self-reported experiencing these symptoms (mean 30.6 °C WBGT)

(n=90, Boonruksa et al., 2020). In another province, 10.5% self-reported swelling of the hands/feet while working one summer (n=200, Kiatkitroj et al., 2021).

While comparing HRI symptoms among sugarcane harvesters and non-harvesters in Costa Rica, 15.1% of harvesters (n=106) and 7.9% of non-harvesters (n=63) self-reported having ever experienced swelling of hands/feet (p=0.173) (n=169, Crowe et al., 2015). While 7.5% of harvesters, who worked outdoors in the field, self-reported experiencing this symptom at least once per week, no non-harvesters self-reported swelling with this level of frequency (p=0.026) (Crowe et al., 2015). The sample of non-harvesters included both workers that were intermediately exposed to heat (e.g., in the processing plant or machinery shop) and workers not exposed to heat (e.g., in offices).

In a sample of sugarcane factory workers (n=1,524) in Ethiopia, 72.4% (1,104) were considered exposed to heat defined as conditions exceeding the ACGIH's TLV (Debela et al., 2023). Of the total sample (including workers considered exposed to heat and not), 78% (1,189) self-reported having experienced swelling of hands and feet at least once per week, which was the most commonly reported HRI symptom (Debela et al., 2023). Although these studies do not purport a diagnosis, presentation of swelling of the hands and feet while working in hot environments suggests respondents may have developed heat edema.

IV. Treatment and Recovery

Although most cases of heat edema can be self-treated without seeking medical attention, symptoms can last for days and reoccurrence is less likely if individuals are properly acclimatized (Howe and Boden, 2007; Department of the Army, 2023). It is important that the affected individual moves out of the heat and elevates the swollen area. Diuretics are not typically recommended for treatment (Howe and Boden, 2007; Gauer and Meyers, 2019; CDC, 2024a).

V. Summary

The available evidence in the scientific literature indicates that heat edema can result from occupational heat exposure, causing swelling of the lower extremities (feet, ankles, and legs) and hands. It may be difficult to move swollen body parts, thereby impeding an employee's ability to perform their job. The need for medical attention can typically be avoided if the condition is properly treated.

M. Kidney Health Effects

I. Introduction

The kidneys perform many functions in the body, including filtering toxins out of the blood and balancing the body's water and electrolyte levels (NIDDK, 2018). Working in the heat places a lot of demand on the kidneys to conserve water and regulate electrolytes, like sodium, lost through sweat. A growing body of experimental and observational literature suggests that intense heat strain can cause damage to the kidneys in the form of acute kidney injury (AKI), even independent of conditions like heat stroke and rhabdomyolysis. An epidemic of chronic kidney disease in Central America and other regions around the world has placed additional attention on the potential of recurrent heat stress-related AKI to cause chronic kidney disease (CKD) over time (Johnson et al., 2019; Schlader et al., 2019). Working in the heat has also been associated with the development of kidney stones among workers outside the U.S., likely a result of decreased urine volume leading to increased concentration of minerals in the urine that crystallize into stones.

Each kidney is comprised of hundreds of thousands of functional units called nephrons. Each nephron has multiple parts, including the glomerulus (a cluster of blood vessels that conduct the initial filtering of large molecules) and the tubules (tubes that reabsorb needed water and minerals and secrete waste products). The fluid that remains after traveling through the glomeruli and tubules becomes urine and is eliminated from the body (NIDDK, 2018).

This section will discuss three kidney-related health effects associated with heat exposure: kidney stones, AKI, and CKD.

II. Kidney Stones

A. Introduction

Kidney stones are hard objects that form in the kidney from the accumulation of minerals. They range in size from a grain of sand to a pea (NIDDK, 2017a). Symptoms include sharp pain in the back, side, lower abdomen, or groin; pink, red, or brown blood in the urine; a constant need to urinate; pain while urinating; inability to urinate or only able to urinate a small amount; and cloudy or foul-smelling urine (NIDDK, 2017b). Nausea, vomiting, fever, and chills are also possible, and symptoms may be brief, prolonged, or come in waves (NIDDK, 2017b). In rare cases or when medical care is delayed, kidney stones can lead

to complications including severe pain, urinary tract infections (UTI), and loss of kidney function (NIDDK, 2017a). Risk factors for kidney stones include being male, a family history of kidney stones, having previously had kidney stones, not drinking enough liquids, other medical conditions (e.g., chronic inflammation of the bowel, digestive problems, hyperparathyroidism, recurrent UTIs), drinking sugary beverages, and working in the heat, especially if unacclimatized (NIDDK, 2017a; Maline and Goldfarb, 2024). NIOSH has also cautioned workers that experiencing chronic dehydration can increase the risk of developing kidney stones (NIOSH, 2017a).

B. Physiological Mechanisms

Kidney stones form when concentrations of minerals are high enough to the point of forming crystals, which then aggregate into a stone in either the renal tubular or interstitial fluid (Ratkalkar and Kleinman, 2011). Reduced urine volume, altered urine pH, diet, genetics, or many other factors may cause this concentration of minerals (Ratkalkar and Kleinman, 2011). Heat exposure has the potential to cause kidney stones through heat-induced sweating and dehydration. Loss of extracellular fluid increases osmolality (i.e., increased concentration of solutes, like sodium and glucose) which leads to increased secretion of vasopressin, an antidiuretic hormone. Vasopressin signals to the kidneys to conserve water by reducing urine volume, leading to increased concentration of relatively insoluble salts, like calcium oxalate, in the urine. These salts can eventually form crystals which can develop into stones (Fakheri and Goldfarb, 2011).

C. Occupational Heat Exposure and Kidney Stones

Epidemiological studies conducted outside the U.S. have documented the association between working in heat and developing kidney stones. One of the earliest publications on occupational heat and kidney stones was a small study of beach lifeguards in Israel (Better et al., 1980). Eleven of 45 randomly selected lifeguards (24%) were found to have had kidney stones, which Better et al. noted was approximately 20 times the incidence rate of the general Israeli population at the time. The authors attributed this finding to low urine output due to dehydration, hyperuricemia (elevated levels of uric acid in the blood), and absorptive hypercalciuria (elevated levels of calcium in the urine), among other factors. In 1992, Pin et al.

compared outdoor workers exposed to hot environmental conditions to indoor workers exposed to cooler conditions (Pin et al., 1992). This study of 406 men in Taiwan included quarry, postal, and hospital engineering support workers. The prevalence of kidney stones was found to be significantly higher in the outdoor workers than the indoor workers (5.2% versus 0.85%, $p < 0.05$). The authors posited that chronic dehydration from working outdoors in a tropical environment might explain the higher prevalence of kidney stones among outdoor workers (Pin et al., 1992).

Several studies have also considered occupational exposure to indoor heat sources. Borghi et al. studied machinists who had been working in the blast furnaces of a glass plant in Parma, Italy for five or more years, excluding those who had kidney stones before working at the plant (Borghi et al., 1993). The prevalence of kidney stones was significantly higher among machinists exposed to heat ($n=236$) than among those working in cooler temperatures ($n=165$) (8.5% vs. 2.4%, $p=0.03$) (Borghi et al., 1993). An analysis of risk factors revealed that workers in the heat lost substantially more water to sweat and that their urine had higher concentrations of uric acid, higher specific gravity, and lower pH than workers in normal temperatures (Borghi et al., 1993).

In a large study in Brazil, the prevalence of at least one episode of kidney stones was 8.0% among the 1,289 workers in hot areas, which was significantly higher than the 1.75% prevalence found among the 9,037 people working in room temperature conditions ($p < 0.001$) (Atan et al., 2005). An analysis of a subset of workers demonstrated that workers in hot temperatures had significantly less citrate in their urine ($p=0.03$) and lower urinary volume ($p=0.01$) compared to room-temperature workers.

Venugopal et al. studied 340 steel workers in southern India engaged in moderate to heavy labor with three or more years of heat exposure (Venugopal et al., 2020). Of the 340 participants, 91 workers without other risk factors for kidney disease, but who had reported a symptom of kidney or urethral issues, underwent renal ultrasounds, which revealed that 27% had kidney stones. 84% of the participants with kidney stones were occupationally exposed to heat, as defined as working in conditions above the ACGIH TLV. Having five or more years of heat exposure was significantly associated with risk of kidney stones, while

controlling for smoking (OR: 3.6, 95% CI: 1.2, 10.7).

Most recently, Lu et al. studied 1,681 steel workers in Taiwan, 12% of whom had kidney stones, compared to the age-adjusted prevalence among men in Taiwan of 9% (Lu et al., 2022). Heat exposure was found to be positively associated with prevalence of stones, particularly among workers ≤ 35 years old (OR: 2.7, 95% CI: 1.2, 6.0) (Lu et al., 2022).

Overall, the peer-reviewed literature supports occupational heat exposure as a risk factor for kidney stones, in both indoor and outdoor environments, across multiple countries, and in several industries.

D. Treatment and Recovery

Treatment of kidney stones depends on their size, location, and type. Someone with a small kidney stone may be able to pass it by drinking plenty of water and taking pain medications as prescribed by a doctor (NIDDK, 2017c). Larger kidney stones can block the urinary tract, cause intense pain, and may require medical intervention such as shock wave lithotripsy, cystoscopy, ureteroscopy, or percutaneous nephrolithotomy to remove or break up the stone (NIDDK, 2017c). Percutaneous nephrolithotomy, whereby kidney stones are removed through a surgical incision in the skin, requires several days of hospitalization, but the other interventions typically do not require an overnight hospital stay (NIDDK, 2017c). One study found that among working aged adults, approximately one third of people treated for kidney stones miss work and that they miss, on average, 19 hours of work per person (Saigal et al., 2005). With monitoring or treatment, people typically recover from kidney stones. However, over the long term, individuals who develop kidney stones are at increased risk of chronic kidney disease and end-stage renal disease, particularly if kidney stones are recurrent (Uribarri, 2020).

E. Summary

The available peer-reviewed scientific literature demonstrates occupational heat exposure as a risk factor for kidney stones, in both indoor and outdoor environments. Kidney stones may require medical treatment and in some cases hospitalization. Finally, individuals who develop kidney stones are at increased risk of other kidney diseases.

III. Acute Kidney Injury

A. Introduction

Acute kidney injury (AKI) can affect workers exposed to occupational heat.

AKI is an abrupt decline in kidney function in a short period (*e.g.*, a few days). As normally functioning kidneys filter blood and maintain fluid balance in the body, AKI events can disrupt this fluid balance, which can impact major organs like the heart. AKI can also have metabolic consequences, like a build-up of too much potassium in the blood (hyperkalemia) (Goyal et al., 2023). AKI is not always accompanied by symptoms and is typically diagnosed with blood and/or urine tests (*e.g.*, increase in serum creatinine). While damage to the kidneys is one potential consequence of heat stroke (such as in the context of multi-organ failure, as mentioned in Section IV.E., Heat Stroke), this section is focused on AKI that is not necessarily preceded by clinical heat stroke.

B. Physiological Mechanisms

There are three categories of AKI used to distinguish the location of the cause(s) of AKI—prerenal, intrarenal, and postrenal (Goyal et al., 2023). Prerenal AKI represents a reduction in blood volume being delivered to the kidneys (*i.e.*, renal hypoperfusion). This can be the result of heat-induced sweating that leads to reduced circulating blood volume. Prerenal AKI that is reversed (*e.g.*, dehydration is quickly reversed) is typically not associated with impairment to the kidney glomeruli or tubules, however prolonged exposure can lead to direct injury to renal cells through ischemia (inadequate blood and oxygen supply to cells). Intrarenal AKI is when the function of the glomeruli, tubules, or interstitium are affected, such as in the case of nephrotoxic exposures (*e.g.*, heavy metals) or prolonged ischemia. Rhabdomyolysis, which was previously discussed in Section IV.H., Rhabdomyolysis, is one potential cause of necrosis of tubular cells resulting from myoglobin precipitation and direct iron toxicity (Sauret et al., 2002; Patel et al., 2009). Postrenal AKI is when there is an obstruction to the flow of urine, such as kidney stones, pelvic masses, or prostate enlargement. Postrenal AKI is less relevant to a discussion of heat-related health effects, apart from kidney stones, which is discussed in Section IV.M.II., Kidney Stones.

Researchers have written specifically about potential mechanisms leading from occupational heat exposure to AKI (Roncal-Jiménez et al., 2015; Johnson et al., 2019; Schlader et al., 2019; Hansson et al., 2020), often in the context of chronic kidney disease. As previously discussed in Section IV.B., General Mechanisms of Heat-Related Health Effects, working in the heat can lead to

increases in core temperature and reductions in circulating blood volume. Researchers hypothesize that elevated core temperature could directly injure renal tissue or that injury could be mediated through subclinical (mild and asymptomatic) rhabdomyolysis or increases in intestinal permeability that can cause inflammation. Reductions in blood volume could inflame or injure the kidneys through reduced renal blood flow that leads to ischemia and/or local reductions in adenosine triphosphate (ATP) availability. Reduced blood flow and increased blood osmolality also trigger physiologic pathways (*e.g.*, renin-angiotensin-aldosterone system, polyol-fructokinase pathway) which are energy-intensive and may lead to oxidative stress and inflammation. Other mechanistic pathways under investigation include urate crystal-induced injury (Roncal-Jiménez et al., 2015) and increased reabsorption of nephrotoxins (Johnson et al., 2019).

C. Identifying Cases of Acute Kidney Injury

Serum creatinine levels are used in clinical settings to estimate kidney function (glomerular filtration rate, or GFR), as it is typically produced in the body at a relatively stable rate and is removed from circulation by the kidneys. Multiple criteria exist for defining AKI based on increases in serum creatinine over hours or days, such as the KDIGO criteria published by a non-profit organization that produces recommendations on kidney disease (KDIGO, 2012). There are multiple factors that could affect the reliability of using serum creatinine to estimate GFR, including the increased production of creatinine during exercise. As a result of the limitations of serum creatinine, there is growing use of alternative biomarkers to identify cases of AKI, which may be more reliable and specific to AKI, such as neutrophil gelatinase-associated lipocalin, or NGAL.

D. Experimental Evidence

Researchers have documented an association between heat strain and biomarkers of AKI in controlled experimental conditions. In 2013, Junglee et al. documented elevations in urine and plasma NGAL and reductions in urine flow rate in participants after a heat stress trial that induced elevations in core temperature and reductions in body mass (an indication of hydration status) (Junglee et al., 2013). These increases in NGAL were higher in an experimental group that underwent a muscle damaging, downhill (–10% gradient) run (compared to a non-

muscle damaging run on a 1% gradient) prior to the heat stress trial, providing support for the argument that subclinical rhabdomyolysis may be a pathway from heat stress to kidney injury. Schlader et al. conducted a trial in which participants wearing firefighting gear completed two separate exercise trials in hot conditions of different durations. The longer duration trial was intended to induce higher levels of heat strain, while the shorter duration was intended to induce lower levels (Schlader et al., 2017). The researchers found that the longer trial was associated with elevated core temperature and reduced blood volume, as well as increases in serum creatinine and plasma NGAL, suggesting the magnitude of kidney injury may be proportional to the magnitude of heat strain. McDermott et al. tested longer durations of exercise in the heat (5.7 ± 1.2 hours) and similarly found elevations in serum creatinine and serum NGAL from before the trial to after (McDermott et al., 2018). To determine whether it is elevated core temperature or reduced blood volume that primarily drives heat-induced AKI, Chapman et al. conducted four trials in which subjects exercised for two hours in the same conditions, but received different interventions (water, cooling, water plus cooling, and no intervention) (Chapman et al., 2020). The group with no intervention had the highest levels of urinary AKI biomarkers in the recovery period, whereas the water and cooling groups each experienced reductions in AKI biomarker levels relative to the control group. The researchers concluded that limiting hyperthermia and/or dehydration reduces the risk of AKI.

The relationship between AKI and hyperthermia and/or dehydration has also been demonstrated in animal models (Hope and Tyssebotn 1983; Miyamoto 1994; Roncal-Jiménez et al., 2014; Sato et al., 2019).

E. Cases of Occupational Heat-Related AKI

In addition to experimental evidence, heat-related AKI has also been observed in “real world” conditions going back to the 1960s. In 1967, Schrier et al. documented evidence of military recruits developing AKI (referred to as “acute renal failure”) following training exercises in the heat (Schrier et al., 1967). It was soon after reported that AKI cases linked to exercise in the heat represented a sizeable portion (approximately 10%) of all AKI cases treated at Walter Reed General Hospital in the early 1960s (Schrier et al., 1970).

More recently, serum creatinine-defined AKI has been observed in agricultural workers in both Florida and California. Among a cohort of field workers from the Central Valley of California, Moyce et al. report a post-work shift incidence of AKI of 12.3% (35 of 283 workers) (Moyce et al., 2017). Workers with heat strain, characterized by increased core temperature and heart rate, were significantly more likely to have AKI (OR: 1.34, 95% CI: 1.04, 1.74). Among a cohort of agricultural workers in Florida, Mix et al. found that heat index (based on nearest weather monitor) was positively associated with the risk of AKI—47% increase in the odds of AKI for every 5 °F increase in heat index. The authors reported an incidence of AKI of 33% (i.e., 33% of workers had AKI on at least one day of monitoring) in this study (Mix et al., 2018).

OSHA researchers have also identified cases of heat-related AKI among workers in the agency’s own databases: the Severe Injury Reports (SIR) database and case files from consultations by the Office of Occupational Medicine and Nursing (OOMN) (Shi et al., 2022). Shi et al. identified 22 cases of heat-related AKI between 2010 and 2020 in the OOMN consultation records (based on serum creatine elevations meeting the KDIGO requirements) after excluding cases related to severe hyperthermia, multi-organ failure, or death. Using inclusion criteria of a heat-related OIICS code (172*) and a mention of AKI in the narrative, they also identified 57 cases of probable heat-related AKI between 2015 and 2020 in the SIR database.

Studies conducted among workers outside the U.S. have also reported a relationship between working in the heat and acute elevations in serum creatinine or increased risk of AKI (García-Trabanino et al., 2015; Wegman et al., 2018; Nerbass et al., 2019; Sorensen et al., 2019).

There are a few limitations to these observational studies, such as the use of serum creatinine to characterize AKI, as described above. An additional limitation is the inability to determine from these studies whether the AKI observed is due to prerenal or intrarenal causes. As discussed in *Physiological Mechanisms*, prerenal AKI may be due to reductions in renal blood flow (which would be expected in cases of dehydration) and is not necessarily indicative of clinically significant structural injury. Another limitation may be the use of serum creatinine measures taken over relatively short spans of time, which may be too short to see true reductions in GFR (Waikar

and Bonventre, 2009). However, there are a growing number of studies that find a relationship between short-term fluctuations in serum creatinine and longer-term declines in kidney function among outdoor workers (see discussion in Section IV.M.IV., Chronic Kidney Disease).

F. Treatment and Recovery

There is a spectrum of severity for AKI. For example, some individuals may not know they are experiencing AKI without a serum or urine test. There is also a spectrum of time and medical treatment needed for recovery, dependent on whether the AKI is quickly reversed or sustained for longer periods of time. In Schlader et al. 2017, researchers noted that the biomarkers of AKI for participants in their trial returned to baseline the following day. However, intrarenal causes of AKI may require longer periods of time for recovery and may potentially require the need for medication or dialysis (Goyal et al., 2023). AKI can be severe, which can be the case when resulting from heat stroke, where it may represent irreversible damage to the kidneys and can be fatal (Roberts et al., 2008; King et al., 2015; Wu et al., 2021). Recurrent AKI may also lead to chronic kidney disease (as discussed in Section IV.M.IV., Chronic Kidney Disease).

G. Summary

The available peer-reviewed scientific literature, both experimental and observational studies, suggests that occupational heat exposure causes AKI among workers. However, there are limitations in the case definitions used to define AKI in observational settings.

IV. Chronic Kidney Disease

A. Introduction

Chronic kidney disease (CKD) is a progressive disease characterized by a gradual decline in kidney function over months to years. It is typically asymptomatic or mildly symptomatic until later stages of the disease, when symptoms such as edema, weight loss, nausea, and vomiting can occur (NIDDK 2017d). People with CKD can be at a greater risk for other health conditions, like AKI, heart attacks, hypertension, and stroke. The diagnosis typically requires multiple blood and urine tests taken over time (NIDDK 2016). Typical risk factors for CKD include hypertension and diabetes.

Epidemics of CKD in Central America and other pockets of the world, such as India and Sri Lanka, that appear to be afflicting mostly young, outdoor workers with no history of hypertension or diabetes have raised questions about

whether working in hot conditions can cause the development of CKD (Johnson et al., 2019). Researchers have been investigating this question and the cause of the epidemic over the past 20 years, including other potential exposures, such as heavy metals, agrichemicals, silica, and infectious agents (Crowe et al., 2020).

B. Physiological Mechanisms

Researchers have proposed that working in the heat could lead to the development of CKD through repetitive AKI events (see discussion of heat-related mechanisms in Section IV.M.III., Acute Kidney Injury). However, some researchers acknowledge the possibility that the unexplained CKD cases observed in Central America and elsewhere may instead represent a chronic disease process that begins earlier in life which places workers at increased risk of AKI (Johnson et al., 2019; Schlader et al., 2019). Additionally, as discussed above in Section IV.M.III., Acute Kidney Injury, some occupational cases of AKI could be transient, the result of prerenal causes, and possibly unrelated to the development of CKD.

Independent of the epidemic of unexplained CKD, frequent and/or severe AKI has been identified as a risk factor for developing CKD (Ishani et al., 2009; Coca et al., 2012; Chawla et al., 2014; Hsu and Hsu 2016; Heung et al., 2016). The relationship between heat-related AKI and risk of developing CKD is untested in the experimental literature because of the ethical implications (Schlader et al., 2019; Hansson et al., 2020).

As discussed in Section IV.E., Heat Stroke, there is also evidence that experiencing heat stroke may increase an individual's risk of developing CKD (Wang et al., 2019; Tseng et al., 2020).

C. Identifying Cases of Chronic Kidney Disease

As discussed previously in the context of AKI, serum creatinine is commonly used to estimate glomerular filtration rate (GFR), the indicator of kidney function. When measures of serum creatinine (and therefore estimates of GFR) are taken over periods of months to years, medical professionals can determine if an individual's kidney function is declining. CKD is typically diagnosed when the estimated GFR is below a rate of 60 mL/min/1.73m² for at least 3 months, although there are other indicators, like a high albumin-to-creatinine ratio. There are various stages of CKD; the final stage is called end-stage renal disease (ESRD) and

represents a point at which the kidneys can no longer function on their own and require dialysis or transplant.

D. Observational Evidence

There is a growing body of evidence that suggests that heat-exposed workers who experience AKI (or short-term fluctuations in serum creatinine) are at greater risk of experiencing declines in kidney function over a period of months to years. For instance, sugarcane workers in Nicaragua who experienced cross-shift increases (*i.e.*, increase from pre-shift to post-shift) in serum creatinine at the beginning of the harvest season were more likely to experience declines in estimate GFR nine weeks later (Wesseling et al., 2016). Another study conducted among Nicaraguan sugarcane workers found that approximately one third of workers who experienced AKI during the harvest season had newly decreased kidney function (greater than 30% decline) and a measure of estimated GFR of less than 60 mL/min/1.73m² one year later (Kupferman et al., 2018). In an analysis among Guatemalan sugarcane workers, Dally et al. found that workers with severe fluctuations in serum creatinine over a period of 6 workdays had greater declines in estimated GFR (–20% on average) (Dally et al., 2020). In a separate study conducted in Northwest Mexico, researchers observed declines in estimated GFR among migrant and seasonal farm workers from March to July that were not observed in a reference group of office workers in the same region (López-Gálvez et al., 2021).

Further support for the hypothesis that working in the heat may lead to declines in GFR and increased risk of CKD comes from intervention studies in Central America, in which workers were given water-rest-shade interventions and observed longitudinally for kidney outcomes. In these studies, implementation of the heat stress controls was associated with reductions in the declines in kidney function and reduced rates of kidney injury (Glaser et al., 2020; Wegman et al., 2018).

While much of the literature is focused on Central American workers, OSHA did identify one paper conducted among a cohort of U.S. firefighters. Pinkerton et al. (2022) found lower than expected rates of ESRD in the cohort (relative to the general U.S. population) despite high levels of occupational exposure to heat. However, as the authors point out, this may be due to the healthy worker effect (*i.e.*, a phenomenon in occupational epidemiology by which workers appear to be healthier than the general population due to individuals with

health conditions leaving the workforce) (Pinkerton et al., 2022). The authors also examined associations between proxies for heat exposure and risk of developing ESRD and found non-significant associations between the number of exposed days and all-cause ESRD, systemic ESRD, and hypertensive ESRD. Very few of the ESRD cases identified in this cohort were due to interstitial nephritis (which would be most consistent with the CKD cases observed in Central America), limiting the authors' ability to examine associations between those cases and exposure.

There may be differences between the heat-exposed worker populations in Central America and the U.S. that could limit the ability to extrapolate findings from that region, such as differences in other potentially nephrotoxic exposures (*e.g.*, agrichemicals, infectious agents). There is also evidence that children in regions with epidemics of unexplained CKD have signs of kidney injury (Leibler et al., 2021). Unfortunately, surveillance of CKD in the U.S. (namely the U.S. Renal Data System) may be missing cases among susceptible workers, such as migrant agricultural workers, limiting the ability to detect a potential epidemic of heat-related CKD in this country.

In addition to the general lack of studies conducted among U.S. workers, there may be other limitations with these observational studies, such as limited data on longer-term follow-up (*i.e.*, years instead of months) and the potential for reverse causality (*i.e.*, undetected CKD is causing AKI).

E. Treatment and Recovery

Often kidney disease gets worse over time and function continues to decline as scarring occurs (NIDDK 2017d). As discussed above, late-stage CKD (or ESRD) requires dialysis or a kidney transplant for an individual to survive. Kidney failure is permanent. Having even early-stage CKD may impair workers' urine concentrating ability, which could increase their heat strain and risk of HRIs while working (Petroopoulos et al., 2023).

F. Summary

There is growing evidence suggesting that heat stress and dehydration may be contributing to an epidemic of CKD among workers in Central America and other parts of the world, although the cause is still being investigated by researchers. There is currently limited information as to whether this type of CKD is affecting U.S. workers and if so, to what extent. Experiencing heat stroke has been identified in the literature as a risk factor for developing CKD.

N. Other Health Effects

I. Introduction

In addition to the health effects discussed in the previous sub-sections, heat exposures have also been linked to reproductive health effects. Additionally, health effects have been associated with prior episodes of heat illness.

II. Reproductive and Developmental Health Effects

There is mixed evidence that heat affects reproductive and developmental health outcomes. NIOSH reported two mechanisms by which heat may affect reproductive and developmental health: infertility (e.g., such as through damaged sperm) and teratogenicity (harm to the developing fetus, e.g., spontaneous abortion or birth defects) (NIOSH, 2016). NIOSH concluded that while human data about reproductive risks at exposure limits (see NIOSH, 2016, table 5–1, p. 70) were limited, results of research and animal experiments support the conclusion heat-related infertility and teratogenicity are possible (NIOSH, 2016, p. 91).

More recent evidence, although also limited, continues to provide support of a reproductive risk to people who are pregnant and developmental risk to their children. Numerous epidemiological studies have reported that heat exposure during pregnancy is associated with poor outcomes, such as pre-term labor and birth and low-birth weight babies (e.g., Kuehn and McCormick, 2017; Basu et al., 2018; Chersich et al., 2020; Rekha et al., 2023). While most studies assess this relationship in the general population of pregnant women and do not specifically address occupational exposures, Rekha et al. show that occupational exposures to heat were associated with adverse pregnancy and fetal outcomes, as well as adverse outcomes during birth in a cohort of pregnant women in Tamil Nadu, India (Rekha et al., 2023). Although the mechanisms for these outcomes are unclear, a study of pregnant women conducting agricultural work or similar activities for their homes in The Gambia reported an association between heat exposure and fetal strain (through measures of fetal heart rate and umbilical artery resistance) (Bonell et al., 2022). Further, a recent longitudinal prospective cohort study in Germany found that heat exposure was associated with vascular changes in the uterine artery. This study reports that changes of increased placental perfusion and decreased peripheral resistance in the uterine artery indicate blood redistribution to

the fetus during the body's response to heat stress. They also report increased maternal cardiovascular strain. This data may support a mechanistic role for uterine and placental blood flow changes during heat exposures in resultant birth outcomes, such as pre-term birth (Yuzen et al., 2023; Bonell et al., 2022).

There is evidence that occupational heat exposures can affect male reproductive health (e.g., Mieusset and Bujan, 1995). Some research studies report associations between occupational heat exposure and time to conceive (e.g., Rachootin and Olsen, 1983; Thonneau et al., 1997), sperm velocity (Figa-Talamanca et al., 1992), and measures of semen quality such as sperm abnormalities (Rachootin and Olsen, 1983; Bonde, 1992; Figa-Talamanca et al., 1992; De Fleurian et al., 2009). Effects of heat on sperm have also been demonstrated in experiments in animal models (Waite, 1991). Cao et al. report that in their study of heat stress in mice, heat stress reduced sperm count and motility (Cao et al., 2023). In this study, the heat exposed mice were exposed to 38°C (100.4 °F) temperatures for 2 hours per day for two weeks. When the mice were not being exposed to heat, they were kept at 25°C (77 °F). Control mice were kept at 25°C for the duration of the study. Their study results indicate that reduced sperm quality may be a result of disrupted testicular microbial environment and disruption in retinol metabolism that occurs during heat stress. Although, the authors note that the heat exposure does not accurately mimic real world heat exposures in humans.

While it is accepted that heat impairs spermatogenesis, or development of sperm (e.g., MacLeod and Hotchkiss, 1941; Mieusset et al., 1987; Thonneau et al., 1997), some studies of occupational heat exposure find no relationship between heat and semen quality (Eisenberg ML et al., 2015). Another study found observable but not statistically significant associations between heat and semen quality (Jurewicz et al., 2014). Many studies of the effects of occupational heat exposure on reproductive outcomes are cross-sectional in nature and measure exposures through occupation categories or self-report answers on questionnaires (e.g., Figa-Talamanca et al., 1992; Thonneau et al., 1997; Jurewicz et al., 2014). These methods can be susceptible to recall bias and misclassification errors, which can reduce accuracy in characterizing the association between occupational heat exposures and reproductive health

outcomes, and they are also unable to determine causality on their own. Additional research that quantifies occupational heat exposures directly (e.g., through measures of heat strain or on-site temperatures) would help to clarify the impacts of occupational heat exposures on male reproductive outcomes.

III. Health Effects Associated With Prior Episodes of Heat Illness

A limited number of studies have focused on a variety of long-term effects following a prior episode of heat illness. This includes research by Wallace et al., also reviewed by NIOSH in the 2016 *Criteria for a Recommended Standard Occupational Exposure to Heat and Hot Environments*, whose retrospective case control study of military members found that those who experienced an exertional heat illness event earlier in life were more likely to die due to cardiovascular or ischemic heart disease (Wallace et al., 2007). Similarly, Wang et al. reports that, in their retrospective cohort study in Taiwan, prior heat stroke was associated with a higher incidence of acute ischemic stroke, acute myocardial infarction, and an almost three-fold higher incidence of chronic kidney disease compared to patients who had other forms of heat illness or compared to the control group that had no prior heat illness, over the study's 14 year follow-up period (Wang et al., 2019). They also found significantly higher incidence of cardiovascular events, cardiovascular disease, and chronic kidney disease among individuals in the study who had other forms of heat illness (heat syncope, heat cramps, heat exhaustion, heat fatigue, heat edema and other unspecified effects) compared to the control group that had no prior heat illness. In a long-term follow-up study of military personnel who had experienced exertional heat illness, Phinney et al. reported a transient and small but observable increase in the rate of subsequent hospitalizations and decreased retention in the military (Phinney et al., 2001). While these studies suggest a relationship between episodes of serious heat illness and subsequent health effects, this body of research is small and subject to some limitations. The cross-sectional nature of some of these studies does not allow for determination of causality on their own. Additionally, given the retrospective nature of some of these studies it is possible that important confounding variables were not adjusted for in analyses, including occupation in some cases.

IV. Summary

The description of evidence presented here demonstrates that there is some evidence to support a link between occupational heat exposures and adverse reproductive health outcomes. There is also limited evidence that prior episodes of heat illness may affect health outcomes later in life such as increased risk of cardiovascular disease and kidney diseases. This evidence of reproductive and developmental health effects and health effects associated with prior episodes of heat illness, while suggestive, is still nascent and requires further investigation.

O. Factors That Affect Risk for Heat-Related Health Effects

I. Introduction

This section discusses individual risk factors for heat-related injury and illness. The purpose of this discussion is to summarize the factors that may exacerbate the risk of workplace heat-related hazards and to provide information to better inform workers and employers about those hazards. However, exposure to workplace heat contributes to heat stress for all workers and can be detrimental to workers' health and safety regardless of individual risk factors. OSHA is not suggesting that application of the proposed standard would depend on an employer's knowledge or analysis of these factors for their individual workers. Nor do these individual risk factors detract from the causal link between occupational exposure to heat and adverse safety and health outcomes or an employer's obligation to address that occupational risk (see *Reich v. Arcadian Corp.*, 110 F.3d 1192, 1198 (5th Cir. 1997) (Congress intended the Act to protect all employees, "regardless of their individual susceptibilities"); *Pepperidge Farm, Inc.*, 17 O.S.H. Cas. (BNA) ¶ 1993 (O.S.H.R.C. Apr. 26, 1997) (that non-workplace factors may render some workers more susceptible to causal factors does not preclude finding the existence of an occupational hazard); see also *Bldg. & Const. Trades Dep't, AFL-CIO v. Brock*, 838 F.2d 1258, 1265 (D.C. Cir. 1988) (holding that OSHA did not err in including smokers in its analysis of the significant risk posed by occupational exposure to asbestos, despite the "synergistic effects" of smoking and asbestos)). Many factors can influence an individual's risk of developing heat-related health effects. These factors include variation in genetics and physiology, demographic factors, certain co-occurring health conditions or illnesses, acclimatization status, certain

medications and substances, and structural factors (e.g., economic, environmental, political and institutional factors) that lead to disproportionate exposures and outcomes. Although there is a lack of evidence that explores the full extent to which these factors interact to affect heat-related health effects, or how various risk factors compare in their impacts, there is evidence that each of these factors can affect risk of heat-related health effects. This section focuses on factors that relate to an individual's health status. For an in-depth discussion on acclimatization as a risk factor, see Section V., Risk Assessment, and for an in-depth discussion on demographic factors and structural factors that affect risk of heat-related illness, see Section VIII.I., Distributional Analysis.

II. Risk Factors

There are a number of factors that can impact an individual's response to heat stress and lead to variation in heat stress response between individuals. These include variation in genotype (Heled et al., 2004), gene expression (Murray et al., 2022), body mass and differences in thermoregulation between the biological sexes (Notley et al., 2017), differences in thermoregulation as people age (e.g., Pandolf 1997, Kenny et al., 2010; Kenny et al., 2017), and pregnancy (Wells, 2002; NIOSH, 2016). Normal variation across individuals in genetics, physiology, and body mass results in variation in how individuals respond to heat stress. There is some evidence that, at least in some specific populations, variation in genotype (i.e., genetic makeup) can affect heat storage and heat strain (Heled et al., 2004; Gardner et al., 2020). Normal variation in body mass can also correspond to variation in thermoregulation between individuals (e.g., Havenith et al., 1998). Results from Havenith et al.'s experimental study of heat stress under different climate and exercise types indicates that one reason for this effect may be due to the relationship between size and surface area of the skin which plays an important role in cooling capacity (Havenith et al., 1998). A more detailed discussion of the relationship between obesity and heat stress response can be found below.

There is some evidence that biological sex could be considered a risk factor for heat-related illness, although the evidence is mixed. Some studies find differences in heat stress response between males and females (e.g., Gagnon et al., 2008; Gagnon and Kenny, 2011; Gagnon and Kenny, 2012). These differences may be due to differences in

body mass (Notley et al., 2017), lower sweat output in females or differences in metabolic heat production (Gagnon et al., 2008; Gagnon and Kenny, 2012). However, recent experimental data assessing differences in thermoeffector responses (autonomic responses that affect thermoregulation, such as skin blood flow and sweat rate) between males and females exposed to exercise show that differences between the sexes in heat stress response are mostly explained by differences in morphology (body shape and size and the resultant mass-surface ratios) (Notley et al., 2017). Although, Notley et al.'s (2017) experiment only involved heat environments where enough heat could be lost so that the body does not continue to gain heat (compensable heat stress), so it is unclear if an increased effect due to biological sex would occur in conditions where heat gain is expected, such as in occupational settings where environmental heat or environmental heat and exertion exceed the body's ability to cool.

Healthy aging processes can also make individuals more susceptible to heat-related illness. Aging may impact thermoregulation through reduced cardiovascular capacity (Minson et al., 1998; Lucas et al., 2015), reduced cutaneous vasodilation (the widening of blood vessels at the skin to aid heat loss), sweat rate, altered sensory function (Dufour and Candas, 2007; Wong and Hollowed, 2017), and changes in fluid balance and thirst sensation (Pandolf, 1997). Observational evidence tends to show that elderly individuals, particularly those with co-existing chronic or acute diseases, are at highest risk for morbidity or mortality related to heat exposures, and that risk increases with age (e.g., Semenza et al., 1999; Fouillet et al., 2006; Knowlton et al., 2008). However, experimental evidence shows that, under certain conditions, when individuals are matched for fitness level and body build and composition, middle-aged individuals can compensate for heat exposures similarly to younger adults (Lind et al., 1970; Pandolf, 1997, Kenny et al., 2017). Conversely, observational studies of occupational populations often find that younger workers experience greater rates of heat-related illness than do older workers (e.g., Harduar Morano et al., 2015; Hesketh et al., 2020; Heinzerling et al., 2020). While it is unclear why younger workers appear to have greater rates of heat-related illness in epidemiological data, Heinzerling et al. (2020) suggest that this could be a result of a greater number of younger workers being

employed in high-risk occupations. Further, younger workers have less work experience, meaning that younger workers are less familiar with the heat risks associated with their jobs, how their body responds to heat, and/or how to respond if they experience symptoms of heat-related illness.

Health status is another factor that plays a role in how someone responds to heat stress (e.g., Semenza et al., 1999; Knowlton et al., 2008; NIOSH, 2016; Vaidyanathan et al., 2019, 2020). Conditions such as cardiovascular disease and diabetes can affect risk of heat-related illness (e.g., Kenny et al., 2016; Kenny et al., 2018). The cardiovascular system plays an integral role in thermoregulation and heat stress response (Costrini et al., 1979; Lucas et al., 2015; Wong and Hollowed, 2017; Kenny et al., 2018). Cardiovascular diseases can affect the heart and blood vessels, increasing cardiovascular strain and decreasing cardiovascular function and thermoregulatory capacity (Kenny et al., 2010) and, as a result, increase risk of heat-related illness during heat stress (Kenny et al., 2010; Semenza et al., 1999). For example, people with hypertension (i.e., high blood pressure) may be at increased risk of heat-related illness due to changes in skin blood flow that can impair heat dissipation during heat stress (Kenny et al., 2010). Further, many individuals with hypertension and cardiovascular diseases may take prescription medications that reduce thermoregulatory functions, through mechanisms like reduced blood flow to the skin, which can increase sensitivity to heat (Wee et al., 2023). Studies estimate that a substantial percentage of the population, and therefore the population of workers, have the type of health status (i.e., having a chronic condition such as cardiovascular diseases) (Boersma et al., 2020; Watson et al., 2022) that could affect their response to heat stress. For example, Watson et al. (2022) estimate that of the 46,781 surveyed adults between the ages of 18 and 34 who reported being employed, 26.1% have obesity, 11% have high blood pressure, and 9.7% have high cholesterol. Additionally, 19.4% were estimated to have depression, which is sometimes treated with medications that can affect thermoregulation.

Diabetes and obesity are other factors that may affect risk of developing heat-related illness (Kenny et al., 2016). Both diabetes and obesity may affect thermoregulation by reducing a person's ability to dissipate heat through changes in skin blood flow and sweat response (Kenny et al., 2016). While some

evidence shows that individuals with well-controlled diabetes may be able to maintain normal thermoregulatory capacity (Kenny et al., 2016), some evidence indicates that individuals with poorly controlled diabetes (Kenny et al., 2016) or older individuals with Type 2 diabetes (Notley et al., 2021) may experience decreased heat tolerance. Obesity has also been identified as a risk factor for exertional heat illness in the military (e.g., Bedno et al., 2014; Nelson et al., 2018b; Alele et al., 2020). Gardner et al. (1996) reported increasing risk of exertional heat illness among male Marine Corps recruits as BMI increased. Additionally, a smaller body mass to surface area ratio can reduce capacity for heat loss since surface area is relatively smaller in relationship to mass (Bar-Or et al., 1969; Kenny et al., 2016). Differences in tissue properties between adipose (fat) tissue and other body tissues may indicate that a higher body fat mass can lead to greater rises in core temperature for a given amount of heat storage in the body (Kenny et al., 2016).

Beyond chronic health conditions, prior episodes of significant heat-related illness and recent or concurrent acute illness or infection may also affect an individual's response to heat stress and increase the risk of heat-related illness (e.g., Carter et al., 2007; Nelson et al., 2018a; Nelson et al., 2018b; Alele et al., 2020). Reviews of research and case studies of heat-related illness indicate that acute illnesses that may affect risk of heat-related illness include upper respiratory infections and gastrointestinal infections (Casa et al., 2012; Alele et al., 2020). However, statistical evidence is limited (Alele et al., 2020). Leon and Kenefick (2012) discuss results from a study of four marine recruits who presented with exertional heat illness and who also had an acute illness separate from heat-related illness. The recruits' blood tests showed elevated levels of immune-related substances which Leon and Kenefick identify as being substances that are both mediators of viral infection symptoms and substances associated with exertional heat illness. Leon and Kenefick interpret this observation, along with evidence from a study on rats that showed that bacteria exposure exacerbated inflammation and organ dysfunction due to heat stress, to suggest that pre-existing inflammatory states, such as those that occur with acute viral illness, compromise the ability to thermoregulate appropriately (Carter et al., 2007; Leon and Kenefick, 2012) (see also Bouchama and Knochel, 2002). Several studies in military

populations also show that a prior heat illness may increase risk of a future episode of heat illness (Nelson et al., 2018b; Alele et al., 2020). Assessments of heat and epigenetics (the study of how the environment and behavior affects genes) suggest that the complex physiological responses to heat impact genetic mechanisms that could play a role in increasing susceptibility to future heat illness following an episode of heat illness (Sonna et al., 2004; Murray et al., 2022).

Certain medications can also affect thermoregulation and risk of heat-related illness. Medications that may decrease thermoregulatory capability include medications that treat cardiovascular diseases, diabetes, neuropsychiatric diseases, neurological diseases, and cancer (Wee et al., 2023). Some of these medications affect thermoregulation by directly affecting the region of the brain that controls thermoregulation or through other central nervous system effects (e.g., antipsychotics, dopaminergics, opioids, amphetamines) (Cuddy, 2004; Stollberger et al., 2009; Musselman and Saely, 2013; Gessel and Lin, 2020; Wee et al., 2023). Other medications affect thermoregulation through effects on heat dissipation that occur due to changes in sweat response and/or blood flow to the skin (e.g., anticholinergics, antihypertensives, antiplatelets, some antidepressants and antihistamines, aspirin) (see, e.g., Freund et al., 1987; Cuddy, 2004; Stollberger et al., 2009; Wee et al., 2023; CDC, 2024b). There are also medications that may affect ability to perceive heat and exertion (e.g., dopaminergics) (Wee et al., 2023). Some medications can affect electrolyte balances (e.g., diuretics, beta-blockers, calcium channel blockers, and antacids) (CDC, 2024b). When accompanied by dehydration, some medications also pose a toxicity risk (e.g., apixaban, lithium, carbamazepine) (CDC, 2024b). Finally, some medications can affect fluid volume, kidney function, hydration status, thirst perception, or cardiac output (e.g., diuretics, ACE inhibitors, some anti-diabetics, beta-blockers, non-steroidal anti-inflammatories (NSAIDs), tricyclic antidepressants, laxatives, and antihistamines) (Stollberger et al., 2009; Wee et al., 2023; CDC, 2024b). The NIOSH *Criteria for a Recommended Standard for Occupational Exposure to Heat and Hot Environments* (table 4–2), the Department of the Army's Technical Bulletin 507 (table 4–2), and CDC's *Heat and Medications—Guidance for Clinicians* contain additional information about classes of

medications and the proposed mechanisms for how they affect thermoregulation (NIOSH, 2016; Department of the Army, 2022; CDC, 2024b).

Medications that can affect how individuals respond to heat are used by a significant portion of the U.S. population. Survey data from the National Health and Nutrition Examination Survey from 2015–2016 showed that 60% of adults aged 40–79 used a prescription medication within the last thirty days and approximately 22% of adults in that same age range took five or more prescription medications (Hales et al., 2019). Many of the medications reported by survey respondents are medications that can affect an individual's response to heat (e.g., commonly used blood pressure and diabetes medications).

Amphetamines (whether prescription or illicit), methamphetamines, and cocaine can also affect thermoregulation and increase risk of heat-related illness (NIOSH, 2016; Department of the Army, 2022). These substances can affect the central nervous system's thermoregulatory functions, stimulate heat generation, and reduce heat dissipation through vasoconstriction (Cuddy, 2004). The synergy between the hyperthermia induced by these substances, physical activity, and heat exposure can increase risk of heat-related illness (Kiyatkin and Sharma, 2009). Analyses of occupational heat-related fatalities find amphetamines and methamphetamines to be an important risk factor (Tustin et al., 2018a, Karasick et al., 2020; Lin et al., 2023). In Lin et al.'s 2023 review of heat-related hospitalizations and fatalities documented through NIOSH *Fatalities in Oil and Gas Database* (2014–2019) and OSHA's Severe Injury Report Database (2015–2021), 50% of identified fatalities occurred in workers that had tested positive for amphetamines or methamphetamines after they died. However, small sample sizes, sampling strategies, and incomplete data have so far limited the ability of studies to fully characterize the association between these substances and risk of heat-related illness or fatality. Poor data quality or limited data has also limited current studies from concluding if and when amphetamine-like substances are from prescription or non-prescription use.

Alcohol and caffeine use may also affect risk of heat-related illness through effects on hydration status and heat tolerance (NIOSH, 2016; Tustin, 2018; Department of the Army, 2022). There have been cases of fatalities due to occupational heat exposure in individuals with a history of "alcohol

abuse or high-risk drinking" (Tustin et al., 2018a, p. e385). Both alcohol and caffeine may affect how someone responds to heat stress due to their ability to cause loss of fluids and subsequently dehydration, and alcohol also affects central nervous system function (NIOSH, 2016). In the case of caffeine, it appears that moderate consumption associated with normally caffeinated beverages (e.g., one cup of coffee, tea, soda) may not interfere with thermoregulation in a way that negatively affects response to heat stress (NIOSH, 2016; Kazman et al., 2020; Department of the Army, 2022). However, heavily caffeinated beverages, such as energy drinks, have been linked to negative health outcomes (Costantino et al., 2023) and could potentially exacerbate heat stress through diuretic (salt and water loss) mechanisms and cardiovascular strain (NIOSH, 2016). Overall, there is a lack of robust data that quantify the specific amounts of alcohol or caffeine that are problematic for heat stress response. However, experts generally advise against drinking alcohol or caffeinated beverages before or during work or exercise in the heat (NIOSH, 2016; Department of the Army, 2022; CDC, 2022).

III. Summary

The evidence presented in this section demonstrates that there are numerous factors that can affect risk of heat-related illness (e.g., genetics, age, body mass, some chronic conditions, prescription medications and drugs). Because prevalence data show that a majority of working-age adults live with or experience at least one risk factor, these factors should be considered an important component of understanding how individuals can be at increased risk for heat-related illness. OSHA acknowledges, however, that for most of the described risk factors, the evidence is not robust enough to determine the full picture of how the factor impacts risk of heat-related illness or to establish the degree to which the risk factor contributes to overall risk of developing heat-related illness. There is also a lack of evidence evaluating the way in which multiple risk factors combine to affect risk of heat-related health outcomes.

P. Heat-Related Injuries

I. Introduction

In addition to heat-related illnesses, heat exposure can lead to a range of occupational heat-related injuries. A heat-related injury means an injury, such as a fall or cut, that is linked to heat exposure. A heat-related injury

may occur as a result of a heat-related illness, such as a fracture following heat syncope. The association between heat exposure and heat-related injury among workers has been well documented over the last decade (Tawatsupa et al., 2013; Xiang et al., 2014b; Adam-Poupart et al., 2015; Spector et al., 2016; McInnes et al., 2017; Calkins et al., 2019; Dillender, 2021; Dally et al., 2020; Park et al., 2021; Negrusa et al., 2024). In particular, analyses of workers' compensation claim data has demonstrated the increased risk of occupational traumatic injury with increasing heat exposure (Xiang et al., 2014b; Adam-Poupart et al., 2015; Spector et al., 2016; McInnes et al., 2017; Calkins et al., 2019; Dillender, 2021; Park et al., 2021; Negrusa et al., 2024). These types of heat-related injuries can cause hospitalizations, extended time out of work, and reduced productivity. In some instances, a heat-related injury may be fatal, like in the event of accidents such as a slip, trip, or fall. In 1972, NIOSH identified occupational heat exposure as contributing to workplace injuries, and discussed how accidents and injuries were outcomes that could be prevented by a heat stress standard (NIOSH, 1972). Specifically, NIOSH highlighted how reduced physical and psychological performance, fatigue, accuracy of response, psychomotor performance, sweaty palms, and impaired vision may result in a workplace heat-related injury.

Since multiple types of injuries can be heat-related (e.g., strain, fracture, crushing) and the mechanisms underlying those injuries vary (e.g., impaired speed and reaction time, impaired vision, impaired dexterity), the identification and classification of heat-related injuries varies on a case-by-case basis. Although there are no ICD or OIICS codes specific to diagnosing heat-related injuries, medical professionals and occupational health professionals can combine a heat-related illness code with other injury related codes to indicate an injury is heat-related. An injury specifically attributed to heat would be expected to be assigned both a heat-related OIICS or ICD code and an injury OIICS or ICD code. Numerous researchers have used ICD and OIICS code to conduct studies on heat-related injuries (Dillender, 2021; Garzon-Villalba et al., 2016; Morabito et al., 2006; Spector et al., 2016).

This section first presents the epidemiological evidence of increasing occupational injuries during periods of hotter temperatures, followed by a discussion of mechanisms that can lead to heat-related injuries.

II. Occupational Heat-Related Injuries

A multitude of studies have identified an association between heat exposure and occupational injury in the U.S. (Knapik et al., 2002; Fogleman et al., 2005; Garzon-Villalba et al., 2016; Spector et al., 2016; Calkins et al., 2019; Dillender, 2021; Park et al., 2021; Negrusa et al., 2024). These analyses primarily rely on workers' compensation claim data and meteorological data and are often case-crossover or observational time-series in design.

In two studies of outdoor agricultural workers (Spector et al., 2016) and outdoor construction workers (Calkins et al., 2019) in Washington State, traumatic injury claims were significantly associated with heat exposure. Among outdoor agricultural workers (n=12,213 claims), Spector et al. (2016) found a statistically significant increased risk of traumatic injuries at a daily maximum humidex (the apparent, or "feels like," temperature calculated from air temperature and dew point, similar to heat index) above 25 °C (77 °F). Among outdoor construction workers (n=63,720 claims), Calkins et al. (2019) found an almost linear statistically significant association between traumatic injury risk and humidex. Both studies reported that injuries most commonly resulted from falls or bodily reaction and exertion, which may include sudden occurrences of strains, sprains, fractures, or loss of balance, among others (Spector et al., 2016; Calkins et al., 2019).

Using workers' compensation claim data from Texas, Dillender (2021) found that hotter temperatures resulted in larger percent increases in traumatic injuries among two similar sets of injury types, "open wounds, crushing injuries, and fractures" and "sprains, strains, bruises, and muscle issues." Park et al. (2021) examined over 11 million workers' compensation records in California and estimated that approximately 20,000 additional injuries per year between 2001 and 2018 were related to hotter temperatures. In comparison to a day with temperatures in the 60s °F, the risk of occupational heat-related injury increased by 5–7% (p<0.05) and 10–15% (p<0.05) on days with high temperatures between 85–90 °F and above 100 °F, respectively (Park et al., 2021).

In these case-crossover studies, cases serve as their own controls, allowing for variables such as age, sex, race, and ethnicity, as well as other known and unknown time-invariant confounders to be controlled. However, there are still

some limitations to these studies, such as the potential for time-varying confounders (e.g., air pollutants like ozone and sleep duration influenced by nighttime temperatures).

Studies conducted among workers outside the U.S. have also reported a relationship between working in the heat and increased risk of injuries (Morabito et al., 2006; Tawatsupa et al., 2013; Adam-Poupart et al., 2015; McInnes et al., 2017; Martinez-Solanas et al., 2018). Analyses from Dally et al. (2020), found an increase in injury risk with increasing average daily mean WBGT above 30 °C (86 °F) among sugarcane harvesters in Guatemala; although this result was not statistically significant, this may have been due to small sample and event size.

III. Mechanisms

Heat exposure can impair workers' psychomotor and mental performance, which can interfere with routine occupational tasks. Consequently, the risk of work-related injuries, including slips, trips, and falls, as well as cuts and other traumatic injuries, is exacerbated when job tasks are performed in hot environments. As summarized in the prior health effects sections of this preamble, heat can impair a variety of physiological systems and produce a range of symptoms. Changes in the cardiorespiratory, locomotor, and nervous systems due to heat exposure can induce various bodily responses such as fatigue, which may lead to injury (Ross et al., 2016). Changes from elevated skin and core body temperatures, which may result in increased sweating and dehydration, can cause decrements in physical, visuomotor, psychomotor, and cognitive performance (Grandjean and Grandjean, 2007; Lieberman, 2007). Even experiencing a high level of heat sensation may contribute to discomfort and distress, causing distraction and other behavioral changes that can result in accidents and injuries (Simmons et al., 2008). An explanation of how heat exposure can impair psychomotor and mental performance, and consequently lead to occupational heat-related injuries is provided below.

A. Impaired Psychomotor Performance

Heat exposure can impair psychomotor function (*i.e.*, the connection between mental and muscle functions) which may cause heat-related injuries. Impaired psychomotor function from heat exposure can take multiple forms, including impaired movement, strength, or coordination (fatigue); impaired postural stability and balance; and impaired accuracy, speed, and

reaction time. Each of these impairments to psychomotor performance are discussed in turn below.

I. Impaired Movement, Strength, or Coordination (Fatigue)

Heat exposure can hamper psychomotor performance by impairing workers' movement, strength, or coordination and causing fatigue. Fatigue has been described as having a lack of energy or a feeling of weariness or tiredness (NIOSH, 2023b). Effects from heat strain on the cardiorespiratory and locomotor systems can cause both central and peripheral fatigue due to increased heat storage at the brain and muscle levels, along with other physiological mechanisms (Ross et al., 2016). As an individual's metabolic rate increases in hot environments, blood pH level may become more acidic and cause muscle fatigue from increased muscle glycogen degradation, lactate accumulation, and elevated carbohydrate metabolism (Varghese et al., 2018). These changes have been shown to compromise performance.

Numerous studies demonstrate the relationship between heat exposure and fatigue. In a cross-sectional survey of 256 occupational health and safety professionals in Australia, fatigue was the most reported incident in workers during higher temperatures (Varghese et al., 2020). Among two groups of 55 steel plant workers who completed a questionnaire assessing fatigue, the group of workers exposed to hotter environments (30–33.2 °C (80–91.76 °F) WBGT) were significantly more likely to report symptoms of fatigue in comparison to workers in cooler environments (25.4–28.7 °C (77.7–83.6 °F) WBGT) (Chen et al., 2003). This study highlights how fatigue symptoms increase with rising heat exposure levels (Chen et al., 2003).

Moreover, in a review of 55 studies on workplace heat exposure, core temperature elevation and dehydration have been shown to have numerous negative behavioral effects including fatigue, lethargy, and impaired coordination, which may lead to injury (Xiang et al., 2014a). These 55 articles included ecological (22%), cross-sectional (64%), and cohort (5%) studies, as well as epidemiological experiments (9%). From one study included in the review, 42% of construction workers surveyed reported it was "easy to get fatigued" while working in the summer (Inaba and Mirbod, 2007). In another review of heat stress risks in the construction industry, Rowlinson et al. (2014) also discussed the association of high temperatures and

level of fatigue, which has been considered one of the critical factors leading to construction accidents (Garrett and Teizer, 2009; Chan, 2011). In a case study of 15 workers who experienced fatigue-related accidents, fatigue was shown to trigger other safety risks, such as not following proper safety procedures or becoming distracted, which can induce injury (Chan, 2011).

II. Impaired Postural Stability and Balance

Heat exposure has also been shown to impair postural stability and balance as increases in metabolic heat can impact workers' gross motor capacity (*i.e.*, the ability to move the body with appropriate sequencing and timing to perform bodily movements with refined control), including postural balance. As individuals become dehydrated, they may experience negative neuromuscular effects. Distefano et al. (2013) demonstrated the detrimental impact of dehydration during task performance in hot conditions, where subjects experienced decreased neuromuscular control as characterized by poorer postural stability. The authors found that neuromuscular control was impaired while participants were hypohydrated (defined as uncompensated loss of body water) and hyperthermic. Additionally, when an individual is experiencing high-intensity exertion in hot environments and is already dehydrated, this can result in further dilution of blood sodium. When blood sodium is diluted, water may be forced from the extracellular compartment into the intracellular compartment, which could lead to pulmonary congestion, brain swelling, and heat stroke (Distefano et al., 2013). At this stage, neurons begin degenerating in the cerebellum and cerebral cortex, and this process coupled with the rise in body temperature, impairs central nervous system functionality (Sawka et al., 2011; Nybo, 2007; Distefano et al., 2013).

Research also indicates that performing exertional activities in a hot environment may impair balance. To better understand lower extremity biomechanics, Distefano et al. (2013) used an assessment tool to measure gross movement errors, such as medial knee displacement, hip or knee rotation, and limited sagittal plane (front to back) motion. The authors found that after performing the exercise protocol, participants demonstrated poorer movement technique when they were hypohydrated in a hot environment compared with when they were hypohydrated in a temperate

environment or in a hot environment but euhydrated (state of optimal total body water content) (Distefano et al., 2013). These findings suggest that working in hot temperatures while dehydrated may increase risk for injury due to impaired balance (Distefano et al., 2013).

III. Impaired Performance in Accuracy, Speed, and Reaction Time

The compromising effects of heat strain on psychomotor function have long been established, but the level of performance deterioration is dependent on the severity of heat strain and the complexity of the task (Taylor et al., 2016; Hancock, 1986; Ramsey, 1995; Pilcher et al., 2002; Hancock and Vasmatazidis, 2003). Some research has found that when high skin and core temperatures increase cardiovascular strain, heat exposure results in faster reaction times where individuals respond more quickly, but less accurately when in the heat (Simmons et al., 2008). Other research, such as Mazloumi et al. (2014), found that heat stress conditions impair selective attention (the ability to select and focus on a particular task while simultaneously ignoring other stimuli) and reaction time. In their study of 70 workers in Iran, where half of the workers experienced heat stress and half worked in air-conditioning, the authors found impaired psychomotor function among the exposed workers indicated through an increase in the duration of a task and response time as well as an increase in the number of errors (Mazloumi et al., 2014).

Additional studies examine the impacts of high skin and core temperatures on psychomotor function contributing to more mistakes (Allan and Gibson, 1979; Gibson and Allan, 1979; Gibson et al., 1980). In one study of foundry workers, response time, reaction time, and number of errors were reported to be adversely affected when workers were exposed to WBGTs of 31–35 °C (87.8–95 °F) compared to unexposed workers in a WBGT of 17 °C (62.6 °F) (Mazloumi et al., 2017). A meta-analysis review of 23 studies supports these conclusions, finding that under hot conditions, performance on mathematical-related tasks and reaction time tasks can be negatively impacted at 32.2 °C (89.9 °F) with a roughly 15% average decrement in performance (Pilcher et al., 2002).

Psychomotor performance is an important factor when considering job tasks that require precision and concentration to prevent injuries. In a study observing steel plant workers, it was found that electrical arc melting

workers who were exposed to hotter environments (30–33.2 °C WBGT) experienced a significant decrease in their attention span and slower response time compared to the continuous cast workers, who worked in cooler environments (25.4–28.7 °C WBGT) (Chen et al., 2003). A decline in psychomotor function could also negatively affect speed of response, reasoning ability, associative learning, mental alertness, and visual perception, which has been reported as a key cause of fatal accidents (Rowlinson et al., 2014).

B. Impaired Mental Performance

The effects of heat exposure on mental performance can also play a significant role in increasing workplace accidents and injuries and compromise workplace safety. Heat exposure can result in impaired cognition or cognitive performance; impaired visual motor tracking; and impaired decision-making or judgment, which can lead to unsafe behaviors (like the removal of required PPE). Each of these are discussed in turn below.

I. Impaired Cognition or Cognitive Performance

Declines in cognitive function from heat are correlated with an elevated risk of injury. Evidence indicates a statistically significant increase in unsafe behaviors above 23 °C WBGT and an increased risk of accidents (Ramsey et al., 1983). When an individual experiences hyperthermia, even if it is mild and only occurring for a short period, the central nervous system is vulnerable to damage (Hancock and Vasmatazidis, 2003). This can acutely affect memory, attention, and ability to process information (Walter and Carraretto, 2016). When hyperthermia triggers cerebral damage, these cerebral injuries can be characterized into three broad areas. The first area includes cellular effects (where cells are damaged as temperatures continue to rise and normal cell function is disrupted and cell replication is no longer possible). The second area includes local effects (like inflammatory changes and vascular damage), and the third area includes systemic changes (like changes in cerebral blood flow (Walter and Carraretto, 2016). These negative effects are typically seen when core body temperatures reach 40 °C (104 °F), although some changes can begin at temperatures of 38 °C (100.4 °F) (Walter and Carraretto, 2016). These physiological changes also negatively impact cognitive performance.

Heat exposure has been shown to affect cognitive performance

differentially, based on type of cognitive task (Yeoman et al., 2022). The more complex a task, especially if it requires motor accuracy, the more likely an individual's cognitive ability to perform the task will decline because of heat stress (Hancock and Vasmatazidis, 2003). Some research indicates a decrease in cognitive performance for tasks requiring more perceptual motor skills will be observed in the 30–33 °C (80–91.4 °F) range, well before the physiological system reaches its tolerance limit (Ramsey and Kwon, 1992; Hancock and Vasmatazidis, 2003; Piil et al., 2017). Ramsey and Kwon (1992) have summarized over 150 studies looking at task exposure time and task type and found statistically significant performance decrements at the 30–33 °C (80–91.4 °F) range. The decrements at this range occurred regardless of duration of exposure (from short exposures under 30 minutes and longer exposures up to 8 hours) (Ramsey and Kwon, 1992). Furthermore, in a case study of nine male volunteers, results indicate that highly motivated subjects were strongly affected by heat load within the first two hours of exposure, and that these subjects' performance was significantly impaired when assigned complex tasks requiring a significant amount of reasoning and judgment (Epstein et al., 1980). The authors found that performance began to decrease when workers were exposed to temperatures above 27 °C (80.6 °F).

Moreover, in a review of fifteen laboratory experiments assessing the effects of high ambient temperature on mental performance, one study found that mental performance declines were statistically significant at exposure durations of four consecutive hours in 87 °F (30.55 °C) temperatures (Wing, 1965). Similarly, in a study of the effects of hot-humid and hot-dry environments on mental functioning, 25 participants were exposed to a variety of temperatures in humid and dry conditions, while performing physical exercises with bouts of rest, to assess mental alertness, associative learning, reasoning ability and dual-performance efficiency (Sharma et al., 1983). The authors found that all the psychological functions tested were adversely affected under heat stress, and that a significant drop in various psychological functions was seen at temperatures of 32.2 °C (89.9 °F) and 33.3 °C (91.9 °F) in hot-humid and hot-dry conditions, respectively. Moreover, the authors suggest that, for heat-acclimatized subjects who continuously work for four hours, that the temperature should not exceed 31.1 °C (87.9 °F) in hot and

humid conditions, and 32.2 °C (89.9 °F) for workers in hot desert conditions (Sharma et al., 1983).

II. Impaired Visual-Motor Tracking

Hyperthermia and dehydration, a common symptom of heat exposure, have been found to impair visual-motor tracking (*i.e.*, the eyes' ability to focus on and follow an object), increasing the risk of workplace injury. In a review of studies on hydration and cognition, the authors indicate that a 2% or more loss of body weight due to dehydration from heat and exercise can result in significant reduction in visual-motor tracking (Lieberman, 2007). In an experimental study assessing performance in complex motor tasks in hyperthermic humans (Piil et al., 2017), the authors found that visual-motor tracking performance was reduced following exercise-induced hyperthermia. Participants were exposed to hot (40 °C (104 °F)) and control (20 °C (68 °F)) conditions. At baseline, and after exercise, participants completed simple and complex motor tasks, which included visual tracking assessment. The authors concluded that visual-motor tracking is impaired by hyperthermia, and especially so when multiple tasks are combined (Piil et al., 2017).

III. Impaired Decision-Making or Judgment

Heat exposure has been found to affect decision-making or judgment amongst workers, increasing the risk of injury. In a review of ecological, cross-sectional, and cohort studies, as well as epidemiological experiments, Xiang, et al. indicate that core temperature elevation and dehydration impair judgment and concentration (Xiang, et al., 2014a). In a study analyzing over 17,000 observations of unsafe behavioral acts (*e.g.* mishandling tools, equipment, or materials) in two industrial facilities with varying temperature conditions, authors found that unsafe behavioral acts decreased within the zone of preferred temperature (approximately 17 °C (62.6 °F) to 23 °C (73.4 °F), WBGT) and increased outside of this zone (when the temperature was equal to or less than 17 °C WBGT or equal to or greater than 23 °C WBGT) (Ramsey et al., 1983). This study indicates that the risk of unsafe behavioral acts may increase when the temperature increases.

C. Other Factors Contributing to Heat-Related Injury

In addition to psychomotor and mental impairments that can result from heat exposure, other mechanisms may also contribute to heat-related injuries.

The purpose of this section is to summarize some additional factors that may exacerbate the risk of workplace heat-related injuries and to provide information to better inform workers and employers about those hazards.

PPE is another factor that plays a role in increasing susceptibility to a heat-related injury given that some PPE insulates the body and reduces evaporative cooling capacity. For instance, research among firefighters finds that a self-contained breathing apparatus can lead to heat buildup and can impact postural stability and balance (Hur et al., 2015; Hur et al., 2013; Games et al., 2020; Mani et al., 2013; Ross, 2016). Other examples of PPE that may result in heat stress, and therefore increase the risk of heat-related injuries, include reflective vests that are made of water impermeable material that block effective heat dissipation and safety helmets with no ventilation that can raise the temperature inside the helmet. In one case, the air temperature inside a worker's helmet (57 °C (134.6 °F)) was measured to be over 20 °C hotter than the environmental temperature (33 °C (91.4 °F)) they were working in (Rowlinson et al., 2014). The authors found that workers will often remove helmets in these situations to alleviate heat stress, exposing them to other workplace hazards (*e.g.*, falling objects) (Rowlinson et al., 2014). Other research by Karthick et al. (2023) found that in hot weather conditions, physical health challenges, specifically major accidents at the job site, minor injuries, physical fatigue, excessive sweating, and dermatological problems were found to be significant based on a workers' clothing comfort. The authors highlighted how PPE can make workers feel uncomfortable, and when combined with extremely hot weather, it creates fatigue which may increase the number of workplace injuries and accidents (Karthick et al., 2023).

There is also evidence indicating heat exposure can contribute to impaired vision, which may lead to workplace injuries. For example, fogged safety glasses or sweat in eyes due to heat exposure can reduce workers' visibility, creating additional hazards and increasing risk of injury (NIOSH, 2016). Individual case studies also report issues with protective eyewear in hot temperatures, noting the uncomfortable feeling of the eyewear under heat and in sunlight as well as difficulty seeing through the glasses (Choudhry and Fang, 2008). In a survey conducted among occupational health and safety professionals in Australia, one of the most frequently cited causes of heat-

related injuries was from “impaired vision due to fogged safety glasses (39%)” (Varghese et al., 2020). Injuries resulting from impaired vision may include manual handling (musculoskeletal injuries), joint/ligament injuries, hand injuries, wounds or lacerations, burns, head or neck injuries, motor vehicle accidents, eye injuries, or fractures (Varghese et al., 2020).

When exposed to heat, workers may also experience impaired dexterity (or fine motor skills) leading to workplace injuries. For example, sweaty palms and hands due to heat exposure can reduce workers’ ability to handle tools or other work-related materials, increasing the risk of injury. Occupational health and safety professionals have reported losing control of tools as one of the most common causes for heat-related injuries (Varghese et al., 2020). Researchers have also found sweaty palms to increase the risk of workplace injuries (Shulte et al., 2016).

IV. Summary

The scientific and mechanistic data and association studies on heat-related injuries summarized in this section demonstrate that heat-related injuries are a recognized health effect of occupational heat exposure. While the types of heat-related injuries can be broad, the scientific community recognizes that heat exposure can diminish the body’s senses through various mechanisms like impaired psychomotor performance (*e.g.*, fatigue, impaired balance, or impaired dexterity), and impaired mental performance (*e.g.*, impaired cognition or vision) which can result in various types of injuries. The best available evidence demonstrates that heat-related injuries can have serious adverse effects on worker safety and health.

Q. Requests for Comments

OSHA requests information and comments on the following question and requests that stakeholders provide any relevant data, information, or additional studies (or citations) supporting their view, and explain the reasoning for including such studies:

- Has OSHA adequately identified and documented the studies and other information relevant to its conclusions regarding heat-related health effects, and are there additional studies OSHA should consider?

V. Risk Assessment

A. Risk Assessment

I. Introduction

In this risk assessment, OSHA relied on surveillance data of occupational heat-related fatalities and non-fatal injuries and illnesses reported by the Bureau of Labor Statistics (BLS). Additionally, OSHA relied on annual incidence estimates derived from State workers’ compensation systems and hospital discharge datasets. These estimates were calculated and reported in a variety of sources, such as reports from State health departments, as well as the peer-reviewed scientific literature. OSHA has preliminarily concluded that inclusion criteria for HRIs in these data sources (days away from work, workers’ compensation claim, emergency department visit, or inpatient hospitalization) demonstrate that the HRIs are a material impairment of health, thus making these data sources relevant to OSHA’s determination of significant risk.

OSHA has previously relied on such injury, illness, and death data to demonstrate the extent of risk (see, *e.g.*, Fall Protection, 81 FR 82494 (2016); Working Conditions in Shipyards, 76 FR 24576 (2011); Permit-Required Confined Spaces, 58 FR 4462, 4465 (1993) (finding significant risk based on available accident data showing that confined space hazards had caused deaths and injuries); Hazard Communication, 48 FR 53280, 53284–85, 53321 (1983) (finding significant risk of harm from inadequate chemical hazard communication based on BLS chemical source injury and illness data)).

Estimating annual incidence among heat-exposed workers (*i.e.*, the number of annual work-related HRIs divided by the number of heat-exposed workers) requires being able to accurately estimate the number of exposed workers and using that number in the denominator. Unfortunately, there is no published estimate for the number of U.S. workers exposed to hazardous heat on the job and the majority of the incidence estimates that OSHA identified used a denominator that would include both exposed and unexposed workers. This use of a larger denominator has the effect of diluting the resulting annual incidence estimates. For instance, BLS estimates and reports annual incidence of injuries and illnesses involving days away from work that were the result of “exposure to environmental heat,” but in their calculation, BLS captures the broader U.S. workforce in the denominator,

which includes a large number of unexposed workers (*e.g.*, office workers in climate-controlled buildings).

Some of the annual incidence estimates that OSHA identified, such as those based on workers’ compensation claims in California and Washington State, were stratified by sector, industry, or occupation. OSHA considers these incidence estimates to be helpful in getting to a more accurate estimate of risk among heat-exposed workers, specifically the sectors, industries, and occupations where exposure to hazardous heat on the job is more common. Furthermore, OSHA identified incidence estimates from cohort data in which the entire cohort was presumed to be exposed to hazardous heat on the job. These estimates are much higher than the estimates based on surveillance data. One potential reason for this difference is that the denominator used in the cohort studies contains much less unexposed worker-time.

In the following sections (V.A.II., and V.A.III.), OSHA has summarized the best available incidence data that the agency identified. Given the limitations with these data, OSHA relied on this incidence data as a range of possible incidence estimates with the assumption that many of these estimates represent a lower bound and that the true incidence is likely higher.

II. Reported Annual Incidence of Nonfatal Occupational Heat-Related Injuries and Illnesses

A. BLS Survey of Occupational Injuries and Illnesses

The BLS Survey of Occupational Injuries and Illnesses (SOII) is the primary nationwide source of surveillance data for nonfatal occupational injuries and illnesses. The scope includes both private and public (State and local government) sector employees, but excludes the self-employed, workers on farms with 10 or fewer employees, private household workers, volunteers, and Federal Government employees. The data are derived from a two-stage sampling process, during which a sample of employers are surveyed and report to BLS the number of injuries and illnesses occurring at their workplace. To reduce the reporting burden on employers, BLS only requires detailed case information on a sample of the injuries and illnesses that occurred at each establishment. BLS uses these survey responses to estimate the counts and incidence for nonfatal injuries and illnesses across all workplaces. In estimating annual incidence, BLS uses a denominator of full-time equivalent (FTE) workers,

which is based on 2,000 hours worked per year (*i.e.*, 40 hours per week over 50 weeks). Relevant Occupational Injury and Illness Classification System (OIICS) v2.01 event and nature codes for this proposed standard include “Exposure to environmental heat” (event code-531) and “Effects of heat and light” (nature codes beginning in 172–). Codes beginning with 172– include heat stroke and heat exhaustion (among other outcomes) but exclude sunburn and loss of consciousness without reference to heat. For more information about OIICS codes generally, see Section IV., Health Effects.

Between 2011 and 2020, there were an estimated 33,890 work-related injuries and illnesses that involved days away from work that were coded with event code 531, for an annual average of 3,389 such injuries and illnesses during this period (BLS 2023b). In 2023, BLS reported biennial rather than annual estimates for work-related injuries and illnesses that involved days away from work (as well as for the first time reporting an estimate of injuries and illnesses involving job restriction or job transfer). The biennial estimate for 2021–2022 for heat-related cases meeting either of these criteria was 6,550 (5,560 cases involved days away from work; 990 cases involved job transfer or restriction) (BLS 2023g). The estimated annual heat-related injury and illness incidence (for cases involving days away from work) calculated by BLS for all workers covered by SOII from 2011–2020 varied by year but ranged from 2.0/100,000 workers to 4.0/100,000 workers. The average estimated annual incidence for the entire time period was 3.0/100,000 workers. However, as stated above, OSHA considers these incidence estimates to be underestimated for heat-exposed workers because BLS calculates the incidence rate for the entire U.S. workforce covered by SOII. Therefore, they are including workers who are not exposed to hazardous heat. In subsectors and industries where OSHA expects a greater proportion of workers to be exposed to hazardous heat, the incidence rate estimates are much higher. For instance, according to unpublished data from BLS SOII for the period 2011–2020, the crop production subsector (NAICS code 111) had an annual average incidence of 14.2/100,000 workers, and the specialty trade contractors subsector (NAICS code 238) had an annual average of 9.3/100,000 workers. This was also true of subsectors with primarily indoor workers where OSHA expects a greater

proportion of those workers to be exposed to hazardous heat, including the primary metal manufacturing subsector (NAICS code 331), which had an annual average incidence of 13.1/100,000 workers for the period 2011–2020.

B. Workers’ Compensation Claims

Workers’ compensation claims are an alternative way to quantify occupational injuries and illnesses, particularly those that involve outpatient medical treatment, inpatient hospitalization, intensive care, and/or lost workdays. OSHA identified five papers and a report from Wisconsin that have evaluated State workers’ compensation data and calculated statewide incidence for heat-related injuries and illnesses.

I. Washington State

The earliest of these, a paper by Bonauto et al., in 2007, evaluated workers’ compensation claims submitted to and accepted by the Washington State Fund between 1995 and 2005 (Bonauto et al., 2007). The State Fund is the sole provider of workers’ compensation insurance to Washington employers unless they are self-insured or fall under an alternative system (*e.g.*, Federal employees) and it covers approximately two-thirds of the State’s workers. Certain workers are exempt from mandatory coverage, such as self-employed and household workers. The authors identified heat-related cases using the American National Standards Institute (ANSI) Z16.2 codes² submitted in the claims by workers or their physicians, the ICD–9 codes submitted on bills from healthcare providers and hospitals, and a physician review of cases that included relevant Z16.2 or ICD–9 codes. The researchers used all ICD–9 codes beginning in 992 (“Effects of heat and light,” specifically 992.0–992.9) and the ANSI Z16.2 type code 151 (“Contact with general heat—atmosphere or environment”). ICD–9 codes were not available for claims from the self-insured, so the authors restricted the analysis to State Fund claims only. They also excluded claims in which the employer’s physical location was outside of Washington (*n*=12).

Over the 11-year study period, 480 accepted claims met the authors’ inclusion criteria after physician review, in which they identified and removed

cases where the recorded illness had been miscoded, contained incorrect data, or represented a burn. Most of the 480 claims (*n*=442; 92.1%) were medical-only claims, meaning the State Fund only paid for the medical bills and did not compensate the worker otherwise (*e.g.*, wage replacement, disability benefits). The claims included the employer’s NAICS code, which the authors used to stratify cases by industry sectors and industries. Employers covered under the Washington State Fund are required to report hours worked by their employees every quarter (*i.e.*, three-month increments), which the authors used to estimate denominators for rates assuming 2,000 work hours is 1 FTE. This means the authors could calculate rates for certain portions of the year rather than the whole year without needing to divide by the total number of annual workers (*i.e.*, they could adjust for hours worked only during the specified portion). The employment reporting by quarter also allowed for the authors to estimate claim rates for the third quarter only (July, August, and September), which corresponded to the time of year with the “greatest level of exposure to elevated environmental temperatures” (Bonauto et al., 2007, p. 5).

The authors reported an average annual claim rate (which can be thought of similarly to an injury or illness incidence rate) of 3.1 claims/100,000 FTE for the overall workforce covered by the State Fund during the study period, with annual rates ranging from 1.9 to 5.1/100,000 FTE. They reported a corresponding average third-quarter claim rate of 8.6 claims/100,000 FTE for the overall workforce covered by the State Fund during the study period. In their paper, Bonauto et al. report annual and third-quarter rates for all sectors and industries that had more than five claims during the study period. The sectors (2-digit NAICS) with the highest annual average claim rates were:

1. Construction (12.1/100,000 FTE),
2. Public administration (12.0/100,000 FTE),
3. Agriculture, forestry, fishing, and hunting (5.2/100,000 FTE),
4. Administrative and support and waste management and remediation services (3.9/100,000 FTE), and
5. Transportation and warehousing (3.5/100,000 FTE).

The corresponding average third-quarter claim rates for these sectors were more than double the annual averages: 33.8/100,000 FTE, 31.2/100,000 FTE, 12.6/100,000 FTE, 9.9/100,000 FTE, and 10.6/100,000 FTE, respectively. This pattern was also true

² The American National Standards Institute, or ANSI, created a standard for occupational health and safety metrics in 1962 (revised in 1969) referred to as ANSI Z16. The first version of OIICS was based on the ANSI coding scheme. ANSI revised the Z16 standard in 1995 and adopted the OIICS scheme in that revision.

for some sectors with a majority of indoor claims. For example, Manufacturing (3.0/100,000 FTE vs. 7.6/100,000 FTE) and Accommodation and food services (1.7/100,000 FTE vs. 5.1/100,000 FTE).

The industries (6-digit NAICS) with the highest annual average claim rates were:

1. Fire protection (80.8/100,000 FTE),
2. Roofing construction (59.0/100,000 FTE),
3. Highway, street and bridge construction (44.8/100,000 FTE),
4. Site preparation construction (35.9/100,000 FTE) (tie), and
5. Poured concrete foundation and structural construction (35.9/100,000 FTE) (tie).

Similar to the pattern observed among sectors, the corresponding third-quarter claim rates for the top 5 industries were more than double the annual averages, except for fire protection—158.8/100,000 FTE, 161.2/100,000, 105.6/100,000 FTE, 106.5/100,000 FTE, and 102.6/100,000 FTE, respectively. This was also true for restaurants: limited service restaurants (2.4/100,000 FTE vs. 6.0/100,000 FTE) and full service restaurants (1.6/100,000 FTE vs. 5.3/100,000 FTE). These industries have few to no outdoor claims, indicating that even some industries that involve primarily indoor work are at higher risk in the summer months.

A follow-up paper to Bonauto et al., 2007, published in 2014, examined heat-related illnesses among workers in Washington State in certain agriculture and forestry subsectors between 1995 and 2009 (Spector et al., 2014). The State changed their injury and illness codes from ANSI to OIICS in July 2005, so for this paper, the researchers used a combination of ANSI (prior to July 2005), OIICS (beginning in July 2005), and ICD-9 codes to identify potential heat-related claims and then reviewed each claim to ensure it was heat-related. These authors used additional ICD-9 codes that were not included in the 2007 paper, specifically: prickly heat (705.1), hyperosmolality and/or hyponatremia (276.0), volume depletion (276.5 and 276.50), dehydration (276.51), hypovolemia (276.52), and acute renal failure (584 and 584.9). The authors identified 84 accepted claims meeting their eligibility criteria, the majority of which (n=76; 90%) were medical only claims. Of the 84 claims, 61 (73%) met the diagnostic code criteria used in the 2007 paper (ICD-9 codes beginning in 992). The average annual claim rate for the agriculture and forestry subsectors the authors examined over the 15-year period was 7.0/100,000 FTE and the

average third-quarter (July–September) claim rate was 15.7/100,000 FTE. The majority of claims (61%) were among crop production and support workers (NAICS 111 or 1151).

A second follow-up paper to Bonauto et al., 2007, was published in 2020 and included all Washington State Fund-covered workers over a more recent 12-year period, 2006 to 2017 (Hesketh et al., 2020). The authors used similar methods, except for different screening criteria for ascertaining cases prior to investigators reviewing each case. To identify potential heat-related claims, they used OIICS v1.01 event/exposure code 321, OIICS nature code 072*, OIICS source codes 9362 and 9392 (Sun), and the ICD-9 codes used in Spector et al., 2014. (Note that these OIICS codes are v1.01 OIICS, which was the coding scheme used from 1992–2010. BLS updated the coding scheme in 2010, which first applied to 2011 data.) The State adopted ICD-10 coding in October 2015, so the following ICD-10 codes were used for claims after that date: E86* (Volume depletion), T67* (Effects of heat and light), T73.2* (Exhaustion due to exposure), W92* (Exposure to excessive heat of man-made origin), X30* (Exposure to excessive natural heat), and Z57.6 (Occupational exposure to extreme temperature). The researchers excluded claims in which service date for treatment of dehydration or kidney failure was not within one day of the illness date or claims in which dehydration or kidney failure were the only identifiers flagged, as they noted that these cases often did not represent heat-related illnesses.

The authors reported a total of 918 confirmed heat-related claims, of which 654 (71%) were accepted claims. Of the accepted claims, 595 (91%) were medical-only claims. Using only accepted claims, they estimated an average annual claim rate of 3.2 claims/100,000 FTE for the overall workforce covered by the State Fund during the study period (Communication with David Bonauto and June Spector, June 2024). Similar to Bonauto et al., 2007, the authors reported claim rates for all sectors and industries with more than 11 claims. The sectors (2-digit NAICS) with the highest annual average accepted claim rates were:

1. Agriculture, forestry, fishing, and hunting (13.0/100,000 FTE),
2. Construction (10.8/100,000 FTE),
3. Public administration (10.3/100,000 FTE),
4. Administrative and support and waste management and remediation services (4.6/100,000 FTE), and

5. Transportation and Warehousing (3.8/100,000 FTE).

The average third-quarter (July–September) claim rates for some sectors were more than 10 times greater than the average annual rates. These third-quarter claim rates were also much higher than those calculated for 1995–2005 in Bonauto et al., 2007. The sectors with the highest average third-quarter accepted claim rates were:

1. Public administration (131.3/100,000 FTE),
2. Agriculture, forestry, fishing, and hunting (102.6/100,000 FTE),
3. Construction (70.0/100,000 FTE),
4. Administrative and support and waste management and remediation services (61.5/100,000 FTE), and
5. Wholesale trade (44.9/100,000 FTE).

The industries (6-digit NAICS) with the highest annual average accepted claims rates were:

1. Farm labor contractors and crew leaders (77.3/100,000 FTE),
2. Fire protection (60.0/100,000 FTE),
3. Structural steel and precast concrete contractors (54.2/100,000 FTE),
4. Poured concrete foundation and structure contractors (31.6/100,000 FTE), and
5. Roofing contractors (29.0/100,000 FTE).

The ratio between third-quarter rates and annual rates for all industries reported in table 3 of the paper ranged from 2.5–13.7, with the highest average third-quarter accepted claim rates in the following industries:

1. Farm labor contractors and crew leaders (600.9/100,000 FTE),
2. Fire protection (394.6/100,000 FTE),
3. Administration of conservation programs (282.7/100,000 FTE),
4. Site preparation contractors (232.1/100,000 FTE), and
5. Poured concrete foundation and structure contractors (172.3/100,000 FTE).

II. California

A group of researchers conducted a similar analysis for the State of California, using data from the California Workers' Compensation Information System (WCIS) between 2000 and 2017 (Heinzerling et al., 2020). Virtually all California employees are required to be covered by workers' compensation; voluntary, non-compensated workers, owners, and workers covered under separate programs are excluded. The WCIS contains all accepted and rejected workers' compensation claims in the State since 2000 that required medical treatment beyond first aid or more than

one day of lost work time. The investigators identified heat-related claims in the system using WCIS-specific nature of injury and cause of injury codes (e.g., “temperature extremes”), heat-related illness keywords (e.g., “heat stroke”), and certain ICD-9 (992.0–992.9 and E900.0–E900.9) and ICD-10 (T67.0–T67.9, X30, and W92) codes. They also manually reviewed all claims that met only the ICD code identification criteria to ensure the claims were heat-related, as some of the codes they used to identify claims were not specific to heat-related illness or injury. In WCIS, the employer’s industry is coded using NAICS codes classified by the claims adjusters. The authors converted the NAICS codes into the appropriate 2002 census industry codes using the NIOSH Industry and Occupation Computerized Coding System (NIOCCS). This was necessary to obtain the corresponding employment denominator estimates from the NIOSH Employed Labor Force Tool, which relies on data from the Current Population Survey (CPS), a Census Bureau survey conducted for BLS. The CPS data provide estimates of all employed and non-institutionalized civilian workers over the age of 15. To account for changes in coding schemes implemented in 2002, the investigators extrapolated 2002–2017 data to estimate denominators for 2000 and 2001.

The authors excluded claims for workers below 16 years of age (n=104 claims) and institutionalized workers (n=455 claims), as these workers are excluded from CPS data. They reported a final estimate of 15,996 claims meeting their inclusion criteria, corresponding to an overall annual claims rate of 6.0/100,000 workers. Industry and occupation codes were available for 86% and 74% of the included claims, respectively. The authors reported claim rates for all sectors, but the sectors with the highest annual claim rates were:

1. Agriculture, forestry, fishing, and hunting (38.6/100,000 workers; 95% CI: 26.9, 40.4),
2. Public administration (35.3/100,000 workers; 95% CI: 34.3, 36.3),
3. Mining (21.3/100,000 workers; 95% CI: 17.6, 25.7),
4. Utilities (11.4/100,000 workers; 95% CI: 10.1, 12.8), and
5. Administrative and support and waste management (8.8/100,000 workers; 95% CI: 8.3, 9.3).

The major occupational groups with the highest annual claim rates were:

1. Protective services (56.7/100,000 workers; 95% CI: 54.9, 58.7),
2. Farming, fishing, and forestry (35.9/100,000 workers; 95% CI: 34.1, 37.9),

3. Material moving (12.3/100,000 workers; 95% CI: 11.5, 13.1),

4. Construction and extraction (8.9/100,000 workers; 95% CI: 8.4, 9.4), and

5. Building and grounds cleaning and maintenance (6.0/100,000 workers; 95% CI: 5.6, 6.5).

III. Texas

Another study examined workers’ compensation claims in an unnamed, mid-sized Texas city before and after an intervention among a cohort of 604 municipal workers and calculated the incidence of HRI claims from 2009 to 2017 (McCarthy et al., 2019). The municipal departments included in the study were picked because the job descriptions for workers within each included work in hot environments with moderate and heavy physical activity. These departments were Streets and Traffic, Parks and Recreation, Utilities, and Solid Waste. After removing worker-time contributed by administrative personnel who were not exposed to heat on the job, the remaining worker-time represented 329 FTEs per year. Prior to the intervention in 2011, the heat-exposed workers experienced 17 total HRIs between 2009 and 2010. The authors reported an average annual rate of HRIs among the heat-exposed workers during this time of 25.5/1,000 FTEs (McCarthy et al., 2019, Figure 2). These estimates are much higher than other incidence estimates reported in this section, possibly because the denominator is solely comprised of heat-exposed workers. This explanation is supported by evidence of higher incidences reported in other cohort studies (e.g., approximately 3 HRIs/1,000 National Guard troops involved in flood relief activities between July 5 and August 18, 1993, calculated from data in Dellinger et al., 1996). The results of the voluntary intervention are discussed in Section V.C., Risk Reduction.

IV. Wisconsin

Finally, a report issued by the Wisconsin Occupational Health and Safety Surveillance Program in 2024 summarized an analysis of heat-related workers’ compensation claims in the State from 2010–2022 (Fall et al., 2024). The authors analyzed lost work time claims (under Wisconsin workers’ compensation, there must be more than three days of lost work time to be compensable) reported by both insurance carriers and self-insured employers and reported rates by industry sector and industry subsector (rather than overall workforce rates). These do not include medical-only claims, which were the majority of HRI

claims reported in the Washington State Fund database. The authors reported cumulative claim rates only. To convert cumulative rates to annual average rates, OSHA divided the reported rates by 13 (the number of years’ worth of data reported). The sectors with the highest annual average claim rates were:

1. Administrative and Support and Waste Management and Remediation Services (2.9/100,000 FTE),
2. Public Administration (2.8/100,000 FTE),
3. Wholesale Trade (1.9/100,000 FTE),
4. Construction (1.4/100,000 FTE), and
5. Transportation and Warehousing (1.1/100,000 FTE).

The major occupational groups with the highest annual average claims rates were:

1. Protective Service (4.1/100,000 FTE),
2. Transportation and Material Moving (2.6/100,000 FTE),
3. Production (1.6/100,000 FTE),
4. Construction and Extraction (1.5/100,000 FTE), and
5. Building and Grounds Cleaning and Maintenance (1.5/100,000 FTE).

Similarly, the minor occupational groups with the highest annual average claims rates were:

1. Fire Fighting and Prevention (14.7/100,000 FTE),
2. Material Moving Workers (3.3/100,000 FTE),
3. Metal and Plastic Workers (2.8/100,000 FTE),
4. Motor Vehicle Operations (2.2/100,000 FTE), and
5. Assemblers and Fabricators (2.2/100,000 FTE).

C. Emergency Department (ED) Visits and Inpatient Hospitalizations

Another way to quantify occupational injury and illnesses requiring medical treatment is to use data reported directly by hospitals to public health departments or national databases, such as the National Electronic Injury Surveillance System (NEISS). Data in NEISS are estimated from a nationally representative probability sample of hospitals across the country, which report data for every injury-related ED visit. A paper from 2010 analyzed NEISS data for heat-related emergency department visits from 2001–2004 (Sanchez et al., 2010). The authors reported an annual average of 8,376 work-related ED visits for nonfatal heat injuries and illnesses. OSHA used annual average employment estimates from NIOSH’s Employed Labor Force query system for 2001–2004 (both total workers and FTEs) to estimate a nationwide annual average rate of 6.1

visits/100,000 workers and 6.3 visits/100,000 FTEs from this study. More recent studies estimating the incidence of work-related ED visits and/or hospitalizations for HRIs within individual or multiple States are discussed below.

I. Southeast U.S.

A group of public health researchers from nine States in the Southeast (Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia) used hospital discharge data reported directly to State health departments to characterize rates of heat-related inpatient hospitalization and ED visits among workers from 2007–2011 (Harduar Morano et al., 2015). The researchers used ICD–9 codes to identify heat-related cases, specifically 992.0–992.9, E900.0, E900.1, and E900.9. To assess work-relatedness, they determined whether the expected payer was workers' compensation or if a work-related external cause of injury code (sometimes referred to as E-codes) was noted by the physician (e.g., E000.0 Civilian activity done for income). They restricted cases only to those where the patient was at least 16 years old but included both State residents and non-residents in reported case counts. To calculate rates, the investigators used CPS data for estimating denominators, which were age-adjusted using direct standardization and population weights for the entire U.S. Non-residents were not included in the rate calculations. The authors noted that hospital discharge data weren't available for every year in every State and that the missing data were primarily for discharges following ED visits.

Across the five-year study period, the authors identified 8,315 occupational heat-related ED visits (7,664 of these among residents, or 92%), which corresponded to an overall age-adjusted rate of 6.5 visits/100,000 workers (95% confidence interval, CI = 6.4, 6.7). While they reported rates for each State (e.g., 4.8 visits/100,000 workers in Florida and 17.3 visits/100,000 workers in Louisiana), they cautioned against directly comparing between States given differences in the data collection methods, data availability, and use of work-related variables. They identified 1,051 occupational heat-related inpatient hospitalizations (930 among residents, or 88%), which corresponded to an overall age-adjusted rate of 0.61 hospitalizations/100,000 workers (95% CI = 0.58, 0.66). The average length of stay for State residents was 2.7 days, which was comparable to non-residents (2.4 days).

II. Florida

The Florida Department of Health published a similar analysis in 2011 using the same methods for the State of Florida for the years 2005–2009 (Florida DOH, 2011). They identified 2,198 occupational heat-related hospitalizations and ED visits, which corresponded to an average overall age-adjusted annual rate of 3.7 cases/100,000 workers (95% CI = 1.9, 5.5) and a crude rate (no age adjustment) of 5.1/100,000 workers (Communication with Laurel Harduar Morano, October 2023). The majority of these (89.4%) were ED visits. They identified 3 fatalities in this subset, which they noted corresponds to a case fatality rate of 1.4 fatalities/1,000 cases. They reported a third-quarter (July, August, and September) rate of 3.2 cases/100,000 workers using a denominator of total number of workers, whereas using a denominator of FTEs instead produced a third-quarter rate of 13.0 cases/100,000 FTE (Communication with Laurel Harduar Morano, October 2023). A 2016 study conducted a more in-depth analysis of the statewide Florida hospitalization data and included data for three additional years (2010, 2011, and 2012) (Harduar Morano et al., 2016). The authors restricted the data to cases occurring in May–October of each year and identified a total of 2,979 work-related ED visits and 415 work-related hospitalizations between 2005–2012. Using total number of workers in the denominator (calculated from monthly CPS data), these corresponded to average annual age-adjusted rates of 8.5 ED visits/100,000 workers and 1.1 hospitalizations/100,000 workers.

III. Louisiana

In March 2023, the Louisiana Department of Health published a report on heat-related illnesses in the State using ED and hospitalization data from 2010–2020 (Louisiana DOH 2023). The authors used workers' compensation as payer and work-related ICD codes to determine which cases were among workers. They reported an annual average of 320 work-related ED visits and 20 work-related hospitalizations for heat-related illness during this period. Using State employment data from CPS, the authors calculated an overall age-adjusted rate of 15.1 work-related ED visits/100,000 workers and 0.9 work-related hospitalizations/100,000 workers. In 2024, the Department of Health released a syndromic surveillance report on ED visits for HRIs between April 1 and October 31, 2023 (Louisiana DOH 2024). They identified

1,412 ED visits for HRIs among workers during this time period.

IV. Multiple States

Since 2013 over 20 States have reported rates of heat-related ED visits among workers to the Council of State and Territorial Epidemiologists (CSTE), comprising the organization's *Occupational Health Indicator #24* (see www.cste.org/page/ohindicatorstable). These data are compiled by the State health departments using workers' compensation as primary payer and external cause of injury codes to determine work-relatedness. Rates are calculated using CPS estimates of total employed persons by State. While multiple States report their annual rates to CSTE, the organization cautions against directly comparing these rates between States because "workers' compensation eligibility criteria and availability of data from workers' compensation programs varies among states, prohibiting state-level data from being directly compared to other states or with national estimates."

Additionally, given that these data are not available for every State, they cannot be combined to produce an accurate national rate. The State-reported rates are currently available for 2013–2019. During this period, the annual rates for heat-related ED visits ranged from 0.1 to 18.7 ED visits per 100,000 workers.

V. Maricopa County, Arizona

Arizona is not one of the States to share their ED visit data to CSTE, but the most populated county in the State—Maricopa County—has published a *Heat Morbidity Report* in which they provide case counts for heat-related hospitalization discharges, including a breakdown of the "preceding activity type" (determined by ICD activity E-codes) (Maricopa County Public Health Department, n.d.). Using the case counts reported under "occupational" activity type and yearly estimates of the average annual employment for Maricopa County provided by the BLS Quarterly Census of Employment and Wages, there was an average annual hospitalization rate among workers of 4.1 cases/100,000 workers (range: 3.1–6.4/100,000) between 2010–2017. Primary payer of workers' compensation was not used to determine work-relatedness, which means some occupational cases not involving E-codes may have been missed. Given that for the majority of cases (77%–83% per year), the preceding activity was marked as "unknown", it's likely that some number of these were occupational in nature and just not listed as such. This

is supported by the fact that an “Industrial Site” was the place of injury for, on average, 8% of cases, which may also be an underestimate. It should be noted that the authors only used the following ICD-9/ICD-10 activity E-codes to determine work-relatedness: E011/Y93.C Activities involving computer technology and electronic devices; E012/Y93.D Activities involving arts and handcrafts; and E016/Y93.H Activities involving exterior property and land maintenance, building and construction. To OSHA’s knowledge, the authors did not use any other external cause of injury codes, such as E000.0 Civilian activity done for income, but it is not clear from the report if these E-codes were not available or were just not used.

D. Indirect Injuries

As discussed in Section IV.P., Heat Related Injuries, one area of research has used the natural fluctuations in temperatures to conduct quasi-experimental studies examining the relationship between heat and workers’ compensation claims for traumatic injuries (e.g., Spector et al., 2016; Calkins et al., 2019; Dillender 2021; Park et al., 2021). The findings of these papers suggest that there may be many workers’ compensation claims that are heat-related but not coded as such. For instance, Park, Pankratz, and Behrer (2021) estimated that approximately 20,000 injuries per year in California between 2001–2018 resulted from hotter temperatures (relative to “optimal” temperature). For comparison, for a similar time period (2000–2017), Heinzerling et al. (2020) only identified an average of 889 HRI workers’ compensation claims per year in California (a 22-fold difference), suggesting that relying on workers’ compensation claims coded as HRIs alone does not capture the higher incidence of injuries of other kinds where heat may have played a role. A research report from the Workers Compensation Research Institute expanded this type of analysis to 24 States, using a convenience sample of workers’ compensation claims from May–October 2016–2021 (Negrusa et al., 2024). They found that the number of injuries increased 3.2–6.1% when the daily maximum temperature was 75 °F or higher relative to a day with a daily maximum temperature of 65–70 °F. This relationship was even more pronounced for the construction industry.

E. Worker Self-Reports

Another source of incidence data is surveys of workers exposed to heat. Multiple papers describe the results of

surveys of outdoor workers, typically agricultural workers, who are asked about heat-related symptoms experienced over a week-long period while working in the summer months (Fleischer et al., 2013; Kearney et al., 2016; Mutic et al., 2018). Commonly reported symptoms in these studies include heavy sweating (38–66% of surveyed workers), headache (44–58%), muscle cramps (30–36%), dizziness (14–32%), weakness or fatigue (18%), and nausea or vomiting (9–17%). Notably, in two of these studies, multiple workers reported fainting on the job. A study in southern Georgia found that 4% of 405 farmworkers experienced fainting within the previous week, during which the heat index ranged from 100–108 °F (Fleischer et al., 2013). Another study involved asking 281 farmworkers in North Carolina if they had ever worked in “extreme heat.” Of those answering “yes”, 3% reported having ever fainted on the job (Mirabelli et al., 2010). When asked about symptoms over a single workday, a separate study found that 25% of workers reported cramps, 22% headache, 10% dizziness, and 3% nausea (Smith et al., 2021).

F. Summary of Reported Annual Incidence of Nonfatal Occupational Heat-Related Injuries and Illnesses

OSHA identified multiple sources that have reported annual incidence estimates for nonfatal HRIs among workers. These studies and reports generally reported heat-related incidence across an entire workforce (either National or State), using the total workforce as the denominator. This would understate the risk to workers who are actually exposed to heat on the job since the denominator includes a large percentage of workers who are not exposed to heat (e.g., office workers). Evidence in support of this claim comes from studies showing higher incidence of HRI when populations are stratified by sector, industry, or occupation, as well as those reporting incidence that occurred only during the third quarter (July, August, and September). For instance, in Heinzerling et al., 2020, the authors report an overall annual incidence of 6.0/100,000 workers whereas they report an annual incidence of 38.6/100,000 workers for workers in the agriculture, forestry, fishing, and hunting sector (a greater than 6-fold difference). OSHA considers these stratified estimates to be more accurate estimates of the “true” incidence of HRIs among heat-exposed workers.

A summary of the annual incidence estimates for nonfatal occupational HRIs

discussed above can be found in table V–1. In the same table, OSHA calculated the number of non-fatal HRIs that would be expected over a working lifetime (assuming a working lifetime is 45 years long) based on those annual incidence estimates (i.e., the annual incidence multiplied by 45). These estimates represent the total number of HRIs that may be expected to occur in a cohort of 100,000 workers all of whom enter the workforce at the same time and all of whom work for 45 years. Estimates of HRI risk over a working lifetime based on annual incidence among entire working populations (National or State) range from 90–180/100,000 for HRIs requiring days away from work, 140–270/100,000 for HRIs leading to a workers’ compensation claim, and 4.5–842/100,000 for HRIs leading to emergency department visits or inpatient hospitalizations. Like incidence estimates, these values understate the risk to workers who are actually exposed to heat on the job since the denominator includes a large percentage of workers who are not exposed to heat (e.g., office workers). However, when using incidence estimates specific to individual sectors, industries, or occupations, the HRI estimates over a working lifetime are much higher, ranging from 49.5–114,750/100,000 for HRIs leading to a workers’ compensation claim.

III. Reported Occupational Heat-Related Fatalities

The BLS Census of Fatal Occupational Injuries (CFOI), established in 1992, is the primary source of surveillance data on work-related fatalities, including fatalities due to environmental heat exposure, for the United States. The fatality data in CFOI come from diverse data sources to identify, verify, and describe work-related fatalities. In each case, at least two sources (e.g., death certificates, workers’ compensation reports, media reports, and government agency administrative reports) and an average of four are used to validate that the fatality was work-related and to verify the event or exposure leading to death and the nature of injury or illness in each case, which are then classified with OIICS codes. Heat-related fatalities can be identified with an event code (“Exposure to environmental heat”) and/or a nature code (“Effects of heat and light”).

According to BLS’s CFOI, occupational heat exposure killed 1,042 U.S. workers between 1992 and 2022 (BLS, 2024c). Between 2011 and 2022, BLS reports 479 worker deaths, an average of 40 fatalities per year during that time. During the latest three years

for which BLS reports data (2020–2022), there was an average of 45 work-related deaths due to exposure to environmental heat per year. Multiple sources have relied on BLS surveillance data to estimate annual incidence rates of occupational heat-related fatalities.

Gubernot et al. (2015) calculated overall fatality rates and fatality rates by industry sector using BLS CFOI data from 2000–2010 (Gubernot et al., 2015). The authors focused on the three industry sectors with the highest rates in preliminary analyses: Agriculture, Forestry, Fishing and Hunting (NAICS code 11); Construction (NAICS code 23); and Administrative and Support and Waste Management and Remediation Services (NAICS code 56). All other industry sectors were combined for comparison as a referent group. The authors used nationwide worker population data from the CPS to estimate fatality rates. The CPS data provide estimates of all employed and non-institutionalized civilian workers over the age of 15.

The authors identified 339 occupational heat-related deaths from 2000–2010, after excluding volunteers and military personnel. They reported an average annual heat-related fatality rate of 0.022 fatalities per 100,000 workers for the overall workforce.

For the three industry sectors preliminarily identified as having the highest rates, the authors reported the following average annual fatality rates:

1. Agriculture, forestry, fishing and hunting (0.306 fatalities per 100,000 workers),
2. Construction (0.113 fatalities per 100,000 workers), and
3. Administrative and Support and Waste Management and Remediation Services (0.056 fatalities per 100,000 workers).

For all other industry sectors combined, the average annual fatality rate was substantially smaller (0.009 fatalities per 100,000 workers). The agriculture and construction sectors combined accounted for 58% of the fatalities during the study period (n=207).

A CDC Morbidity and Mortality Weekly Report (MMWR) from 2008 reported by Luginbuhl et al. investigated heat-related fatalities among all workers—and agriculture workers in particular—using BLS CFOI data from 1992–2006 (Luginbuhl et al., 2008). During the study period, the authors identified 423 deaths related to environmental heat in CFOI using the OIICS v1.01 event/exposure code 321 (Exposure to environmental heat) and nature code 072* (Effects of heat and light). Similar to the approach taken by

Gubernot et al., the authors calculated rates using CPS estimates of the average annual worker population for denominators.

For the overall workforce, the authors calculated an average annual incidence of 0.02 fatalities/100,000 workers, which is similar to the estimate reported by Gubernot et al. for 2000–2010 (0.022/100,000). Of the 423 fatalities identified, 102 (24%) occurred in the agriculture, forestry, fishing, and hunting sector (average annual fatality rate of 0.16/100,000 workers) and 68 occurred among workers in crop production or support activities for crop production (annual fatality rate of 0.39/100,000 workers). The rates for crop workers in North Carolina, Florida, and California were 2.36/100,000 workers, 0.74/100,000 workers, and 0.49/100,000 workers, respectively. These findings were later included in a peer-reviewed article (Jackson and Rosenberg 2010).

The editorial note accompanying this MMWR report mentioned, among other limitations, that CPS estimates used for denominators likely underestimate the number of crop workers—because of the potential lack of stable residences among these workers and the seasonal trends in employment—which would lead to an overestimate of risk for these workers. This limitation would presumably apply to any rate estimates calculated with CPS data for this specific population. To OSHA's knowledge, this is the only reported limitation in the included articles that would suggest a potential overestimation of incidence.

A third paper analyzed BLS CFOI heat-related fatality data for the construction sector, estimating fatality rates for various occupations within the sector using Standard Occupational Classification codes (Dong et al., 2019). Using the OIICS v2.01 nature code 172* (Effects of heat and light) to determine heat-relatedness and CPS estimates for sector-wide and occupation-specific denominators, the authors identified 82 heat-related construction deaths between 2011–2016 and estimated an average annual fatality rate for the entire sector (0.15 fatalities/100,000 workers) as well as for specific occupations. The occupations with the highest fatality rates included cement masons (1.62/100,000); roofers (1.04/100,000); helpers (1.03/100,000); brick masons (0.50/100,000); and laborers (0.29/100,000).

Finally, a paper from 2005 by Mirabelli and Richardson identified heat-related fatalities using medical examiner records from North Carolina for the period from 1977 to 2001, including 15 years of data before the creation of CFOI (Mirabelli and

Richardson 2005). They determined that heat was a primary or underlying cause of death based on ICD–9 codes. The researchers used the decedents' location and activities reported in the records to determine work-relatedness, and they excluded cases in which the decedent was <10 years old or those which involved manufactured sources of heat.

The authors identified 40 occupational heat-related deaths. They classified 18 of these as farm workers and reported an annual fatality rate among these farm workers of 1.52 fatalities/100,000 workers. They reported 10 cases having occurred at a construction site but did not report a fatality rate for this group of workers. The average annual fatality rate for the entire State working population was 0.05 fatalities/100,000 workers.

As none of the identified papers reported fatality rates for the overall workforce for years beyond 2010, OSHA used the heat-related fatality counts reported by BLS for 2011–2022 (479 worker deaths) and employment estimates for the same years from CPS to calculate fatality rates for these years. For the denominator, OSHA used the total number of workers and average hours worked to estimate total FTEs per year. The average annual fatality rate during this period was 0.029 deaths/100,000 FTEs.

A. Summary of Reported Occupational Heat-Related Fatalities

OSHA identified multiple studies that calculated and reported annual incidence estimates for heat-related fatalities among workers using data from BLS CFOI or medical examiner records. These studies reported heat-related fatality rates across an entire workforce (either National or State), using the total workforce as the denominator. As mentioned above, this would understate the risk to workers who are actually exposed to heat on the job since the denominator includes a large percentage of workers who are not exposed to heat (e.g., office workers). Evidence in support of this claim comes from studies showing higher fatality rates when populations are stratified by sector, industry, or occupation. For instance, in Gubernot et al., 2015, the authors report an overall annual fatality rate of 0.022/100,000 workers whereas they report an annual fatality rate of 0.306/100,000 workers for workers in the agriculture, forestry, fishing, and hunting sector (a 14-fold difference). OSHA considers these stratified estimates to be more accurate estimates of the “true” incidence of heat-related fatalities among heat-exposed workers.

TABLE V–1—ESTIMATED RISK OF EXPERIENCING A HEAT-RELATED INJURY OR ILLNESS ANNUALLY AND OVER A 45-YEAR WORKING LIFETIME

Population	Source of data	Average annual rate (per 100,000 workers)	Expected number of non-fatal HRIs per 100,000 workers over working lifetime
Rates Based on Entire Working Populations			
U.S., All Workers	BLS SOII Injuries and Illnesses Involving Days Away from Work	¹ 2.0–4.0	90–180
State Working Populations	Workers' Compensation Records	² 3.1–6.0	140–270
State Working Populations	Emergency Department Visits and/or Inpatient Hospitalization ...	³ 0.1–18.7	4.5–842
Rates Based on Sector-Specific Groups (2-digit NAICS)			
Agriculture, forestry, fishing, and hunting	Washington State, 1995–2005	5.2	234
	Washington State, 2006–2017	13.0	585
	California, 2000–2017	38.6	1,737
Construction	Washington State, 1995–2005	12.1	545
	Washington State, 2006–2017	10.8	486
	Wisconsin, 2010–2022	1.4	63.0
Public Administration	Washington State, 1995–2005	12	540
	Washington State, 2006–2017	10.3	464
	California, 2000–2017	35.3	1,589
	Wisconsin, 2010–2022	2.8	126
Administrative and support and waste management and remediation services.	Washington State, 1995–2005	3.9	176
	Washington State, 2006–2017	4.6	207
	California, 2000–2017	8.8	396
	Wisconsin, 2010–2022	2.9	131
Transportation and warehousing	Washington State, 1995–2005	3.5	158
	Washington State, 2006–2017	3.8	171
	Wisconsin, 2010–2022	1.1	49.5
Utilities	California, 2000–2017	11.4	513
Mining	California, 2000–2017	21.3	959
Wholesale Trade	Wisconsin, 2010–2022	1.9	85.5
Rates Based on Industry-Specific Groups (6-digit NAICS)			
Farm labor contractors and crew leaders	Washington State, 2006–2017	77.3	3,479
Fire protection	Washington State, 1995–2005	80.8	3,636
	Washington State, 2006–2017	60.0	2,700
Structural steel and precast concrete	Washington State, 2006–2017	54.2	2,439
Poured concrete foundation and structural contractors	Washington State, 1995–2005	35.9	1,616
	Washington State, 2006–2017	31.6	1,422
Roofing contractors	Washington State, 1995–2005	59.0	2,655
	Washington State, 2006–2017	29.0	1,305
Highway, street, and bridge construction	Washington State, 1995–2005	44.8	2,016
Site preparation construction	Washington State, 1995–2005	35.9	1,616
Rates Based on Major Occupational Groups			
Protective services	California, 2000–2017	56.7	2,552
	Wisconsin, 2010–2022	4.1	185
Farming, fishing, and forestry	California, 2000–2017	35.9	1,616
Transportation and Material moving	California, 2000–2017	12.3	554
	Wisconsin, 2010–2022	2.6	117
Construction and extraction	California, 2000–2017	8.9	401
	Wisconsin, 2010–2022	1.5	67.5
Building and grounds cleaning and maintenance	California, 2000–2017	6.0	270
	Wisconsin, 2010–2022	1.5	67.5
Production	Wisconsin, 2010–2022	1.6	72.0
Municipal workers in departments governing streets and traffic, parks and recreation, utilities, and solid waste.	Texas, 2009–2017	2,550	114,750
Rates Based on Minor Occupational Groups			
Fire Fighting and Prevention	Wisconsin, 2010–2022	14.7	662
Material Moving Workers	Wisconsin, 2010–2022	3.3	149
Metal and Plastic Workers	Wisconsin, 2010–2022	2.8	126
Motor Vehicle Operations	Wisconsin, 2010–2022	2.2	99.0
Assemblers and Fabricators	Wisconsin, 2010–2022	2.2	99.0

¹ Ranges reflect varying annual average estimates between 2011–2020.² Ranges reflect values reported in Heinzerling et al., 2020, Bonauto et al., 2007, and Hesketh et al., 2020.³ Ranges reflect values reported in or derived from Harduar Morano et al., 2015, Florida DOH 2011, Louisiana DOH 2023, Harduar Morano et al., 2016, CSTE, and Maricopa County Public Health Department.

IV. Limitations and Underreporting

Evidence suggests that existing surveillance data undercount the total number of heat-related injuries, illnesses, and fatalities, among workers. The incident rates presented in the previous section are likely vast underestimates both because they use this surveillance data as the numerator when calculating incidence rates and because they overestimate the number of workers exposed to hot work environments (*i.e.*, the denominator for incidence rates). These sources of uncertainty are described below.

A. Incidence Estimation

Incidence estimates based on BLS data are likely to underestimate the true risk to workers who are exposed to specific hazards, like heat, in part because of difficulties in estimating the population of exposed workers. The current approach for BLS SOII rate estimates is to use the population of all workers in the U.S. for the denominator, not just those exposed to the hazard of interest. For instance, the denominators used for the risk estimates presented above would include most office workers who work in climate-controlled buildings and would therefore not have occupational exposure to the levels of heat stress that have been associated with adverse outcomes. For 2022, BLS reported 116,435,925 full-time workers in the U.S. However, OSHA estimates the proposed standard would cover approximately 36 million workers, approximately one-third of the total full-time workers in the U.S. Therefore, BLS's use of a larger denominator likely underestimates risk because it includes workers not exposed to hazardous heat and therefore less likely to experience an HRI.

The denominators for the annual incidence estimates presented above also include worker-time for the entire year, even though for many workers, exposure to potentially harmful levels of heat only occurs during the hottest months of the year. Including unexposed worker-time in the denominator has the effect of diluting the incidence estimates, meaning annual incidence estimates do not accurately represent the risk to workers when they are actually exposed to hazardous heat. The risk to workers whose jobs do expose them to harmful levels of heat, on the days on which those exposures occur, would therefore be expected to be higher than the estimates published by BLS. In addition, using total worker populations as a basis for estimating incidence likely will underestimate the risk to particularly

susceptible workers, such as older workers, workers with pre-existing conditions, and workers not acclimatized to the heat.

OSHA believes that studies that reported illness rates by sector or occupation provide evidence showing that the annual average illness rates reported across the entire workforce underestimate risk for exposed workers. For example, the Washington State and California workers' compensation studies found that heat-related illness rates for sector- or occupation-specific populations were substantially higher than the rates for the general working population in the State (Heinzerling et al., 2020; Bonauto et al., 2007; Hesketh et al., 2020). The sectors and occupations examined included those where exposure to hot environments was more likely than for the population as a whole (*e.g.*, Construction and Agriculture, Forestry, Fishing, and Hunting). Additionally, many of the surveillance papers described above also reported the month in which the injury, illness, or fatality occurred and found that most cases were clustered in the hotter, summer months (*e.g.*, June, July, and August). When researchers in Washington and Florida restricted their rate estimates to include data only for the third quarter (July, August, and September), they found rates that were several-fold higher than annual average illness rates over the whole population, which include many unexposed worker-days.

B. Undercounting of Cases

The general underreporting and undercounting of occupational injuries and illnesses has been a topic of multiple government reports (*e.g.*, Ruser, 2008; Miller, 2008; GAO, 2009; Wiatrowski, 2014). The authors of the peer-reviewed papers described in sections V.A.II., and V.A.III., above list underreporting or misclassification of cases as a limitation in their analyses that would have the effect of underestimating risk.

I. BLS SOII

Two papers from the early 2000s that linked workers' compensation records to BLS SOII data found evidence that SOII missed a substantial amount of workers' compensation claims, depending on the State analyzed and the assumptions and methodology used (Rosenman et al., 2006; Boden and Ozonoff, 2008). In response to increased attention around this topic at the time, BLS funded additional research to examine the extent of underestimation in SOII and potential reasons (Wiatrowski, 2014). One of these studies

involved linking multiple data sources (*i.e.*, not just SOII and workers' compensation) for cases of amputation and carpal tunnel syndrome (Joe et al., 2014). The authors found that the State-based surveillance systems included 5 times and 10 times more cases than BLS SOII, respectively.

Another study conducted as part of this broader effort estimated that approximately 30% of all workers' compensation claims in Washington between 2003–2011 were not captured in BLS SOII (Wuellner et al., 2016). This included sectors with higher rates of heat-related injuries and illnesses, such as Agriculture, Forestry, Fishing, and Hunting (28% of cases uncaptured) and Construction (28% uncaptured) (Wuellner et al., 2016, Table III). The rate of underreporting was particularly high for large construction firms (Wuellner et al., 2016, Table IV).

In response to the studies on SOII undercount, BLS authors have argued that differences in the inclusion criteria, scope, and purpose between BLS SOII and workers' compensation explain some of differences in the estimates and complicate the interpretations of the linkage-based studies (Ruser, 2008; Wiatrowski, 2014). SOII estimates OSHA-recordable injuries and illnesses each year and provides detailed case and demographic information (*e.g.*, nature of injury) for a specific subset of the more severe cases (*e.g.*, those involving days away from work). This scope (OSHA-recordable injuries and illnesses) inherently limits the ability for SOII to be used to estimate all occupational injuries and illnesses. Additionally, injuries and illnesses involving days away from work represent a limited percentage of the total injuries and illnesses reported to BLS. In 2022, these cases were 42% of total recordable cases, suggesting the case counts for HRIs in SOII could be missing up to 58% of all OSHA-recordable HRIs (*i.e.*, those not involving days away from work) (<https://www.bls.gov/iif/latest-numbers.htm>).

The injury and illness data that employers report to BLS come from the employer's OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 301 Injury and Illness Incident Report, so information on the quality of the data in these forms is relevant for understanding limitations of SOII. Through the Recordkeeping National Emphasis Program (NEP) from 2009–2012, OSHA found that almost half (47%) of establishments inspected by the agency had unrecorded and/or under-recorded cases, which were more common at establishments that

originally reported low rates (Fagan and Hodgson, 2017). Several factors contributed to the under-reporting and unrecording cases. First, in conducting thousands of interviews, the authors found that workers do not always report injuries to their employers because of fear of retaliation or disciplinary action. Second, some employers used on-site medical units, which the authors explained could contribute to underreporting (*e.g.*, if these units were used to provide first aid when additional medical care, which would have warranted reporting on OSHA forms, should have been provided).

Employers rely on workers to report injuries and illnesses that may otherwise be unobserved, but workers have multiple reasons to not do so. In addition to Fagan and Hodgson 2017, multiple studies have interviewed or surveyed workers on this topic. A recent systematic review of 20 studies found that 20–74% of workers—which included cleaning staff, carpenters, construction workers, and healthcare workers—did not report injuries or illnesses to management (Kyung et al., 2023). Some of the researchers asked workers about the barriers to reporting, which included fear, a lack of knowledge on the reporting process, and considering the injury to be a part of the job or not serious.

Finally, employers are disincentivized from reporting injuries and illnesses on their OSHA logs. Disincentives for reporting include workers' compensation premiums being tied to injury and illness rates, competition for contracts involving safety records, and a perception that reporting will increase the probability of being inspected by OSHA (GAO, 2009).

In interviews with employers selected to respond to SOII, researchers found that 42% of them were not maintaining a log (Wuellner and Phipps, 2018). In the same study, researchers found evidence to suggest that misunderstandings about the reporting requirements would likely lead to employers underreporting cases involving days away from work. A similar study conducted among SOII respondents in Washington State found that 12% weren't maintaining a log and 90% weren't complying with some aspect of OSHA's recordkeeping requirements (Wuellner and Bonauto, 2014).

While the general underreporting articles described here are not specific to heat, Heinzerling et al. 2020 examined rates of heat-related injuries and illnesses among workers in California and found that California's workers' compensation database, WCIS,

had 3–6 times the number of heat-related cases between 2009–2017 than the official BLS SOII estimates for California for each year in that period (Heinzerling et al., 2020). Part of the reason for this discrepancy could be the difference in inclusion criteria between the two datasets, however, it is still a useful estimate for contextualizing the potential magnitude of underreporting of heat-related cases when using only SOII. While outside the U.S., a recent survey of 51 Canadian health and safety professionals in the mining industry found that 71% of respondents believed HRIs were underreported (Tetzlaff et al., 2024).

II. Workers' Compensation

While workers' compensation data may capture injury and illness cases not included in BLS SOII, the data are not available for the entire U.S., as insurance coverage and reporting requirements vary across States, and most States do not have single-payer systems. Therefore, the majority of claims data are compiled by various insurers and not within a single database. Even when the data are available for an entire State, it is generally presumed that not all worker injuries and illnesses are captured in these data, in part because of eligibility criteria and in part because of underutilization of workers' compensation for reimbursement of work-related medical expenses.

Multiple papers have examined the extent to which and reasons why workers don't always use workers' compensation insurance to pay for work-related medical expenses and other reimbursable expenses. Some reasons workers have reported for not filing workers' compensation claims include fear, a lack of knowledge, "too much trouble" or effort, and considering the injury to be a part of the job or not serious (Kyung et al., 2023; Scherzer et al., 2005). Using the Washington State Behavioral Risk Factor Surveillance System (BRFSS), a telephone survey, Fan et al. (2006) found that 52% of the respondents in 2002 reporting a work-related injury or illness filed a workers' compensation claim. Using similar methodology across 10 States, Bonauto et al. (2010) found that among respondents who reported a work-related injury, there was a wide range in the proportion who reported having their treatment paid for by workers' compensation by State—47% in Texas to 77% in Kentucky (with a median of 61%). A study from 2013 estimated that 40% of work-related ED visits were paid for by a source other than workers' compensation (Groenewold and Baron,

2013). Worker race, geography, and having an illness rather than an injury were all predictors of whether workers' compensation was the expected payer.

There are a few papers that suggest this phenomenon is occurring for heat-related outcomes. Harduar Morano et al. 2015 (described above in Section V.A.II., Reported Annual Incidence of Nonfatal Occupational Heat-Related Injuries and Illnesses) found that across several southeastern States, workers' compensation as expected primary payer alone captured 60% of all emergency department visits and inpatient hospitalizations, which varied by State (50–80% for emergency department visits and 38–84% for inpatient hospitalizations) (Harduar Morano et al., 2015). Similarly, in the 2011 report by the Florida Department of Health (described above in Section V.A.II., Reported Annual Incidence of Nonfatal Occupational Heat-Related Injuries and Illnesses), 83% of claims identified were captured by workers' compensation as primary payer (Florida DOH, 2011). It should be noted that these percentages are influenced by the total number of captured cases and in both sources the authors presume that they did not capture all relevant cases.

III. Hospital Discharge Data

Hospital discharge data are the only surveillance data presented in this risk assessment for which work-relatedness is not an inclusion criterion; therefore, researchers relying on this data need to take an additional step to assess work-relatedness for each case that introduces the possibility that work-related cases are not recognized as such and are thus excluded. Researchers identifying work-related cases typically use a combination of workers' compensation as the primary payer or ICD codes for external cause of injury. As discussed in the previous section, workers' compensation is not always used by workers, so relying on this variable will lead to undercounting. For external cause of injury codes (*e.g.*, E900.9 Excessive heat of unspecified origin), researchers have found that these are not always present or accurate for work-related injury cases (Hunt et al., 2007), which isn't unexpected given that they aren't required for reimbursement. For instance, codes indicating the location of occurrence were present in 43% of probable work-related injury cases the authors reviewed (Hunt et al., 2007). Harduar Morano and Watkins (2017) used external cause of injury codes to identify work-related emergency department visits and hospitalizations for heat-related illnesses in Florida. They found that 2.8% of emergency

department visits, 1.2% of hospitalizations, and 0% of deaths were identified solely by an external cause of injury code for work.

Both workers' compensation claims and hospitalization data are also affected by the accuracy of diagnostic codes for identifying heat-related cases. While the use of ICD codes for surveillance of heat-related deaths, illnesses, and injuries is widely accepted, it is not infallible, as these codes are designed for billing rather than surveillance. The use of specific codes is up to the discretion of healthcare providers, so practices may vary by provider and facility. Healthcare providers may not always recognize that a patient's symptoms are heat-related and thus, they may not record a heat-specific ICD code. For example, a patient who presents to the emergency room after fainting would likely be diagnosed with "syncope" (the medical term for fainting). If the provider is aware that the patient fainted due to heat exposure, they should record a heat-specific ICD-10 code, T67.1 *Heat syncope*. However, if the provider is unaware that the patient fainted due to heat exposure (or otherwise fails to recognize the connection between the two), they may record a non-heat-specific ICD-10 code, R55 *Syncope and collapse*. Researchers suspect underreporting when ICD codes are used for surveillance of HRIs (Harduar Morano and Watkins, 2017) and recommend researchers use all possible fields available (e.g., primary diagnosis, secondary diagnosis, underlying cause of death, contributing cause of death).

Researchers examining trends in heat-related illnesses using electronic health records for the Veterans Health Administration identified a dramatic increase in cases when ICD-10 was adopted, suggesting that the coding scheme in ICD-9 may have led to systematic underreporting of heat-related cases, at least for this population (Osborne et al., 2023). The authors also note that 8.4% of the HRI cases they identified were captured using unstructured fields (e.g., chief complaint, reason for admission) and not ICD codes.

Not all sick and injured workers go to an emergency department or hospital and those that do are likely to be more severe cases. Unfortunately, estimating the proportion of injured and sick workers who do go to the hospital or emergency room is difficult, given a lack of data on this topic. In a 1998 CDC Morbidity and Mortality Weekly Report written by NIOSH safety researchers, the authors reported an analysis of unpublished data from the 1988

National Health Interview Survey (NHIS) Occupational Health Supplement which found that 34% of all occupational injuries were first treated in hospital emergency departments, 34% in doctors' offices/clinics, 14% in work site health clinics, and 9% in walk-in clinics (NIOSH DSR 1998). 1988 was the last year that NIOSH asked that question in the NHIS.

Care-seeking for workers experiencing heat-related symptoms specifically may be low. In a study evaluating post-deployment survey response data among a subset of the Deepwater Horizon oil spill responders (U.S. Coast Guard), Erickson et al. found that less than 1% of respondents reported seeking medical treatment for heat-related illness, yet 12% reported experiencing any heat-related symptoms (Erickson et al., 2019).

IV. BLS CFOI

CFOI is well-regarded as the most complete and authoritative source on fatal workplace injuries. However, the approach used to classify the event and nature codes by BLS is not immune to misclassification of heat-related deaths. BLS relies on death certificates, OSHA fatality reports, news articles, and coroner reports (among other sources) to determine the primary or contributing causes of death. The criteria for defining a heat-related death or illness can vary by State, and among physicians, medical examiners, and coroners. Additionally, individuals who fill out death certificates are not necessarily equipped to make these distinctions or confident in their accuracy (Wexelman, 2013). Depending on State policies, individuals performing this role may be a medical professional or an elected official with limited or no medically relevant experience (National Research Council, 2009; CDC, 2023).

Researchers estimating fatality rates attributable to heat in the overall U.S. population using historical temperature records have produced much higher counts than approaches solely using death certificates (Weinberger et al., 2020). While outside the U.S., a recent study examining causes of death among migrant Nepali workers in Qatar from 2009–2017 demonstrated that deaths coded as cardiovascular-related (e.g., "cardiac arrest") among these mostly young workers were unexpectedly common and correlated with higher wet bulb globe temperatures, suggesting that these deaths may have been heat-related but not coded as such (Pradhan et al., 2019). Heat-related deaths are uniquely hard to identify if the medical professional didn't witness the events preceding the death, particularly

because heat can exacerbate an existing medical condition, acting as a contributing factor (Luber et al., 2006).

C. Summary

In conclusion, the available evidence indicates that the existing surveillance data vastly undercount cases of heat-related injuries and illnesses among workers. OSHA additionally believes that the inclusion of unexposed worker-time in the denominator for incidence estimates underestimates the true risk among heat-exposed workers.

V. Requests for Comments

OSHA requests information and comments on the following questions and requests that stakeholders provide any relevant data, information, or additional studies (or citations) supporting their view, and explain the reasoning for including such studies:

- Are there additional data or studies OSHA should consider regarding the annual incidence of HRIs and heat-related fatalities among workers?
- OSHA has identified data from cohort-based and time series studies that would suggest higher incidence rates than data from surveillance datasets (e.g., BLS SOII, workers' compensation claims). Are there other data from cohort-based or time series studies that OSHA should rely on for determining risk of HRIs to heat-exposed workers?
- Are employers aware of occupational HRIs that are not reported through BLS SOII, workers' compensation claims, or hospital discharge data? How commonly do HRIs occur that are not recorded on OSHA 300 logs?
- Are there additional data or studies that OSHA should consider regarding the extent of underreporting and underestimating of HRIs or heat-related fatalities?

B. Basis for Initial and High Heat Triggers

I. Introduction

In this section, OSHA presents the evidence that forms the basis of the heat triggers contained in the proposed standard. These triggers are based on the heat index and wet bulb globe temperature (WBGT). The WBGT triggers are based on NIOSH exposure limits (i.e., the REL and RAL), which are supported by empirical evidence dating back to the 1960s and have been found to be highly sensitive in capturing unsustainable heat exposures.

Although there are no consensus-based heat index exposure limits for workers, the question of which heat

index values represent a highly sensitive and appropriate screening threshold for heat stress controls in the workplace has been evaluated in the peer-reviewed scientific literature. The evidence described below provides information on the sensitivity of alternative heat index values, that is, the degree to which a particular heat index value can be used to screen for potential risk of heat-related injuries and illnesses (HRIs) and fatalities. OSHA looked at both experimental and observational evidence, including efforts to derive more accessible and easily understood heat index-based triggers from WBGT-based exposure limits, to preliminarily determine appropriate heat index values for triggering heat stress control measures. Each of these evidence streams has strengths and limitations in informing this question.

Relevant experimental evidence in the physiology literature is often conducted in controlled laboratory settings among healthy, young volunteers, but the conditions may not always mimic conditions experienced by workers (*e.g.*, workers often experience multiple days in a row of working in high temperatures). Observational evidence does not have this limitation because the data are collected among actual workers in real-world settings. However, observational evidence is potentially affected by exposure misclassification since exposure metrics are often derived from local weather stations and rely on maximum daily values. Experimental data does not have this limitation, since the laboratory conditions are highly controlled, including the exposure levels.

OSHA used both streams of evidence to support proposing an initial heat trigger of 80 °F (heat index) and a high heat trigger of 90 °F (heat index). The observational evidence that OSHA identified suggests that the vast majority of known occupational heat-related fatalities occur above the initial heat index trigger, making it a sensitive trigger for heat-related fatalities. The vast majority of nonfatal occupational HRIs also occur above this trigger. The experimental evidence (specifically the WBGT-based exposure limits) also suggests that when there is high radiant heat, a heat index of 90 °F would be an appropriate time to institute additional controls (*e.g.*, mandatory rest breaks). This is supported by observational evidence that shows a rapidly declining sensitivity above a heat index of 90 °F. OSHA has preliminarily concluded that the experimental evidence also supports the selection of these triggers as highly sensitive and therefore protective.

II. Observational Evidence

To determine an appropriate initial heat trigger, OSHA sought to identify a highly sensitive screening level above which the majority of fatal and nonfatal HRIs occur. This could presumably be used to identify the environmental conditions for which engineering and administrative controls would be most important to prevent HRIs from occurring. One challenge for determining this trigger level is that many factors influence an individual's risk of developing an HRI. In addition to workload, PPE, and acclimatization status, the risk of developing an HRI is also influenced by workers' abilities to self-pace at their jobs as well as whether there had been exposure to hot conditions on the prior day(s). There are also medications and comorbidities that may increase workers' risk of HRIs (see discussion in Section IV.O., Factors that Affect Risk for Heat-Related Health Effects).

The observational studies reviewed by OSHA used retrospective temperature and humidity data matched to the locations where HRIs and fatalities occurred over a period of time. Although these studies did not account specifically for workload, PPE use, acclimatization status, or other relevant factors, the HRI cases studied included worker populations where these factors were likely present to varying degrees. Therefore, OSHA has preliminarily determined that retrospective observational data collected among workers who have experienced fatal or nonfatal HRIs on the job is valuable to informing a screening level that reflects the presence of these multiple risk factors among worker populations. These studies are summarized in the following sections.

A. Fatalities

In a doctoral dissertation from 2015, Gubernot matched historic weather data to the heat-related fatalities reported in BLS CFOI (fatality data described in Section V.A., Risk Assessment) between 2000–2010 (Gubernot, 2015). Gubernot used historic, weather monitor-based temperature and dew point measurements from the National Climatic Data Center to recreate the heat index (using daily maximum temperature and daily average dew point) on the day of each fatality. If there was not already a monitor in the county where a fatality occurred, then the next closest weather monitor to that county was used. Of the 327 fatalities identified as being related to ambient heat exposure (*i.e.*, cases with secondary heat sources, like ovens, were

excluded), 96.3% occurred on a day with a calculated heat index above 80 °F and 86.9% occurred on a day above 90 °F. Using a higher threshold such as a heat index of 95 °F would have only captured approximately 71% of fatalities (estimated from Figure 4–2 of the study). The author also evaluated how many cases occurred on a day when a National Weather Service (NWS)-defined excessive heat event (EHE) was declared. In a directive to field offices, the NWS outlines when offices should issue excessive heat warnings—when there will be 2 or more days that meet or exceed a heat index of 105 °F for the Northern U.S. and 110 °F for the Southern U.S., with temperatures not falling below 75 °F (although local offices are allowed to use their own criteria) (NWS, 2024a). Gubernot appears to have used a simpler criterion to evaluate the sensitivity of these EHEs—whether the heat index on the day of the fatality was at or above 105 °F for northern States and at or above 110 °F for southern States. Only 42 fatalities (12.8%) occurred on days meeting the EHE definitions, suggesting EHEs are not a sensitive trigger for occupational heat-related fatalities. During the SBREFA process, small entity representatives suggested that OSHA consider the NWS EHE definitions as options for the initial and/or high heat triggers, but based on these findings (and those reported in other studies summarized in this section), OSHA has preliminarily determined that these criteria are not sensitive enough and would not adequately protect workers.

Some limitations of this analysis include the use of nearest-monitor exposure assignment, as well as the use of maximum temperature with average dew point to calculate heat index, both of which may introduce exposure misclassification. Although the author did not refer to the latter as a daily maximum heat index, this estimate would most closely approximate that value, which would suggest that workers were likely exposed to heat index values below that level during the work shift leading up to the fatality.

In a meta-analysis published in 2020, Maung and Tustin (both affiliated with OSHA at the time) conducted a systematic review of studies, such as the one described above by Gubernot, where researchers retrospectively assigned heat exposure estimates to occupational heat-related fatalities (Maung and Tustin, 2020). The purpose of their meta-analysis was to identify a heat index threshold below which occupational heat-related fatalities do not occur (*i.e.*, a highly sensitive

threshold). Maung and Tustin identified 418 heat-related fatalities among civilian workers across 8 studies. Approximately three quarters of these civilian fatalities ($n=327$; 78%) came from Gubernot 2015. The authors found a heat index threshold of 80 °F to be highly sensitive for civilian workers—96% of fatalities (402 of 418) occurred on days with a heat index estimate at or above this level. A heat index threshold of 90 °F had slightly lower sensitivity—approximately 86% (estimated from table 1 and figure 3 of their study). Similar to the findings reported in Gubernot 2015, one of the NWS thresholds for issuing heat advisories (heat index of 105 °F) did not appear to be a sensitive trigger, missing 68% of civilian worker fatalities.

The limitations for Gubernot 2015 apply to this analysis as well. These analyses (including the data from Gubernot, 2015) were limited to outdoor workers, potentially limiting the generalizability of the findings. This analysis also relied on single values (e.g., daily maximum heat index) to capture exposure across a work shift. As pointed out by Maung and Tustin, it is important to consider that exposure characterizations using daily maximum heat index likely over-estimates the exposures that workers experience throughout the shift leading to the fatality. For example, a fatality occurring on a day with a daily maximum heat index of 90 °F likely involved prolonged exposure to heat index values in the 80s °F.

In 2019, a group of OSHA researchers published a similar analysis for both fatal and nonfatal HRIs reported to OSHA in 2016 among outdoor workers (Morris CE et al., 2019). They identified 17 fatalities in this subset and used nearest weather station data to estimate daily maximum heat index on the day of the fatality. All 17 fatalities occurred on a day with a daily maximum heat index of at least 80 °F (the lowest was at 88 °F). A daily maximum heat index of 90 °F had a sensitivity of approximately 94%, while 100 °F had a sensitivity of approximately 35%. A major limitation with this analysis is its small sample size ($n=17$ fatalities).

B. Non-Fatalities

Morris et al., identified 217 nonfatal HRIs among outdoor workers reported to OSHA in 2016 (Morris CE et al., 2019). They found that 99% of these cases happened on a day with a daily maximum heat index of at least 80 °F. There is a steep decline in sensitivity for daily maximum heat index values in the 90s °F—89% for 90 °F but approximately 58% for 100 °F

(estimated from Figure 5 of the study which combines fatal and nonfatal cases)—suggesting that many nonfatal HRIs occur on days when the heat index does not reach 100 °F. One limitation of this dataset is potential selection bias, because the dataset only included cases that were reported to OSHA. This study therefore did not include cases in State Plan States.

A much larger analysis conducted among emergency department (ED) visits in the Southeastern U.S. was published by Shire et al. (Shire et al., 2020). The authors identified 5,017 hyperthermia-related ED visits among workers in 5 southeastern States (Florida, Georgia, Kentucky, Louisiana, and Tennessee) between May and September in 2010–2012. While the previously described studies used nearest monitor data, Shire et al. used data from the North American Land Data Assimilation System (NLDAS), which incorporates both observation and modeled data to fill in gaps between locations of monitors, providing data at a higher geographic resolution (0.125° grid). Since the authors only had ED visit data at the county level, they used the NLDAS data to compute population-weighted, county-level estimates of daily maximum heat index using all the grids within each county. They found that approximately 99% of ED visits occurred on days with a daily maximum heat index of at least 80 °F and about 95% of cases on days with a maximum heat index of at least 90 °F. Approximately 54% of cases occurred on days with a daily maximum heat index of 103 °F or higher. This further supports the finding from Morris et al. (2019) that sensitivity declines steeply above a heat index of 90 °F. One limitation of this analysis is the use of the emergency department location as the basis for the exposure assignment, which has the potential to introduce exposure misclassification if workers were working far away from the ED facility.

In a 2016 doctoral dissertation, Harduar Morano conducted a retrospective analysis of 3,394 heat-related hospitalizations and ED visits among Florida workers in May–October between 2005–2012, using data from the weather monitor nearest to the zip codes where the hospitalizations and ED visits occurred to characterize heat exposure (Harduar Morano, 2016). The vast majority of cases occurred on a day with a daily maximum heat index of at least 80 °F, with approximately 91% of cases occurring on a day with a maximum heat index of at least 90 °F (estimated from Figure 6–4). There was also a 13% increase in the HRI hospitalization and

ED visit rate for every 1 °F increase in heat index at values below 99 °F (Figure 6–4, Lag 0 plot of the study), suggesting that potential triggers in the mid-to-high 90's would increasingly miss many cases. One limitation of this analysis and that conducted by Shire et al. is that hospitalization and ED visit data did not include enough information to distinguish between indoor vs outdoor workers; it is possible that indoor workers could have been exposed to conditions not captured by the weather data (such as working near hot industrial processes).

In addition, four studies of workers' compensation data in Washington State—three of which were reported in Section V.A., Risk Assessment—have examined maximum temperature or heat index on the days of reported HRIs (Bonauto et al., 2007; Spector et al., 2014; Hesketh et al., 2020; Spector et al., 2023). Hesketh et al., 2020 (an update on Bonauto et al., 2007) matched weather data to addresses for the HRI claims in the State's workers' compensation database between 2006 and 2017 (Hesketh et al., 2020). They found that, of the 905 claims for which they had temperature data, over 75% of HRIs occurred on days with a maximum temperature of at least 80 °F and approximately 50% of claims occurred on days with a maximum temperature of at least 90 °F (estimated from Figure 2). They also reported that approximately 75% of claim cases occurred when the hourly maximum temperature was at least approximately 79 °F. This paper is part of the rationale for Washington State lowering the trigger level in its heat-specific standard from 89 °F to 80 °F—the old trigger of 89 °F had missed 45% of cases in this dataset (Washington Dept. of Labor & Industries, 2023). A similar study published in 2023 expanded the dataset used by Hesketh et al. to include HRI claims from 2006 to 2021 ($n=1,241$) (Spector et al., 2023). The authors used gridded meteorological data from the PRISM Climate Group at Oregon State University and geocoded accident location (or business location or provider location if accident location was unable to be used) to determine the maximum temperature on the day of the event. They found that 76% of HRI claims occurred on a day with a maximum temperature of at least 80 °F (this increased to 79% when restricted to cases that were “definitely” or “probably” outdoors). A major limitation of these studies is the use of ambient temperature, limiting the ability to compare findings to other papers that relied on the heat index. In

Spector et al. 2014, the authors calculated the daily maximum heat index for each county with an HRI in their dataset on the date of injury (Spector et al., 2014). They obtained the county of injury and, when not available, imputed the location of the injury rather than using the employer address, which is assumed to be more accurate for characterizing exposure. In their analysis of 45 agriculture and forestry worker HRI claims between 1995–2009 that had corresponding weather data, Spector et al. found that 75% of HRI claims occurred on days when the maximum heat index was at least 90 °F, whereas only 50% occurred on days when it was at least 99 °F and 25% for 106 °F.

C. Summary

In summary, researchers have identified a heat index of 80 °F as a highly sensitive trigger for heat-related fatalities (capturing 96–100% of fatalities) and nonfatalities (99–100%) among workers (excluding results from Washington State). When looking at ambient temperature, researchers in Washington found that 75–76% of HRI claims occurred on a day with a maximum ambient temperature of 80 °F or greater. Multiple studies additionally identified a rapidly declining sensitivity above a heat index of 90 °F, suggesting that additional protective measures (e.g., observation for signs and symptoms of HRIs) are needed once the heat index reaches approximately 90 °F.

One of the common limitations of the analyses presented in this section is the use of a single reading (e.g., daily maximum heat index) to capture each affected worker's exposure on the day of the event. In reality, conditions fluctuate throughout the day, so relying on maximum measures would likely overestimate heat exposure across the workday. The use of nearest monitor weather data is also likely to lead to exposure misclassification. The inclusion of indoor workers in some of the studies is also a limitation, since the exposure for those workers could be very different (e.g., if there is process heat). In Spector et al. 2023, the authors noted an increase in the percent of cases occurring on days with a maximum temperature of 80 °F when restricting to cases that definitely or probably occurred outdoors. In all these studies, researchers can only examine conditions for the cases that were captured in the surveillance systems. There could be a bias such that cases occurring on hotter days were more likely to have been coded as heat-related and included in these databases. Failure to ascertain HRI cases occurring at lower

heat indices could have skewed the findings upwards, making it appear that hotter thresholds were more sensitive than they actually were. Finally, the use of heat index (or ambient temperature) ignores the impacts of air movement as well as radiant heat, which can substantially increase the heat stress a worker is exposed to and increase the risk of an HRI.

III. Experimental Evidence

NIOSH has published exposure limits based on WBGT in its *Criteria for a Recommended Standard* going back multiple decades.³ These exposure limits—the REL and RAL—account for the contributions of wind velocity and solar irradiance, in addition to ambient temperature and humidity. (ACGIH has published similar exposure limits—the TLV and AL.) In addition to WBGT, NIOSH and ACGIH heat stress guidelines require the user to account for metabolic heat production (through the estimation of workload) and the contributions of PPE and clothing. The user adds an adjustment factor to the measured WBGT to account for the specific clothing or PPE worn (specifically those ensembles that impair heat loss) and uses a formula based on workload to estimate the exposure limit. They then compare the measured (or adjusted, if using a clothing adjustment factor) WBGT to the calculated exposure limit to determine if the limit is exceeded. Work-rest schedules with increasing time spent on break can further increase the exposure limit.

These exposure limits and guidelines are based in empirical evidence, such as laboratory-based trials conducted in the 1960s and 1970s. This basis for WBGT exposure limits is described in detail by both NIOSH and ACGIH (NIOSH, 2016; ACGIH, 2017). These exposure limits have been tested and found to be highly sensitive (100%) in modern laboratory conditions in capturing unsustainable heat exposures (i.e., when a steady increase in core temperature is observed) (Garzon-Villalba et al., 2017). Among workers in real-world settings, these WBGT-based exposure limits have been found to be highly sensitive for fatal outcomes (100% in one study; 92–100% in another) and, although slightly less so, still sensitive for nonfatal outcomes (73% in one study; 88–97% in another); however, these studies are limited by their small sample size and retrospective characterization of

workload, acclimatization status, and clothing/PPE use (which are required for accurately estimating WBGT-based exposure limits) (Tustin et al., 2018b; Morris CE et al., 2019).

Two papers have attempted to apply the concepts of the WBGT-based exposure limits to the more easily accessible and understood heat index metric. Based on the relationship between WBGT and heat index, Bernard and Iheanacho developed a screening tool that reflects heat stress risk based on heat index and workload category—light (180 W), moderate (300 W), and heavy (415 W)—using assumptions about radiant heat but ignoring the contributions of wind and clothing (Bernard and Iheanacho, 2015). To do this, they created a model predicting WBGT from the heat index. From this model, WBGT estimates were produced within a 1 °C range for heat index values of 100 °F or more but the model was less accurate at heat index values below 100 °F. Using their reported screening table, which allows the user to adjust for low vs high radiant heat, an acclimatized worker performing a heavy (415 W) workload in high radiant heat outdoors would be above the WBGT-based exposure limit and in need of a break at a heat index of 90 °F. The same worker, if unacclimatized, would be above the exposure limit at a heat index of 80 °F. These findings support the provision of 15-minute breaks at a heat index of 90 °F in OSHA's proposed standard, as well as the provision requiring these breaks for unacclimatized workers at a heat index of 80 °F (unless the employer is following the gradual acclimatization schedule and providing breaks if needed). The authors noted that high radiant heat indoors could require even greater adjustments to the heat index. As further evidence for the need to adjust these values for radiant heat exposure, Morris et al. (2019) reported that for the days on which HRIs occurred in their dataset, cloud cover was often minimal suggesting there was exposure to high radiant heat when the HRIs occurred.

More recently, Garzón-Villalba et al. used an experimental approach to derive workload-based HI heat stress thresholds (Garzón-Villalba et al., 2019). The researchers used data from two progressive heat stress studies of 29 acclimatized individuals. Participants were assigned different work rates and wore different clothing throughout the trials, serving as their own controls. Once thermal equilibrium was established, the ambient temperature was increased in five-minute intervals while holding relative humidity

³ NIOSH plays an important role in carrying out the purpose of the OSH Act, including developing and establishing recommended occupational safety and health standards (29 U.S.C. 671).

constant. The critical condition defined for each subject was the condition at which there was a transition from a stable core body temperature to an increasing core body temperature (*i.e.*, the point at which heat exposure became unsustainable). Using the results from these trials, the authors established an equation deriving a heat index exposure limit (equivalent to the TLV or REL) at different metabolic rates for a worker wearing woven clothing:

$$HI \text{ benchmark } (^{\circ}C) = 49 - 0.026 M$$

Where M is workload in Watts.

Garzón-Villalba et al. assessed the effectiveness of the proposed heat index thresholds for predicting unsustainable heat stress by using receiver operating characteristic curves and area-under-the-curve (AUC) values to determine predictive power (this technique is commonly used to evaluate the predictive power of diagnostic tests). The AUC value for the proposed heat index thresholds with subjects wearing woven clothing was 0.86, which is similar to that of the WBGT-based thresholds, based on the authors' prior analysis (Garzón-Villalba et al., 2017). This result showed that the heat index thresholds derived by Garzón-Villalba et al. (2019) would reasonably identify unsustainable heat exposure conditions.

Compared to the heat index thresholds proposed by Bernard and Iheanacho (2015), the heat index thresholds proposed by Garzón-Villalba et al. are the same at low metabolic rates (111 °F for 180 W) but higher at higher metabolic rates: 105.8 °F versus 100 °F at 300 W and 100.4 °F versus 95 °F at 415 W (*Note:* these values are unadjusted for radiant heat). This is likely because the ACGIH WBGT-based exposure limits, upon which Bernard and Iheanacho based their heat index thresholds, are intentionally more conservative at higher metabolic rates, whereas Garzón-Villalba used a less conservative linear model to derive their heat index thresholds (Garzón-Villalba et al., 2019). When adding an adjustment for full sunshine provided by the authors, the proposed heat index-based exposure limit derived from the Garzón-Villalba et al. (2019) equation for a worker

performing a very heavy workload (450 W) is 92.8 °F.

Thus, laboratory-derived heat index thresholds for unsustainable heat exposure are higher than heat index thresholds shown in observational studies to be sensitive for predicting the occurrence of HRIs. There are several reasons that may explain why values determined to be sensitive in laboratory settings are higher than those reported among workers in real-world settings. For one, volunteers in laboratory studies are often young, healthy, and euhydrated (*i.e.*, beginning the trial adequately hydrated). They are also not exposed to consecutive days of heat exposure for eight-hour or longer work shifts. Working in hot conditions on the prior day has been demonstrated in the literature to be a risk factor for HRIs, even among acclimatized individuals (Garzón-Villalba et al., 2016; Wallace et al., 2005). Therefore, the use of volunteers and exposure conditions in laboratory-based trials may not always provide good proxies for workers and the environments in which they work. There is also significant inter-individual variability in heat stress tolerance, which may mean trial studies with few participants might not capture the full range of heat susceptibilities faced by workers.

In summary, long-established and empirically validated occupational exposure limits exist for WBGT. In observational studies, WBGT exposure limits have been found to be highly sensitive for detecting fatal HRIs among workers and, although slightly less so, still sensitive for nonfatal outcomes (although these studies are limited by small sample size and retrospective work characterization). Research efforts to crosswalk the WBGT-based exposure limits to the more accessible heat index metric have demonstrated that a heat index of 90–92.8 °F would represent an appropriate trigger for controls such as mandatory rest breaks for acclimatized workers performing heavy or very heavy workloads in high radiant heat conditions (Bernard and Iheanacho, 2015; Garzón-Villalba et al., 2019). For unacclimatized workers performing heavy workloads in high radiant heat conditions, a heat index trigger of 80 °F

would be in line with the WBGT-based exposure limits (Bernard and Iheanacho, 2015). Although these two studies suggest that higher triggers could reasonably be applied to workers performing lighter workloads, the assumptions used may not always apply to workers (*e.g.*, no exposure to working in the heat the prior day, healthy, euhydrated). This may explain, at least in part, the discrepancy in findings between the observational and experimental studies discussed in this section.

IV. State Standards and Non-Governmental Recommendations

In their heat-specific standards, summarized in the table below, States use various initial and high heat triggers, some of which depend on the clothing or gear worn by workers. OSHA's proposed triggers are generally in line with those used by these States.

OSHA is proposing using the same initial heat trigger (heat index of 80 °F) as Oregon's existing standard and Maryland's proposed standard (Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022); Code of Maryland Regulations 09.12.32: Heat Stress Standards (2024)). California and Colorado use an ambient temperature trigger of 80 °F for outdoor work sites and agricultural sites, respectively, as does the Washington standard for workers wearing breathable clothing (Cal. Code of Regulations (CCR), tit. 8, section 3395 (2015); 7 Colo. Code Regs. section 1103–15 (2022); Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023)). California's proposed indoor standard uses an ambient temperature trigger of 82 °F (CCR, tit. 8, section 3396 (2023)).

The high heat trigger that OSHA is proposing (heat index of 90 °F) is the same as Oregon's existing standard and Maryland's proposed standard. California and Colorado use an ambient temperature high heat trigger of 95 °F, while the Washington standard uses 90 °F. The California indoor proposal uses an ambient temperature or heat index trigger of 87 °F to impose additional requirements.

TABLE V–2—SUMMARY OF TRIGGERS USED IN VARIOUS HEAT-SPECIFIC STANDARDS AT THE STATE LEVEL

State	Setting	Initial heat trigger	High heat trigger
California	Outdoor	80 °F (Ambient)	95 °F (Ambient).
Washington	Outdoor	80 °F (Ambient) (all other clothing) 52 °F (non-breathable clothes).	90 °F (Ambient).
California (proposal)	Indoor	82 °F (Ambient)	87 °F (Ambient or Heat Index), except for certain clothing or in high radiant heat (82 °F).
Oregon	Indoor/Outdoor	80 °F (Heat Index)	90 °F (Heat Index).
Maryland (proposal)	Indoor/Outdoor	80 °F (Heat Index)	90 °F (Heat Index).

TABLE V–2—SUMMARY OF TRIGGERS USED IN VARIOUS HEAT-SPECIFIC STANDARDS AT THE STATE LEVEL—Continued

State	Setting	Initial heat trigger	High heat trigger
Colorado	Indoor/Outdoor Agriculture only.	80 °F (Ambient)	95 °F (Ambient) or other conditions.

Note: There are different provisions required at each trigger by each State.

In the Heat Stress and Strain chapter of their most recent TLV booklet, ACGIH recommends establishing a heat stress management plan when heat stress is suspected (ACGIH, 2023). One criterion they provide for determining when heat stress may be present is whether the heat index or air temperature is 80 °F. In comments received from small entity representatives during the SBREFA process and a public commenter during the ACCSH meeting on April 24, 2024, OSHA heard feedback that the agency should consider different triggers that vary by geography. Neither the ACGIH TLV/REL nor NIOSH REL/RAL vary by geography; these formulas are used globally. Additionally, California regulators, in their existing outdoor heat standard and their proposed indoor heat standard, use single State-wide triggers, despite the State experiencing a wide range of microclimates (e.g., both desert and coastal areas exist in the State). Such microclimates would make it difficult to identify appropriate geographically specific triggers, as factors like elevation and humidity can vary widely even within a specific State or region. OSHA has also heard from stakeholders who suggested that the triggers in a proposed rule should be presented simply, which would be challenging if there were multiple triggers for different parts of the country.

V. Summary

In conclusion, OSHA preliminarily finds that the experimental and observational evidence support that heat index triggers of 80 °F and 90 °F are highly sensitive and therefore highly protective of workers. These triggers are also generally in-line with current and proposed triggers in State heat-specific standards. Therefore, OSHA is proposing an initial heat trigger of heat index of 80 °F and a high heat trigger of heat index of 90 °F. OSHA is also proposing to permit employers to use the WBGT-based NIOSH RAL and REL, which are supported by empirical evidence and have been found to be highly sensitive in capturing unsustainable heat exposure.

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether OSHA has adequately identified, documented, and correctly interpreted all studies and other information relevant to its conclusion about sensitive heat triggers;
- Whether there are additional observational studies or data that use more robust exposure metrics (e.g., more than daily maximum heat index) to retrospectively assess occupational heat exposure on the day of heat-related fatalities and nonfatal HRIs;
- Whether OSHA should consider other values for the initial and/or high heat trigger and if so, what evidence exists to support those other values;
- The appropriateness of using heat index to define the initial and high heat triggers;
- Whether OSHA should explicitly incorporate radiant heat into the initial and/or high heat triggers, and if so, how;
- Whether OSHA should explicitly incorporate clothing adjustment factors into the initial and/or high heat triggers, and if so, how;
- Whether OSHA should use different triggers for different parts of the country, and if so, how;
- The appropriateness of applying the same triggers to employers who conduct on-site measurements as opposed to employers who use forecast data; and
- Whether OSHA should consider an additional trigger specific to heat waves or sudden increases in temperature and, if so, whether there are definitions of heat waves that are simple and easy-to-apply.

C. Risk Reduction

I. Introduction

OSHA identified and reviewed dozens of studies evaluating the effectiveness of various controls designed to reduce the risk of heat-related injuries and illnesses (HRIs). The studies captured include observational and experimental studies that examined the effect of either a single control or the combined effect of multiple controls. These studies were conducted among civilian workers, athletes, military personnel, and volunteers. Observational studies conducted outside the U.S. were included if OSHA

determined the work tasks to be comparable to those of U.S.-based workers. OSHA also examined systematic review articles that summarized the literature on various individual controls.

OSHA acknowledges that observational studies evaluating the effectiveness of multi-pronged interventions or programs in reducing HRI incidence in “real-world” occupational settings are the most relevant for assessing the reduction in risk of the proposed rule. However, OSHA identified very few of these studies in the literature review and determined there to be some limitations in extrapolating their findings to the proposed rule. Therefore, OSHA also examined studies looking at the effectiveness of single interventions, many of which were experimental in design.

One limitation of the experimental studies—often conducted in laboratory settings—is that they were not conducted in “real-world” occupational settings. However, some of these studies were designed to simulate actual work tasks and work environments, which increases the generalizability for occupational settings (i.e., the extent that the study results can be applied to employees exposed in the workplace). Additionally, one advantage of experimental studies is that they can be conducted under controlled conditions and are thus able to better measure endpoints of interest and control for confounding variables. Experimental studies are also sometimes able to examine situations in which subjects experience high levels of heat strain because the close physiological monitoring of subjects allows the study to be stopped before the subject is at risk of heat stroke or death.

Although many of these studies evaluated measures of heat strain (e.g., core body temperature, heart rate) rather than instances of HRIs, OSHA believes that these metrics are important for understanding risk of HRIs. As discussed in Section IV., Health Effects, these metrics are intermediary endpoints on the path to HRIs (e.g., heat stroke, heat exhaustion). The controls required in the proposed standard are effective in that they reduce or slow the

accumulation of heat in the body, which in turn reduces the risk of HRIs.

OSHA also examined and summarized systematic review articles that reviewed and discussed the experimental literature. These articles were written by prominent heat safety experts (in either an occupational or athletic context) and were typically conducted using a consensus-type approach. OSHA also looked outside the peer-reviewed literature for consensus statements, reports, recommendations, and requirements from governmental bodies and non-governmental organizations.

Despite the limitations noted above, the studies, review articles, and non-peer reviewed sources presented in this section represent the best available evidence OSHA has identified regarding the effectiveness of controls designed to reduce the risk of HRIs. The following summary of OSHA's findings demonstrates that the requirements of the proposed rule will be effective in reducing the risk of HRIs among workers.

II. Evidence on the Effectiveness of Individual Control Measures

A. Systematic Reviews and Consensus Statements

Several publications have summarized the literature on the efficacy of controls to reduce the risk of HRI in the form of review articles or consensus statements. For example, Morris et al. (2020) assessed systematic reviews, meta-analyses, and original studies on heat-related intervention strategies published in English prior to November 6, 2019, that included studies conducted at ambient temperatures over 28 °C or among hypohydrated (*i.e.*, fluid intake is less than water lost through sweat) participants, used healthy adult participants, and reported physiological outcomes (*e.g.*, change in heart rate, core temperature, thermal comfort) and/or physical or cognitive performance outcomes. Most of the captured articles were from the exercise literature, but 9 of the 36 systematic reviews (*i.e.*, a detailed and comprehensive reviews of relevant scientific studies and other evidence) mentioned occupational exposure in various professions, such as military personnel, firefighters, and emergency responders. A second search identified 7 original studies that were not covered in the systematic reviews. Based on their systematic review, the study authors identified the following effective interventions: environmental conditioning (*e.g.*, fans, shade, air-conditioning); optimal clothing (*e.g.*, hats; loose fitting, light/brightly colored/

reflective, breathable, clothing; ventilation patches in PPE; cooling garments/PPE); physiological adaptation (*e.g.*, acclimatization, improving physical fitness); pacing (*e.g.*, reduced work intensity, breaks); hydration and nutrition (*e.g.*, hydration, electrolytes); and personal cooling options (*e.g.*, cold water ingestion, water immersion). They also noted that “a generally under investigated, yet likely effective . . . intervention is to utilize pre-planned breaks in combination with the cooling interventions mentioned above.” Morris et al. (2020) also noted that “maintaining hydration is important for maintaining cognitive and physical performance” (Morris et al., 2020).

Morrissey et al. (2021b) assembled 51 experts with experience in physiology, occupational health, and HRIs to review and summarize current data and gaps in knowledge for eight heat safety topics to develop consensus recommendations. The experts created a list of 40 heat safety recommendations within those eight topics that employers could implement at their work site to protect workers and to avoid productivity losses associated with occupational heat stress. These recommendations for each of the eight topics included:

(1) *Hydration*: *e.g.*, access and availability to cool, potable water; training on hydration; addressing availability of fluids during rest breaks in the prevention plan;

(2) *Environmental monitoring*: *e.g.*, measurements as close to the work site as possible; consideration of environmental conditions (*e.g.*, temperature, humidity, wind speed, radiance), work demands, PPE, and worker acclimatization status in assessing heat stress; including environment-based work modifications (*e.g.*, number of rest breaks) in a prevention plan;

(3) *Emergency procedures and plans*: *e.g.*, availability of an emergency plan for each work site; identification of personnel to create, manage, and implement the plan; making available, rehearsing, and reviewing the plan annually;

(4) *Body cooling*: *e.g.*, availability of rest/cooling/hydration areas made accessible to workers as needed; cooling during rest breaks (*e.g.*, immersion, shade, hydration, PPE removal); use of fans (at temperatures below 40 °C (104 °F)) or air-conditioners; use of portable cooling strategies (*e.g.*, ice, water, ice towels) in areas without electricity; use of cooling strategies before, during, and after work; cooling PPE used under other PPE when PPE can't be removed;

(5) *Acclimatization*: *e.g.*, creation and implementation of a 5–7 day acclimatization plan; plans for both new and returning workers that are tailored to factors such as environmental conditions and PPE; training on benefits of acclimatization;

(6) *Textiles/PPE*: *e.g.*, use of clothing/PPE that is thin, lightweight, promotes heat dissipation, that fits properly, and adequately protects against hazards; PPE with ventilated openings; removal of PPE/extra layers during rest periods;

(7) *Physiological monitoring*: (*e.g.*, checking heart rate/body temperature); and

(8) *Heat hygiene*: *e.g.*, annual training on heat related illness, prevention, first aid, and emergency response in language and manner that is easily understood; designated personnel or “buddy approach to monitor for symptoms”; communication strategies to inform employees of heat mitigation strategies before the work shift, healthcare worker using examination results (if examinations are required or recommended) to educate employees.

Racinais et al. (2015) presented consensus recommendations to reduce physiological heat strain and optimize sports performance in hot conditions that were developed in roundtable discussions by a panel of experts. While recommendations were focused on athletes, the study authors noted that current knowledge on heat stress is mainly available from military and occupational research, with information from sport sciences available only more recently. The study authors recommended three main interventions. The first recommendation, considered to be most important by study authors, was acclimatization, involving repeated training in heat for at least 60 minutes a day over a 1–2 week period. The authors explained that acclimatization attenuates the physiological strain of heat by improving cardiovascular stability and electrolyte balance through an increase in sweat rate, skin blood flow, and plasma volume. The second recommendation was drinking sufficient fluids to maintain adequate hydration before and after exercise. Study authors explain that sweating during exercise can lead to dehydration which, if not mitigated by fluid intake, has the potential to exacerbate cardiovascular strain and reduce the capacity to exercise in the heat. The third recommendation was cooling methods to reduce heat storage and physiological strain (*e.g.*, fanning, iced garments/towels, cold fluid intake, cooling vests, water immersion). Additional recommendations for event organizers included planning for shaded areas,

cooling and rehydration facilities, and longer recovery periods (*i.e.*, break periods) for hydration and cooling.

B. Summary for Systematic Reviews and Consensus Statements

In conclusion, OSHA reviewed three sets of recommendations on effective controls to prevent HRI developed by scientific experts following extensive literature reviews. A number of the recommendations were consistent with requirements or options in OSHA's proposed standard. For example, all three groups of experts recommended hydration, rest breaks, shade, cooling measures such as fans, and acclimatization (Morris et al., 2020; Morrissey et al., 2021b; Racinais et al., 2015). Two of the expert groups also recommended cooling methods such as air conditioning (Morris et al., 2020; Morrissey et al., 2021b). One of the groups recommended environmental monitoring, development of emergency procedures and plans, training, a buddy system to monitor for health effects, and communication of heat mitigation strategies (Morrissey et al., 2021b).

III. Experimental and Observational Evidence

A. Rest Breaks

Administrative controls, such as varying employees' work schedules, are a well-accepted and long-standing approach to protect workers from occupational hazards. Administrative controls are regularly used to address limitations in human capacity for physical work and commonly include work-rest cycles. Rest breaks provide an opportunity for workers to reduce their metabolic rate and body temperature periodically throughout the day. Length and frequency of breaks can be adjusted based on heat exposure, workload, acclimatization, and clothing/PPE factors. Such an approach of work-rest cycles that consider these factors has been recommended by NIOSH and ACGIH (NIOSH, 2016; ACGIH 2023). Observational and experimental studies show the effectiveness of rest breaks in reducing heat strain that could lead to HRIs, and those studies are described below. In addition to reducing heat strain, rest breaks allow workers to take advantage of other cooling strategies, such as hydrating, removing PPE, and sitting in areas that are shaded, cooled, or fanned. The literature on the efficacy of rest breaks described below includes observational studies of workers, laboratory-based exercise trials, and predictive modeling.

I. Observational Studies

Several observational studies examined participants in work settings or training exercises while at work and at rest and evaluated the associations between rest breaks or time at rest and markers of heat strain.

Horn et al. (2013) evaluated core body temperature and heart rate (HR) among nine firefighters (six male and three females, ages 20–45 years) over a 3-hour period in which four repeat bouts of firefighting drills were conducted (approximately 15–30 minutes each) while wearing full PPE and a self-contained breathing apparatus. The drills were separated by three rest periods (approximately 20–40 minutes each) in which the firefighters were encouraged to hydrate and cool down by removing their gear, while being evaluated/critiqued by instructors and refilling air cylinders. The study authors estimated the duration of work and rest cycle lengths based on sustained rates of heart rate increases and decreases. Ambient temperatures ranged from 15 °C to 25 °C (59–77 °F) during the summer and fall months when this study was conducted. During work cycles, mean maximum core temperatures ranged from 38.4–38.7 °C, mean peak heart rate ranged from 181.2–188.4 beats per minute (bpm), and the mean average heart rate (averaged over 60 second intervals per work cycle) ranged from 139.6–160.0 bpm. Mean maximum core temperature and mean average heart rate decreased during rest periods, and the study authors concluded that physiological recovery in this study appeared to be closely linked to the duration of rest periods. Rest break duration was significantly and negatively correlated with the following measurements taken during rest breaks: minimum heart rate ($r: -0.687, p<0.001$), average heart rate ($r: -0.482, p=0.011$), and minimum core temperature ($r: -0.584, p=0.001$), indicating that longer breaks result in reduced heat strain. The authors concluded that the association was independent of obesity, fitness, and intensity of firefighting activities. Limitations noted by study authors included enrollment of young firefighters who were screened for cardiovascular disease, and thus might not represent the whole firefighting population. In addition, “significant breaks” were provided and the duration of exposure to fires was shortened later in the day, both factors that might underestimate increases in core temperatures with longer firefighting activities and shorter breaks.

Petropoulos et al. (2023) characterized heat stress and heat strain in a cohort of 569 male outdoor workers in Nicaragua (sugarcane, plantain, and brickmaking industries) and El Salvador (sugarcane, corn, and construction industries) across three workdays in 2018. Median wet bulb globe temperatures (WBGT) ranged from 26.0–29.2 °C (78.8–84.6 °F) and median heat index ranged from 28.5–36.1 °C (83.3–97.0 °F) at the work sites. Time spent on rest breaks—estimated based on physical activity data collected with an accelerometer (*i.e.*, a device that can be used to measure physical activity and sedentary time)—was estimated at 4.1–21% of the shift. A 10% increase in the time spent on break was associated with a 1.5% absolute decrease in median percent maximum heart rate (95% CI: -2.1% , -0.85% ; $p<0.0001$), when adjusting for industry/company, job task, shift duration, liquid consumption, median WBGT, and mean metabolic rate. Petropoulos et al. (2023) found no significant associations between rest breaks and maximum core body temperature, and concluded that the lack of findings could have been due to incomplete control of confounding factors.

Lucas et al. (2023) examined the effects of recommended rest breaks for sugarcane workers in Nicaragua, specifically in male burned cane cutters, by comparing the period from 2019–2020, identified as Harvest 3 (H3; $n=40$ burned cane cutters) with the period from 2018–2019, identified as Harvest 2 (H2; $n=12$ burned cane cutters). OSHA notes that a major limitation of the study identified by authors was a shorter shift duration by 1 to 2 hours for seed cutters (SC) during H2, and that “the shorter shifts in H2 likely affected SC workload comparisons between H2 and H3 and could explain why increasing the rest component in H3 did not reduce the physiological workload in this group.” Because of this limitation in seed cutters, this summary focuses on effects on burned cane cutters. In H3, an extra 10-minute rest break was recommended (increasing recommended rest breaks to a total of 80 min over a six-hour shift), and interventions from H2 were continued (*e.g.*, improvements to hydration and movable tents, in addition to delaying cutting after burning to reduce radiant heat exposure). Daily average WBGT was higher in H2: 29.5 °C (85.1 °F) than in H3: 26.7 °C (80.6 °F). Rest periods were defined by a greater than 10 bpm drop in heart rate lasting 4 or more minutes, as determined by continuous measurements by heart rate sensors

worn on the chest; based on those measurements, the rest/work ratio for burned cane cutters increased slightly from 21% rest in H2 to 26% rest in H3. Average percent maximum heart rate (adjusted for age) decreased slightly in H3 compared to H2 (mean [95% CI] 63% [60–65%] to 58% [56–60%]) across the work shift). No significant differences were noted for estimated core temperatures (based on modeling) from H2 to H3. The study authors acknowledged that observational study design, small number of workers in H2, and the lower temperatures in H3 may make conclusions uncertain; therefore experimental laboratory studies may better test the impact of the intervention. OSHA also observes that the increased number of burned cane cutters observed from H2 to H3 means that the population of workers observed was different in the two periods and results may have been affected by different characteristics of the workers.

Ioannou et al. (2021a) examined the effectiveness of rest breaks of different durations in agricultural, construction, and tourism employees. Findings in the intervention group were compared to a “business as usual” (BAU) group, where workers followed their normal routine. Of note, shaded areas, water stations, and air-conditioned areas to be used for rest breaks were part of BAU for construction workers in Spain; those same interventions were part of BAU for construction workers in Qatar, in addition to requiring workers to carry a water bottle, and education. BAU practices were not specified for the agriculture and tourism industries, but according to communications with study authors, the BAU agricultural employees in Qatar were not offered scheduled work/rest cycles, and agricultural employees who were monitored in Qatar performed low intensity work (Communication with Leonidas Ioannou, April 2024). Endpoints observed included core temperature, skin temperature, heart rate, and metabolic rate. No significant effects compared to the BAU group were observed for any of these endpoints for agricultural workers in Cyprus provided with a 90-second break every 30 minutes, tourism workers in Greece provided with a 90-second break every 30 minutes or a 2-minute break every 60 minutes combined with ice slurry ingestion, or construction workers in Spain provided with two 7-minute breaks over the workday. For employees in Qatar who were provided with 10-minute breaks every 50 minutes, significant differences in the intervention group compared to the

BAU group included lower mean skin temperature, heart rate, and metabolic rate for construction employees, but increased heart rate for agricultural employees. The study authors postulated that the increased heart rate in agricultural workers resulted from inherent changes in body posture (*i.e.*, moving from a crouching position while crop picking to standing and walking during breaks). A limitation in this study is that some BAU groups, which were used as comparison groups, appeared to have access to breaks in air-conditioned areas and it was not described how the frequency or duration of rest breaks varied between the intervention and BAU groups.

Two additional studies were conducted in utility workers. In a case study by Meade et al. (2017), conducted in an unspecified location, four highly experienced electrical utilities workers were observed via video analysis over two consecutive hot days. The study authors noted that employees often spent 80% or more of the monitoring period working in direct sunlight. Meade et al. (2017) reported similar average core body temperatures and average %HRmax on both days, despite an increase in the percentage of time spent at rest on Day 2 versus Day 1 (time at rest: $66 \pm 5\%$, range: 60–71%, on Day 2 versus $51 \pm 15\%$, range: 30–63% on Day 1). Three of the four workers had a higher peak core temperature on Day 2 than Day 1. The study authors attributed these core temperature and heart rate trends in part to residual heat storage or fatigue-related changes in work efficiency that possibly occurred over two consecutive work shifts. Meade et al. (2016a) observed work and rest periods in 32 electrical utilities workers (mean age of 36 years; 11 ground workers, 9 bucket workers, 12 manual pole workers; 17 in West Virginia, 15 in Texas) via video analysis and accelerometry over 1 day (Heat Index: West Virginia $48 \pm 3^\circ\text{C}$ (118.4°F), Texas $42 \pm 3^\circ\text{C}$ (107.6°F)). On average, the work-to-rest ratio was $(3.1 \pm 3.9):1$ and workers rested for a total of $35.9 \pm 15.9\%$ of the work shift. Heat index, work-to-rest ratios, work shift duration, and time at rest were not significantly correlated with mean core temperature or %HRmax. However, time spent or percentage of time in heavy work was moderately, positively correlated with mean core temperature ($r=0.51$) and %HRreserve ($r=0.40$) (*i.e.*, increased time spent in heavy work was associated with increased mean core temperature and %HRmax). OSHA notes limitation in these studies, including, for example, the very small

sample size in Meade et al. (2017) and lack of adjustment for possible confounding factors in Meade et al. (2016a).

A limited number of cross-sectional studies surveyed or interviewed employees for self-reported symptoms of HRI to determine possible risks associated with inadequate breaks. These types of studies are the most limited because of uncertainties such as recall bias (*i.e.*, inaccurate recollection of previous events or experiences) and the potential for dependent misclassification as a result of using self-reporting for characterizing both the exposure and outcome. Therefore, only brief summaries of these studies are provided. Two of these studies were conducted in agricultural workers in the U.S. (Spector et al., 2015; Fleischer et al., 2013), and one was conducted in pesticide applicators in Italy (Riccò et al., 2020). Spector et al. (2015) found a significantly increased odds of HRI in workers paid by piece as compared to workers paid hourly (OR: 6.20, 95% CI: 1.11, 34.54). Spector et al. (2015) noted that piece rate workers might work harder and faster because of economic incentives, thus leading to increased metabolic heat generation; however, adjustment for task and exertion in the small sample size of employees did not completely attenuate the observed association, thus suggesting other factors contributed to development of symptoms. Through population intervention modeling, Fleischer et al. (2013) estimated that the prevalence of three or more HRI symptoms could be reduced by 6.0% if workers had access to regular breaks, and by 9.2% if breaks were taken in shaded areas. Of note, participants in the study were asked about “regular breaks,” but the term was not specified regarding frequency and duration. Lastly, Riccò et al. (2020) found taking rest breaks in shaded, non-air-conditioned areas was associated with experiencing HRI (adjusted OR: 5.5, 95% CI: 1.4, 22), while taking rest breaks in cooler, air-conditioned areas was not. Riccò et al. (2020) discussed possible reasons for the observed association between shaded rest breaks and incidences of HRI, including that (1) taking breaks in shade may be insufficient to prevent HRIs among pesticide applicators who undertake more strenuous tasks or have longer exposures to unsafe limits, and (2) rest breaks in shade may be taken to alleviate, rather than prevent, HRI symptoms (*i.e.* possible reverse causation).

II. Experimental Studies

OSHA examined a number of laboratory studies that provide information on the efficacy of rest breaks for preventing heat strain or HRI in subjects exercising under conditions that include high heat and at least moderate activity. The studies typically measured rectal temperature, which allowed for an assessment of the efficacy of breaks in maintaining lower rectal temperatures and slowing the increase in rectal temperatures. ACGIH (2023) indicates that an increase in rectal temperature exceeding 1 °C from a “pre-job” temperature of less than 37.5 °C might indicate excessive heat strain. One study summarized below also examines the effect of rest breaks on the autonomic nervous system and cardiovascular function.

Smallcombe et al. (2022) conducted a study over a seven-hour period that was designed to mimic a typical workday in the U.S. In that study, 9 males (average age 23.7 years) of varying fitness levels walked on a treadmill at speeds to maintain a constant heart rate of 130 bpm, which the authors indicated to be the demarcation between moderate and heavy strain. The subjects completed six cycles of exercise for 50 minutes in the heat chamber separated by 10 minutes of rest at an ambient temperature of 21 °C (69.8 °F), 50% relative humidity (RH) while drinking water as desired. A one-hour lunch period was also provided at 21 °C (69.8 °F), 50% RH after the third exercise period, with all subjects given the same lunch and allowed to drink water as desired. Each subject was tested under 4 temperature conditions: (1) referent (cool condition) at 15 °C (59 °F) (WBGT = 12.6 °C); (2) moderate condition at 35 °C (95 °F) (WBGT = 29.4 °C); (3) hot condition at 40 °C (104 °F) (WBGT = 33.4 °C); and (4) very hot condition at 40 °C (104 °F) (WBGT = 36.1 °C). The RH for each temperature condition was approximately 50%, except for the very hot condition, which was 70% RH. In the very hot condition group, data were limited for the sixth exercise cycle because an unspecified number of participants reached the cut-off point for terminating the study (*i.e.*, a heart rate exceeding 130 bpm while at rest).

Significant increases in mean rectal temperature were observed in the moderate, hot, and very hot condition groups in work period 1 versus work period 6, but the average rectal temperature remained at or below 38 °C (100.4 °F) in all groups during each exercise period (figure S1 and table S2) (Smallcombe et al., 2022). No individual subject had a rectal temperature that

exceeded 38 °C in the referent and moderate condition groups, however, three subjects exceeded 38 °C in the hot exposure group, and four subjects exceeded 38 °C in the very hot exposure group. With the exception of two subjects whose rectal temperatures were measured at approximately 38.6 °C (101.5 °F) and 38.7 °C (101.7 °F) in the very hot exposure group, all rectal temperatures were below 38.5 °C (as estimated from Figure S1). In addition, mean rectal temperatures dropped during each rest period, with all rectal temperatures measured near or below 38 °C by the end of the rest period (as estimated from Figure 4). Skin temperatures did not increase during work periods. The authors concluded that under the conditions of this study, which limited metabolic heat production based on the fixed heart rate protocol, participants rarely reached levels of core temperature that would be concerning. Study limitations noted by study authors included possible limited relevance of breaks provided in cooler areas, and the possibility that thermophysiological impacts may have been higher had breaks not been provided in cooler areas or metabolic heat production not been limited.

In Uchiyama et al. (2022) thirteen males (average age 39 years) each underwent two 225-minute trials that included 180 minutes of treadmill walking in a chamber at 37 °C (98.6 °F) and 40% RH interspersed with 45 minutes of rest breaks in an air-conditioned room at 22 °C (71.6 °F) and 35% RH, designed to mimic summer working and rest conditions at mines in Northwest Australia. Participants were allowed to drink room temperature water during exercise and refrigerated water while on rest breaks. Two different rest/work cycles were tested, including (1) current practice: 1 hour of work and 30 minutes of rest, followed by 1 hour of work and 15 minutes rest, and a final 1 hour work period; and (2) experimental: 1 hour of work and 15 minutes rest, followed by three half hour work periods separated by 10-minute rest periods and, and a final half hour work period. OSHA observes that in the current practice group, average core temperature only increased by more than 1 °C (1.8 °F) of baseline level at the final measurement reported at 180 minutes into the study (increased from 37.2 °C at baseline to 38.29 °C at 180 minutes). Average core temperatures remained within 1 °C of baseline levels in the experimental group at all time points.

Three studies (Meade et al., 2016b; Lamarche et al., 2017; and Kaltsatou et al., 2020) conducted 2-hour studies in

which small groups of 9–12 males cycled in a heat chamber at 360 watts (W) of metabolic heat production (considered moderate-to-heavy intensity and equivalent to conditions experienced by some workers in the mining and utility industries). Over the 2-hour period, the effects of various temperatures (approximate values provided) and work/rest protocols recommended by ACGIH were examined including: (1) continuous work at WBGT 28 °C (82.4 °F) (41 °C (105.8 °F) dry-bulb, 19.5% RH or 36 °C (96.8 °F) dry-bulb, 38% RH); (2) a 3:1 work/rest ratio (15 min work, 5 min rest) at WBGT 29 °C (84.2 °F) (43 °C (109.4 °F) dry-bulb, 17.5% RH or 38 °C (100.4 °F) dry-bulb, 34% RH); and (3) a 1:1 work/rest ratio (15 min work, 15 min rest) at WBGT 30 °C (86 °F) (46 °C (114.8 °F) dry-bulb, 13.5% RH or 40 °C (104 °F) dry-bulb, 30% RH). Meade et al. (2016b) examined a fourth condition: 4) a 1:3 work/rest ratio (15 min work, 45 min rest) at WBGT 31.5 °C (88.7 °F) (46.5 °C (115.7 °F) dry-bulb, 17.5% RH). The mean age of participants in the Meade et al. (2016b) study was 21 years while the mean age in both the Lamarche et al. (2017) and Kaltsatou et al. (2020) studies was 58 years.

Meade et al. (2016b) found that among younger males, the percentages of participants with rectal temperatures exceeding 38 °C over the 2-hour protocol was lower in the groups who took longer rest breaks, despite those groups also being subjected to a higher WBGT. Meade et al. (2016b) reported core temperatures exceeding 38 °C in 12% of participants in the 1:3 work/rest at 31.5 °C WBGT group, 0% in the 1:1 work/rest at 30 °C WBGT group, 33% in the 3:1 work/rest at 29 °C WBGT group, and 33% in the continuous work at 28 °C WBGT group.

Lamarche et al. (2017) found that among older males, the percentage of participants with rectal temperatures exceeding 38 °C over the 2-hour protocol was lowest in the group with the longest breaks (*i.e.*, 67% in the 1:1 work/rest at 30 °C WBGT group, 100% in the 3:1 work/rest at 29 °C WBGT group, and 100% in the continuous work at 28 °C WBGT group) although the findings did not achieve statistical significance. Lamarche et al. (2017) also reported that time to exceed a rectal temperature of 38 °C was higher in both groups who received rest breaks as compared with the continuous work group and this did reach statistical significance. Specifically, the time to exceed a rectal temperature of 38 °C was 100 minutes in the 1:1 work/rest at 30 °C WBGT group, 79 minutes in the 3:1 work/rest at 29 °C WBGT group, and 53 minutes in the

continuous work at 28 °C WBGT group. Further, because of heat exhaustion, five participants in the Lamarche et al. (2017) study did not complete the continuous work at 28 °C WBGT protocol, one did not complete the 3:1 work/rest at 29 °C WBGT protocol, but all completed the 1:1 work/rest 30 °C WBGT protocol. No significant differences in heart rate were observed.

Kaltsatou et al. (2020) examined autonomic stress and cardiovascular function in the same subjects examined by Lamarche et al. (2017). The authors measured 12 markers of heart rate variability (HRV), a predictor of adverse heart events, most of which are associated with the autonomic nervous system (*i.e.*, a part of the nervous system that controls involuntary responses including heart rate and blood pressure). After one hour of accumulated work and when rectal temperatures exceeded 38 °C, three markers of HRV were significantly lower in the continuous work group than in the 3:1 work/rest at 29 °C WBGT group. One marker of HRV was significantly lower in the continuous group, compared to the 1:1 work/rest at 30 °C WBGT group at 1 hour of accumulated work. After 2 hours of accumulated work, 4 markers of HRV were significantly lower in the continuous work group compared to the 1:1 work/rest at 30 °C WBGT group. Study authors interpreted these results to indicate that continuous work was the least safe for workers, while a 1:1 work/rest ratio offered the best protection. Kaltsatou et al. (2020) concluded that breaks during moderate-to-heavy work in heat can reduce autonomic stress and increase the time to exceed a rectal temperature of 38 °C.

In the studies by Meade et al. (2016b), Lamarche et al. (2017), and Kaltsatou et al. (2020), participants were well-hydrated before the study period but not provided drinking water during the study. Kaltsatou et al. (2020) acknowledged that not providing water during the study could have affected sweat secretion and, as a result heat balance, hydration status, baroreceptor function (involved in blood pressure regulation), and the autonomic control of heart rate. OSHA agrees and also notes that rest breaks were provided in the same ambient conditions as work periods, and studies were conducted at a fixed work rate that would have not considered possible effects of self-pacing. Because hydration and shade or cooling measures during rest breaks would be provided as part of an effectively implemented multi-pronged approach to preventing HRI, OSHA preliminarily concludes that some of the

effects observed in these studies might have been less severe if interventions other than rest were provided.

In a study by Chan et al. (2012), recovery time, as measured by physiological strain index (based on heart rate and core temperatures), was determined in 19 healthy construction rebar employees (mean age 45 years) who had worked until exhaustion at building construction sites in Hong Kong in July and August of 2011. Average recovery during rest was reported at 94% in 40 minutes, 93% in 35 minutes, 92% in 30 minutes, 88% in 25 minutes, 84% in 20 minutes, 78% in 15 minutes, 68% in 10 minutes, and 58% in 5 minutes. Yi and Chan (2013) used the field-based meteorological and physiological data reported by Chan et al. (2012) to model ideal rest breaks to minimize HRI. Based on a Monte Carlo simulation, the authors determined that a 15-minute break after 120 minutes of continuous work in the morning at 28.9 °C (84.0 °F) WBGT and a 20-minute break after 115 minutes of continuous work in the afternoon at 32.1 °C WBGT (90.0 °F) maximized productivity time while protecting the health and safety of employees.

III. Conclusions for Rest Breaks

OSHA reviewed several studies examining the effectiveness of rest breaks in preventing heat strain that could lead to HRI and were of sufficient quality for drawing conclusions (Horn et al., 2013; Smallcombe et al., 2022; Meade et al., 2016b; Lamarche et al., 2017; Kaltsatou et al., 2020; Petropoulos et al., 2023). The studies, involving individuals exposed to conditions of high heat stress, demonstrated the effectiveness of rest breaks in preventing measures of heat strain that can lead to HRI. Observational studies with detailed measurements of temperatures in firefighters doing training exercises and experimental studies in laboratory settings reported that rest breaks result in lower core or rectal temperatures during rest periods following work periods (Horn et al., 2013; Smallcombe et al., 2022), and lower rectal temperatures over the study period (Meade et al., 2016b; Lamarche et al., 2017), with all of the studies showing greater effectiveness of longer compared to shorter duration work breaks. Similarly, Chan et al. (2012) reported increased physiological recovery with longer rest periods. Uchiyama et al. (2022) reported little evidence of heat strain in participants exercising in hot conditions and provided rest breaks. The study by Lamarche et al. (2017) also found that rest breaks were effective in preventing heat exhaustion in a

laboratory setting. OSHA also found evidence showing that rest breaks can reduce cardiovascular strain. For example, Horn et al. (2013) found that heart rates were lower in rest than in work cycles. One study done in participants in a laboratory setting showed that rest breaks can reduce autonomic stress that affects cardiovascular function (Kaltsatou et al., 2020). Those findings are consistent with an observational study of employees in occupational settings that found an association between time spent on rest breaks and decreases in heart rate when adjusted for industry/company, job task, shift duration, liquid consumption, WBGT, and metabolic rate (Petropoulos et al., 2023).

In conclusion, OSHA preliminarily finds rest breaks to be effective in reducing the risk of HRI by modulating increases in heat and cardiovascular strain.

B. Shade

Working or resting in shade reduces the risk of HRI by decreasing exposure to solar radiation and in turn reducing overall heat load. Studies evaluating the impact of shade on heat strain metrics have predominantly been conducted in controlled settings where participants exercise in conditions approximating shade and sun exposure. Studies evaluating the physiological benefits of exercising in shade versus sun are likely to underestimate the benefits of rest breaks taken in shade because metabolic heat generation would be slowed while resting.

A number of studies examining the effects of exercising under natural or simulated conditions of sun or shade have demonstrated benefits of shade. One group of investigators conducted studies where participants cycled under simulated laboratory conditions of sun or shade (Otani et al., 2016; Otani et al., 2021); both studies were conducted under conditions of 30 °C (86 °F) and 50% RH, and participants cycled at a rate of 70% maximum oxygen uptake until reaching full exhaustion. The Otani et al. (2021) study also involved exposures to low and high wind speeds. The same investigators conducted 45-minute, self-pacing cycling trials outdoors under various natural sunlight conditions, including clear skies or thick and thin cloud covers (Otani et al., 2019). These studies reported that higher exposure to solar radiation resulted in higher skin temperatures (Otani et al., 2016, 2019, 2021) and reduced work output (measured as endurance capacity/time-to-exhaustion (Otani et al., 2016; 2021) or power output (Otani et al., 2019)). In increased

sun conditions, Otani et al. (2021) reported higher rectal temperatures, heart rates, and thermal sensation. Otani et al. (2019) reported greater thermal sensations, and body heat gain from the sun, but no significant effects on rectal temperature or heart rate in increased sun conditions. Otani et al. (2016) reported no differences in rectal temperatures or heart rates in increased sun conditions. The authors speculated in their 2019 paper that the lack of rectal temperature increase in that study likely resulted from a reduction in self-regulated exercise under sunny conditions (Otani et al., 2019). They did not however speculate reasons for the lack of rectal temperature increases in their 2016 paper. OSHA notes that under equivalent (full sun) solar radiation levels the time it took participants to reach exhaustion in the Otani et al. (2021) study under low wind speeds (35.4 minutes) was longer than the time it took participants in the Otani et al. (2016) study to reach exhaustion (22.5 minutes), and OSHA expects that the disparate findings on rectal temperatures may have resulted from differences in total cycling time.

In a study by Nielsen et al. (1988) participants cycled at a fixed rate outdoors in the sun for 60 minutes, were shaded for 30 minutes while continuing to cycle, and then cycled again in the sun for another 30 minutes, for a total of 120 minutes. Study authors noted that cloud formation interrupted 3 of the 20 cycling trials. Average rectal temperatures rose sharply during the first period of cycling in sun, dropped slightly (non-significantly) during the period of cycling in shade, and then gradually increased again during the final cycling period in full sun. Skin temperatures remained fairly constant during the initial period of cycling in sun, dropped significantly by 1.5 °C (2.7 °F) while cycling in shade, and rose again sharply during the final cycling period in the sun. Heart rate, oxygen consumption, and sweat rate were significantly higher in the final cycling period in full sun, compared to the cycling period in shade. Study authors concluded that heat received from direct solar radiation “imposed a measurable physiological stress.”

In a study examining work capacity in adults walking for one hour under various conditions of solar radiation (full sun or full shade), temperature (25 °C through 45 °C; 77 °F through 113 °F), humidity (20% or 80%), and clothing coverage, Foster et al. (2022b) reported that work capacity (calculated using treadmill speed and grade) was generally lower under full sun conditions than shaded conditions.

Under humid conditions, work capacity was reduced by solar radiation for all scenarios. Under dry conditions, work capacity reduction varied by clothing coverage with those wearing full-body work coveralls showing reduced work capacity at temperatures ≥ 35 °C (≥ 95 °F) and those wearing minimal clothing showing reduced work capacity at temperatures ≥ 40 °C (≥ 104 °F). Skin temperature was generally higher under full sun conditions, and the authors speculated that a lack of effect on core body temperatures likely resulted from self-regulation during exercise.

Ioannou et al. (2021b) conducted a laboratory based randomized control trial in which seven participants completed cycling trials under full sun (800 W/m²) and full shade (0 W/m²) in hot (WBGT 30 °C) and temperate (WBGT 20 °C) conditions. The full sun condition was associated with increased skin temperature at both temperatures. Average core body temperature was similar between sunny and shaded conditions (37.7 and 37.6 °C for sun versus shade in hot conditions and 37.2 °C for both sun and shade in temperate conditions). Solar radiation had a small, positive relationship with heart rate (average heart rate of 114.0 and 109.1 bpm in sun versus shade in hot conditions and 102.6 and 95.4 bpm in sun versus shade in temperate conditions) (Ioannou et al., 2021b).

Although these experimental studies largely assessed the effects of shade during exercise and not rest periods, they do support the idea that shade reduces heat strain generally; therefore, OSHA preliminary concludes that it is reasonable to assume access to shade would also reduce heat strain during rest periods. This conclusion is also supported by evidence that shade reduces heat exposure (see discussion below) and that heat exposure is positively associated with heat strain (see discussion in Section IV., Health Effects). OSHA identified no major limitations in these studies that would preclude their use in drawing conclusions about effectiveness. One aspect of all these studies that limit applicability to the larger workforce is that participants were all young and healthy and all or mostly male (age was not specified in Ioannou et al. (2021b)), and the studies were done for relatively short durations of time (2 hours or less). The authors of the Otani et al. (2021) and Foster et al. (2022b) studies that used artificial solar radiation noted that their studies would not reflect changes in the sun's position during the day or changes in radiation intensity levels, and that limitation would be relevant to

the other studies using artificial sources of solar radiation at one intensity level.

There are also two observational studies in the peer-reviewed literature that have evaluated the association between shade and risk of HRI. In a case-control study of 109 acclimatized construction and agriculture workers, Ioannou et al. (2021b) monitored workers for four or more consecutive 11-hour shifts, in which environmental factors were continuously measured and work hours characterized by the same thermal stress but different solar radiation levels were isolated. Solar exposure was categorized as either indoors, mixed indoors and outdoors, or outdoors, and analyses were done for data collected during conditions of 30 °C WBGT. Results included a positive association between sun exposure and skin temperature and a significantly higher risk for heat strain symptoms (relative risk (RR) = 2.40, 95% CI: 1.78, 3.24) and reported weakness (RR = 3.17, 95% CI: 1.76, 5.71) among workers exposed to solar exposure characterized as outdoors as compared to workers exposed to solar exposure characterized as indoors. Core body temperature, heart rate, and metabolic rate were not found to be associated with sun exposure. The authors attributed the lack of change in core temperature and heart rate to the effect of self-pacing. OSHA notes that the study did not control for confounding variables.

Fleischer et al. (2013) used population intervention modeling of self-reported HRI symptoms in farmworkers in Georgia to estimate that the prevalence of three or more HRI symptoms could have been reduced by 9.2% (95% CI: -15.2%, -3.1%) if workers could always or usually take breaks in the shade. There were limitations to this analysis, including the cross-sectional study design, the self-reported exposure and outcome data, and low participation rate.

Additional studies have evaluated differences in microclimatic conditions between shady and sunny environments, independent of heat strain metrics measured in human subjects. These studies provide clear evidence that shade reduces radiant heat (Cheela et al., 2021; do Nascimento Mós et al., 2022; Fournel et al., 2017; Karvatte et al., 2016, 2021; Klok et al., 2019; Lee et al., 2020; Middel and Krayenhoff, 2019; Sanusi et al., 2016; Zhang et al., 2022). As discussed above, indicators of heat strain (e.g., rectal temperature) often increase with exposure to solar radiation. These authors examined the impact of shade through direct measures that assess radiant heat (e.g., globe temperature,

mean radiant temperature) or through thermal stress metrics (*e.g.*, Universal Thermal Climate Index) that incorporate radiant heat in their calculation.

The magnitude of the reduction in radiant heat from shade, however, varies by local conditions, with notable factors including the type of shade (*e.g.*, trees, buildings, canopies, and other urban structures such as solar arrays), percent shade cover, time of day, season, and ground cover (due to its role in radiant heat emission). Fournel et al. (2017) estimated an average 4.4 °C decrease in black globe temperature using data from five studies that assessed different shade interventions, while study-specific reductions ranged from 2 °C to 9 °C. These included a study by Roman-Ponce et al. (1977), who observed a 9 °C difference in Florida under an insulated metal roof, and a study by Fisher et al. (2008), who observed a 2 °C difference in New Zealand under a shade cloth structure. Examples of other studies that have evaluated the impact of shade on radiant heat include:

- Middel and Krayenhoff (2019) evaluated environmental conditions across 22 sites in Tempe, Arizona on the hottest day of the summer. They included diverse types of shade, including trees and urban structures. The authors concluded that trees decreased afternoon mean radiant temperature by up to 33.4 °C and estimated that each 0.1 decrease in the sky view factor from trees (where a sky view factor of 1 is a completely open sky and 0 is fully blocked) resulted in an approximate decrease of 4 °C in mean radiant temperature (Middel and Krayenhoff, 2019).

- Zhang et al. (2022) compared meteorological parameters among 12 locations in a coastal city in China. Mean globe temperature over the beach in full sun (40.9 °C) was higher than mean globe temperatures in areas shaded by dense trees (28.9 °C) or shaded by a pavilion canopy (30.8 °C) (Zhang et al., 2022).

- Karvatte et al. (2016) evaluated the impacts of different types of natural shade (two densities of eucalyptus trees and isolated native trees) on environmental conditions in Brazil. Average black globe temperatures from 12 p.m. to 1 p.m. in the shade ranged from 33.2 °C to 34.3 °C, which were 2.4 °C to 8.2 °C lower than that measured in nearby sunny areas (Karvatte et al., 2016).

- do Nascimento Mós et al. (2022) evaluated the effectiveness of four different shade structures (native trees, black polypropylene netting, heat-reflective netting, and a combination of both types of netting) in the Brazilian

savanna. Mean radiant temperature was consistently lower under shaded conditions. For example, at 11 a.m. and 12 p.m., the peak hours, the mean radiant temperatures were 16 °C to 20 °C lower in shady conditions than sunny conditions (do Nascimento Mós et al., 2022).

I. Conclusions for Shade

In conclusion, measurements of environmental conditions indicate that exposure to radiant heat is greater in full sun than in shaded conditions (*e.g.*, Middel and Krayenhoff, 2019; do Nascimento Mós et al., 2022). It is well known that radiant heat contributes to heat stress (NIOSH, 2016). Studies confirm that indicators of heat strain (*e.g.*, increased heart rate, increased rectal temperature) are often higher in participants exercising in conditions with actual or simulated solar radiation versus shade (*e.g.*, Otani et al., 2021). One study showed that a 30-minute period of exercising in shade, interspersed between two periods of exercising in full sun, resulted in improved physiological responses (*e.g.*, lower heat rate, oxygen consumption, and sweat loss) compared to the two periods of exercising in full sun (Nielsen et al., 1988). OSHA expects that improvements in physiological function might have been even greater if the participants had rested in shade because resting slows the metabolic generation of heat.

OSHA preliminarily finds that resting in shade will reduce the risk of HRI by decreasing exposure to radiant heat that contributes to heat stress and can lead to heat strain and then HRI.

C. Fans

Fans are engineering controls that increase air movement across the skin and under the right environmental conditions can increase the evaporation of sweat, resulting in greater heat loss from the body. However, they may not be appropriate for all environments, such as at higher temperatures. Research on the role of fans in HRI prevention largely focuses on non-occupational and athletic populations, however some chamber trials have been designed to mimic working conditions. A summary of the experimental literature is provided here, beginning with studies that evaluate the use of fans during physical activity, before or after activity, and while people are at rest, and then concluding with studies that model efficacy thresholds for fan use.

Studies by Saunders et al. (2005) and Otani et al. (2018, 2021) examined the effects of different air speeds on individuals cycling in heated chambers

with no rest period included in the study design (Saunders et al., 2005: 33.0 °C ± 0.4 °C and 59% ± 3% RH; air speeds ranging from 0.2 km/hr to 50.1 km/hr; Otani et al., 2018: 30 °C and 50% RH; air speeds ranging from 0 km/hr to 30 km/hr; Otani et al., 2021: 30 °C and 50% RH; air speeds of 10 and 25 km/hr). In measures of work output, at higher air velocities Saunders et al. (2005) reported increased cycling time before participants' core temperature reached 40 °C (criteria for terminating the trial) and Otani et al. (2018, 2021) reported increased time to exhaustion. In lower/no compared to higher air velocities, (1) Saunders et al. (2005) reported higher mean body temperature (weighted mean of skin and rectal temperature), higher rectal and skin temperature, increased heat storage (a measure that considers changes in body temperature, in addition to body weight and surface area), and lower evaporative capacity; (2) Otani et al. (2018) reported higher rectal, skin, and mean body temperature, and lower evaporative heat loss; while (3) Otani et al. (2021) reported no significant effect on skin temperature but higher rectal temperatures. Higher heart rates were also observed at lower/no versus higher air velocities (Saunders et al., 2005; Otani et al., 2018, 2021).

Other studies have examined the effectiveness of fans during both exercise and rest periods. In Jay et al. (2019), participants conducted arm exercises designed to mimic textile work at 30 °C (86 °F) and 70% RH, with and without fanning. In a study by Wright Beatty et al. (2015), participants cycled in a chamber at 35 °C (95 °F) and 60% RH, with air velocities of 0.5 m/s and 3.0 m/s. Wright Beatty et al. designed the study to mimic occupational conditions, like those for miners (both workload and clothing). Under the fan/high air velocity conditions: (1) Jay et al. (2019) observed a smaller increase in rectal temperature, and lower skin temperature, but there was no change in heart rate because the study was designed to maintain a constant heart rate; and (2) Wright Beatty et al. (2015) observed lower rectal temperatures and heart rates. Jay et al. also compared effectiveness of fanning to the presence of air-conditioning (7 °C lower temperature) and found higher work output and lower rectal temperature in both the fanning and air-conditioning groups (relative to the hot condition without fanning), while sweat loss was higher with fanning compared to air-conditioning (Jay et al., 2019). Wright Beatty et al. tested their conditions among both older (~59 years

old) and younger (~24 years old) participants and observed similar benefits of higher air velocity among both age groups (Wright Beatty et al., 2015).

In a handful of other studies, researchers tested the efficacy of fan use during rest breaks, after subjects exercised under hot conditions (Sefton et al., 2016; Selkirk et al., 2004; Barwood et al., 2009; Carter, 1999). Conditions for these studies were (1) Sefton et al.: 32 °C ± 0.5 °C and 75% ± 3% RH, with shirt and under shirt removed during cooling, with and without misting fan; (2) Selkirk et al.: 35 °C and 50% RH wearing firefighting protective clothing and breathing apparatuses during exercise and removal of protective gear during cooling periods with and without a misting fan; (3) Barwood et al.: 31 °C ± 0.2 °C and 70% ± 2% RH, with and without whole body fanning; and (4) Carter: 40 °C and 70% RH wearing firefighting protective clothing and breathing apparatuses during exercise and removal or unbuckling of protective gear during cooling periods with and without a fan. In the study by Sefton et al. (2016), rectal temperatures rose during the cooling period, regardless of misting fan use, but heart rate was lower with misting fan use; the study authors noted that under the high humidity conditions of their study, misting fans could have increased the moisture in air, thereby reducing cooling through sweat evaporation. Other studies found fans or misting fans to be effective in improving body temperature or cardiac effects. In comparisons of normal recovery conditions (unbuckling of firefighting coat and no fan use during rest) to enhanced recovery conditions (firefighting coat was removed and fan used during rest), Carter (1999) reported lower rectal and skin temperatures, heart rate, and oxygen consumption during enhanced recovery compared to normal recovery conditions. Selkirk et al. (2004) reported that the use of a misting fan during rest breaks compared to no fan use resulted in lower rates of rectal temperature increase, and lower skin temperatures and heart rates. Barwood et al. (2009) reported that reductions in rectal and skin temperatures during rest periods were greater with fan use than without, but there was no significant effect on heart rate. Selkirk et al. (2004) also found that participants were able to exercise longer when taking rest breaks with misting fans than they were when taking rest breaks without misting fans, and Barwood et al. (2009) found that participants were able to run farther

distances following whole-body fanning.

Other studies examined the use of fans during breaks in areas cooler than where exercise took place. Hostler et al. (2010) conducted a study similar to that by Selkirk et al., described above, where subjects exercised on a treadmill while wearing firefighting protective gear under hot conditions (35.1 ± 2.7 °C, RH not specified), but in contrast to Selkirk et al. (2004), rest periods took place at room temperature (24.0 ± 1.4 °C) instead of in the heat chamber and a non-misting fan was used. In contrast to findings from Selkirk et al. (2004), Hostler et al. (2010) reported that fanning during breaks had no significant effects on core temperature, heart rate, or exercise duration, and they speculated that this was because rest breaks took place in a cooler area. The authors conclude that active cooling devices may not be needed if the temperature of the rest area is below 24 °C (75.2 °F). Tokizawa et al. (2014) reported that after pre-cooling in an area that was 28 °C and had 40% RH, participants walking in a heat chamber (37 °C and 40% RH) wearing protective clothing had lower rectal temperatures, heart rate, and weight loss when exposed to fans and water spray in the precooling period than the control condition without fans and water spray (Tokizawa et al., 2014).

Additional studies provide information on conditions and populations for which fans may or may not be effective. Ravanelli et al. (2015; 2017) found that participants (mean age 24 ± 3 years) were able to be exposed to higher levels of humidity at temperatures of 36 °C or 42 °C when using fans before increases in esophageal temperatures and heart rate were observed (*i.e.*, inflection points) (Ravanelli et al., 2015; Ravanelli et al., 2017). At 42 °C, the inflection points (when core temperature increases were observed) occurred at a relative humidity level of 55% with fans compared to 48% without fans. The relative humidity levels where heart rate increases were observed with and without fans, respectively, were 83% and 62% at 36 °C and 47% and 38% at 42 °C. The researchers found that heart rate was significantly lower at the end of the trials with fans compared to without fans (under 36 °C conditions: 74 ± 9 bpm vs. 84 ± 9 bpm; under 42 °C conditions: 87 ± 9 vs. 94 ± 9). This was also true for esophageal temperatures at the end of the trials (under 36 °C conditions: 36.7 ± 0.2 °C vs. 36.8 ± 0.2 °C; under 42 °C conditions: 37.2 ± 0.3 °C vs. 37.4 ± 0.2 °C). Rectal temperatures were higher with no fans

at the end of the trials in both conditions (36 °C and 42 °C), but these differences were not statistically significant (Ravanelli et al., 2017). In contrast, Gagnon et al. (2016) found that use of fans did not improve heart rate or core temperature inflection points in response to increasing humidity levels, and heart rates and core temperatures were higher with use of fans during exposure of older adults (mean age 68 ± 4 years) at 42 °C. Gagnon et al. speculated that lack of benefits may have resulted from age-related impairments to sweat capacity. Morris NB et al. (2019) found that, under hot and humid conditions (40 °C, 50% RH; heat index of 56 °C) fans reduced core temperatures and cardiovascular strain, but were detrimental to all outcome measures under very hot but dry conditions (47 °C, 10% RH; heat index of 46 °C). The authors use these findings to caution against using heat index alone for recommendations on beneficial versus harmful fan use.

While the fan efficacy studies discussed in this section so far have been interventional in design, modeling studies have estimated the temperature and RH thresholds at which fans are no longer effective at reducing heat strain. Jay et al. (2015) argue that public health guidelines for when fan use is harmful are too ambiguous and/or too low (*e.g.*, “high 90s” from the CDC (CDC, 2022)). Morris et al. (2021) modeled humidity-dependent temperature thresholds at which fans (3.5 meters/second wind velocity) become detrimental using validated calorimetry equations, which calculate net heat transfer between a person and their environment. Based on these equations and assumptions on reduction in sweat rates among older individuals and individuals taking anticholinergic medications, Morris et al. recommend that fans should not be used at a humidity-dependent temperature above 39.0 °C (102.2 °F) for healthy young adults, 38.0 °C (100.4 °F) for healthy older adults above the age of 65, and 37.0 °C (98.6 °F) for older adults taking anticholinergic medication (Morris et al., 2021). While the authors provide more exact numbers that account for humidity, they provide these thresholds as simple and easy guidelines that only require knowing the temperature. Some limitations of these studies include the use of assumptions in their models that may not be realistic (*e.g.*, fan producing an air velocity of 3.5–4.5 meters/second sitting 1 meter away) and the use of simplified heat-balance models, which predict the potential for heat exchange rather than outcomes such as heat and

cardiovascular strain metrics (*e.g.*, core temperature, heart rate). There are many factors that influence an individual's heat exchange potential, such as sex, hydration status, acclimatization status, and clothing, and these simplified models often do not account for these factors.

A recent article by Meade and colleagues criticized the simplified thresholds published in Morris et al. (2021) as being too high for general public health guidance (*e.g.*, recommendations for the general public during heat waves) (Meade et al., 2024). The authors modeled core temperature changes rather than modeling potential for heat exchange, arguing that Morris and colleagues did not consider in their conclusions that the potential for greater heat exchange does not always translate into increased sweat rates, particularly if core temperatures are not high enough to elicit that sweat response. Meade and colleagues modeled fan effectiveness under various hypothetical environmental conditions and reported the expected impacts on core temperatures for a young adult (18–40 years old) at rest wearing light clothing. They estimated that fans (versus no fan) would lead to an approximately 0.1 °C increase in core temperature at ambient temperatures of 37 °C/98.6 °F (when RH is 60–90%), 38 °C/100.4 °F (when RH is 50–80%), and 39 °C/102.2 °F (when RH is 50–80%) (Meade et al., 2024; Figure 1). Fans were estimated to be of minimal impact (core temperature change of approximately 0.0 °C) or beneficial (reduction in core temperature) compared to no fans in drier conditions at these ambient temperatures (37–39 °C). In their model, fans were always minimally impactful or beneficial at temperatures below 37 °C. Above 39 °C, fans were more often harmful (increase in core temperature greater than 0.2 °C). These model results were for strong fans (3.5–4.5 m/s air velocity), but in a sensitivity analysis, Meade and colleagues present predicted core temperature changes for slower fans (1 m/s air velocity) among young adults. While these fans are less beneficial than strong fans at low temperatures (*e.g.*, below 34 °C/93.2 °F), they were predicted to lead to smaller core temperature increases at higher temperatures (*e.g.*, 38 °C) and humidities than the stronger fans (Meade et al., 2024; Figure 4). In another model, the researchers predicted the effects of fans combined with skin wetting (relative to no fan or skin wetting) among young adults and found this combination was much more beneficial than fans alone—they were beneficial or neutral in all

combinations of humidity and ambient temperature when ambient temperature was 40 °C/104 °F or below (Meade et al., 2024; Figure 6). One major limitation of these model results is the assumption that the individual is at rest, rather than working. Fans may be used in work areas, and it would be expected that they would be associated with greater heat exchange potential in these scenarios, as core temperature would be more likely to remain above levels that prompt a sweat response. In a sensitivity analysis, the authors assumed a range of metabolic rates, the highest being 90 W/m², which they describe as the equivalent to a seated person “performing moderate arts and crafts.” In this scenario, fans were predicted to be more beneficial around 30–34 °C and in drier conditions (RH less than 30%) up to 39 °C. These numbers may not apply to workers, as evidenced in part by findings from a study described above (Carter, 1999), which found benefits to fans outside the range suggested by Meade et al.

Another study did evaluate fan efficacy among participants performing physical work (moderate to heavy workloads), collecting empirical evidence from fixed heart rate trials and modeling the effects of fans on heat storage at various temperatures and humidities (Foster et al., 2022a). Foster et al. conducted 300 trials among 23 participants (24 cool, 15 °C reference trials, 138 hot trials with still air, and 138 hot trials with fans). The hot trials involved a range of temperatures and humidities (35–50 °C in 5 °C increments and 20–80% RH) and two clothing ensembles—low clothing coverage (shorts and shoes) and higher clothing coverage (full-body coverall, t-shirt, shorts, and shoes). For the fan trials, they used a fan with a speed of 3.5 meters/second. The work output from the cool reference trials was used as a baseline to calculate the change in work capacity in the hot trials, which was used to validate their biophysical model predicting change in heat storage ($R^2 = 0.66$). The authors created categories for the percent change in work capacity resulting from fan use relative to no fans—an increase of greater than 5% was termed “beneficial”, a decrease of greater than 5% was termed “detrimental”, and if the change was an increase or decrease of 5% or less, it was called “ineffective”. In the hot trials, the researchers found fans to be beneficial or ineffective at both 35 °C and 40 °C (depending on the humidity) and ineffective at 45 °C for the higher clothing coverage (Figure 1 of Foster et

al., 2022a). For the low clothing coverage, the researchers found that fans had the potential to be beneficial up to 45 °C (at certain humidities), but also had the potential to be detrimental at temperatures as low as 35 °C (specifically when RH was 20%).

The biophysical model predicting change in heat storage was only able to model the effects of fans for the low clothing coverage, however, the authors note that the effects of fans were similar across clothing groups except that fans weren't beneficial in the high clothing coverage at temperatures equal to or above 45 °C. Foster et al. used a sweat rate in the model of approximately 1 liter per hour, which was the group average from the trials. In Figure 4, the authors present the output of their model, which suggests that fans become detrimental beginning at a temperature of 39 °C (102.2 °F) (at certain humidities). At increasing temperatures, fan use is detrimental at a wider range of humidity levels (both high and low humidity), but beneficial or ineffective at other humidity levels. Foster et al. also present model results with varying assumptions for sweat rate and fan speed (Figure 6).

As discussed above, in their consensus statement, Morrissey et al. (2021b) recommend the use of electric fans in an occupational setting when ambient temperatures are below 40 °C/104 °F.

I. Conclusions for Fans

In conclusion, OSHA preliminarily finds that these studies show that use of fans during work and/or rest breaks will be effective in reducing heat strain in the majority of working age adults. Studies also show that there are certain conditions (*e.g.*, at a temperature of 102.2 °F and above, depending on the humidity) under which fans may not be beneficial and can be harmful to workers.

D. Water

Working and sweating in the heat put workers at risk for dehydration and HRIs. Replacing fluids lost as sweat is necessary to maintain blood volume for cardiovascular function and thermoregulation. Multiple studies have examined the efficacy of hydration interventions, while also considering various factors that may affect hydration such as the quantity of liquid consumed, timing of ingestion, and beverage temperature.

Studies in the peer-reviewed literature provide evidence that hydration interventions are effective at combating dehydration and HRI. For example, McLellan and Selkirk

performed a series of heat stress trials with 15 firefighters in Canada wearing protective equipment at 35 °C (95 °F) and 50% relative humidity (McLellan and Selkirk, 2006). During the trials, participants conducted light exercise in a heat chamber and were provided one of four fluid replacement quantities: no fluid, one-third fluid replacement, two-thirds fluid replacement, or complete fluid replacement (based on previously determined sweat rates). Each participant completed two 20-minute exercise periods, separated by a 10-minute break for a simulated self-contained breathing apparatus (SCBA) change, and then followed by a 20-minute rest break. Cool water was provided during each break. Exercise continued until participants reached an endpoint, defined as a rectal temperature over 39.5 °C (103.1 °F), heart rate at 95% of maximum, experiencing dizziness or nausea, or other safety concerns. Participants who received either two-thirds or full fluid replacement tolerated approximately 20% more exposure time (including rest periods spent in the heat chamber) and approximately 25% more work time (calculated by excluding rest periods) than those without the fluid replacement. Most participants who were not provided fluids ended the trial upon experiencing lightheadedness when attempting to re-initiate exercise after a break, possibly related to low blood pressure. Those with two-thirds and full fluid replacement took significantly longer to reach an endpoint during work time and those with one-third, two-thirds, or full fluid replacement had significantly longer exposure time than those without fluid replacement. The full fluid replacement group also had higher rectal temperatures at their trial endpoint compared to those without fluid replacement, possibly indicating that hydration allowed them to tolerate higher rectal temperatures. The authors state that these findings are consistent with previous literature that reports cardiovascular function to be compromised without fluid replacement, leading to exhaustion at lower core temperatures.

Ioannou et al. (2021a) advised intervention groups made up of agricultural workers in Qatar and construction workers in Qatar and Spain to consume 750 milliliters (mL) of water supplemented by one tablespoon of salt per hour over their work shift. Findings in the intervention group were compared to a “business as usual” (BAU) group, where workers followed their normal routine, that were

unspecified for the agricultural industry and included shaded areas, water stations, and air-conditioned rest break areas for construction workers in Spain; those same BAU conditions were implemented for construction workers in Qatar, in addition to requiring workers to carry a water bottle, and education. Results included: (1) 13% to 97% reductions in prevalence of dehydration in each intervention group; (2) no significant differences in core temperatures for agricultural workers in Qatar; (3) significant reductions in core temperature in the construction intervention groups in Qatar and Spain, and (4) mixed findings on heart rate and skin temperature across the sites. One limitation with this paper is the use of BAU as a control group, as it is not always clear how these scenarios differed from the intervention. In addition, the quantity of fluid consumed was not measured.

Drinking adequate amounts of water may also reduce the risk of syncope. Schroeder et al. assessed the effects of water quantity on orthostatic tolerance (as time to presyncope, the symptomatic period right before fainting) in healthy individuals (n=13) (Schroeder et al., 2002). The authors used a controlled, crossover design to test the effects of consuming 500 versus 50 milliliters of water prior to attempting to induce presyncope by tilting the head-up and applying negative pressure to the lower body. They found that drinking the larger amount of water improved orthostatic tolerance by 5 minutes (+/- 1 minute), increased supine (lying down face up) mean blood pressure and peripheral resistance, and was associated with smaller increases in heart rate. A recent study using a similar design found that the temperature of the water may also have an influence—cold water consumption was associated with increased systolic blood pressure, stroke volume (*i.e.*, increased volume of blood pumped out of heart per beat), cerebral blood flow velocity, and total peripheral resistance, as well as reduced heart rate relative to consuming room temperature water (Parsons et al., 2023). They did not find differences in orthostatic tolerance between the groups. It should be noted that neither of these papers tested the participants under conditions of high heat, but as is discussed in Section IV., Health Effects, research has shown that exposure to heat independently increases the risk of syncope. In addition, both syncope from exposure to heat and the method used to induce presyncope in these studies can involve a mechanism in which blood pools in the lower body.

Public health guidance for workers (*e.g.*, from NIOSH) often involves recommendations that workers consume 1 cup (237 mL) of water every 15–20 minutes or approximately 1 liter (711–948 mL) per hour. The goal is to replenish fluids lost through sweat and avoid a substantial loss in total body water content. Sweat rates vary between individuals and conditions. Research conducted among workers performing “moderate manual labor *e.g.*, mining or construction work” in a controlled laboratory setting (35 °C and 50% RH) demonstrated an average sweat rate of 410–470 mL per hour (depending on whether the trial was conducted in winter or summer), but a range of 100 mL to 1 liter per hour during the presumed unacclimatized trials (conducted in winter) (Bates and Miller, 2008). These recommendations are also in line with the Army’s fluid replacement guidelines, which recommend 0.75–1 quart (1 quart is approximately 0.95 liters) per hour for “moderate work” (425 W) to “heavy work” (600 W) depending on the wet bulb globe temperature (Department of the Army, April 12, 2022; Table 3–2).

In a randomized crossover study, Pryor et al. (2023) had participants continuously walk for two hours at 6.4 km/hr in a heat chamber (34 °C/93.2 °F, 30% relative humidity) while either drinking 500 mL of water every 40 minutes or 237 mL of water every 20 minutes, followed by two hours of rest. Study authors found both hydration strategies to be similarly effective based on (1) no significant differences in body mass, percent change in plasma volume, plasma osmolality (*i.e.*, volume of particles dissolved in plasma), body temperature, or heart rate and (2) no difference in thirst or total gastrointestinal symptom scores. The authors did note, however, that urine volume was significantly lower after the rest period in the group receiving 237 mL of water every 20 minutes compared to the group receiving 500 mL of water every 40 minutes.

Several studies have evaluated the impact of the temperature of drinking water on dehydration and other measures in occupational settings. Cold water may serve as a heat sink to cool off the body in addition to combatting dehydration. In their meta-analysis, Morris et al. (2020) (described above) considered the effect of cold fluid ingestion as a personal cooling method, distinct from maintaining hydration status. Morris and co-authors concluded that cold fluid ingestion was effective as a heat strain mitigation control.

A systematic review by Burdon et al. reported that palatability was higher for

cold (32.0–50.0 °F) or cool (50.0–71.6 °F) beverages, as compared to warmer (greater than 71.6 °F) beverages, during exercise (Burdon et al., 2012). The authors conducted a meta-analysis using data from five studies and found that participants drank roughly 50% more cold/cool beverages than warmer beverages. Another analysis of multiple studies found that when participants were provided cold/cool beverages rather than warmer ones, there was less of a mismatch between fluid intake and fluid lost through sweat (measured as percentage of body mass lost). Participants provided warmer beverages lost, on average, 1.3% more of their body mass (95% CI: 0.9%, 1.6%) (Burdon et al., 2012).

I. Conclusions for Water

In conclusion, one experimental study reported that drinking adequate amounts of water while exercising in high heat prolonged the time of exposure before experiencing signs of heat strain or HRI (McLellan and Selkirk, 2006). In addition, studies in which participants were not exposed to high temperatures found that drinking adequate amounts of water reduced the risk of laboratory-induced presyncope (Schroeder et al., 2002), and drinking cool water improved cardiovascular function (Parsons et al., 2023). Studies have also reported increased palatability for cool or cold beverages (≤ 71.6 °F) that is likely to increase consumption and prevent dehydration compared to warmer beverages (Burdon et al., 2012).

Based on these studies, OSHA preliminarily finds that drinking adequate amounts of water is an effective intervention for preventing heat strain that could lead to HRI, and that providing cool drinking water is especially beneficial. In addition, because cool or cold water was found to be more palatable than warm water, OSHA preliminarily finds that providing cool or cold water can lead to higher consumption of water and thereby reduce the risk of dehydration.

E. Acclimatization

Heat acclimatization refers to the improvement in heat tolerance that occurs from gradually increasing the intensity and/or duration of work done in a hot setting. There are several studies examining the extent and effectiveness of acclimatization achieved on the job. The effects of acclimatization in allowing individuals to work safely in higher temperatures than unacclimatized individuals has been established for decades and is reflected by both the NIOSH REL and

the ACGIH TLV (NIOSH, 2016; ACGIH, 2023).

Early research on the effectiveness of acclimatization was conducted in the 1950s and 1960s among gold mine workers in South Africa (Weiner, 1950; Wyndham et al., 1954, 1966). Weiner (1950) conducted three days of heat stress tests on eight acclimatized mine workers, with three to six months experience working underground, and eight new, unacclimatized workers. Workers completed a four-hour protocol of step climbing sessions (30 mins) with sitting breaks (30 mins) in a mine shaft (dry bulb temperatures: 89.8 °F–90.2 °F, wet bulb temperatures: 88.8 °F–89.1 °F, air movement: 165–280 ft/min). Multiple unacclimatized workers were not able to complete the full protocol on the first day (based on symptomology, heart rate and rectal temperature), while all acclimatized workers were able to do so. Rectal temperatures and heart rates were higher among the unacclimatized workers than the acclimatized workers and sweat rate was lower (Weiner 1950).

Wyndham et al. (1954) describe a two-stage acclimatization protocol in which workers (n=110) shoveled rock for six days in a cooler section of the mine (saturated air temperature approximately 86.5 °F, wind velocity approximately 100 feet/minute), before moving to a hot section of the mine (saturated air temperature between 91.5 °F and 92.0 °F, wind velocity 100 to 350 feet/minute) to complete the same task for six more days (Wyndham et al., 1954). Researchers measured rectal temperatures before the shift, at 9 a.m., at 11 a.m., and at 1 p.m. on each of the twelve days. Average rectal temperature was 101.0 °F on the first day in the cooler conditions, which fell to 100.2 °F on day six. When workers transitioned to the hot conditions, the average rectal temperature was 100.8 °F on the first day and 100.0 °F on the sixth day. The authors concluded that the acclimatization method was a success, as rectal temperatures were on average lower on the first day in full heat conditions (100.8 °F) than on the first day of work in cooler conditions (101.0 °F), and mean work output was also higher on the first day in the full heat (Wyndham et al., 1954). The researchers also compared the acclimatized workers to a prior cohort of eight new workers who worked immediately in hot conditions without any acclimatization—they had an average rectal temperature of 101.8 °F on their first day. The authors noted that the two-stage acclimatization protocol likely resulted in complete acclimatization, as earlier monitoring of the eight new workers over 23 workdays

showed that rectal temperatures did not fall much lower than 100 °F, the average temperature seen after the new two-phase acclimatization protocol (Wyndham et al., 1954).

In a later study, Wyndham et al. (1966) analyzed the rectal temperatures of 18 acclimatized men and groups of 20 unacclimatized men working at a moderate rate for four hours in varying environmental conditions (Wyndham et al., 1966). The authors found that the acclimatized men, on average, could work at higher effective temperatures (a heat metric that accounts for ambient temperature, humidity, and air movement) than the unacclimatized men while still maintaining a steady rectal temperature (Wyndham et al., 1966).

Van der Walt and Strydom analyzed fatal heat stroke cases among miners in South Africa from 1930–1974 (Van der Walt and Strydom, 1975). Changes in cooling, mechanization, and acclimatization practices occurred at different points in time. Van der Walt and Strydom divided 1930–1974 into four periods based on interventions implemented during each period. They discussed changes in heat stroke fatality in relation to the interventions that were implemented. During the earliest period (1930–1939), acclimatization practices were introduced and ventilation improved, and the annual heat stroke mortality rate decreased from 93 to 44 deaths/100,000 workers. During the following period, which coincided with the war and post-war time (1940–1949), mines continued and improved the practices introduced in the first period. There was a drop in mortality rate from approximately 26 to 16 deaths/100,000 workers. During the third period (1950–1965), mines began using two-stage acclimatization, and the annual heat stroke mortality rate decreased from 15 to 5.6 deaths/100,000 workers. During the fourth period (1966–1974), mines began using climatic room acclimatization, and the annual heat stroke mortality rate decreased even further to 2.3 deaths/100,000 workers (Van der Walt and Strydom, 1975). The authors concluded that the controls they implemented over this period—namely introducing and improving their acclimatization procedures—were important in reducing the heat stroke fatality rates over time. However, they also introduced other controls during this time (ventilation and mechanization) so it is difficult to determine the efficacy of acclimatization independent of those controls (and other potential confounding factors).

Recent research on acclimatization has also included studies that assess acclimatization achieved while on the job. Lui et al. (2014) conducted a study to evaluate acclimatization among firefighters before and after a four-month wildland fire season, in May and September, respectively. The researchers assessed various physiological markers of heat acclimatization among a cohort of 12 U.S. male wildland firefighters and a group of 14 adults who were not firefighters, matched on age and fitness level. Participants completed a 60-minute walk at 50% of peak oxygen consumption (VO₂) in a chamber at 43.3 °C and 33% relative humidity. At 60 minutes, firefighters were found to have lower average core body temperatures after the wildfire season than before the season (after: 38.2 °C ± 0.4; before: 38.5 °C ± 0.3), while the comparison group showed no difference from the pre-season to post-season trials. Similarly, firefighters had significantly lower physiological strain index scores (a variable derived from core temperature and heart rate) after the wildfire season ($p < 0.05$), while scores did not change for the comparison group. No pre- to post-season changes were observed for heart rate. The authors found no evidence of acclimatization in the comparison group over the study period. Study results suggest that the firefighters were acclimatized due to occupational exposures during the wildfire season rather than exposure to higher seasonal heat (Lui et al., 2014).

Dang and Dowell (2014) compared heat strain markers among acclimatized and unacclimatized potroom workers at an aluminum smelter in Texas in July as they conducted various smelting activities in high heat. Workers were defined as unacclimatized if they had not been working or had been working solely outside of the potrooms for four or more consecutive days in the prior two weeks. WBGT values in work areas ranged from 83 °F to 120 °F. Among the eight unacclimatized workers and 48–50 acclimatized workers with heat strain measurements, unacclimatized workers had significantly higher average heart rates than acclimatized workers (118 bpm vs. 107 bpm, $p < 0.01$). Unacclimatized workers also had higher average and average maximum core temperatures, but these differences were not significantly different (average maximum core temperature: 101.0 °F vs. 100.7 °F; average core temperature: 99.7 °F vs. 99.6 °F) (Dang and Dowell, 2014).

Watkins et al. (2019) evaluated the heat tolerance of fire service instructors

(FSIs), which researchers describe as fire personnel who provide firefighting training courses and have more frequent fire exposure than firefighters. The researchers conducted two heat tolerance tests, separated by two months on a cohort of 11 FSIs and 11 unexposed controls (university lecturers), matched on age, sex, and body composition. Controls had not had more than three consecutive days of heat exposure (<25 °C) or taken part in heat acclimatization training in the month prior to the study. On average, FSIs experienced five fire exposures in the two weeks prior to each heat tolerance test. Each test was composed of a 10-minute rest period (22.9 ± 1.2 °C, 31.2 ± 6.8% RH) followed by a 40-minute walk in a heat chamber (50 ± 1.0 °C, 12.3 ± 3.3% RH) wearing fire protective equipment. At the end of the first heat tolerance test, FSIs on average had significantly lower maximum rectal temperature (−0.42 °C, $p < 0.05$), less change in rectal temperature (−0.33 °C, $p < 0.05$), and reported less thermal sensation and, among males only, a higher sweat rate (+0.25 Liters/hour, $p < 0.05$) than the controls. Heart rate, skin temperature, and physiological strain index did not differ between groups. Rectal temperature at the end of the heat test was negatively correlated with the number of fire exposures experienced in the prior two weeks ($r = -0.589$, $p = 0.004$) (Watkins et al., 2019).

The effectiveness of acclimatization in high heat conditions has also been an important topic for militaries. Charlot et al. (2017) studied the effects of training on acclimatization in 60 French soldiers who arrived in United Arab Emirates (UAE) in May of 2016, and were not stationed in a hot climate over the previous year. On day 1, all soldiers completed a heat stress test while running. On days 2–6, the 30 soldiers in the training group trained outdoors by running at 50% VO₂ max, with durations of training sessions ranging from 32–56 minutes. Both the soldiers in the training group and 30 soldiers in a control group (no training; performed usual activities) spent approximately six hours outdoors per day conducting standard military tasks. The heat stress test was repeated on day 7, with WBGTs ranging from 1.1 °C warmer to 0.9 °C cooler compared to day 1. In both groups, rectal temperature, heart rate, sweat loss, sweat osmolality, perceived exertion, and thermal discomfort were lower after the stress test on day 7 compared to day 1. Compared to the control group, the training group had significantly greater decreases in heart rate (20 ± 13 bpm lower versus 13 ± 6

bpm lower), rate of perceived exertion, and thermal discomfort after the stress test on day 7 compared to day 1. Charlot et al. (2017) concluded that addition of short, moderate-intensity training sessions resulted in further heat acclimatization, beyond the acclimatization observed across all participants.

In another study of military trainees, Lim et al. (1997) assessed the degree to which passive heat exposure and military training resulted in the acclimatization of army recruits in Singapore across a 16-week military training program. Participants completed a heat stress test, while marching, at four time points: (1) before starting the program, (2) on the second week, (3) on the sixth week and (4) on the sixteenth/final week of the program. For the nine individuals who attended all tests, heart rate significantly decreased across the study period, while results for skin temperature, tympanic temperature (*i.e.*, within ear canal), and average body temperature were mixed, and there were no significant differences in sweat loss or sweat rate. Researchers interpreted these findings to mean that passive heat acclimatization from living in a hot climate had resulted in partial acclimatization, but that physical conditioning was necessary for triggering beneficial cardiovascular adaptations (Lim et al., 1997).

Sports teams have also evaluated the effectiveness of heat acclimatization among their athletes. Three studies conducted among professional soccer players found that athletes training in hot outdoor conditions experienced improvements in plasma volume, heart rate, rectal and skin temperature, and/or sweat sodium concentration over the course of their training (Buchheit et al., 2011; Racinais et al., 2012, 2014).

Acclimation (*i.e.*, improvement in heat tolerance under laboratory conditions) was also studied in heat chamber studies. In a study using 90-minute treadmill sessions designed to mimic the metabolic rate of manual laborers, Chong et al. (2020) found that over the course of a 12-day acclimatization period at 28 °C WBGT or 30 °C WBGT, peak core temperature, heart rate, and skin temperature decreased and sweat rate increased even before the end of the 12-day period (Chong et al., 2020). Zhang and Zhu (2021) acclimated participants using 10 daily 90-minute treadmill sessions (at a speed of 5 kilometers/hour) in 38 °C and 40% RH and found that after acclimation, rectal temperature and heart rate during exercise increased at a slower rate, but there was no effect on

skin temperature. OSHA notes that Zhang and Zhu (2021) did not gradually increase daily heat exposure, as is typically recommended.

Shvartz et al. (1977) studied the effects of work and heat on orthostatic tolerance among 12 trained men (*i.e.*, trained three times a week in endurance sports) and 16 untrained men, none of whom were exposed to exercising in the heat in the two months before testing (Shvartz et al., 1977). The trained participants had better orthostatic tolerance to laboratory-induced syncope compared to the untrained participants (2 vs. 8 fainting episodes after exercise in ambient conditions; 4 versus 9 fainting episodes after exercise in heat). Heat acclimation improved orthostatic response, as fainting episodes after exercise decreased in the 8 untrained participants who were later acclimated to heat for 7 additional days (4 versus 0 fainting episodes after exercising in temperate conditions and 4 versus 2 after exercising in hot conditions, before and after acclimation, respectively). At the end of the acclimation period for those 8 untrained participants, significant reductions were observed for heart rate and rectal temperature, while significant increases in sweat rate and maximum VO₂ occurred. Shvartz et al. (1977) concluded that both general physical fitness and heat acclimation contributed to better orthostatic responses and fewer fainting episodes.

Parsons et al. (2023) evaluated the effects of heat acclimation in 20 endurance-trained athletes (15 males, 5 females) randomly assigned to a heat group that was acclimated for 8 days or control group that was not acclimated to heat. Heat stress testing (at approximately 32 °C and 71% or 72% RH) revealed that in the post-intervention period, the heat group compared to the control group, had significantly decreased peak heart rate; resting, mean, and peak rectal temperature; and peak and mean skin temperature. No significant differences were observed in measures of sweat and hydration. Plasma volume was significantly increased in the heat compared to control group post intervention. Orthostatic tolerance (at approximately 32.0 °C, 20% RH) determined by the time to laboratory-induced presyncope, was significantly increased in the heat group (pre: 28 ± 9 min. vs. post: 40 ± 7 min.) compared to control group (pre: 30 ± 8 min. vs. post: 33 ± 5 min.) post-intervention. The authors concluded that plasma volume expansion was the likely mechanism behind improved orthostatic tolerance; they further noted that participants were physically fit at baseline and that they

would expect a less robust acclimation regimen would likely yield beneficial results for populations with lower physical fitness (Parsons et al., 2023).

I. Evidence of Tenure as a Risk Factor

Multiple investigations of occupational HRIs have identified tenure in the job as a risk factor. Workers who are new on the job are often overrepresented in HRI and heat-related fatality reports. In many of these cases, this apparent increased risk presumably results from not being acclimatized to hot working conditions. Studies documenting tenure as a risk factor include case series from OSHA reports, analyses of State workers' compensation databases, and research on military populations. For reference, the most recent (2023) monthly estimates of new hires in the U.S. suggest that over the summer months (June to September), the percent of workers who have been in their job for a month or less ranges from 3.7%–4.1% (BLS JOLTS 2023). Therefore, the percent of workers who are in their first day, first week, or first two weeks on the job would be expected to be lower than 3.7%–4.1%.

Several reports have evaluated OSHA enforcement cases of HRI and heat-related fatalities. Arbury et al. identified 20 citations involving indoor or outdoor HRIs and fatalities cited under the general duty clause in 2012 and 2013 (Arbury et al., 2014). Of the 13 fatalities, 4 (31%) occurred on the worker's first day on the job or after returning from time away, while 9 (69%) occurred in the first three days of the worker's tenure on the job. Arbury et al. expanded this work in a follow-on report that included all of OSHA's heat enforcement cases in both indoor and outdoor workplaces between 2012 and 2013 (n=84). Of the 23 cases involving a heat-related fatality, 17 (74%) occurred in the worker's first three days on the job and 8 (35%) on the worker's first day (Arbury et al., 2016). Tustin et al. (2018a) identified 66 HRI cases among OSHA enforcement investigations conducted between 2011 and 2016 for which OSHA's Office of Occupational Medicine and Nursing (OOMN) was consulted. Among the fatality cases with job tenure information (n=22), 45.5% occurred on the first day of or returning to the job and 72.8% occurred during the first week. Among the non-fatal HRI cases with job tenure information (n=32), 3.1% occurred on the first day and 18.7% occurred during the first week. In a related analysis focusing on outdoor workers, Tustin et al. (2018b) evaluated 25 outdoor occupational HRI and

fatalities investigated by OSHA between 2011 and 2016. Eleven (78.6%) of the 14 fatalities and one of the 11 non-fatal illnesses (9.1%) occurred in workers who had started the job within the preceding two weeks or returned from an absence of greater than one week (Tustin et al., 2018b).

Arbury et al. 2014, Arbury et al. 2016, Tustin et al. 2018a, and Tustin et al. 2018b are all retrospective case series that used OSHA databases to identify cases of HRI and heat-related fatalities. As such, they rely on previously collected information about working conditions and worker characteristics, which may not be complete or reflect all factors. In addition, there may be selection bias introduced by the type of cases referred to OSHA's OOMN for review (*i.e.*, they may represent more severe cases).

Several studies and reports have used data from California to describe characteristics of occupational HRI and heat-related fatalities in the State. From May through November of 2005, there were 25 heat-related Cal/OSHA enforcement investigations (Prudhomme and Neidhardt, 2006). When combining fatal and non-fatal outcomes, most workers (80%) had been on the job for four or fewer days before their HRI event, and almost half (46%) occurred on the workers' first day on the job (Prudhomme and Neidhardt, 2006). In 2006, Cal/OSHA confirmed 46 cases of HRI in their 38 investigations of heat-related allegations (4 investigations involved more than 1 case) (Prudhomme and Neidhardt, 2007). 15% of the HRI events and fatalities occurred on the first day of work or the first day of a heat wave, while 30% occurred after working one to four days on the job or into a heat wave (Prudhomme and Neidhardt, 2007). It should be noted that both Cal/OSHA reports only capture cases investigated by Cal/OSHA, and as such, may reflect more severe cases of HRI. They are also not expected to be exhaustive of all occupational HRIs occurring in the State during these time periods. Heinzerling et al. (2020) investigated occupational HRIs across industry sectors in California from 2000 to 2017 using the California Workers' Compensation Information System (Heinzerling et al., 2020) and identified 15,996 cases of occupational HRI. The authors reported that 1,427 cases (8.9%) occurred within two weeks of hire and 410 (2.6%) occurred on the first day on the job.

Several analyses of Washington State Department of Labor and Industries (WA L&I) data have also investigated job tenure in relation to heat-related workers' compensation claims. Bonauto

et al. identified 308 claims between 1995 and 2005 with information on employment duration, 43 (14%) of which reported job tenure of one week or less (Bonauto et al., 2007). In comparison, across all claims (*i.e.*, not just heat-related) with employment duration information during the same period, 3.3% of claims reported a job tenure of one week or less, suggesting that this pattern is more common among heat-related claims. A more recent analysis by WA L&I reports the percent of accepted HRI claims occurring during the first one and two weeks of work in Washington between 2006 and 2021 (SHARP 2022). Across all industries, 12.5% of accepted HRI claims were filed in the first week at a job and 16.1% of accepted HRI claims occurred during the first two weeks of work. The percentage of HRI claims filed in the first week and first two weeks of working at a job was higher than the percentage among all workers' compensation claims filed in the first week (2.2%) or two weeks (3.7%) on a job. Spector et al. conducted an analysis similar to Bonauto et al. 2007, but restricted to the agriculture and forestry sectors and included claims through 2009 (Spector et al., 2014). The researchers identified 84 HRI claims in the agriculture and forestry sectors, approximately 15% of which reported that claimants had been working at their job for less than two weeks at the time of the injury. As discussed in Section V.A., Risk Assessment, occupational HRIs, particularly those not requiring medical treatment, are subject to underreporting in workers' compensation systems. Therefore, injuries and illnesses that are captured are likely to be more severe cases.

The U.S. military has also studied HRIs among its recruits extensively. Among all U.S. Marine recruits entering basic training at the Marine Corps Recruit Depot, Parris Island in South Carolina between 1988 and 1996, the number of HRI cases were higher in early training periods (processing week and weeks 1–4) compared to late training period (training weeks 5–12) for females but were similar for males (Wallace 2003). Among males, weeks 1, 8, and 9 of training had the highest numbers of HRI cases. Physical intensity of training varied each week during the 12 weeks of training, which likely had an impact on rates of HRI. Dellinger et al. reported on HRIs among more than 7,000 Army National Guard soldiers deployed to Illinois from July 5th to August 18th, 1993, in response to severe flooding (Dellinger et al., 1996). Researchers identified 23 heat-related

medical claims, which excluded those treated by on-site first aid. 65% of the 23 HRI claims occurred during the first two weeks of the deployment; researchers note that this was also the period of greatest work intensity.

II. Conclusions for Acclimatization

In conclusion, numerous studies have reported the benefits of heat acclimatization for employees in workplace settings. For example, adoption of workplace acclimatization protocols was followed by reduced rates of heat stroke-related fatalities in South African miners (Van der Walt and Strydom, 1975). Acclimatization was also reported to result in reduced signs of heat strain or improved physiological responses to heat for miners (Weiner, 1950; Wyndham et al., 1966), fire fighters (Lui et al., 2014; Watkins et al., 2019) and aluminum smelter potroom workers (Dang and Dowell, 2014). Similarly, studies in military personnel have reported responses to heat following physical training in hot climates (Charlot et al., 2017; Lim et al., 1997). Improvements in physiological responses to heat were also observed in athletes after training in hot climates (Buchheit et al., 2011; Racinais et al., 2012, 2014) and participants exercising in heat chambers (Chong et al., 2020; Zhang and Zhu, 2021). Studies have also shown that heat acclimation while exercising reduces the risk of laboratory-induced syncope (Shvartz et al., 1977) or presyncope (Parsons et al., 2023).

Additionally, retrospective examination of limited data from State and Federal enforcement and surveillance cases demonstrates overrepresentation of workers during the first days or weeks of employment or return to work among HRI cases and fatalities (Arbury et al., 2014, 2016; Tustin et al., 2018a, b; Prudhomme and Neidhardt, 2006, 2007; Heinzerling et al., 2020; Bonauto et al., 2007; SHARP, 2022). This suggests that these workers are at increased risk of HRI and fatality, which may be (or at least in part) the result of lack of acclimatization.

Based on the evidence presented in this section, OSHA preliminarily finds acclimatization to be an effective intervention in reducing the risk of HRI and heat-related fatality by improving physiological responses to heat.

IV. Evidence on the Effectiveness of Multicomponent Interventions

A. Civilian Workers

OSHA identified a small number of studies that examined the effectiveness of multi-pronged interventions implemented at workplaces. Three

evaluated the effectiveness of a multi-pronged intervention at reducing the risk of heat-related illness (McCarthy et al., 2019; Perkison et al., 2024) or self-reported symptoms of heat-related illness (Bodin et al., 2016) by comparing the same study population before and after an intervention was implemented. OSHA does note that the studies lacked a control group which received no intervention and would have allowed for the authors to examine the effect of potential temporal confounders that changed across the study period. In addition, there was no data to indicate how thoroughly the interventions were implemented or how much employees adhered to them. However, the studies provide strong and consistent evidence of the effectiveness of multi-intervention programs in preventing heat-related illnesses and are supported on a mechanistic basis by the laboratory and other experimental evidence presented above.

McCarthy et al. (2019) compared HRI events and costs from workers' compensation data before and after a Heat Stress Awareness Program (HSAP) intervention among workers in a mid-sized city in Central Texas that was implemented in March 2011. The study population consisted of municipal workers whose jobs involved work in hot, humid conditions with moderate to heavy physical demands, excluding firefighters. The HSAP was based on NIOSH's *Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments* (2016) and included in-person training of supervisors and workers, a medical monitoring program, and specific recommendations to supervisors such as providing unlimited access to water, sports drinks, and shade, as well as establishing acclimatization schedules, work-rest procedures, and first aid protocols. Before the intervention, workers completed a self-administered questionnaire to determine their level of HRI risk, which the researchers then used to categorize them into four risk levels (McCarthy et al., 2019). Those who reported two or more HRI risk factors (*i.e.*, high body mass index, medication use, chronic illnesses, alcohol and energy drink use, history of prior HRI, work in a second hot job, and extensive skin pathology) but not an "unstable health condition" received individualized HRI prevention counseling or education.

McCarthy et al. (2019) compared the rates of heat-related illness across the study period of 2009–2017, before and after the HSAP intervention was implemented in 2011. In the pre-intervention period (2009–2010), the

annual average claim rate for heat-related illnesses was 25.5 claims/1,000 workers. The average annual rate of HRI claims in fell by 37% in 2012–2014 (16 claims/1,000 workers) and by 96% in 2015–2017 (1 claim/1,000 workers) compared to the pre-intervention period. No workers' compensation claims for HRI were submitted in the final 2 years of the study period.

OSHA observes the potential for healthy worker selection bias in this study that might have occurred if employees with medical conditions were more likely to leave their job and therefore the cohort during the study period.

Perkison et al. (2024) reported that the program in the central Texas Municipality employees (referred to in this study as the heat illness prevention program (HIPP)) and described by McCarthy et al. 2019) ended in 2017 and was replaced by a modified HIPP (mHIPP) that included only employee and supervisor training and employee acclimatization. In an analysis to determine the impact of dropping medical surveillance from the HIPP, the study authors reported that the rate of heat illness and injury, which averaged 19.5/1,000 employees during the first four years of the HIPP (2011–2014), fell to 1.0/1,000 employees over the next three years (2015–2017), but increased to 7.6 per 1,000 workers during the mHIPP (2018–2019). Although heat-related illness claim rates increased during implementation of the mHIPP, the rate of heat-related illness during implementation of the mHIPP (7.6/1,000) was still 70% lower than the period with no intervention (25.5/1,000).

Bodin et al. (2016) reported on productivity, HRI symptoms, and hydration practices before and after a water-rest-shade (WRS) and efficiency intervention among sugarcane cutters in El Salvador. The intervention began two months into the 5-month harvest season of 2014–2015. The WRS intervention included: 3-liter water bladders carried in backpacks and refilled during breaks; an initial 1.5 to 2-hour work interval followed by a 10 to 15-minute break, then hour-long work periods with 10 to 15-minute rest breaks and a 45-minute lunch break; and a portable shade canopy for breaks. The efficiency intervention consisted of a machete with an improved blade and handle, fewer rows cut, and a stacking method to reduce workload. Due to challenges during data collection, a relatively small sample size of 41 workers completed follow-up. Bodin et al. (2016) reported that, among those 41 sugarcane cutters, average daily water intake (5.1 liters

pre-intervention, 6.3 liters post-intervention) and average daily production (5.1 tons pre, 7.3 tons post) increased after the intervention. An analysis of self-reported heat stress and dehydration-associated symptoms showed that reporting of most symptoms decreased after the intervention, such as feeling feverish (40% to 10%), exhaustion (37% to 14%), nausea (35% to 12%), very dry mouth (49% to 26%), very little urine (37% to 19%), cramps (30% to 17%), diarrhea (14% to 0%), disorientation (12% to 0%), and fainting (5% to 2%). However, self-reported rates of vomiting (9% to 10%) and dysuria (*i.e.*, pain during urination) (42% to 45%) remained similar in pre- and post-intervention periods (Bodin et al., 2016) (Communication with David Wegman, November 2023).

B. Military Personnel

OSHA also identified studies which examined the effectiveness of interventions in reducing risk of heat-related illness among military personnel. OSHA acknowledges differences between military personnel and typical civilian worker populations, such as health status, fitness levels, and the types of physical activities performed by military personnel (*e.g.*, long-distance running). The military also employs certain controls that aren't typically used in workplaces, such as work stoppage criteria. However, OSHA finds the studies in military personnel useful for showing that multi-component interventions can reduce the risk of heat-related illness.

Kerstein et al. (1986) conducted a randomized control trial in military reservists exposed to hot and humid conditions and found that the incidence of heat illness was 54% lower in a group exposed to intervention measures. Those measures included a lecture on water as prevention, training on and use of portable WBGT monitors, and a special briefing for Commanding Officers. Incidence rates of HRI (defined as "any person with heat symptoms, including exhaustion, cramps, and headaches that the corpsman could clearly relate to the environment and cause the individual to be non-functional for at least one hour or more") were 13 out of 306 participants in the intervention group (4.2%) and 20 out of 220 in the control group (9.1%).

Stonehill and Keil examined the number of heat stroke cases at Lackland Air Force Base in San Antonio, Texas after they implemented a series of interventions over a period from 1956 through 1959 (Stonehill and Keil, 1961). Interventions that were implemented

before 1958 included education on heat illness and prevention, pausing training based on dry bulb temperatures, shifting harder exercises to cooler hours, treating heat rash, providing clothing with better ventilation, improving personal hygiene, providing special advice for overweight individuals, and implementing immediate medical treatment for heat stroke. Despite these measures, they still observed 39 cases of heat stroke in 1957 (a rate of 0.87/1,000). After making improvements to their prevention measures in the summer of 1958 (increased water and salt tablet availability, removing fatigue shirts inside classrooms, using WBGT to determine when to pause training, and avoiding intense outdoor training in the first week of training), they observed only 2 heat stroke cases that summer (a rate of 0.05/1,000), a reduction of 95% from 1957.

Minard (1961) evaluated the effectiveness of interventions in reducing HRIs in a study of the Marine Corps Recruit Depot in Parris Island, South Carolina. During the summer of 1952, the mean weakly HRI incidence rate was 53 per 10,000 recruits. A program to address HRI was adopted in 1954 and later modified in 1956. Minard reported a lower mean weekly HRI rate with the enhanced interventions in 1956 (4.7 per 10,000 recruits) compared to the initial intervention in 1955 (12.4 per 10,000 recruits), despite higher temperatures in 1956. Initial interventions included curtailing physical activity during high heat and numerous behavioral changes, such as modifications to uniforms and leadership training; while the most substantial changes to enhance the interventions included curtailing physical activity based on WBGT and differentiating physical activity guidance for acclimatized versus unacclimatized recruits. Later enhancements to the intervention included conditioning recruits with substandard fitness, shade for outdoor classrooms, cooling for indoor classrooms, modification of the clothing policy to allow for only t-shirts, light duty status for recently vaccinated recruits, one hour rest or classroom instruction after meals, better ventilation in barracks to improve sleep, and strategies to increase water and salt intake. The mean weekly HRI rate for all summers with the enhanced intervention (1956–1960) was 4.3 per 10,000 recruits. Four fatalities from heat stroke occurred from 1951 to 1953, but no fatalities occurred since 1953.

C. Conclusions for Multicomponent Interventions in Civilian and Military Employees

In conclusion, three studies in civilian worker populations found that multicomponent heat stress interventions reduced the incidence of

HRI claims and self-reported heat strain and dehydration symptoms and increased work output. The findings of these studies are supported by studies among military personnel, which also found multicomponent interventions to be effective in reducing incidence of

HRI, as well as data on the effectiveness of individual control measures reported in laboratory and experimental studies, which are summarized above. The findings of these multicomponent intervention studies are summarized in table V–3.

TABLE V–3—SUMMARY OF EVIDENCE OF THE EFFECTIVENESS OF MULTICOMPONENT INTERVENTIONS IN REDUCING HRIS AND HEAT-RELATED SYMPTOMS

Evidence	Notes
Multi-component Interventions	
McCarthy et al. (2019): In a comparison of heat-related illness claims before and after the implementation of a heat stress awareness program that began in 2011 in a Texas municipality, the average annual rate of HRI claims fell [by 37%] in 2012–2014 (16 claims/1,000 workers) and [by 96%] in 2015–2017 (1 claim/1,000 workers) compared to the pre-intervention period (25.5 claims/1,000 workers). Perkison et al. (2024). The program in Texas municipality workers reported by McCarthy et al. (2019) was modified in 2017 to include only training and acclimatization, and no longer include medical surveillance. Rate of heat-related illness did increase after these changes (to 7.6 claims/1,000 workers) but remained [70%] lower than when no program was implemented. Bodin et al. (2016) reported that three months after implementation of interventions, self-reported heat stress and dehydration-associated symptoms decreased as follows: feeling feverish (40% to 10% [↓76%]), exhaustion (37% to 14% [↓62%]), nausea (35% to 12% [↓66%]), very dry mouth (49% to 26% [↓46%]), very little urine (37% to 19% [↓49%]), cramps (30% to 17% [↓45%]), diarrhea (14% to 0% [↓100%]), disorientation (12% to 0% [↓100%]), and fainting (4.7% to 2.4% [49%]). Rates of vomiting and dysuria were similar. Kerstein et al. (1986) reported a [54%] decrease in heat illnesses in military reservists after an intervention. Stonehill and Keil (1961) reported the number of heat stroke cases and the number of troops in the summers of 1957 and 1958, before and after additional protective measures were implemented. - The heat stroke rate in summer 1958 after implementing additional protective measures was [95%] lower [0.05/1,000 troops] than the summer before [0.87/1,000 troops]. Minard (1961) study of military recruits: - The rate of HRI after implementation of the program (12.4/10,000 recruits) was [77%] lower than before the program was implemented (53/10,000) recruits. - The rate of HRI after enhanced interventions (4.7 per 10,000 recruits) was [62%] lower than the rate after initial interventions (12.4 per 10,000 recruits) and [91%] lower than the period before the program (53/10,000).	- The program involved medical monitoring and training. - Recommendations made to supervisors included unlimited access to water, sports drinks, and shade, as well as establishing acclimatization schedules, work/rest procedures, and first aid protocols. - It is not known if and to what extent recommendations were implemented. - The study authors concluded “medical surveillance may be an important component in lowering workforce heat-related illness,” but noted the small sample size and short evaluation period. - Most of the interventions were consistent with the main interventions of the proposed standard (<i>i.e.</i>, providing drinking water, and shaded rest breaks and a lunch break). - Ergonomic improvements were also implemented. - Non-U.S. workers (El Salvador) in sugar cane industry. - Military study. - Intervention: A lecture on water as prevention, training on and use of portable WBGT monitors, and a special briefing for Commanding Officers. - Military study. - Intervention being tested: In addition to existing prevention measures, they added increased water and salt tablet availability, removing fatigue shirts inside classrooms, using WBGT to determine when to pause training, and avoiding intense outdoor training in the first week of training. - Military study. - Examples of intervention measures: curtailing physical activity during high heat, modifications to uniforms, leadership training, curtailing physical activity based on WBGT, differentiating physical activity guidance for acclimatized versus unacclimatized recruits, conditioning recruits with substandard fitness, shade for outdoor classrooms, cooling for indoor classrooms, modification of the clothing policy to allow for only t-shirts, light duty status for recently vaccinated recruits, one hour rest or classroom instruction after meals, better ventilation in barracks to improve sleep, and strategies to increase water and salt intake.

Numbers in brackets calculated and rounded by OSHA.

V. Governmental and Non-Governmental Organizations’ Requirements and Recommendations

A number of governmental and non-governmental organizations recommend or require heat injury and illness prevention programs or multiple controls to address risks related to occupational heat exposure. This shows that OSHA’s proposal continues to reflect the growing consensus that HRIs can be avoided or minimized when employers address conditions that have

been shown to increase the risk of HRI. OSHA’s proposal also continues to reflect a consensus that, to be most effective, an HRI prevention program should incorporate multiple interventions.

A. Governmental Requirements and Recommendations

As of April 2024, five States had heat injury and illness prevention standards, reflecting a recognition by these States that certain measures can reduce heat-

related risks posed to workers. These standards have many of the same types of controls OSHA is proposing (*e.g.*, a written heat safety plan, emergency response protocols, rest breaks, training on HRI recognition and prevention). For a more detailed discussion of existing State standards see Section III., Background. In addition, numerous States have published heat illness and injury prevention guidance for workers.

NIOSH has issued a number of guidance products and provided expert

advice on heat injury and illness prevention and developed a programmatic approach to reduce the risks associated with heat for workers. For example, in 2016, NIOSH updated its *Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments*, first published in 1972 and updated in 1986, stating, “compliance with this recommended standard should prevent or greatly reduce the risk of adverse health effects to exposed workers.” NIOSH recommends that employers “establish and implement a written program to reduce exposures to or below the applicable RAL or REL” (which considers exposure to environmental heat and metabolic heat (i.e., work intensity) for unacclimatized and acclimatized employees, respectively) with engineering and work practice controls. Examples of engineering controls include ventilation to increase air movement, air-conditioning, screening, and insulation. Examples of administrative controls include rest breaks to decrease exposure time and metabolic heat loads, increasing distance from radiant sources, and implementing acclimatization protocols, health and safety training, medical screening for heat intolerance, and a heat alert program. If engineering and administrative controls do not reduce exposure below the applicable RAL or REL, NIOSH also recommends cooling clothing/PPE. NIOSH states, “the reduction of adverse health effects can be accomplished by the proper application of engineering and work practice controls, worker training and acclimatization, measurements and assessment of heat stress, medical monitoring, and proper use of heat-protective clothing and personal protective equipment (PPE)” (NIOSH, 2016).

In another example of NIOSH guidance, NIOSH investigated a number of heat-related workplace fatalities to assess the hazards and propose recommendations for preventing similar fatalities, as part of the Fatality Assessment and Control Evaluation (FACE) Program. In four heat fatality investigations that affected landscapers (NIOSH, 2015), farm workers (NIOSH, 2007), firefighters (NIOSH, 1997), and construction laborers (NIOSH, 2004), collective recommendations related to heat included: development, implementation and training on a safety and health program that is made available to all workers; providing rest breaks and accessible hydration; training workers and supervisors on

recognizing HRI; providing prompt medical assistance for HRI; monitoring of worker symptoms by supervisors; implementing acclimatization programs; informing workers of drinks (e.g., alcoholic) that can increase risk; having medical providers inform workers taking certain drugs or with certain medical conditions of their increased risk; and factoring in clothing and weather to determine firefighter workloads.

Additionally, there is a recognition amongst other Federal regulatory agencies that employers can implement control measures to reduce heat-related risks and harms. The Mine Safety and Health Administration (MSHA) first published heat guidance for mines in 1976, and most recently published “Heat Stress in Mining” which provides guidance on reducing heat stress (MSHA, 2012). The report states that a combination of engineering controls, administrative controls and work practices, and PPE can reduce heat and prevent employee’s core temperatures from rising. MSHA recommendations include mine planning to provide cool rest areas, implementing exhaust ventilation and air-conditioning in mines, using canopies in the sun, using skillful blasting procedures to reduce excessive heat, using automation/remote controls to reduce metabolic heat, implementing work-rest regimens with frequent breaks, pacing work tasks, performing heavy tasks in cooler areas or at cooler times, rotating personnel through hot work tasks, providing readily accessible, cooler rest areas and drinking water, acclimatizing new and returning employees, and ensuring employees and supervisors are knowledgeable about heat related topics such as risk, prevention, and symptoms.

In 1993, the EPA published “A Guide to Heat Stress Management in Agriculture” to “help private and commercial applicators and agricultural employers protect their workers from heat illness” (EPA, 1993). The guide outlines the development of a basic program to control heat stress which includes: designating one person to manage the heat stress program; training workers and supervisors on heat illness prevention; acclimatizing workers when they begin to work under hot conditions; evaluating weather conditions, workload, necessary protective equipment or garments, and the physical condition of the employee; managing work activities by setting up rest breaks, rotating tasks among workers, and scheduling heavy work for cooler hours; establishing a drinking water program; taking additional measures such as providing special

cooling garments, shade or air-conditioned mobile equipment; and giving first aid when workers become ill (EPA, 1993).

In 2023, the U.S. Army updated its Training and Doctrine Command (TRADOC) Army Regulation 350–29 which “prescribes policy and provides guidance to commanders in preventing environmental (heat or cold) casualties.” It includes requirements for rest in shade and water consumption according to specific WBGT levels and work intensity, and consideration of heat stress when planning training events (Department of the Army, June 15, 2023). In 2022, the U.S. Department of the Army issued the technical heat stress bulletin “TB MED 507: Heat Stress Control and Casualty Management” that contains measures to prevent indoor and outdoor HRIs in soldiers, with recommendations for acclimatization planning, work-rest cycles, fluid and electrolyte replacement, and cooling methods (e.g., shade, fans for prevention, and iced sheets and ice water immersion for treatment) (Department of the Army, April 12, 2022).

The U.S. Department of the Navy has published additional guidance on heat injury and illness prevention particular to naval conditions (Department of the Navy, 2023). When Navy personnel are “afloat”, they use Physiological Heat Exposure Limits (PHEL) curves to manage heat stress based on exposure limits/stay times for acclimatized personnel under various conditions of environmental heat and work intensity. The PHEL curves were designed to allow core body temperature to rise to 102.2 °F (39 °C) among healthy and acclimatized individuals who have rested and recovered from prior heat exposures.

In 2023, the Heat Injury and Illness Prevention Work Group of the National Advisory Committee on Occupational Safety and Health (NACOSH) presented to OSHA recommendations on potential elements of a proposed heat injury and illness prevention standard. The Work Group recommended that OSHA include the following measures in a potential standard: a written exposure control plan (heat illness prevention plan); training on heat illness prevention; environmental monitoring; provision of water, breaks, and shade or cool-down areas; other administrative controls (e.g., rotating workers through work tasks and implementing a communication system for regular check-ins); other engineering control measures (e.g., ventilation, exhaust fans, and portable cool-down mechanisms including fans, tents, shielding/

insulation, proactive misting); workplace practice controls (*e.g.*, providing coolers with ice and scheduling work during the coolest part of day); personal protective equipment; acclimatization procedures; worker participation in planning activities; and emergency response procedures (NACOSH, May 31, 2023).

B. National Non-Governmental Organizations

ACGIH first recommended a standard for heat stress in 1971 (ACGIH, 2021), and most recently updated it in 2023 (ACGIH, 2023). The TLV is a value that is determined with the goal of maintaining thermal equilibrium for healthy acclimatized employees and is based on WBGT adjusted for work intensity and clothing/PPE. An action limit (AL) considers those same factors for unacclimatized employees. ACGIH recommends that whenever heat stress among workers is suspected (based on factors such as environmental conditions, work demands, work-rest patterns, and acclimatization states), employers have a Heat Stress Management Program (HSMP) that includes written plans for “General Controls” and as appropriate, “Job Specific Controls” (Table 5 of the Heat Stress and Strain section of the TLV Booklet). ACGIH states “The principal objective of a HSMP is the prevention of excessive heat strain among workers that may result in heat-related disorders.” General controls include environmental surveillance, medical clearance and counseling by a healthcare provider, training, acclimatization planning, fluid replacement, symptom monitoring, breaks in the shade, and an emergency response plan. Job specific controls include engineering controls (*e.g.*, air movement, shade, radiant heat shields), administrative controls (*e.g.*, limiting exposure time and allowing for enough recovery time), personal cooling, and physiological monitoring.

In 2024, the American National Standards Institute/American Society of Safety Professionals A10 Committee (ANSI/ASSP) released the American National Standard A10.50 Standard for Heat Stress Management in Construction and Demolition Operations. The voluntary consensus standard “establishes procedures for the management of heat stress hazards and the selection and use of appropriate controls and practices to reduce risks presented by heat stress and prevention of heat illnesses for all work environments.” The standard recommends that employers develop and implement the following: heat

stress management program; acclimatization plan; workplace surveillance/risk assessment; provision of water and sodium electrolyte supplements; provision of rest breaks and shaded break locations; buddy system; first aid and emergency action plan; medical surveillance; employee participation; implementation of heat stress controls including engineering controls such as air-conditioning, radiant heat control (barrier), convection controls (cooling), evaporative controls such as misting fans, and metabolic controls (*e.g.*, mechanical equipment or tools to reduce metabolic demands of work tasks); administrative controls such as scheduling for cooler times and allowing self-paced work; personal protective equipment; and training on heat illness prevention (ANSI/ASSP, 2024). More specific recommendations (*e.g.*, frequency of rest breaks; monitoring employees) are provided when certain triggers are exceeded.

In 2021, the American Society for Testing and Materials (ASTM) finalized its Standard Guide for Managing Heat Stress and Heat Strain in Foundries (E3279–21) which establishes “best practices for recognizing and managing occupational heat stress and heat strain in foundry environments.” The standard outlines employer responsibilities and recommends elements for a ‘Heat Stress and Heat Strain Management Program.’ Employer responsibilities include evaluating temperature and issuing heat alerts; ensuring control measures are in place; and reviewing heat exposure incidents to implement corrective actions. Program elements include worker preparation (*i.e.*, only assigning workers to tasks involving heat exposure “who are prepared for work in those environments and can tolerate the heat exposure associated with the assignments”) and workplace and work preparation (*i.e.*, implementing controls that reduce heat stress through process heat emission control and ventilation of work areas, adjusting work schedules, providing heat relief crews (*e.g.*, crew rotation), providing personal protective equipment, employing personal and portable cooling devices, providing readily available water, and providing cooled location for work break) (ASTM, 2021). The standard also recommends employers and workers monitor heat strain and establish emergency response protocols.

C. Conclusion on Governmental and Non-Governmental Recommendations

In closing, a number of governmental and non-governmental groups have either promulgated regulations or published recommendations for

protecting workers from HRI. Many of those regulations or recommendations contain components that are consistent with protections in the proposed rule, including plans to prevent heat stress, rest breaks in shaded or cooled areas, cool drinking water, ventilation or cooling methods (*e.g.*, fans exhaust), acclimatization, observation of symptoms in workers, environmental monitoring, and emergency response procedures. Many of these protections have been recognized for decades as being effective in reducing the risk of HRI in workers. This shows that OSHA’s proposal continues to reflect the growing consensus that HRIs can be avoided or minimized when employers address conditions that have been shown to increase the risk of HRI and incorporate these protections as part of a program that is tailored to each workplace.

VI. Conclusion

OSHA reviewed a number of studies that provided quantitative evidence of the effectiveness of multi-component interventions in reducing heat-related illness or HRI; the results of those studies are summarized in table V–3 above. Studies among Texas municipality employees show that a multi-component intervention approach reduced HRI claims by 37 to 96 percent compared to pre-intervention levels, depending on the period of intervention and the types of interventions applied (McCarthy et al., 2019; Perkison et al., 2024). Implementation of multi-component interventions in military studies resulted in slightly lower reductions in HRI from pre- to post-intervention (54–95 percent), again depending on the types of interventions applied in different implementation periods (Kerstein et al., 1986; Minard, 1961; Stonehill and Keil, 1961).

OSHA acknowledges that several of the interventions implemented among the Texas municipality employees and military personnel differ from the interventions in the proposed standard. However, interventions focusing on water, rest, and shade among sugar cane employees in El Salvador resulted in similar reductions for several common (*i.e.*, occurring in 30% or more of employees pre-intervention) symptoms of heat-related illness (*e.g.*, 45% reduction in cramps, 46% reduction in very dry mouth, 49% reduction in very little urine, 62% reduction for exhaustion, 66% reduction for nausea, 76% reduction for feeling feverish) (Bodin et al., 2016; communication with David Wegman, November 2023). Because of the small number of workers completing the study (n=41), results

regarding less common symptoms (reported in less than 15% of workers pre-intervention) are more uncertain, but Bodin et al. reported a decrease in fainting and no incidents of diarrhea or disorientation after the interventions were implemented. Therefore, the study by Bodin et al. (2016) supports the finding that a multi-intervention approach that includes several interventions in common with the proposed standard is likely to result in substantial reductions in HRI symptoms.

Despite several limitations that were acknowledged for these multi-intervention studies, the results for all are of a large magnitude and consistently show effectiveness for multi-component interventions in preventing HRIs. In addition, the results are mechanistically supported by experimental studies showing the effectiveness of individual interventions in preventing signs and symptoms related to heat strain. OSHA finds the studies looking at multi-component approaches to be more relevant for looking at quantitative reductions in HRI because each individual component would contribute to the overall effect.

In addition to studies showing effectiveness of multi-component interventions in preventing HRIs, two studies also show that effective treatments are available to prevent death if heat stroke does occur. As reported in more detail under the *Explanation of Proposed Requirements for paragraph (g)(3), Heat illness and emergency response and planning*, studies examining the effectiveness of treating individuals suffering from exertional heat stroke reported 99.8% survival in military personnel treated with ice sheets (bed sheets soaked in water) (DeGroot et al., 2023) and 100% survival in marathon runners doused with cold water and massaged with ice bags (McDermott et al., 2009a).

OSHA preliminarily finds that the totality of the evidence reviewed supports that the approach outlined in the proposed standard, which consists of a heat injury and illness prevention plan and the application of multiple control measures, will result in a substantial reduction in HRIs (range: 37–96%) and heat-related fatalities (range: 99.8–100%) in employees who would be covered under the proposed standard.

VII. Requests for Comments

For the controls proposed, OSHA requests information and comment on the following questions and requests that stakeholders provide any relevant data, information, or additional studies

(or citations) supporting their view, and explain the reasoning or recommendations for including such studies:

- OSHA recognizes that a number of States (e.g., California, Oregon, Washington) have implemented standards to prevent HRIs and heat-related fatalities among workers. OSHA is aware that there are existing and emerging data on the efficacy of the State standards in preventing and reducing HRIs and heat-related fatalities. OSHA welcomes proposed analytical methods or analyses of existing data (see e.g., discussion in V.A., Risk Assessment of existing data sources, [www.dir.ca.gov/dosh/reports/State-OSHA-Annual-Report-\(SOAR\)-FY-2022.pdf](http://www.dir.ca.gov/dosh/reports/State-OSHA-Annual-Report-(SOAR)-FY-2022.pdf)) or unpublished data that may be used to estimate the effects of these State standards on heat-related injury, illness, and fatality rates among workers. OSHA is also interested in comments on how to account for the differences (some of which are significant) between the State standards and OSHA's proposed standard in estimating efficacy of OSHA's proposed standard. Are there studies, data, or other evidence that demonstrate the efficacy of and/or describe employers' or workers' experiences with these heat-specific State standards?

- Has OSHA adequately identified and documented the studies and other information relevant to its conclusion regarding the effectiveness of these controls in reducing heat strain and the risk of HRIs, and are there additional studies OSHA should consider?

- Are there additional studies or evidence available that identify appropriate frequencies and durations of rest breaks for reducing heat strain and risk of HRIs?

- Are OSHA's conclusions about the effectiveness of controls in preventing HRI reasonable?

VI. Significance of Risk

As explained in Section II., Pertinent Legal Authority, prior to the issuance of a new standard, OSHA must make a threshold finding that a significant risk of material harm exists, and that issuance of the new standard will substantially reduce that risk.

In Section IV., Health Effects, OSHA presents data and information demonstrating the range of heat-related injuries and illnesses (HRIs) that can be caused by occupational exposure to heat. This discussion demonstrates that HRIs often result in material harm, as they are potentially disabling, can result in lost work time, require medical treatment or restricted work, and in certain cases, can lead to death. In

Section V., Risk Assessment, OSHA presents the best available evidence on the risk of incurring these heat-related material health impairments among workers in the U.S., which clearly demonstrates that there exists a significant risk of material harm to workers from occupational exposure to heat. As OSHA's analysis of BLS data shows, there was an average of 40 heat-related deaths (2011–2022) and 3,389 HRIs involving days away from work (2011–2020) among U.S. workers per year. Additionally, based on OSHA's review of workers' compensation claim data, OSHA found that workers in sectors and industries where they are likely exposed to heat in their job (and therefore are more likely to be covered by this standard) have far higher estimated incidence of HRI than the national average, indicating that the risk to heat-exposed workers is much higher than nationwide data suggests. Furthermore, both the annual and working lifetime incidence rates underestimate the true risk for heat-exposed workers given underreporting of workplace injuries and illnesses. Thus, as explained in sections A and B below, OSHA preliminarily determines that a significant risk of material harm from occupational exposure to hazardous heat exists, and issuance of this standard would substantially reduce that risk.

A. Material Harm

As discussed in Section IV., Health Effects, the risks posed by exposure to workplace heat hazards are significant and can result in serious HRIs or even death. As discussed in Section IV.B., General Mechanisms of Heat-Related Health Effects, heat stress can result in increased core body temperature and blood flow being shunted towards the skin and away from major organs (e.g., brain, liver, kidneys) and muscles. Sweating, which is a healthy and normal response to heat stress, can also contribute to a reduction in circulating blood volume if fluids are not adequately replaced. This increase in core body temperature and reduced blood flow can lead to health effects like heat stroke, heat exhaustion, heat syncope, and rhabdomyolysis. If not treated promptly, heat stroke can cause permanent organ damage and lead to death. Treatment often requires hospitalization and time away from work (see discussion in Section IV.E., Heat Stroke). Other health effects, such as heat exhaustion, may also require time away from work if recommended by a medical professional. Many heat-related health effects, such as heat cramps and heat exhaustion, can impair

a worker's functional capacity while on the job. Heat syncope can pose additional dangers to workers if they are in precarious work environments, such as on rooftops or while operating machinery. Heat exhaustion can also rapidly progress to heat stroke if not recognized and treated early. As discussed in Section IV.P., Heat-Related Injuries, heat-induced impairments in functional capacity on the job can lead to traumatic injuries, which are more likely to occur on hot days.

The studies that OSHA relied on in Section V.A., Risk Assessment leverage data from multiple surveillance databases (e.g., BLS SOII, workers' compensation claims databases, and hospital discharge data) that have inclusion criteria that OSHA preliminarily concludes would clearly indicate that captured cases of HRIs represent material impairment of health. For example, the estimated number of work-related HRIs reported in the BLS SOII capture only those that involved days away from work (*Note:* For 2021–2022 biennial data, SOII additionally reports cases involving job restriction or transfer). Similarly, hospital discharge datasets would represent only cases that involved an emergency department visit and/or inpatient hospitalization. While workers' compensation eligibility varies, all of the claims would involve either a visit with a medical professional and/or lost worktime. HRIs resulting in lost work time and/or the need for medical care beyond first aid clearly constitute material harm.

However, HRIs constituting material harm are not limited to those rising to the level of lost work time and/or the need to seek care from a medical professional. Based on the evidence discussed in this and other sections of this preamble, OSHA has preliminarily concluded that many of the HRIs associated with workplace exposure to heat hazards constitute material harm, even if they are not captured in the databases OSHA relied on in its risk assessment. OSHA recognizes that many of these HRIs may be reversible, particularly if early intervention is provided. Nonetheless, OSHA presents evidence in Section IV., Health Effects that these HRIs can be debilitating. In addition to lost work time and the need for treatment by a medical professional, HRIs can cause reduction or loss of the worker's normal functional capacity in work tasks and loss of productivity. Additionally, where preventive action or early treatment is not provided, these disorders can rapidly progress to more serious conditions, and have the potential to result in permanent damage to organs, causing short-, medium-, and

long-term health effects, or death. Thus, while some of the health effects OSHA has identified may not rise to the level of material harm in all cases, the agency believes that each can be material in severe cases.

B. Significant Risk

Peer-reviewed studies and State or national statistics are available to demonstrate the high incidence of work-related HRIs occurring among workers exposed to heat hazards at work. Estimates of the risk of harm confronting exposed workers can be based directly on the rates of work-related HRIs currently being reported.

In Section V.A., Risk Assessment, of this preamble, OSHA evaluated the risk to workers of a heat-related injury, illness, or fatality. OSHA's analysis of BLS data indicated an annual average of 40 heat-related deaths (2011–2022) and 3,389 HRIs involving days away from work (2011–2020) among U.S. workers. These annual heat-related death and HRI numbers alone clearly constitute a significant risk and are in line with OSHA's significant risk findings in previous safety standards (see, e.g., Confined Spaces in Construction, 80 FR 25366, 25371 (May 4, 2014); Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment, 79 FR 20316, 20321–20322 (April 11, 2014); Cranes and Derricks in Construction, 75 FR 47906, 47913 (Aug. 9, 2010)). However, as discussed in Section V.A., Risk Assessment, many of the sources that OSHA reviewed reported HRI data in terms of incidence rates, and OSHA has considered these rates in assessing significant risk, to the extent they capture populations that are actually exposed to hazardous occupational heat.

Unfortunately, the available data is insufficient to precisely estimate the risk to only workers who are exposed to hazardous occupational heat. But by examining incidence estimates derived from various datasets, including State workers' compensation systems, OSHA was able to determine a range of HRI incidence rates among workplaces where employees are likely to be exposed to heat in their job. In Section V.A., Risk Assessment, OSHA identified various sector incidence estimates of HRI over a working lifetime (i.e., 45 years), including: 234 to 1,737 cases per 100,000 workers in agriculture, forestry, fishing, and hunting; 63 to 545 cases per 100,000 workers in construction; 131 to 396 cases per 100,000 workers in administrative and support and waste management and remediation services; 49.5 to 171 cases per 100,000 workers in transportation and warehousing; and

513 cases per 100,000 workers in utilities, among others. The working lifetime incident rates were even higher in specific industries, such as an estimated 3,479 cases of HRI per 100,000 workers for farm labor contractors and crew leaders and 2,439 cases per 100,000 structural steel and precast concrete workers over a working lifetime of 45 years (see Section V. A., Risk Assessment, table V–1). OSHA preliminarily concludes that these incidence rates, though as explained below substantially underestimate actual risk, are the best available evidence and sufficient to make a finding of significant risk of HRIs among workers who are exposed to occupational heat.

While the data are not sufficient to develop a single point estimate of the risk posed to heat-exposed workers, OSHA has preliminarily determined that the available data from BLS and workers' compensation claims support an estimate of working lifetime risk of HRI ranging from 135 cases per 100,000 workers (calculated based on the BLS average estimated annual incidence of HRIs for all workers for 2011–2020) to 3,479 cases per 100,000 workers (based on workers' compensation claims). Even the lowest estimate within this range exceeds the 1/1000 threshold that OSHA has historically found to clearly constitute a significant risk.

As noted above, OSHA believes that these data from BLS and workers' compensation claims substantially understate the true risk to workers. For one, the inclusion criteria for the surveillance systems used to estimate incidence would exclude a large proportion of HRI cases. For instance, prior to this year, the BLS SOII only reported the estimated number of HRIs that involved days away from work, which may be less than 50% of all OSHA-recordable work-related HRIs (see, e.g., BLS, IIF Latest Numbers for 2022, <https://www.bls.gov/iif/latest-numbers.htm>). Additionally, the majority of incidence estimates identified by OSHA are based on the risk of HRIs confronting an entire working population (e.g., all workers in a particular industry or sector), both exposed and non-exposed. Clearly, the risk of experiencing a work-related HRI is considerably higher among the subset of workers exposed to heat hazards in their jobs than it is for the rest of the working population. For example, the annual BLS incidence estimates are susceptible to understating risk in this way because when BLS calculates annual incidence estimates, it captures the entire U.S. workforce in the denominator, which includes a large

number of unexposed workers (*e.g.*, office workers in climate-controlled buildings). Consequently, the working lifetime risk of HRI estimate based on BLS's annual incidence estimates (*i.e.*, 135 cases per 100,000 workers), also substantially underestimates the true risk for heat-exposed workers. There is also a large body of literature demonstrating the general underreporting of work-related injuries and illnesses, the findings of which OSHA believes would also apply to HRIs. See Section V.A., Risk Assessment, for additional discussion of underreporting of heat-related fatalities and HRIs.

As discussed in Section V.C., Risk Reduction, dozens of peer-reviewed studies and multiple authoritative bodies (*e.g.*, NIOSH, ACGIH, ANSI/ASSP) indicate that the provisions outlined in this proposed rule would, if promulgated, substantially reduce risk to workers. A large body of data demonstrates that workplace interventions—such as rest breaks, cool drinking water, acclimatization, shade, and fans—can be very effective in reducing heat strain, which is responsible for causing HRIs. This reduction in heat strain and/or reduction in HRI risk has been shown in studies that have examined the impact of interventions in an experimental setting, as well as studies that have documented reductions in HRI prevalence following the implementation of heat injury and illness prevention measures. OSHA preliminarily concludes that implementation of the proposed standard will result in a substantial reduction in HRIs (range of estimates: 37–96%) and heat-related fatalities (range of estimates: 99.8–100%) in employees who would be covered under the proposed standard.

C. Preliminary Conclusions

OSHA preliminarily concludes that HRIs associated with workplace exposure to heat hazards constitute material harm. Further, based on the evidence discussed in this section, the agency preliminarily concludes that heat-exposed workers are at significant risk of experiencing a work-related HRI or heat-related death, and compliance with the proposed standard would substantially reduce that risk.

VII. Explanation of Proposed Requirements

A. Paragraph (a) Scope and Application

Paragraph (a) establishes the scope of the proposed standard. Paragraph (a)(1) would require all employers subject to

OSHA's jurisdiction—including general industry, construction, maritime, and agriculture—to comply with the proposed requirements, subject to the exemptions in proposed paragraphs (a)(2) and (3). The scope of the proposed standard applies to a wide range of sectors that include both indoor and outdoor work areas. The proposed standard aims to provide protections while accounting for the different work areas, anticipated exposures, and other conditions in these sectors.

Paragraph (a)(2) describes the exemptions for the proposed standard based on work activities. Employers would be responsible for determining which work activities are covered by the standard. Although an employer may have some work activities exempt from the proposed standard, other activities may be covered (except for organizations whose primary function is the performance of firefighting. See the discussion of paragraph (a)(2)(iii) below). Under paragraph (a)(3), if an employer's employees exclusively perform the work activities in paragraphs (a)(2)(i) through (vi), then that employer would be exempt from this proposed standard.

Paragraph (a)(2)(i) would exclude work activities for which there is no reasonable expectation of exposure at or above the initial heat trigger. This exception recognizes that some workplaces would not reasonably be expected to reach or exceed the initial heat trigger (*e.g.*, because of their location and/or seasonal variations in temperature). This exclusion may apply to work activities such as operating seasonal businesses outdoors (*e.g.*, during winter months), when temperatures are lower than the initial heat trigger. For instance, if a business that exclusively operates an outdoor holiday market during the winter season in a location where daily high temperatures are always below the initial heat trigger, this standard would not apply to work activities performed at that market.

Paragraph (a)(2)(ii) would exclude short duration employee exposures at or above the initial heat trigger of 15 minutes or less in any 60-minute period. OSHA has preliminarily concluded that intermittent exposures within this duration are not likely to significantly raise core body temperature and result in heat-related injuries and illnesses (HRIs). Numerous studies (many described in Section V.C., Risk Reduction) evaluated the effect of hotter temperatures on participants' core body temperatures under various scenarios (*e.g.*, clothing type, level of activity, work/rest periods, acclimatization

status) of different durations. Overall, evidence suggests that heat exposure of 15 minutes or less does not tend to cause an elevation of at least 1 °C (1.8 °F) in participants' core body temperatures, which would be indicative of potential heat stress (McLellan & Selkirk, 2006; Meade et al., 2016b; Lamarche et al., 2017; Seo et al., 2019; Kaltsatou et al., 2020; Notley et al., 2022a; Notley et al., 2022b).

This exemption recognizes that while typical work activities may take place below the initial heat trigger, employees may experience short exposures to heat at various times during their shift. For example, an employer who is otherwise exempt from the standard but has employees who occasionally walk to collect mail outside in temperatures at or above the initial heat trigger for 15 minutes or less in any 60-minute period, would still be exempt. This exemption is consistent with the scope exemptions of Colorado, Washington, and Oregon's State standards (7 Colo. Code Regs. section 1103–15:3 (2023); Wash. Admin. Code 296–307–09710 (2023); Or. Admin. R. 437–002–0156 (2024)).

In addition, in order for this exemption to apply for employees whose work activities are primarily performed in air-conditioned vehicles, employers must ensure employees are not exposed to temperatures at or above the initial heat trigger for more than 15 minutes in any 60-minute period. For instance, where an employee who drives an air-conditioned vehicle repeatedly exits the vehicle to deliver product in temperatures at or above the initial heat trigger, this activity would only be exempt from the standard if cumulative exposure in any 60-minute period at or above the initial heat trigger is for 15 minutes or less. If delivery tasks, such as unloading product from the vehicle and moving product to its destination, occur at or above the initial heat trigger for more than 15 minutes in any 60-minute period, these work activities would be covered by the standard.

Paragraph (a)(2)(iii) would exclude organizations whose primary function is the performance of firefighting. It would also exclude emergency response activities of workplace emergency response teams, emergency medical services (EMS), or technical search and rescue;⁴ and any emergency response

⁴ “Technical search and rescue” refers to a type of emergency service that utilizes special knowledge and skills and specialized equipment to resolve unique or complex search and rescue situations, such as rope rescue, vehicle/machinery rescue, structural collapse, trenches, and technical water rescue. OSHA intends the phrase to have the

activities already covered under 29 CFR 1910.120, 1910.146, 1910.156, part 1915, subpart P, 1926.65, and 1926.1211. Fire departments, workplace emergency response teams, EMS, and technical search and rescue are covered by OSHA's proposed Emergency Response standard (89 FR 7774, Feb. 5, 2024), which would replace the existing Fire Brigades standard, 29 CFR 1910.156. The update to 29 CFR 1910.156 would expand coverage from only fire brigades, industrial fire departments, and private or contractual type fire departments, to include protections for all employees who perform firefighting, EMS, or technical search and rescue, as part of their regularly assigned duties as well as employees who are members of a workplace emergency response team. If the Emergency Response standard is finalized before this proposed standard, OSHA intends to revise this exemption to reflect the updated 29 CFR 1910.156.

The exemption would apply to all activities (including, *e.g.*, training activities) at organizations whose primary function is the performance of firefighting. In order to comply with the proposed updates to 29 CFR 1910.156, firefighting organizations would have programs in place that address heat-related hazards for their employees.

For employers with employees who perform emergency response activities as members of workplace emergency response teams (*i.e.*, groups of employees who prepare for and respond to emergency incidents at their workplace as a collateral duty to their regular daily work assignments; see 89 FR at 7803), or who perform emergency medical services or technical search and rescue, this exemption would only apply when employees are performing emergency response activities. This means during periods while these employees are performing other duties unrelated to emergency response, employers would be required to comply with the provisions of the standard, unless subject to another exemption. For example, employees who are part of a manufacturing plant's emergency response team would be exempt from the standard while responding to an incident, such as a medical emergency, but would be covered by the standard when performing their regular daily work assignments. All other employees not engaged in emergency response would also be covered by this proposed standard. Although OSHA is proposing to exempt fire departments entirely, the agency is not proposing to entirely

exempt organizations that have employees who perform EMS or technical search and rescue. This is because many organizations who perform EMS (*e.g.*, hospitals) or technical search and rescue also conduct many other activities unrelated to emergency response and OSHA intends these other activities to be covered by this proposed standard unless another exemption applies.

The Emergency Response proposal includes several hazard assessment and risk management requirements that would encompass heat hazards faced by emergency responders (see 89 FR at 7813–7814). Further, in the NPRM for Emergency Response, OSHA noted this rulemaking on heat illness prevention and invited comment on whether the agency should include specific requirements related to heat for some non-emergency activities of emergency responders. At the same time, the agency recognized that at times emergency responders must perform their duties regardless of environmental conditions (89 FR at 7801). OSHA has preliminarily concluded that it is appropriate to address any heat-related hazards posed by emergency response activities in this separate rulemaking.

This proposed standard would also not apply to employees when they are undertaking emergency response activities under 29 CFR 1910.120, 1910.146, 1910.156, subpart P, 1926.65, and 1926.1211. Many of these standards provide employees protection from heat exposure during emergency activities. In addition, OSHA believes that the emergency nature of these activities warrant special consideration and the agency is therefore exempting them from this proposed standard. However, this proposed standard would otherwise apply to these employees during non-emergency regular operations unless another exemption applies. For example, with regard to the Hazardous Waste Operations and Emergency Response Standard (HAZWOPER) (29 CFR 1910.120 and 1926.65), which covers employees who are exposed or potentially exposed to hazardous substances and engaged in one of the operations as specified by 29 CFR 1910.120(a)(1)(i) through (v) and 1926.65(a)(1)(i) through (v), such as clean-up operations, employees would only be exempt when responding to emergency situations and would be covered by the standard when participating in general hazardous waste operations.

Paragraph (a)(2)(iv) would exclude work activities performed in indoor work areas or vehicles where air-conditioning consistently keeps the

ambient temperature below 80 °F. OSHA specifies using ambient temperature, as most heating, ventilation, and air-conditioning (HVAC) systems automatically report ambient temperature. Properly functioning HVAC units also regulate indoor humidity levels, which would result in similar measures of ambient temperature and heat index.

This exemption would only apply to indoor work areas and vehicles that are consistently below an ambient temperature of 80 °F. The employer must ensure that the air-conditioning system consistently maintains an ambient temperature below 80 °F during work activities for the exemption to apply. OSHA recognizes that there may be unexpected malfunctions of air-conditioning systems that result in periods of time without air-conditioning before a system is repaired. In these situations, OSHA would expect that the employer takes steps to expeditiously repair the air-conditioning system and return the workplace to an ambient temperature below 80 °F.

Paragraph (a)(2)(v) would exclude telework (*i.e.*, work done from home or another remote location of the employee's choosing). OSHA generally does not hold employers liable for employees' home offices and conditions of the telework environment (see CPL 02-00-125, available at <https://www.osha.gov/enforcement/directives/cpl-02-00-125>). However, only the work activities employees perform while teleworking would be exempt and employers would be required to comply with the standard when employees are on site if other exemptions do not apply. For example, the standard would not cover work activities conducted at an employee's home on Tuesdays and Thursdays in a given week but would cover the employee's work activities at their employer's office on Mondays, Wednesdays, and Fridays (unless another exemption applies).

Paragraph (a)(2)(vi) would exclude sedentary work activities at indoor work areas that only involve some combination of the following: sitting, occasional standing and walking for brief periods of time, and occasional lifting of objects weighing less than 10 pounds. The exemption is intended to apply to work sites such as offices where employees perform sedentary work activities for extended periods of time (*e.g.*, all or most of the workday). This exemption only applies to indoor work activities, which are not generally subject to factors such as solar radiation, which are common in outdoor exposures. OSHA preliminarily concludes that employees engaged in

same meaning as used in the proposed Emergency Response standard (see 89 FR 7804).

indoor sedentary work activities are at lower risk of heat-related injury and illness, as production of metabolic heat is not substantially elevated. Experimental studies of groups exposed to heat (111.4 °F (44 °C), 30% relative humidity) while resting in a seated position indicate core body temperature does not rise more than 1 °C (1.8 °F) over multiple hours (Kenny et al., 2017; Notley et al., 2020). In addition to sitting, the exemption allows for indoor work activities to include occasional standing and walking for brief periods of time, and occasional lifting of objects weighing less than 10 pounds. When using the term “occasional” OSHA means up to one-third of the workday (BLS, 2021), however these activities could only be performed for brief periods of time over the course of the day for the exemption to apply. For example, work activities performed at a desk indoors, where the employee is seated and performing computer work for the majority of their shift, but with occasional standing, as well as walking short distances (e.g., to use the photocopier, to collect office mail), would be exempt from the standard.

In addition, this exemption would apply to indoor operation of vehicles while seated. For example, operation of a forklift inside of a warehouse while seated would be considered an indoor sedentary work activity and would be exempt. However, if a forklift operator’s duties involved loading and unloading heavy objects (greater than 10 pounds), they would not be exempt from the standard. Other examples of activities that would be exempt include indoor operation of reach trucks, tow trucks, pallet trucks, golf carts, and other vehicles where employees are seated.

This exemption would apply where employees are engaged in sedentary work activities regardless of indoor temperature. While employees performing these activities are likely at lower risk of experiencing heat-related injury and illness, OSHA seeks comment as to whether the sedentary work activities exemption should be limited to work activities performed in indoor environments below a specified threshold temperature (e.g., the high heat trigger) or whether this exemption should account for certain workplace conditions. For example, should this exemption cover an employer with employees who meet the criteria in this proposed exemption, but whose work area is near a heat generating process and impacted by radiant heat?

Paragraph (a)(3) specifies that employers whose employees all exclusively perform activities described in paragraphs (a)(2)(i) through (vi) are

exempt from this standard. Employers may have employees who would be exempt from the standard (e.g., employees working indoors where air-conditioning consistently keeps the ambient temperature below 80 °F), as well as employees who would be covered by the standard (e.g., employees harvesting produce outdoors). These employers would be required to comply with the provisions of the standard for the employees who perform work activities that are covered by the standard. However, some employers may only have employees that exclusively perform work activities that are exempt from the proposed standard. For example, an employer with employees who all either telework from home or other locations of their choosing or work inside a building with air-conditioning that consistently keeps the ambient temperature below 80 °F would be exempt from the standard.

I. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether any of the proposed exclusions of emergency response activities already covered under the standards listed in proposed paragraph (a)(2)(iii) should be covered by this proposed standard. If so, provide evidence and describe reason for why these activities should not be excluded;
- Where an employer relies on the exemption in proposed paragraph (a)(2)(iv) to exclude work activities performed in indoor work areas or vehicles where air-conditioning consistently keeps the ambient temperature below 80 °F, whether the standard should address situations where the air-conditioning system does not function properly and the ambient temperature reaches or exceeds 80 °F; for example, should certain requirements of the standard apply in this scenario? Additionally, whether the standard should specify how long the air-conditioning system can be out of order before the exemption no longer applies;
- Whether the description of sedentary work in the proposed standard is appropriate, and if not, what revisions would be appropriate;
- Whether the standard should exempt all sedentary work activities indoors or limit the exemption to only activities performed below an upper limit (e.g., below the high heat trigger) at or above which the exemption would no longer apply, and if so, what the upper limit should be and what evidence exists demonstrating that even sedentary work performed indoors can

be a hazard to workers at or above that limit; and

- Whether the exemption for sedentary work activities should be expanded to include work performed outdoors.

B. Paragraph (b) Definitions

Paragraph (b) defines several terms used in the proposed standard. First, it defines *Acclimatization* to mean the body’s adaptation to work in the heat as a person is exposed to heat gradually over time, which reduces the strain caused by heat stress and enables a person to work with less chance of heat illness or injury.

Section V.C., Risk Reduction contains more information on effectiveness of acclimatization. This definition is included because paragraph (e)(7) of the proposed standard establishes requirements to protect new and returning employees who are not acclimatized. Proposed paragraph (e)(7) requires that employers implement one of two acclimatization protocols for new and returning employees when the initial heat trigger is met or exceeded. Under paragraph (j), employers must implement acclimatization protocols at no cost to the employee. In addition, proposed paragraph (h)(1)(iii) requires that employees be trained that lack of acclimatization is a risk factor for HRI.

Ambient temperature means the temperature of the air surrounding a body. Other terms for ambient temperature include “air temperature” or “dry bulb temperature.” Ambient temperature is measured by a standard thermometer and often what people refer to when using the term “temperature.” Ambient temperature is defined because it is used in the definitions for *heat index* and *wet bulb globe temperature*, in addition to proposed paragraphs (a) *Scope and application*, (d) *Identifying heat hazards*, (e) *Requirements at or above the initial heat trigger*, and (f) *Requirements at or above the high heat trigger*.

Cooling personal protective equipment (PPE) means equipment that is worn to protect the user against heat-related injury or illness. This definition is included to clarify the requirement under proposed paragraph (e)(1) that if the employer provides employees with cooling PPE, the cooling properties must be maintained during use.

Cooling PPE is gear designed to help maintain a safe body temperature for individuals working in hot environments or engaged in physically demanding activities. Cooling PPE typically employs various technologies to facilitate heat dissipation and

enhance comfort, such as water absorption crystals or phase change materials (PCM) which draw heat away from the wearer. Cooling bandanas and neck wraps are worn around the neck and can be soaked in cold water. Additionally, other types of clothing may incorporate materials that have cooling properties.

Heat index means the National Weather Service heat index, which combines ambient temperature and humidity. It provides a number that can be used to indicate how hot it feels. There are several tools for measuring heat index in both indoor and outdoor work areas. For outdoor work areas, the OSHA–NIOSH Heat Safety Tool app and other phone-based weather apps can be used to show the heat index by location as well as hourly forecasts. For indoor work areas, employers can enter measurements of humidity and ambient temperature into the NOAA Heat Index Calculator. There are also monitoring devices that report heat index. *Heat index* is defined because the term is used in definitions of *high heat trigger* and *initial heat trigger*. The term is also used in proposed paragraphs (c) *Heat injury and illness prevention plan*, (d) *Identifying heat hazards*, and (e) *Requirements at or above the initial heat trigger*.

High heat trigger means a heat index of 90 °F or a wet bulb globe temperature (WBGT) equal to the NIOSH Recommended Exposure Limit. See explanations for the definitions of *wet bulb globe temperature (WBGT)* and *Recommended Exposure Limit (REL)* for more information about those terms. OSHA is including a definition for high heat trigger because exposures at or above the high heat trigger would require the implementation of a number of controls, in addition to the controls that would be implemented under the initial heat trigger in proposed paragraph (e). The controls implemented under the initial heat trigger are described below under the definition for *Initial Heat Trigger*. The additional controls that would be implemented under the high heat trigger under proposed paragraph (f) include required rest breaks, observation for signs and symptoms, hazard alerts, and warning signs for excessively high heat areas. See Section VII.F., Explanation of Proposed Requirements for more information on these controls. The scientific basis supporting the establishment of the high heat trigger at a heat index of 90 °F or a WBGT equal to the NIOSH REL is explained in Section V.B., Basis for Initial and High Heat Triggers.

Indoor/indoors means an area under a ceiling or overhead covering that restricts airflow and has along its entire perimeter walls, doors, windows, dividers, or other physical barriers that restrict airflow, whether open or closed. Possible examples for indoors include work in a garage, even if the garage door is open; the interior of a warehouse, even if multiple doors are open on loading docks; and a shed with four walls and a ceiling, even if the windows are open. Construction activity is considered to be work in an indoor environment when performed inside a structure after the outside walls and roof are erected. This definition is included because the term is used in definitions for *outdoor/outdoors*, and proposed paragraphs (a) *Scope and application*, (d) *Identifying heat hazards*, (e) *Requirements at or above the initial heat trigger*, (f) *Requirements at or above the high heat trigger*, and (i) *Recordkeeping*.

Initial heat trigger means a heat index of 80 °F or a WBGT equal to the NIOSH Recommended Alert Limit (RAL). See explanations for the definitions of *wet bulb globe temperature (WBGT)* and *Recommended Alert Limit (RAL)* for more information about those terms. OSHA is including a definition for *initial heat trigger* because exposures at or above the initial heat trigger would require the implementation of a number of controls under proposed paragraph (e), including requirements for drinking water, break area(s) for indoor and outdoor work sites, indoor work area controls, acclimatization of new and returning employees, rest breaks if needed to prevent overheating, effective communication, and maintenance of PPE cooling properties if PPE is provided. See Section VII.E., Explanation of Proposed Requirements for more information on these controls. The scientific basis supporting the establishment of the initial heat trigger at a heat index of 80 °F or a wet bulb globe temperature (WBGT) equal to the NIOSH RAL is explained in detail in Section V.B., Basis for Initial and High Heat Triggers.

Outdoor/outdoors means an area that is not indoors, as defined above. The definition also specifies that vehicles operated outdoors are considered outdoor work areas for purposes of this standard unless exempted by paragraph (a)(2). Examples of outdoor work include tasks performed in agricultural fields and under canopies and pavilions. This term is defined because it is used in proposed paragraphs (d) *Identifying heat hazards*, (e) *Requirements at or above the initial heat trigger*, and (h) *Training*.

Radiant heat means heat transferred by electromagnetic waves between surfaces. This definition further notes that sources of radiant heat include the sun, hot objects, hot liquids, hot surfaces, and fire.

Radiant heat is transferred from a hotter object to a cooler object. The transfer of radiant heat can occur across distances and does not require objects to touch each other. Infrared radiation is a common source of radiant heat that is encountered in foundries, and in iron, steel, and glass industries (NIOSH, 2016). Sources of exposure to radiant heat in the workplace can include furnaces, ovens, and combustion. *Radiant heat* is defined because it is included in the definition for *wet bulb globe temperature (WBGT)* and is used in paragraph (e) *Requirements at or above the initial heat trigger*.

Recommended Alert Limit (RAL) means the NIOSH-recommended heat stress alert limits for unacclimatized workers. OSHA is proposing to incorporate by reference NIOSH Publication No. 2016–106 Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments (NIOSH, 2016). OSHA is including a definition for RAL because the initial heat trigger incorporates the NIOSH RAL. Thus, several provisions of the standard are triggered by either a heat index of 80 °F or a wet bulb globe temperature (WBGT) equal to the NIOSH RAL. See *Explanation of Proposed Requirements for Definitions (initial heat trigger, wet bulb globe temperature)* and proposed paragraph (e), *Requirements at or above the Initial heat trigger* for more details.

NIOSH (2016) developed the RAL to protect most healthy non-acclimatized employees from adverse effects of heat stress and recommends that total heat exposure for non-acclimatized employees be controlled to maintain combinations of environmental and metabolic heat below the applicable RAL in order to maintain thermal equilibrium. Environmental exposures are based on WBGT, which accounts for the contributions of ambient temperature, radiant heat, humidity, and wind speed. Metabolic heat production is estimated by workload. The RAL assumes employees are wearing “the conventional one-layer work clothing ensemble,” but NIOSH provides guidance for adjusting the WBGT based on the types of clothing or PPE worn. The formula for calculating the RAL is: $RAL [^{\circ}C - WBGT] = 59.9 - 14.1 \log_{10}M[W]$, where M is metabolic rate in watts (W).

Recommended Exposure Limit (REL) means the NIOSH-recommended heat

stress exposure limits for acclimatized workers. OSHA is proposing to incorporate by reference NIOSH Publication No. 2016–106 Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments (NIOSH, 2016). OSHA is including a definition for REL because the high heat trigger incorporates the NIOSH REL. Thus, several provisions of the standard are triggered by either a heat index of 90 °F or a wet bulb globe temperature (WBGT) equal to the NIOSH REL. See *Explanation of Proposed Requirements for Definitions (high heat trigger, wet bulb globe temperature)* and proposed paragraph (f), *Requirements at or above the high heat trigger* for more details.

NIOSH (2016) developed the REL to protect most healthy acclimatized employees from adverse effects of heat stress and recommends that total heat exposure for acclimatized employees be controlled to maintain combinations of environmental and metabolic heat below the applicable REL in order to maintain thermal equilibrium. Environmental exposures are based on WBGT, which accounts for the contributions of ambient temperature, radiant heat, humidity, and wind speed. Metabolic heat production is estimated by workload. The REL assume employees are wearing “the conventional one-layer work clothing ensemble,” but NIOSH provides guidance for adjusting WBGT based on the types of clothing or PPE worn. The formula for calculating the REL is: $REL [^{\circ}C - WBGT] = 56.7 - 11.5 \log_{10} M[W]$, where M is metabolic rate in watts (W).

Shade is defined as the blockage of direct sunlight, such that objects do not cast a shadow in the area of blocked sunlight. This definition is included to clarify the requirements for use of shade as a control in outdoor break areas under proposed paragraph (e)(3)(i). Shade can be artificial or naturally occurring. See *Explanation of Proposed Requirements* for paragraph (e)(3).

Signs and symptoms of heat-related illness means the physiological manifestations of a heat-related illness and includes headache, nausea, weakness, dizziness, elevated body temperature, muscle cramps, and muscle pain or spasms. This term is used throughout the proposal to refer to a range of signs and symptoms that may result from a variety of heat-related illnesses (see Section IV., Health Effects for a detailed discussion of heat-related illnesses and the accompanying symptoms). This term is defined to provide clarity about scenarios for which an employer must develop procedures for responding to employees experiencing signs and symptoms of

heat-related illness in their heat emergency response plan, as well as the scenarios that an employer would be required to take specific actions to aid affected employees under proposed paragraph (g). This definition also provides clarity on the requirements to train employees on signs and symptoms of heat-related illness (see proposed paragraph (h)(iv)) and monitor employees for signs and symptoms of heat-related illness (see proposed paragraph (f)(3)).

Signs and symptoms of a heat emergency means the physiological manifestations of a heat-related illness that require emergency response and include loss of consciousness (*i.e.*, fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate. This term is defined to provide clarity about scenarios for which an employer must develop procedures to respond to employees experiencing signs and symptoms of a heat emergency in their heat emergency response plan, as well as the scenarios in which an employer would be required to take specific actions to aid affected employees under proposed paragraph (g). This definition also provides clarity on the requirements to train employees on signs and symptoms of heat-related illness and which ones require immediate emergency action (see proposed paragraph (h)(iv)).

Vapor-impermeable clothing means full-body clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. The definition further indicates that examples include encapsulating suits, various forms of chemical resistant suits, and other forms of non-breathable PPE. This definition is included because under proposed paragraph (c)(3) employers that have employees who wear vapor-impermeable clothing would be required to evaluate heat stress hazards resulting from these clothing and implement policies and procedures based on reputable sources to protect employees while wearing this clothing. Vapor-impermeable clothing is also referred to as “vapor barrier” clothing. It is a type of protective clothing that employers may provide to employees to protect them from chemical, physical, or biological hazards for work tasks such as hazardous waste clean-up. Examples include metallic reflective clothing or

chemical resistant clothing made from plastics such as vinyl or nylon-reinforced polyethylene (Mihal, 1981). Materials made from 100% high density polyethylene (*e.g.*, Tyvek®) that allow water vapor and gases to pass through are not vapor-impermeable, but lamination of the materials with some substances such as polyvinyl chloride (PVC) can change the breathability of the materials and render them vapor-impermeable (DuPont, 2024; Paull and Rosenthal, 1987). Because the proposed definition indicates “full-body clothing”, it would not include vapor-impermeable PPE that covers small areas of the body (*e.g.*, gloves, boots, aprons, leggings, gauntlets). However, clothing such as boots and gloves made from vapor-impermeable materials such as rubber may be part of whole-body, vapor-impermeable clothing ensembles (Mihal, 1981; Paull and Rosenthal, 1987). Employers could check product information provided by manufacturers to determine if clothing worn by their employees qualifies as vapor-impermeable clothing.

Vehicle means a car, truck, van, or other motorized means of transporting people or goods. Other examples may include a forklift, reach truck, tow truck, pallet truck, or bus, among others. In addition, vehicles may also include equipment such as a bulldozer, road grader, farm tractor, or crane. Under the proposed definitions, a vehicle would be a *work area* when a worker’s work activities occur in the vehicle.

Wet Bulb Globe Temperature (WBGT) is a heat metric that takes into account ambient temperature, humidity, radiant heat from sunlight or artificial heat sources, and air movement. It can be measured in both indoor and outdoor work areas, however there are separate formulas depending on whether the device is being used indoors or outdoors. WBGT is used by NIOSH and ACGIH in their guidance for evaluating occupational heat stress. The term is defined because it is used in the definitions for the high and initial heat triggers and in proposed paragraphs (c) *Heat injury and illness prevention plan* and (d) *Identifying heat hazards*.

Work area means an area where one or more employees are working within a work site. This includes any area where an employee performs any work-related activity. A work area may be located at the employer’s premises or other locations where an employee may be engaged in work-related activities or is present as a condition of their employment. Work area is defined because it is referenced in several provisions of the proposed standard, including (a) *Scope and application*, (c)

Heat injury and illness prevention plan (HIIPP), (d) Identifying heat hazards, (e) Requirements at or above the initial heat trigger, (f) Requirements at or above the high heat trigger, and (i) Recordkeeping.

Work site means a physical location (e.g., fixed, mobile) where the employer's work or operations are performed. It includes outdoor and indoor areas, individual structures or groups of structures, and all areas where work or any work-related activity occurs (e.g., taking breaks, going to the restroom, eating, entering or exiting work). The work site includes the entirety of any space associated with the employer's operations (e.g., workstations, hallways, stairwells, breakrooms, bathrooms, elevators) and any other space that an employee might occupy in arriving, working, or leaving. A work site may or may not be under the employer's control. Work site is defined because it is referenced in several provisions of the proposed standard including Heat Injury and Prevention Plan (HIIPP) (proposed paragraph (c)), Identifying heat hazards (proposed paragraph (d)), Requirements at or above the initial heat trigger (proposed paragraph (e)), Requirements at or above the high heat trigger (proposed paragraph (f)), Heat illness and emergency response and planning (proposed paragraph (g)), and Training (proposed paragraph (h)).

I. Requests for Comments

OSHA requests comments as to whether the proposed definitions are appropriate, and whether any additional terms should be defined in the standard.

C. Paragraph (c) Heat Injury and Illness Prevention Plan

Proposed paragraph (c) includes provisions for the development and implementation of a work site heat injury and illness prevention plan, referred to as a "HIIPP" or "plan" for the remainder of this section, as well as requirements regarding what would need to be in the plan. The development of a HIIPP, including comprehensive policies and procedures, is necessary to ensure that all affected employees, including exposed workers, supervisors, and heat safety coordinators, understand where heat hazards exist at the workplace and the workplace-specific measures that must be utilized to address those hazards. The NIOSH Criteria Document provides information on the importance of a HIIPP to reduce the risk of heat-related injuries and illness (NIOSH, 2016). Requiring a HIIPP is also consistent with regulations from several of the States that have

enacted or proposed heat-specific standards. There is a plan requirement in existing heat standards from California (Cal. Code of Regs. tit. 8, section 3395 (2005)), Washington (Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023)); and Oregon (Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022)). Maryland and Nevada proposed heat standards that would also require a HIIPP (MD, 2024; NV, 2022). Additionally, this requirement aligns with the recommendations from the NACOSH Heat Injury and Illness Prevention Work Group, where the group provided a list of potential elements to include in a HIIPP. All the requirements in paragraph (c) would have to be included in the employer's HIIPP.

Paragraph (c)(1) would require employers to develop and implement a comprehensive HIIPP for each work site. Under proposed paragraph (b), a work site is defined as a physical location (e.g., fixed, mobile) where the employer's work or operations are performed. If an employer has multiple work sites that are substantially similar, the HIIPP may be developed by work site type rather than by individual work sites so long as any site-specific information is included in the plan (e.g., phone numbers and addresses or site-specific heat sources). For example, if an employer has developed a corporate HIIPP that includes information about job tasks or exposure scenarios that apply at multiple work sites, this information can be used in the development of HIIPPs for individual work sites. When employees are in work areas not controlled by the employer (like private residences), employers would need procedures for how they will ensure compliance with the standard (e.g., ensure that effective communication is being maintained (proposed paragraph (f)(3)(iii)) and employees are receiving hazard alerts to remind them of protections such as the importance of drinking plenty of water, their right to take breaks, and locations of break sites and drinking water (proposed paragraph (f)(4)). These employers must include such policies and procedures in their HIIPP to protect their employees entering those locations not controlled by the employer.

Proposed paragraph (c)(2) specifies the contents of the HIIPP. Proposed paragraph (c)(2)(i) would require the HIIPP to include a comprehensive list of the types of work activities covered by the plan. For example, a landscaping company could indicate that all employees conducting outdoor work at

or above the initial heat trigger for at least 15 minutes in any 60-minute period (e.g., lawn care workers, gardeners, stonemasons, and general laborers) would be covered by the HIIPP. (See proposed paragraphs (a)(2)(i), (ii), and (iv) and *Explanation for Proposed Requirements* for Paragraph (a) *Scope and Application* for more detail about coverage under the standard.) Paragraph (c)(2)(ii) would require the inclusion of the policies and procedures that are necessary to comply with the requirements of this proposed standard. See *Explanation of Proposed Requirements* for paragraphs (d) through (j) for examples of how employers could comply with the proposed provisions. OSHA understands that a HIIPP must be adaptable to the physical characteristics of the work site and the job tasks performed by employees, as well as the hazards identified by the employer when designing their HIIPP. Employers could also include other policies, procedures, or information necessary to comply with any applicable Federal, State, or local laws, standards, and guidelines in their HIIPPs. Paragraph (c)(2)(iii) would require that employers identify the heat metric (i.e., heat index or wet bulb globe temperature) that the employer will monitor to comply with paragraph (d). For more information on heat metrics, see *Explanation for Proposed Requirements* for Paragraph (b) *Definitions for heat index and WBGT*.

Paragraph (c)(3) would require that, in cases where employees wear vapor-impermeable clothing (also called vapor barrier clothing), employers must evaluate heat stress hazards resulting from this clothing and implement policies and procedures based on reputable sources to protect employees while wearing these clothing. The employer must include these policies and procedures and document the evaluation in the HIIPP. Under proposed paragraph (b), *vapor-impermeable clothing* is defined as full-body clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. The definition further indicates that examples include encapsulating suits, various forms of chemical resistant suits, and other forms of non-breathable PPE. For more information on vapor-impermeable clothing, see the *Explanation for Proposed Requirements* for paragraph (b) *Definitions*. This attention to vapor-impermeable clothing is essential given that significant or complete inhibition of sweat evaporation can greatly increase the potential for heat stress and

resulting heat strain and HRI (Mihal, 1981).

The requirement that employers evaluate heat stress and develop policies and procedures to protect employees based on reputable sources allows for flexibility, given that there is variability in duration of use of the vapor-impermeable clothing and that workload also varies across job tasks and occupations. Examples of reputable sources employers can consult to assess heat stress and develop policies and procedures to protect employees wearing vapor-impermeable clothing include recommendations by NIOSH (2016) and ACGIH (2023). An example of a policy employers might adopt to protect employees wearing vapor-impermeable clothing is implementing the protections in the standard at a lower temperature threshold. Such an approach has been used in State standards such as the Washington heat standard for outdoor workplaces (Wash. Admin. Code 296–307–09747 (2023)). In Washington State’s heat standard, employers must implement certain controls when employees are wearing vapor barrier clothing, and the temperature is above 52 °F. Paragraph (c)(3) does not apply to vapor-permeable clothing or PPE such as cotton coveralls, SMS polypropylene or polyolefin coveralls, double layer woven clothing, or wool shirts (ACGIH, 2023; ACGIH, 2017; NIOSH, 2016).

Paragraph (c)(3) would require the employer to document in the HIIPP the hazard evaluation performed to comply with this provision and to include in the HIIPP the policies and procedures developed to protect employee’s wearing vapor-impermeable clothing. Although OSHA is not specifying a particular form for the required hazard evaluation, an effective hazard evaluation would include a review of environmental heat exposures, a review of the high-risk area(s), tasks, and occupations, and an evaluation of the length of time and intensity of task when wearing vapor-impermeable clothing. Policies and procedures should include communication of the status of planned or completed actions to employees who may have to wear vapor-impermeable clothing to complete work tasks. For more information on identifying heat hazards, see *Explanation of Proposed Requirements* for paragraph (d) below.

Under proposed paragraph (c)(4), an employer with more than 10 employees would be required to develop and implement a written HIIPP. While OSHA has concluded that a HIIPP is necessary for all employers covered by the standard, OSHA has determined that

only employers with more than 10 employees need to have a written plan. This cutoff of 10 employees is consistent with OSHA’s practice of allowing employers with 10 or fewer employees to communicate their emergency action plans (29 CFR 1910.38) and fire prevention plans (29 CFR 1910.39) orally to employees. OSHA expects that small employers with 10 or fewer employees are likely to have less complicated HIIPPs and will communicate with employees verbally. The agency does not believe that there is a high likelihood of misunderstanding when employers communicate their HIIPPs to employees verbally. As a result, OSHA does not believe the added burden on small employers of establishing a written plan is necessary. However, small employers may opt to create a written HIIPP if they find doing so is helpful in developing and implementing their plans.

In contrast, the agency is concerned that when employers have more than 10 employees, there is likely sufficient complexity in the employer’s operation that putting the HIIPP in writing is necessary to establish clear expectations and prevent miscommunication. For example, employers with more than 10 employees may have employees working in multiple locations or on multiple shifts, increasing the likelihood that verbally communicating the employer’s HIIPP will be ineffective. Therefore, OSHA preliminarily finds that having a written HIIPP that employees of larger employers can easily access is essential to ensure those employees are informed about policies, programs, and protections implemented by their employers to protect them from hazardous heat exposure.

An employer may have already developed and implemented a HIIPP. Existing plans may fulfill some of the requirements in this section. It is not OSHA’s intent for employers to duplicate current effective HIIPPs, but each employer with a current HIIPP would have to evaluate that plan for completeness to ensure it satisfies all the requirements of this section. Employers with existing plans would be required to modify and/or update their current HIIPP plans to incorporate any missing required elements and provide training on these new updates or modifications to all employees (see the *Explanation of Proposed Requirements* for Paragraph (h) *Training*). Employers with more than 10 employees would have to ensure their existing HIIPP is in writing.

Paragraph (c)(5) would require the employer to designate one or more workplace heat safety coordinators to

implement and monitor the HIIPP. Any employee(s) capable of performing the role who receives the training required by proposed paragraphs (h)(1) and (2) can be designated heat safety coordinator(s). This employee(s) does not need to be someone with specialized training. The heat safety coordinator(s) could be a supervisor or an employee that the employer designates. The heat safety coordinator(s) must have the authority to ensure compliance with all aspects of the HIIPP. This requirement would ensure heat safety coordinators can take prompt corrective measures when hazards are identified. Proposed paragraph (c)(5) would also require that for employers with more than 10 employees, the identity of the heat safety coordinator(s) must be documented in the written HIIPP. Employers must designate a heat safety coordinator(s) to implement and monitor the HIIPP plan, but the exact responsibilities of a heat safety coordinator(s) may vary based on the employer and work site. Some possible duties of the heat safety coordinator(s) could include conducting regular inspections of the work site to ensure the HIIPP is being implemented appropriately and to monitor the ongoing effectiveness of the plan. During such inspections, the heat safety coordinator(s) could observe employees to ensure they are protecting themselves by frequently drinking water or taking rest breaks that employers would be required to provide.

Under proposed paragraph (c)(6), the employer would be required to seek the input and involvement of non-managerial employees and their representatives, if any, in the development and implementation of the HIIPP. An employer could seek feedback from employees through a variety of means, including safety meetings, a safety committee, conversations between a supervisor and non-managerial employees, a process negotiated with the exclusive bargaining agent (if any), or any other similarly interactive process. The method of soliciting employee input is flexible and may vary based on the employer and the work site. For example, a large employer with many employees may find a safety committee with representatives from various job categories combined with anonymous suggestion boxes to be more effective than individual conversations between supervisors and non-managerial employees. In the case of a unionized workplace, a safety committee established through a collective bargaining agreement may be the appropriate source for this input,

based on the definition and scope of the committee's work. In contrast, a small employer might determine that an ongoing interactive process between the employer and employees (e.g., regular safety meetings) is a more effective means of soliciting employee feedback. OSHA understands employees often know the most about potential hazards associated with their jobs. As such, employee participation is a key component of effective safety and health programs.

Paragraph (c)(7) would require the employer to review and evaluate the effectiveness of the HIIPP whenever a heat-related injury or illness occurs that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness, but at least annually. Following each review, the employer would be required to update the HIIPP as necessary. The employer would have to seek input and involvement of non-managerial employees and their representatives, if any, during any reviews and updates. OSHA preliminarily finds that a heat-related illness or injury that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness warrants an evaluation of the HIIPP because it could potentially indicate a deficiency of the HIIPP. Additionally, the heat safety coordinator might learn of a deficiency during an inspection or from another employee. OSHA expects that employers would immediately address any identified deficiencies and update the HIIPP accordingly. Under proposed paragraph (h)(4)(iv), all employees would have to be retrained following a heat-related injury or illness that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness, and under proposed paragraph (h)(4)(ii) employees would have to be retrained if identification of a deficiency results in an update to the HIIPP. OSHA preliminarily finds that effective heat injury and illness prevention plans would require periodic evaluation to ensure they are implemented as intended and continue to achieve the goal of preventing heat injury and illness and promoting workplace safety and health. This re-evaluation can result in improvements in controls to help reduce hazards.

Paragraph (c)(8) would require the employer to make the HIIPP readily available at the work site to all employees performing work at the work site. The HIIPP would have to be readily accessible during each work shift to employees when they are in their work area(s). Paper copies, electronic access (i.e., accessible via smart phone) and

other alternatives to maintaining paper copies of the HIIPP are permitted as long as no barriers to immediate employee access in each work site are created by such options.

Paragraph (c)(9) would require the employer to ensure the HIIPP is available in a language each employee, supervisor, and heat safety coordinator understands. Under proposed paragraph (c)(4), this would require written translations of the plan in all languages that employees, supervisors, and heat safety coordinators understand. Employers could comply with this requirement by utilizing one of the numerous translator programs available online if the employer has a way to ensure accuracy of the translated materials. In cases where an employee, supervisor, or heat safety coordinator can read and comprehend English, but prefers to read in another language, the employer would have no obligation to provide a written translation of the plan in that individual's preferred language. If one or more employees are not literate, the employer would have to ensure that someone is available to read the written plan in a language that each employee understands. Likewise, for employers who have less than 10 employees, the employer would have to ensure that someone is available to explain the plan in a language that each employee, supervisor, and heat safety coordinator understands. OSHA expects that an individual who speaks employees' languages will be available in all workplaces since effective communication between individuals such as employers, supervisors, and employees would need to occur in order for employees to understand the details about the work tasks they need to complete.

I. Requests for Comments

OSHA requests comments and evidence regarding the following:

- The approaches that stakeholders are taking to assess heat stress and prevent HRI in employees wearing vapor-impermeable clothing;
- Whether OSHA should specify a temperature that would trigger all or certain requirements of the standard for employees wearing vapor-impermeable clothing;
- Additional approaches that OSHA should consider to protect employees wearing vapor-impermeable clothing;
- Whether the proposed requirement to seek input and involvement from non-managerial employees and their representatives under paragraph (c)(6) is adequate, or whether the explanation should be expanded or otherwise amended (and if so, how and why);

- Whether OSHA should define "employee representative" and, if so, whether the agency should specify that non-union employees can designate a non-employee third-party (e.g., a safety and health specialist, a worker advocacy group, or a community organization) to provide expertise and input on their behalf;

- Whether it is reasonable to require the HIIPP be made available in a language that each employee, supervisor, and heat and safety coordinator understands;

- What methods and programs are available to provide employees documents and information in multiple languages, whether there are languages for which these resources are not available, and how employers can provide adequate quality control to ensure that the translations are done properly; and

- Whether individuals are available at workplaces to provide verbal translations of the plan for employees who are not literate or do not speak English.

D. Paragraph (d) Identifying Heat Hazards

Proposed paragraph (d) sets forth requirements for assessing where and when employees are exposed to heat at or above the initial and high heat triggers. It would require employers with outdoor work sites to monitor heat conditions at outdoor work areas by tracking local heat index forecasts or measuring the heat metric of their choosing (heat index or wet bulb globe temperature (WBGT)). It would require employers with indoor work sites to identify work areas where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger and implement a plan for monitoring these areas to determine when exposures above the initial and high heat triggers occur, using the heat metric of their choosing (heat index or WBGT). Determining when employees are exposed to heat at or above the initial and high heat triggers is critical for ensuring that employees are provided with appropriate protections (outlined in paragraphs (e) and (f)).

Proposed paragraph (d)(1) would require employers whose employees perform work outdoors to monitor the heat conditions at the work areas where employees are working. Employers would have two options for complying with this requirement—tracking local heat index forecasts provided by National Weather Service (NWS) or other reputable sources or making on-

site measurements using monitoring device(s).

Employers who choose to track local forecasts would need to consult a reputable source for local heat index forecasts such as their local NWS Weather Forecast Office, the OSHA–NIOSH Heat Safety Tool cell phone application, or another weather forecast website or cell phone application. When using these sources, employers would need to accurately enter the location of the work area. The OSHA–NIOSH Heat Safety Tool (and other cell phone applications) will automatically use GPS to determine the user's location, so the forecast may be inaccurate if using the tool at home and employers will need to manually enter the work area location in these situations.

Employers who choose to conduct on-site monitoring would need to set up monitoring devices at or as close as possible to the work area. This could mean setting up the device(s) on a tripod a few yards away from an employee. When there are multiple work areas at the same work site, the employer could use a single monitoring device to measure heat exposure for multiple work areas if there is no reasonable anticipation that the heat exposure will differ between work areas. For example, if employees are harvesting crops on different fields but are within a mile of one another under similar work conditions, the employer could use a single monitoring device. If there is reasonable anticipation that employees at a work site have different levels of exposure, employers could measure the exposure at the work area of the employee(s) reasonably expected to have the highest exposure and apply that value to all employees at the work site instead of measuring the exposure for each work area.

Employers using heat index as their heat metric could either use heat index monitors or measure temperature and humidity with separate devices. In the latter situation, these employers would need to use a heat index calculator, such as the one provided on the NWS website (NWS, 2023), to calculate heat index from the separate temperature and humidity readings. Employers using WBGT as their heat metric would need to take into account differences in solar radiation and wind between work areas when deciding whether a single measurement could be used for multiple work areas. For example, measurements of WBGT in a work area in the shade should not be applied to another work area that is not in the shade. Regardless of which metric they choose to use, employers conducting on-site monitoring should consult user manuals

and ensure devices are calibrated and in working order. Employers should follow the device manufacturer's manual when conducting monitoring.

Proposed paragraph (d)(2) would require employers whose employees perform work outdoors to consult the weather forecast or their monitoring device(s)—whichever they are using to comply with paragraph (d)(1)—frequently enough to determine with reasonable accuracy when conditions at the work area reach the initial and high heat triggers. Employers consulting forecasts would need to check the forecast as close to the start of the work shift as possible to determine whether and when the heat index at the work area may be at or above the initial or high heat triggers. Depending on the forecast or conditions at the work site, the employer then may or may not need to conduct further monitoring during the day. If, for example, the employer consulted the OSHA–NIOSH Heat Safety Tool before the work shift and it indicated that the heat index would exceed the initial heat trigger but not the high heat trigger during the last four hours of the work shift, the employer would need to either: (1) implement control measures in accordance with paragraph (e) for those four hours, or (2) consult the Heat Safety Tool again later in the day and implement control measures in accordance with paragraph (e) only for the hours during which real-time conditions reported by the application exceed the initial heat trigger (which may be more or less than four hours if the forecast earlier in the day underestimated or overestimated the heat index). However, if the employer consulted the OSHA–NIOSH Heat Safety Tool before the work shift and it indicated that the heat index would be close to the initial heat trigger but not exceed it, employers would need to check the forecast again later in the day to determine whether the trigger was exceeded. Employers would need to use short-term forecasts (*i.e.*, hourly) rather than long-term forecasts (*e.g.*, weekly, monthly) to comply with proposed paragraphs (d)(1) and (2). Ultimately, the employer is responsible for ensuring that the controls required at the initial and high heat trigger are in place when those triggers are met, and they should make decisions regarding the frequency of monitoring with this in mind.

Likewise, employers who conduct on-site monitoring in order to comply with paragraph (d)(1) will need to develop a reasonable measurement strategy that is adapted to the expected conditions. If forecasts provide no suggestion that the initial heat trigger could be reached

during the work shift, an employer may not need to take any measurements. Where temperatures are expected to approach the initial or high heat triggers, several measurements may be necessary, particularly as the hottest part of the day approaches. For example, if the employer measures at 10 a.m. and the heat index is very close but below the initial heat trigger, the employer would likely need to either check again sometime shortly thereafter or assume that the trigger is exceeded. WBGT accounts for additional parameters—air speed and radiant heat—so employers using WBGT may need to make additional measurements when these conditions change at the work site.

Proposed paragraphs (d)(3)(i) and (ii) outline the requirements for assessing heat hazards in indoor work sites, which differ slightly from the requirements for outdoor work sites, in that employers would need to identify the work areas where they reasonably expect employees to be exposed to heat at or above the initial heat trigger and then create a monitoring plan to determine when employees in those work areas are exposed to heat at or above the initial and high heat triggers.

Employers could determine which work areas are expected to have employee exposure at or above the initial heat trigger by consulting various data sources, such as previously collected monitoring data, site or process surveys, employee interviews and input, and heat injury and illness surveillance data. Work areas near heat-generating machinery are one example of where there may be a reasonable expectation of employee exposure at or above the initial heat trigger. In addition to heat-generating equipment, employers must determine whether there is a reasonable expectation that an increase in the outdoor temperature would increase temperatures in their indoor work site, thereby exposing employees to heat at or above the initial heat trigger.

Employers would be required to develop a monitoring plan that covers each work area they identified in the prior step. The monitoring plan is intended to determine when employees are exposed (*e.g.*, specific times of day, during certain processes, certain months of the year) to heat at or above the initial and high heat triggers for each work area. When developing a monitoring plan(s), employers would need to take into account the circumstances that could impact heat conditions specific to each work area and work site. The monitoring plan(s) would need to be included in the employer's HIIPP.

In complying with proposed paragraph (d)(3)(ii), employers would need to outline in their monitoring plan how they will monitor either heat index or WBGT using on-site monitors that are set up at or as close as possible to the work area(s) identified under paragraph (d)(3)(i). OSHA intends the phrase “as close as possible” to mean the closest possible location that won’t otherwise create inaccurate measurements. The employer should ensure that their monitoring plan outlines the appropriate frequency of measurements, which should be of sufficient frequency to determine with reasonable accuracy employees’ exposure to heat. For example, if the employer determines there is only a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger when a certain process is happening or during certain times of the year, then they would only need to monitor when that process is happening or during that time of the year.

Employers using heat index as their heat metric could either use heat index monitors or measure temperature and humidity with separate devices. In the latter situation, these employers would need to use a heat index calculator, such as the one provided on the NWS website (NWS, 2023), to calculate heat index from the separate temperature and humidity readings. Employers using WBGT as their heat metric would need to take into account differences in radiant heat and air movement between work areas when deciding whether a single measurement can be used for multiple work areas. For example, measurements of WBGT in a work area without a radiant heat source should not be applied to another work area that is near a radiant heat source. Regardless of which metric they choose to use, employers should consult user manuals and ensure devices are calibrated and in working order. Employers should follow the device manufacturer’s manual when conducting monitoring.

If there are multiple work areas where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger at a work site, the employer could conduct representative sampling instead of taking measurements at each individual work area. If using this approach, the employer would be required to sample the work area(s) expected to be the hottest. For example, this may involve monitoring the work area closest to a heat-generating process. The employer cannot put a monitoring device in a work area known or expected to be cooler and consider that representative of other work areas.

If any changes occur that could increase employee exposure to heat (*i.e.*, a change in production, processes, equipment, controls, or a substantial increase in outdoor temperature which has the potential to increase heat exposure indoors), proposed paragraph (d)(3)(iii) would require that the employer must evaluate any affected work area(s) to identify where there is reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger. Examples of changes that could increase employee exposure to heat include the installation of new equipment that generates heat in a work area that didn’t previously have heat-generating equipment or a local heat wave that increases the heat index in a warehouse without air-conditioning. The employer would be required to update their monitoring plan or develop and implement a monitoring plan, in accordance with paragraph (d)(3)(ii), to account for any increases in heat exposure.

Proposed paragraph (d)(3)(iv) would require employers to involve non-managerial employees (and their representatives, if applicable) in the determination of which work areas have a reasonable expectation of exposing employees to heat at or above the initial heat trigger (which is described in paragraph (d)(3)(i)). Employers would also be required to involve non-managerial employees (and their representatives, if applicable) in developing and updating the monitoring plan(s) outlined in paragraph (d)(3)(ii) through (iii). One example of this involvement would be employees providing input in identifying processes or equipment that give off heat and times of the day or year when certain areas of the building feel uncomfortably hot and warrant monitoring. Employees are often the most knowledgeable about the conditions in which they work and their involvement will help ensure the accuracy and sufficiency of the employer’s monitoring plan(s).

Proposed paragraph (d)(4) specifies that the heat metric (*i.e.*, heat index or WBGT) that the employer chooses to monitor determines the applicable initial and high heat triggers under the standard. Specifically, as defined in paragraph (b), if the employer chooses to monitor heat index, they would be required to use the initial heat trigger of 80 °F (heat index) and the high heat trigger of 90 °F (heat index). If the employer chooses to use WBGT, they would be required to use the NIOSH Recommended Alert Limit (RAL) as the initial heat trigger and the NIOSH Recommended Exposure Limit (REL) as the high heat trigger. As outlined in

paragraph (c), the employer would be required to identify which heat metric they are monitoring in their HIIPP. If they do not do this, proposed paragraph (d)(4) specifies that the initial and high heat trigger will be based on the heat index.

Proposed paragraph (d)(5) would provide an exemption from monitoring requirements for employers who choose to assume that their employees are exposed to heat at or above both the initial and high heat triggers. In these cases, employers would not need to conduct monitoring, but they would be required to provide all controls outlined in paragraphs (e) and (f) while making this assumption. For the period of time that employers choose to make this assumption and are therefore exempt from monitoring requirements, they would not be required to keep records of monitoring data (see paragraph (i), Recordkeeping).

I. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether the proposed requirement to monitor outdoor work areas with “sufficient frequency to determine with reasonable accuracy employees’ exposure to heat” is adequate or whether the standard should specify an interval of monitoring (and if so, what frequency and why);
- Whether OSHA should specify an interval of monitoring for indoor work areas (and if so, what frequency and why);
- Whether the standard should include a specific increase in outdoor temperature that would trigger the requirements in paragraph (d)(3)(iii) for indoor work areas, rather than the trigger being a “substantial increase”, and if so, what magnitude of increase;
- Whether there could be situations in which a lack of cellular service prevents an employer from using weather forecasts or real-time predictions, and if so, what alternatives would be appropriate;
- Whether the standard should require specifications related to monitoring devices (*e.g.*, in accordance with user manuals, properly calibrated) and whether the standard should specify a permissible accuracy level for monitoring devices; and
- Whether the standard should further specify which sources of forecast data employers can use to comply with paragraph (d)(1)(i) and if so, what criteria should be used.

E. Paragraph (e) Requirements at or Above the Initial Heat Trigger

I. Timing

Paragraph (e) of the proposed standard would establish requirements when employees are exposed to heat at or above the initial heat trigger. As discussed in Section V.B., Basis for Initial and High Heat Triggers, OSHA has preliminarily determined that the experimental and observational evidence support that heat index triggers of 80 °F and 90 °F are highly sensitive and therefore highly protective of employees. Exposures at or above the initial heat trigger, a heat index of 80 °F or a corresponding wet bulb globe temperature equal to the NIOSH Recommended Alert Limit, would require the employer to provide the protections outlined in paragraphs (e)(2) through (10).

The employer would only be required to provide the specified protections during the time period when employees are exposed to heat at or above the initial heat trigger. In many cases, employees may only be exposed at or above the initial heat trigger for part of their work shift. For example, employees who work outdoors may begin work at 9 a.m. and finish work at 5 p.m. If their exposure is below the initial heat trigger from 9 a.m. until 12 p.m., and at or above the initial heat trigger from 12 p.m. to 5 p.m., the employer would only be required to provide the protections specified in this paragraph from 12 p.m. to 5 p.m. Additional protective measures, outlined in paragraph (f) *Requirements at or above the high heat trigger*, would be required when employees are exposed to heat at or above the high heat trigger.

II. Drinking Water

Paragraph (e)(2) of the proposed standard would establish requirements for drinking water when employees are exposed to heat at or above the initial trigger. The proposed requirements of paragraph (e)(2) are in addition to the requirements in existing OSHA sanitation standards applicable to the employer, including the general industry sanitation standard (29 CFR 1910.141); construction industry sanitation standard (29 CFR 1926.51); field sanitation standard (29 CFR 1928.110); shipyard employment sanitation standard (29 CFR 1915.88); marine terminals sanitation standard (29 CFR 1917.127); and temporary labor camp standard (29 CFR 1910.142). In addition to requirements for drinking water, these standards require access to toilet facilities, which is important to

ensure that employees are not discouraged from drinking adequate amounts of drinking water. As discussed in Risk Reduction, Section V.C., drinking water has been shown to be an effective intervention for preventing dehydration, heat strain, and HRI. It allows employees to replace fluids lost by sweat and is necessary to maintain blood volume for cardiovascular function and thermoregulation.

Proposed paragraph (e)(2)(i) would require that employers provide access to potable water that is placed in locations readily accessible to employees. To ensure employees have sufficient drinking water whenever needed, the drinking water should be located as close as possible to employees, to facilitate rapid access. Employers could comply with this provision by providing water coolers or food grade jugs on vehicles if drinking water fountains or taps are not nearby, or by providing bottled water or refillable water bottles so that employees always have access to water. Employers supplying water through a common source such as a tap or jug would have to provide a means for employees to drink the water. This could include providing disposable cups or single-user refillable water bottles. Under OSHA's sanitation standards, common drinking cups or other shared utensils are prohibited. Open containers such as barrels, pails, or tanks for drinking water from which water must be dipped or poured, whether or not they are fitted with a cover, are also prohibited under these standards. In cases where employers provide single-user, refillable water bottles, they should keep extra bottles or disposable cups on hand in case employees misplace or forget to bring the bottle the employer provided them.

OSHA notes that water would not be readily accessible if it is in a location inaccessible to employees (e.g., the drinking water fountain is inside a locked building or trailer). Water would also not be readily accessible if it is placed at a distant or inconvenient location in relation to where employees work. OSHA expects that employers will have incentive to place the drinking water as close to employees as feasible to minimize the amount of time needed to access water, which must be paid. Explanation of Proposed Requirements for paragraph (j) *Requirements implemented at no cost to employees*.

Proposed paragraph (e)(2)(ii) would require that employers provide access to potable water that is suitably cool. As discussed in Risk Reduction, Section V.C., the temperature of drinking water impacts hydration levels, as cool or cold

water has been found to be more palatable than warm water, thus leading to higher consumption of cool water and decreased risk of dehydration. Additional evidence highlighted in Risk Reduction, Section V.C., shows that cool fluid ingestion has beneficial effects for reducing heat strain. The requirement that drinking water be "suitably cool" is consistent with OSHA's existing field sanitation standard (29 CFR 1928.110(c)(1)(ii)) and with California's heat standard for outdoor workplaces (Cal. Code Regs. tit. 8, section 3395). OSHA has previously stated that to be suitably cool, the temperature of the water "must be low enough to encourage employees to drink it and to cool the core body temperature" (Field Sanitation, 52 FR 16050, 16087 (May 1, 1987)). Employers could comply with this provision by providing drinking water from a tap or fountain that maintains a cooler temperature, providing water in coolers or by providing ice or ice packs to keep drinks cool.

In addition to providing palatable and potable water, the NACOSH Heat Injury and Illness Prevention Work Group recommended that employers consider providing electrolyte supplemental packets that can be added to water or electrolyte-containing sports drinks (NACOSH Working Group on Heat, 2023). While employers could choose to offer electrolyte supplements or electrolyte-containing sports drinks, they would not be required under the standard. Providing electrolyte supplements or sports drinks alone would not meet the proposed requirement. OSHA has preliminarily determined that electrolyte supplementation may not be necessary in a majority of situations if workers are consuming adequate and regular meals (NIOSH, 2017a). OSHA has also received feedback from stakeholders that some workers may be unable to consume certain electrolyte supplements or solutions due to their sugar content.

Proposed paragraph (e)(2)(iii) would require that employers provide access to one quart of drinking water per employee per hour. Employers could comply with this provision by providing access to a drinking water tap or fountain that has a continuous supply of drinking water, or providing coolers or jugs that are replenished with water as the quantity diminishes. As discussed in more detail in Section V.C., Risk Reduction, that volume of water intake ensures adequate replenishment of fluids lost through sweat to avoid a substantial loss in total body water content for employees working in the

heat. OSHA is specifying the amount of water that employers need to provide to employees, not an amount that employees need to drink. However, as discussed in the Explanation of Proposed Requirements for paragraphs (f)(3) and (h), the employer must inform employees of the importance of drinking water to prevent HRIs during initial training, annual refresher training, and whenever the high heat trigger is met.

Finally, in accordance with paragraph (j) of the proposed standard, all drinking water requirements must be implemented at no cost to employees. Accordingly, employers may not charge employees for the drinking water required by paragraph (e)(2) nor for the equipment or supplies needed to access it.

A. Requests for Comments

OSHA requests comments and information on the following:

- Whether OSHA should require a specific temperature or ranges of temperature for drinking water as some State regulations do (*e.g.*, Colorado requires that drinking water is kept 60 °F or cooler);
- Whether the agency should require the provision of electrolyte supplements/solutions in addition to water;
- Whether the requirement to provide a minimum of 1 quart per hour per employee is appropriate; and
- Whether there are any challenges to providing the required amount of drinking water (*e.g.*, for employees who work on foot in remote areas) and, if so, alternatives that OSHA should consider.

III. Break Area(s) at Outdoor Work Sites

Paragraph (e)(3) contains the proposed requirements for outdoor break areas when temperatures meet or exceed the initial heat trigger. Adequate break areas where employees can hydrate, remove PPE, and cool down is considered a vital component in preventing HRIs and necessary part of a multilayered strategy to control exposure to high heat. The requirements for both outdoor and indoor break areas in this proposed standard are in addition to employers' obligations under OSHA's sanitation standards (29 CFR 1910.141, 1915.88, 1917.127, 1918.95, 1926.51, 1928.110). Because the sanitation standards address workplace hazards other than heat exposure, employers must continue to comply with their obligations under those standards. OSHA highlights these sanitation standards because employees are likely to eat and drink water in the indoor break areas, which

may implicate certain provisions of these standards.

Specifically, proposed paragraph (e)(3) requires employers to provide one or more employee break areas at outdoor work sites that can accommodate the number of employees on break, is readily accessible to the work area(s) and has either shade (paragraph (e)(3)(i)), or air-conditioning if in an enclosed space (paragraph (e)(3)(ii)). As explained more in detail in Section V.C., Risk Reduction, shade reduces exposure to radiant heat which can contribute to heat stress and lead to heat strain and HRI. Further, air-conditioning is effective in reducing heat stress and resulting heat strain because it reduces exposure to heat. Accordingly, OSHA has preliminarily determined that requirements for break areas, including the use of controls to facilitate cooling while employees are on break, are effective at preventing HRIs among workers and should be included in the proposed standard. This determination is supported by NIOSH's criteria for a recommended standard, several State standards, and existing guidance (Cal. Code Regs. tit. 8, section 3395 (2024); 7 Colo. Code Regs. section 1103–15:3 (2023); Or. Admin. R. 437–002–0156 (2024); Or. Admin. R. 437–004–1131 (2024); Wash. Admin. Code 296–307–09747 (2023); NIOSH, 2016).

Proposed paragraph (e)(3) would require the employer to ensure the break area(s) can accommodate all employees on break. This provision is intended to ensure that all employees taking rest breaks that employers would need to provide under proposed paragraphs (e)(8) and (f)(2) are able to do so in an appropriate break area(s). If the break area cannot accommodate the number of employees on break, some employees may not have access to adequate cooling controls while on break, increasing their risk of HRIs. In addition, adequate space allows for ventilation and airflow, contributing to a more effective cooling.

While OSHA is not proposing a minimum square footage requirement per employee, break areas that can only fit the anticipated number of employees on break if employees stand shoulder to shoulder, or in such close proximity that heat cannot dissipate, would not be large enough to accommodate the number of employees on break. Break areas that are not large enough to allow employees to move in and out freely or access necessary amenities, such as water and air-conditioning or shade, would also not be considered large enough to accommodate the number of employees on break.

Proposed paragraph (e)(3) does not require that the break area(s) be able to

accommodate an employer's entire workforce at the same time. However, the employer must evaluate the needs of the work site and ensure the break area(s) is large enough to accommodate all employees reasonably expected to be on break at the same time. When making this determination, employers would need to consider factors such as how many employees are reasonably expected to be taking breaks to prevent overheating under proposed paragraph (e)(8) at any given time, as well as the breaks required under proposed paragraph (f)(2) (*e.g.*, are paragraph (f)(2) breaks staggered or will large groups of employees be taking them at the same time?). However, the minimum frequency and duration of breaks under paragraph (f)(2) must be met.

Similarly, where an employer has multiple break areas on-site, OSHA does not expect each of these multiple break areas to be able to accommodate an employer's entire workforce. Instead, OSHA expects that employers who utilize multiple break areas will determine the number of employees anticipated to access each break area and ensure the break areas are sufficient in size to accommodate the need for break space in each location. When making this determination, employers would need to consider factors such as the distribution of employees across different areas and any employee movement throughout the areas during a work shift.

OSHA also acknowledges that some employers may have facilities where both outdoor and indoor work occurs. OSHA requests comments on whether the agency should permit all employees in these facilities to utilize indoor break areas.

Proposed paragraph (e)(3) would require that break areas be readily accessible to the work area(s). It is important that break areas be readily accessible to ensure that employees can take breaks promptly, particularly in situations where employees are experiencing early symptoms of HRIs, as quick access to a break area can help limit the further progression of illness. In addition, break areas within close proximity to employees encourages use. OSHA does not expect the employer to have break areas located immediately adjacent to every employee and understands that exact distance may vary depending on factors such as the size and layout of the workplace, the number of employees, and the nature of the work being performed.

Locations that are so far from work area(s) that they deter employees from taking breaks would not be considered readily accessible. When determining

the location of the break area(s), the employer would be expected to evaluate the duration of travel to the area. Break areas requiring more than a few minutes to reach would increase the heat stress on employees as they walk to the area and thus not be considered reasonably accessible. The break area must be situated close enough to work areas to minimize the time and effort required for employees to access it. Break areas should be as close as possible to employees so that an employee in distress could easily access the area to promptly cool down. OSHA expects that employers will have incentive to place the break areas as close as practical to the work areas to minimize travel time, which must be paid (see Explanation of Proposed Requirement for paragraph (j) *Requirements implemented at no cost to employees*).

For mobile work sites, such as in road construction or utility work, the employer would be expected to relocate the break area as needed to ensure it is readily accessible to employees or ensure each work site has its own break area for use. This requirement would also apply to large work sites where employees are continually changing their work area, such as in agricultural work. The employer would be required to pay employees their normal rate of pay for time to get to the break area, as well as the time on break (see the *Explanation of the Proposed Requirements for paragraph (j)*).

In addition to ensuring the break area(s) is large enough to accommodate all employees on break and readily accessible to the work area(s), employers would have to provide at least one of the following: shade (paragraph (e)(3)(i)); or air-conditioning, if in an enclosed space (paragraph (e)(3)(ii)). As discussed above, break areas are intended to provide employees a spot to cool down and reduce body temperature. Also, controls such as shade and air-conditioning are proven methods to prevent HRIs. Without controls such as these in place, break areas could become uncomfortable and even continue to expose individuals to the risk of HRI. OSHA understands that the scope of the standard includes a broad variety of outdoor industries, and that even within one industry, workplaces can be vastly different. The proposed requirements for outdoor break areas give employers flexibility in their compliance.

Paragraph (e)(3)(i) of the proposal outlines the requirements for employers who use shade. The provision would require that the break area have artificial shade (e.g., tent, pavilion) or natural shade (e.g., trees), but not shade from

equipment, that provides blockage of direct sunlight and is open to the outside air. By incorporating shade into break areas, whether through natural foliage, awnings, or umbrellas, employees are able to reduce exposure to radiant heat and benefit from conditions that are more conducive to increasing evaporative cooling as air moves across the skin. The benefits of shaded break areas have also been recognized by several States and incorporated into State standards, including California, Colorado, Oregon, and Washington (Cal. Code Regs. tit. 8, section 3395 (2024); 7 Colo. Code Regs. section 1103–15:3 (2023); Or. Admin. R. 437–002–0156 (2024); Or. Admin. R. 437–004–1131 (2024); Wash. Admin. Code 296–307–09747 (2023)).

To ensure shade is effective, OSHA would require the shade to block direct sunlight for the break area. OSHA does not expect employers to measure shade density using shade meters or solarimeters. As defined under proposed paragraph (b) *Shade* means the blockage of direct sunlight, such that objects do not cast a shadow in the area of blocked sunlight. Therefore, verifying that employees' shadows are obstructed from being visible due to the presence of shade would be sufficient. In addition, shaded break area(s) must be open to the outside air. To satisfy this requirement, the shaded break area must be sufficiently open to the outside air to ensure that air movement across the skin (promoting the evaporation of sweat) can occur and to prevent the buildup of humidity and heat that can become trapped due to limited airflow and stagnant air. For example, a pop-up canopy with one enclosed side would comply with the provisions for a shade structure; however, a closed trailer having four sides and a roof would not. Employers could also incorporate other cooling measures, such as fans or misting devices, in their shaded break area, although the proposed standard does not require them to do so.

Both portable and fixed shade would be permitted to comply with the proposed requirements under (e)(3)(i). However, as stated above, employers must ensure shaded break areas remain readily accessible to employees. At mobile work sites or work sites where employee move to various locations throughout the day, such as, but not limited to those commonly found in agriculture, landscaping, forestry, and utility work, employers would need to ensure that shade structures are relocated near the work area as needed or that natural sources of shade (e.g., from trees) are readily available at each work location. OSHA understands that

in some mobile outdoor work environments shade structures may not be practical and employers may wish to utilize the flexibility of shade provided by large vehicles that are already on-site. Large vehicles such as trucks and vans which are used to transport employees or goods to the work site, but not as part of the work itself could be used as shade as long as the vehicle is not running. OSHA is not allowing the use of equipment used in work process, such as tractors, for shade due to the risk of accidental run-overs caused by the start-up and movement from operators who are not aware of the presence of workers nearby. Additionally, equipment used in work processes is likely to emit radiant heat after use, which may impede employee cooling. However, shade provided by buildings could be used, provided it is reasonably accessible to employee work areas. Additionally, as previously explained, the break area(s) must be large enough to accommodate all employees on break. Therefore, employers utilizing shade cast by buildings or trees would need to consider the path of shade movement throughout the day to ensure adequate areas of shade coverage are maintained and the shade is able to accommodate all employees on break.

Paragraph (e)(3)(ii) of the proposal describes the requirements for the use of air-conditioned break areas. Specifically, the proposed provision indicates that a break area could be an area that has air-conditioning if that area is in an enclosed space like a trailer, vehicle, or structure. As with the shaded areas, the air-conditioned break area would need to be large enough to accommodate the number of employees on rest breaks and be readily available. The use of air-conditioned spaces is consistent with State requirements and existing guidance. In their State regulations, both Colorado and Washington include the use of an air-conditioned site, such as a vehicle or structure, as an alternative to providing shade for employee rest breaks (7 Colo. Code Regs. section 1103–15:3 (2023); WA, 2008b; Wash. Admin. Code 296–307–09747 (2023)). It is well established that the use of air-conditioned spaces reduces the air temperature employees are exposed to (NIOSH, 2016).

Employers using air-conditioned vehicles as a break area would need to ensure that the vehicle remains readily available during work periods when the initial heat trigger is met or exceeded. For mobile employees, such as delivery drivers, employers could have employees take breaks in an air-conditioned convenience store,

restaurant, or similar establishment as long as all other requirements for break areas are met.

A. Requests for Comments

OSHA seeks comments and additional information whether it should further specify break area requirements (e.g., square footage per employee), and what those requirements should be. Also, OSHA seeks additional comments on break areas where employers have both indoor and outdoor work areas including:

- Whether OSHA should maintain separate break area requirements for these employees;
 - Whether OSHA should allow outdoor employees in these facilities to utilize indoor break areas under paragraph (e)(4); and
 - Whether OSHA should limit the use of indoor break areas to those that are equipped with air-conditioning.
- OSHA seeks comments and additional information regarding the use of shade, including:
- Whether OSHA appropriately defined shade; if not, how should OSHA define shade for outdoor break areas;
 - Whether there are situations where shade is not protective and should not be permitted; and in these cases, what should be required for break areas;
 - Whether there are additional options for shade that are protective, but which OSHA has not included;
 - Whether there are situations when trees are not appropriate for use as shade and other measures should be required;
 - Whether there are situations when employers should be permitted to use equipment as shade; in those situations, how would employers mitigate other safety concerns such as run-over incidents;
 - Whether there are situations when employers should not be able to use large vehicles as shade or concerns, including those related to safety, with generally allowing the use of large vehicles for shade; and
 - Whether there are situations when artificial shade should not be permitted, such as during high winds.

OSHA seeks comments and additional information regarding the use of air-conditioned spaces, including:

- Whether OSHA should define or specify the levels at which air-conditioning must operate; and
- Whether OSHA should require that break rooms and vehicles used for breaks be pre-cooled prior to the start of the employee's break.

OSHA seeks comments and additional information regarding the use of other cooling strategies (beside shade and air-

conditioning) that could be used in break areas, including:

- Whether there are other control options that would be both as effective as shade at reducing heat strain and feasible to implement;
- OSHA seeks comments and additional information regarding break area requirements for mobile workers:
- OSHA did not include separate requirements and seeks additional information on the feasibility and effectiveness of the proposed controls listed under paragraph (e)(3) including the use of vehicles as a break area; and
 - Whether there are control options OSHA should require for vehicles, either when used for work activities or when used as a break area.

IV. Break Area(s) at Indoor Work Sites

Paragraph (e)(4) of the proposed standard outlines the requirements for break areas at indoor work sites. Specifically, it would require that the employer provide one or more area(s) for employees to take breaks (e.g., break room) that is air-conditioned or has increased air movement and, if appropriate, de-humidification; can accommodate the number of employees on break; and is readily accessible to the work area(s). As explained above in the *Explanation of Proposed Requirements* for paragraph (e)(3), the requirements for both outdoor and indoor break areas in this proposed standard are in addition to employers' obligations under OSHA's sanitation standards (29 CFR 1910.141, 1915.88, 1917.127, 1918.95, 1926.51, 1928.110).

Information regarding compliance with the requirements that break area(s) be large enough to accommodate all employees on break and readily accessible can be found in the *Explanation of Proposed Requirements* for paragraph (e)(3). Break area(s) at indoor work sites will often likely be specific rooms in a facility (e.g., a break room). To ensure that the break areas are readily accessible, employers would need to make sure that employees can enter the break areas for heat-related breaks (e.g., keep the break room unlocked).

At indoor work sites, the break area(s) must be air-conditioned or have a combination of increased air movement and, if appropriate, de-humidification. The importance and effectiveness of air-conditioning and air movement in preventing HRIs were explained above in the *Explanation of Proposed Requirements* for paragraph (e)(3). OSHA is requiring de-humidification, if appropriate, in addition to increased air movement because humidity levels directly impact the body's ability to cool

itself through evaporation. Humidity control is integrated into modern air-conditioning units and therefore OSHA is only requiring de-humidification to be implemented in high temperature and high humidity environments when employers are relying on increased air movement to comply with this requirement. To determine when de-humidification may be appropriate in the context of fan use, employers should consult the *Explanation of Proposed Requirements* for paragraph (e)(6).

To comply with the requirements under proposed paragraph (e)(4), employers who operate in arid environments could use evaporative or "swamp" coolers as a form of air-conditioning. Note, however, that such coolers are not effective in humid environments. It is also important to note that OSHA is not requiring employers install a permanent cooling system. The use of portable air-conditioning units or high-powered fans and portable dehumidifiers in designated break areas could also be used to comply with requirements for break areas under the proposed standard. As discussed in the *Explanation of Proposed Requirements* for paragraph (e)(6), fan use when ambient temperatures exceed 102 °F has been demonstrated to be harmful under some conditions and employers must evaluate humidity levels to determine if fan use should be avoided.

Under the proposal, indoor break area(s) do not necessarily need to be located in a separate room but can be integrated within the main workspace. For example, in a manufacturing facility, there could be a designated corner or section within the main production area where employees could take their breaks. This break area could be demarcated by partitions, screens, or signage to distinguish it from the active work zones and be equipped with fans. Alternatively, an employer, who is unable to establish a break area in their main workroom because of sensitive or hazardous work equipment or processes, can establish a break area in a separate area away from the work zone, provided that area is readily accessible to employees. Regardless of where a break area is located, the break area must allow employees to cool down effectively and drink water to hydrate.

For indoor workplaces that experience temperatures above the heat triggers but have employees who spend part of their time in air-conditioned control booths or control rooms and part of their time in other, hotter areas of the facility, the employer could utilize the control booth/room as a break area and

would not need to provide a separate break area for those employees. Control booths/rooms are commonly found in industries such as manufacturing, food processing, electronics assembly, processing facilities, power plants, water treatment plants, and more. Furthermore, these spaces would qualify as break areas for other employees provided that the requirements for size and location are met. Control booths/rooms that are locked or have restricted accessibility would not be acceptable under the proposal.

A. Requests for Comments

OSHA seeks comments and additional information regarding the use of engineering controls for indoor break areas, including:

- Whether OSHA should specify how effective engineering controls need to be in cooling the break area(s), including other measures determining effectiveness beyond temperature and humidity;
- Whether OSHA should define a temperature differential between work areas and break areas; and
- Whether OSHA should specify a temperature that break areas must be kept below.

OSHA seeks comments and additional information regarding the use of other cooling strategies (besides fans and air-conditioning) that could be used in break areas, including:

- Whether there are other control options that would be both effective at reducing heat strain and feasible to implement.

OSHA did not include an option for the use of outdoor break areas for indoor work sites and seeks comment and information on the use of outdoor break areas for employees in indoor work sites, including:

- Whether there are situations where an outdoor break area could be more effective at cooling and should be permitted; and
- Whether certain conditions must be provided for these outdoor break areas.

OSHA seeks additional comments on break areas where employers have both indoor and outdoor work areas. See *Explanation of Proposed Requirements* paragraph (e)(3), *Requests for Comments*.

V. Indoor Work Area Controls

Paragraph (e)(5) contains the proposed requirements for indoor work area controls when temperatures meet or exceed the initial heat trigger. Indoor work areas would be required to be equipped with a combination of increased air movement and, if

appropriate, de-humidification (paragraph (e)(5)(i)); air-conditioning (paragraph (e)(5)(ii)); or, in the case of radiant heat sources, other cooling measures that effectively reduce employee exposure to radiant heat in the work area (paragraph (e)(5)(iii)). The importance and effectiveness of air-conditioning and air movement (including dehumidification) in preventing HRIs were explained above in the *Explanation of Proposed Requirements* for paragraphs (e)(3). In addition to these, OSHA is permitting the use of other control measures for radiant heat sources because these controls result in less heat being radiated to employees.

As discussed above in the *Explanation of Proposed Requirements* for paragraph (d)(3)(i), employers would be expected to determine which work areas of indoor work sites, if any, are reasonably expected to meet or exceed the initial heat trigger. For work areas at or above the trigger, such as those near heat-generating machinery, paragraph (e)(5) would require employers to implement work area controls. OSHA understands that effective control methods can vary based on workspace circumstances and the nature of the heat source and is therefore giving employers options regarding indoor work area controls. However, each work area with exposures at or above the initial heat trigger would need to be equipped with at least one control option. Additionally, employers could choose to use a combination of control measures.

Employers could use increased air movement (e.g., fans) and, if appropriate, de-humidification, or air-conditioning to cool the work area under paragraphs (e)(5)(i) and (ii). Under paragraph (e)(5)(i), fans could be used to increase the air movement in the work area. Employers could use overhead ceiling fans, portable floor fans, or other industrial fans to comply. Employers could also increase the air flow using natural ventilation by opening doors and windows, or vents, to allow fresh air to flow into the space, but only when doing so would be comparable to the use of fans. Natural ventilation would not be acceptable if it does not produce air movement equivalent to a fan, or if the outdoor temperature is such that natural ventilation increases the work area temperature.

Depending on the type of work being done and the location of employees in a facility, employers could choose to use ventilation to cool the entire space or just those areas where employees are present. Although paragraph (e)(5) only

applies to work areas, it may be more efficient for the employer to implement the control for an entire space. With either strategy, the employer should consider the facility layout, equipment placement, and potential obstructions to ensure optimal airflow when determining where to place fans. For example, an employer could use fans to cool a warehouse by strategically positioning them near entrances and exits to create airflow and facilitate the circulation of fresh air into the warehouse. Additionally, utilizing high-velocity fans along aisles or in areas where employees are concentrated can help dissipate heat and provide a cooling effect. Conversely, if employees only work in a discrete area(s) of a facility, an employer may choose to only provide fans in those work areas. For example, the employer could place fans in the area where employees are stationed. Adjustable fans or fans with oscillating features could be used in those areas to allow employers to direct airflow where it is most needed. Additionally, employers could consider installing overhead fans or mounting fans on adjustable stands to ensure optimal coverage and airflow distribution.

As discussed in the *Explanation of Proposed Requirements* for paragraph (e)(4), employers using fans or relying on natural ventilation in humid environments would still be expected to decrease humidity levels where appropriate. OSHA is not proposing a specific temperature or humidity level be maintained in the work areas; however, employers should ensure that the combination of air movement and humidity level effectively reduces employees' heat strain. As discussed in the *Explanation of Proposed Requirements* for paragraph (e)(6), OSHA has preliminarily determined that under some conditions, fan use may be harmful when ambient temperatures exceed 102 °F and employers must evaluate humidity levels to determine if fan use is harmful when temperatures reach this threshold. Employers should consult the *Explanation of Proposed Requirements* for paragraph (e)(6) to determine when de-humidification may be appropriate in the context of fan use.

Under paragraph (e)(5)(ii) employers could use air-conditioning to meet the requirement for controlling heat exposures in indoor work areas. In arid environments, evaporative coolers, also known as "swamp coolers," could be used and would be considered air-conditioners, even if portable. It is important to note that while an employer may choose to provide air-conditioning to the entire facility, they

would not be required to do so under the proposed standard. Employers who choose to provide air-conditioning under paragraph (e)(5)(ii) would only need to implement it in areas where employees work and are exposed to temperatures above the initial heat trigger. Similar to fan use, if employees only work from fixed or designated locations in the workplace, the employer would only need to provide air-conditioning to those spaces under paragraph (e)(5)(ii). For example, if employees work only from a control booth or control room, employers could choose to install air-conditioning in the control booth or control room to comply with paragraph (e)(5)(ii). Similarly, portable air-conditioning units could be used throughout the facility to cool smaller areas where employees work. For example, an employer could position portable evaporative coolers near the entrance of a loading dock to provide immediate relief from the heat when an employee is loading or unloading goods inside the building, or a machine shop may choose to use portable air-conditioners around the workstation to cool the employee. Alternatively, a manufacturing facility may choose to install a small, air-conditioned control booth for operators to work from. All of these options would be acceptable under the proposal.

Under paragraph (e)(5)(iii), in indoor work areas with radiant heat sources, employers could choose to implement other measures that effectively reduce employee exposure to radiant heat in the workplace. Paragraph (e)(5)(iii) would allow the use of controls such as shielding or barriers, isolation, or other measures that effectively reduce employee exposure to radiant heat, in areas where employees are exposed to radiant heat created by heat-generating processes. The use of control methods for radiant heat is consistent with guidance issued by Minnesota regarding the implementation of their heat standard (MNOSHA, 2009). Options for complying with this proposed provision

could include installing shielding or barriers that are radiant-reflecting to reduce the amount of radiant heat to which employees would otherwise be exposed; isolating the source of radiant heat, such as using thermal insulation on hot pipes and surfaces; increasing the distance between employees and the heat source; and modifying the hot process or operation.

If the employer chooses to utilize radiant heat controls under paragraph (e)(5)(iii) in lieu of air-conditioning or fan use, the controls would need to effectively reduce employee exposure to radiant heat. For example, in facilities with industrial ovens, kilns, or process heat, employees may be exposed to radiant heat during loading, unloading, or maintenance tasks. Installing shielding around these heat sources can help protect employees from radiant heat during these tasks. In another example, an employer may choose to install heat-resistant barriers or insulating materials around welding stations to contain heat and prevent its transmission to adjacent work areas.

A. Requests for Comments

OSHA seeks comments and additional information regarding the use of engineering controls for indoor work areas, including:

- Whether the standard should specify how effective engineering controls need to be in cooling the work area(s);
- Whether there are other control options (besides fan use or air-conditioning) that would be both effective at reducing heat strain and feasible to implement in cases where indoor employees are exposed to ambient heat; and
- Whether there are work areas where maintaining a high ambient temperature is necessary for the work process and, if so, how OSHA should address these work areas in the standard.

VI. Evaluation of Fan Use

Paragraph (e)(6) of the proposed standard would require employers using fans under certain conditions to determine if fan use is harmful. Specifically, when ambient temperatures exceed 102 °F (39.0 °C), employers using fans to comply with paragraphs (e)(4) or (5) would be required to evaluate the humidity levels at the work site and discontinue the use of fans if the employer determines that fan use is harmful.

As discussed in Section V.C., Risk Reduction, researchers in the past 10 years have increasingly evaluated the conditions under which fan use becomes harmful, using both experimental and modeling approaches. Most of this work has assumed individuals are seated and at rest; to OSHA's knowledge, only one paper has evaluated the threshold at which fans become harmful for individuals performing physical work (Foster et al., 2022a). The impact of fans is determined by both air temperature and humidity, as well as factors influencing sweat rates. Researchers have demonstrated that neither heat index nor ambient temperature alone can be used to determine beneficial versus harmful fan use; instead, ambient temperature and relative humidity must both be known (Morris NB et al., 2019; Foster et al., 2022a).

The 102 °F threshold in proposed paragraph (e)(6) is derived from Figure 4 of Foster et al. 2022a and represents the lowest ambient temperature at which fan use has been demonstrated to be harmful in the researchers' model. As proposed, paragraph (e)(6) does not specify how employers must make the determination whether fan use is harmful above this threshold. However, using the other results from Figure 4 of Foster et al. 2022a, OSHA has developed the following table which identifies scenarios where the agency believes fan use would or would not be harmful:

Fan speed: 3.5 m/s		
Ambient temperature	Humidity range: fan use allowed	Humidity range: turn off fans
102.2 °F (39 °C)	15–85%	<15% or >85%.
104.0 °F (40 °C)	20–80%	<20% or >80%.
105.8 °F (41 °C)	30–65%	<30% or >65%.
107.6 °F (42 °C)	30–65%	<30% or >65%.
109.4 °F (43 °C)	35–60%	<35% or >60%.
111.2 °F (44 °C)	35–55%	<35% or >55%.
113.0 °F (45 °C)	40–55%	<40% or >55%.
>113.0 °F (>45 °C)	Discontinue all fan use	Discontinue all fan use.

Using the information from this table, an employer could identify the row most closely matching the ambient temperature of the work or break area and then find the corresponding humidity range for when fans are acceptable to use. For example, if the ambient temperature of the work or break area is 104 °F and the relative humidity is 50%, fans could be used. However, if the ambient temperature of the work or break area is 108 °F and the relative humidity is 70%, fans should not be used.

A. Requests for Comments

OSHA recognizes that there are several limitations with the analyses by Foster et al. 2022a, and the application of those results for this purpose. For one, the model results reported by Foster et al. assume “light clothing” only and not “work clothing,” which would be more similar to a typical work uniform than the “light clothing.” While the empirical evidence that the researchers collected on individuals wearing “work clothing” is largely consistent with the modeled results presented for “light clothing,” there are some differences, such as the finding that fans are never beneficial at or above an ambient temperature of 45 °C (113.0 °F) when wearing “work clothing” (which OSHA has reflected in the table). The authors’ recommendations for fan use also included a category that represented scenarios in which fans have a “minimal impact” (*i.e.*, the effect of fans on body heat storage is close to zero). OSHA has combined this category with the category for scenarios in which fans are beneficial to produce the table above. Another limitation is the assumption of a sweat rate of approximately 1 liter per hour (the group average from empirical trials in the same study). However, factors such as acclimatization status, age, and medical history can influence sweat rates, which would influence when fan use is beneficial (see Figure 6 [panels a and b] from Foster et al., 2022a). Finally, Foster et al. tested a fan with a velocity of 3.5 meters per second. OSHA has preliminarily determined that this is a reasonable assumption but acknowledges that varying wind velocity would also influence when fan use is beneficial (see Figure 6 [panel c] from Foster et al., 2022a).

OSHA understands the complexity and uncertainty around an evaluation of fan use and is therefore considering a simplified approach for employers to use. OSHA is requesting comments on this simplified approach and the assumptions underlying it.

More specifically, OSHA requests comments regarding its preliminary determinations on fan use and seeks the following information:

- Whether OSHA has appropriately derived recommendations for fan use from Foster et al., 2022a, and whether additional data or research should be used to supplement or revise the recommendations;
- Whether OSHA should include the above table derived from Foster et al., 2022a, or a similar table, in paragraph (e)(6), either as a mandatory requirement or as a compliance option; and,
- Whether the standard should require alternative methods for cooling employees when fans are harmful, and if so, what alternative control measures should be used.

VII. Acclimatization

Paragraph (e)(7) of the proposed standard would establish requirements to protect new and returning employees who are not acclimatized. Evidence indicates that new and returning employees are at increased risk for HRIs. As explained in Section V.C., Risk Reduction, employees who are new on the job are often overrepresented in HRI and heat-related fatality reports. Additionally, the NACOSH Heat Injury and Illness Prevention Work Group recommended acclimatization protections for new and returning employees, such as heightened monitoring (NACOSH Working Group on Heat, 2023), and NIOSH recommends an acclimatization plan that gradually increases new employees’ work in the heat starting with 20% of the usual work duration and increasing by no more than 20% on each subsequent day (NIOSH, 2016). For returning employees, NIOSH recommends an acclimatization plan that starts with no more than 50% of the usual work duration of heat exposure that then gradually increases on each subsequent day (NIOSH, 2016). Therefore, OSHA has preliminarily determined that the requirements in paragraph (e)(7) are important for preventing HRIs and fatalities from occupational heat exposures among these employees.

Proposed paragraph (e)(7)(i) would require that employers implement one of two options for an acclimatization protocol for new employees during their first week on the job. The first option that an employer may choose, under proposed paragraph (e)(7)(i)(A) (Option A), is a plan that, at a minimum, includes the measures required at the high heat trigger set forth in paragraph (f), when the heat index is at or above the initial heat trigger during the

employee’s first week of work. Proposed paragraph (f)(2) requires a minimum 15-minute paid rest break at least every two hours in the break area that meets the requirements of the proposed standard, proposed paragraph (f)(3) requires observation for signs and symptoms of heat-related illness, and proposed paragraph (f)(4) requires providing hazard alerts with specified information about heat illness prevention and how to seek help if needed. See the *Explanation of Proposed Requirements* for paragraph (f), *Requirements at the high heat trigger*, for a detailed explanation of the requirements of that section. Option A gives employers flexibility to choose an option that works best for their work site while still making sure that employees are informed, are under observation, and receive breaks, all of which will help better equip employers and employees to monitor and mitigate the effects of heat exposure in situations where the gradual acclimatization option may not be practical. While this option does not require gradual exposure, OSHA believes that, in situations where gradual exposure may not be practical, rest breaks, observation, and hazard alerts will help protect new workers as they adjust to heat during their first week of work.

The second option that an employer may choose, under proposed paragraph (e)(7)(i)(B) (Option B), would require a gradual exposure to the heat at or above the initial heat trigger to allow for acclimatization to the heat conditions of the workplace. The gradual exposure protocol would involve restricting employee exposure to heat to no more than 20% of a normal work shift exposure duration on the first day of work and increasing exposure by 20% of the work shift exposure duration on each subsequent day from day 2 through 4. This is consistent with NIOSH’s recommended acclimatization plan for new employees (NIOSH, 2016).

Employers may satisfy Option B requirements by utilizing some of the employees’ work time in ways that do not require exposure to heat at or above the initial heat trigger. Examples include completing training activities or filling out work-related paperwork in an air-conditioned building. Employers may also fulfill this requirement through task replacement, whereby an employee completes another necessary task in an area that does not require exposure to heat at or above the initial heat trigger (*e.g.*, office work).

Additionally, if the temperature of the work site fluctuates such that the initial heat trigger is only exceeded for a portion (*e.g.*, 2 hours) of the work shift

on some or all of the days during the initial week of work, employers choosing Option A would only be required to implement the requirements of paragraph (f) during those time periods. If they choose the gradual heat exposure option for acclimatization, employers would need to coordinate the employees' heat exposure for those days with the parts of the day that are expected to meet or exceed the initial heat trigger.

Under proposed paragraph (j), employers would be required to implement the acclimatization protocols at no cost to employees. This means that employers could not relieve employees from duty after the allotted time of heat exposure under the acclimatization protocol and not pay them for the remainder of the work shift. Because benefits would also be considered compensation, this would mean that an employer could not use an employee's paid leave to cover the hours not worked during the acclimatization period.

Proposed paragraph (e)(7)(ii) would require that employers implement one of two options for an acclimatization protocol for returning employees who have been away from the job for more than 14 days, during their first week back on the job.

The first option that an employer may choose, under proposed paragraph (e)(7)(ii)(A) (Option A), is an employer-developed plan, that at a minimum, includes the measures that would be required under proposed paragraph (f) whenever the initial heat trigger is met or exceeded, during the employee's first week of returning to work. See explanation above for new employees and the *Explanation of Proposed Requirements* for paragraph (f), *Requirements at the High Heat Trigger*, of the proposed standard for a detailed explanation of the requirements of that section.

The second option that an employer may choose under proposed paragraph (e)(7)(ii)(B) (Option B), is a protocol that requires a gradual exposure to heat at or above the initial heat trigger to allow for acclimatization to the heat conditions of the workplace. The gradual exposure protocol would restrict employee exposure to heat to no more than 50% of a normal work shift exposure duration on the first day of work, 60% on the second day of work, and 80% of the third day of work. This is consistent with NIOSH's recommended acclimatization plan for returning employees (NIOSH, 2016). Employers may satisfy these requirements by utilizing employees' work time in ways that do not require heat exposure at or

above the initial heat trigger, as described above for new employees.

For occupations where returning employees may have shift schedules such as two weeks on and then two weeks off, the acclimatization protocol requirement would not go into effect because the two weeks off would not exceed 14 days. However, in situations where time off exceeds 14 days, the requirement would apply.

Proposed paragraph (e)(7)(iii) would set forth an exception to acclimatization requirements of paragraphs (e)(7)(i) and (ii) if the employer can demonstrate that the employee consistently worked under the same or similar conditions as the employer's working conditions within the previous 14 days. Same or similar conditions means that new employees must have been doing work tasks that are similar or higher in level of exertion to the tasks that are required in the new job and that they conducted these tasks in similar or hotter heat conditions than the new job (e.g., at or above the heat index for current conditions in the new job). Employers should not assume that employees who recently came from climates that are perceived to be similar or hotter (e.g., Mexico) were actually exposed to similar or hotter conditions because climate can vary dramatically based on factors such as elevation levels and humidity. Therefore, employers could check weather records to determine heat indices for the location that the employee worked at during the previous two weeks to determine if the employee was actually exposed to conditions at least as hot as in the new position.

In determining if tasks the employee conducted in the past two weeks were similar or higher in level of exertion to the tasks that are required in the new job, employers could generally consider factors such as weight carried and intensity of activity (e.g., walking versus climbing). For example, picking tomatoes and picking watermelons would generally not be considered similar tasks because of the heavier weight of the watermelons. However, picking tomatoes and picking cucumbers could generally be considered similar tasks if other job conditions are similar. Installing telephone wires on poles and laying out communication wires in a trench dug using machinery would generally not be considered similar to laying out communication wires in a trench dug manually because of the greater work intensity involved with digging a trench manually. Laying communication wire in a pre-dug trench and conducting inspections on the ground might be considered similar tasks if both tasks

primarily involve walking. Landscaping work involving weeding and laying out mulch versus hand digging trenches for drainage systems would generally not be considered similar tasks because of the greater work involved in digging trenches. However, hand digging trenches for drainage and hand digging holes to install trees and shrubs could generally be considered similar tasks if those are the primary tasks performed throughout the workday.

The employee must have engaged in similar work activities in the similar heat conditions consistently over the preceding 14 days. OSHA intends "consistently" to mean the employee engaged in the task for at least two hours per day on a majority of the preceding 14 days. This aligns with recommendations from NIOSH (NIOSH, 2016).

Examples of when this exception would not apply include when new employees' previous positions, which included similar heat conditions and exertion levels, ended longer than 14 days ago, when new employees' previous positions ended within the last 14 days and involved similar work tasks but in cooler conditions, or when new employees' previous positions ended within the last 14 days and involved hotter conditions but less exertion. The exemption would also not apply if new employees' previous positions ended less than 14 days ago but they were not performing similar work tasks in similar heat conditions for at least two hours per day on a majority of the preceding 14 days.

To demonstrate that a new employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days, the employer could obtain information directly from the new employee to confirm the requirements of proposed paragraph (e)(7) are met considering the explanation of same or similar working conditions provided above. The employer could ask questions verbally or in writing about the prior work (i.e., timing, location, duration, type of work). If an employer asked new employees "in the past 14 days, did you consistently work under the same or similar conditions as the employer" but did not ask for any supporting details, the requirement would not be satisfied.

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Data or examples of successful implementation of an acclimatization program;

- Whether the term “same or similar conditions” is sufficiently clear so that employers know when the exception to the acclimatization requirement would apply for new employees, and if not, how should OSHA clarify the requirement;
 - Whether a minimum amount of heat exposure to achieve acclimatization should be specified under Option B, the gradual acclimatization option;
 - Whether the requirement to demonstrate that an employee consistently worked under the same or similar conditions as the employer’s working conditions within the prior 14 days is sufficiently clear, and if not, how should OSHA clarify the requirement;
 - Whether the standard should require acclimatization protocols during local heat waves, and if so, how OSHA should define heat waves;
 - Whether the standard should require annual acclimatization of all employees at the beginning of each heat season (*e.g.*, the first hot week of the year) and approaches for doing so;
 - Examples that OSHA should consider of acclimatization protocols for industries or occupations where it may not be appropriate for an employee to conduct heat-exposed work tasks during the first week on the job (*e.g.*, what activities would be appropriate for these workers to achieve acclimatization);
 - Data or examples that OSHA should consider in determining if acclimatization should be required in certain situations for existing employees and examples of successful acclimatization programs for such employees;
 - Which option (*i.e.*, following requirements of the high heat trigger or gradual increase in exposure to work in heat) presented in the proposal would employers implement and whether the standard should include other options;
 - Whether the standard should include any additional acclimatization requirements for employees returning after less than 14 days away from work after acute illnesses that may put them at increased risk of heat-related illness (*i.e.*, illnesses involving fever or gastrointestinal infections), and if so, suggestions and evidence for the additional requirements; and
 - Considering that employees starting or returning when the heat index is above 90 °F would not receive unique acclimatization benefits if the employer chose Option A, whether the standard should specify additional requirements for these scenarios, such as breaks that are more frequent or of longer duration.
- OSHA has concerns that the proposed exception in paragraph (e)(7)(iii) could

create incentives for employees to lie and/or employers to pressure employees to lie about their acclimatization status. For example, an employer could pressure an employee to report that they consistently worked under the same or similar conditions within the prior 14 days, so that the employer does not need to comply with paragraph (e)(7) during the employee’s first week on the job. These incentives could put new and returning employees at increased risk because they are not receiving appropriate protection based on their acclimatization status. OSHA seeks comments and evidence on the likelihood of this happening and what OSHA could do to address these potential troubling incentives.

VIII. Rest Breaks if Needed

Proposed paragraph (e)(8) would require employers to allow and encourage employees to take paid rest breaks in break areas that would be required under paragraphs (e)(3) or (4) if needed to prevent overheating. As discussed in Section V.C., Risk Reduction, rest breaks have been shown to be an effective intervention for preventing HRI by allowing employees to reduce their work rate and body temperature. Rest breaks allow employees time to hydrate and cool down in areas that are shaded, air-conditioned, or cooled with other measures. Therefore, OSHA preliminary finds that allowing employees to take rest breaks when they are needed to prevent overheating is an important control for preventing or reducing HRIs in the workplace.

Providing employees the opportunity to take unscheduled rest breaks to prevent overheating helps to account for protecting employees who vary in susceptibility to HRI and address scenarios where employees might experience increased heat strain. For example, unscheduled rest breaks may help to protect employees who are more susceptible to HRI for reasons such as chronic health conditions, recent recovery from illness, pregnancy, prior heat-related illness, or use of certain medications (see Section IV.O., Factors that Affect Risk for Heat-Related Health Effects). Unscheduled rest breaks may also help reduce heat strain in employees who are assigned new job tasks that are more strenuous than the tasks they were performing. Additionally, rest breaks would allow employees an opportunity to remove any PPE that may be contributing to heat strain.

Under proposed paragraph (e)(8), employees would be allowed to decide on the timing and frequency of

unscheduled rest breaks to prevent overheating. However, unscheduled rest breaks must be heat-related (*i.e.*, only if needed to prevent overheating). In addition, if the work process is such that allowing employees to leave their work station at their election would present a hazard to the employee or others, or if it would result in harm to the employer’s equipment or product, the employer could require the employee to notify a supervisor and wait to be relieved, provided a supervisor is immediately available and relieves the employee as quickly as possible.

An example of a scenario where an employee may decide they need a rest break is if the employee experiences certain symptoms that suggests the employee is suffering from excessive heat strain but does not have an HRI that would need to be addressed under proposed paragraph (g)(2) (*e.g.*, excessive thirst, excessive sweating, or a general feeling of unwellness that the employee attributes to heat exposure). However, rest breaks to prevent overheating do not need to be tied to onset of symptoms. For example, if an employee starts to have trouble performing a task on a hot day that they do not normally have trouble performing, that may be a sign they need a break. OSHA expects that most unscheduled rest breaks to prevent overheating would typically last less than 15 minutes. In some cases, a rest break that extends beyond 15 minutes or frequent unscheduled rest breaks may be a sign that the employee may be experiencing an HRI.

As noted, proposed paragraph (e)(8) requires employers to both encourage and allow employees to take a paid rest break if needed. Employers can encourage employees to take rest breaks by periodically reminding them of that option. Although employers must allow employees to take breaks if the employee determines one is needed, nothing precludes an employer from asking or directing an employee to take an unscheduled paid rest break if the employer notices signs of excessive heat strain in an employee.

Slowing the pace of work would not be considered a rest break, and as specified in proposed paragraph (e)(8), rest breaks if needed must be provided in break areas required under paragraph (e)(3) or (4) (see *Explanation of Proposed Requirements* for paragraphs (e)(3), *Break area(s) at outdoor work sites* and (e)(4), *Break area(s) at indoor work sites* for additional discussion of break areas and *Explanation of Proposed Requirements* for paragraph

(f)(2), *Rest breaks*, for additional discussion related to rest breaks.)

Proposed paragraph (e)(8) would require that employees be paid during the time they take rest breaks needed to prevent overheating. OSHA preliminary finds it is important that these breaks be paid so that employees are not discouraged from taking them. The reason for requiring these breaks be paid is further explained in the *Explanation of Proposed Requirements* for paragraph (j), *Requirements implemented at no cost to employees*, including the importance of the requirement and how employers can ensure that employees are compensated to ensure they are not financially penalized for taking breaks that would be allowed or required under the proposed standard.

Evidence indicates that employees are often reluctant to take breaks and thus, are not likely to abuse the right to take rest breaks if needed to prevent overheating; to the contrary, the evidence shows that employees are more likely to continue working when they should take a rest break to prevent overheating. A review of the evidence showing that many employees are reluctant to take rest breaks is included in the *Explanation of Proposed Requirements* for paragraph (f)(2) *Rest breaks*.

A. Requests for Comments

OSHA seeks comments and information on the proposed requirement to provide employees with rest breaks if needed to prevent overheating, including:

- If there are specific signs or symptoms that indicate employees need a rest break to prevent overheating;
- If employers currently offer rest breaks if needed to prevent overheating, and if so, whether employees take rest breaks when needed to prevent overheating;
- The typical duration of needed rest breaks taken to prevent overheating; and
- Any challenges to providing rest breaks if needed to prevent overheating.

In addition, OSHA encourages stakeholders to provide information and comments on the questions regarding compensation of employees during rest breaks in the *Explanation of Proposed Requirements* for paragraph (j), *Requirements implemented at no cost to employees*.

IX. Effective Communication

Paragraph (e)(9) of the proposed standard establishes requirements for effective communication at the initial heat trigger. Early detection and treatment of heat-related illness is critical to preventing the development

of potentially fatal heat-related conditions, such as heat stroke (see Section V., Health Effects). Effective two-way communication provides a mechanism for education and notification of heat-related hazards so that appropriate precautions can be taken. It also provides a way for employees to communicate with the employer about signs and symptoms of heat-related illness, as well as appropriate response measures (e.g., first aid, emergency response).

The NACOSH Heat Injury and Illness Prevention Work Group recommended that elements of a proposed standard for prevention of HRIs address communication needs to meet the objective of monitoring the work site to accurately assess conditions and apply controls based on those conditions. The Work Group recommended addressing communications needs for tracking to facilitate monitoring and check-ins so that employees can report back to employers (NACOSH Working Group on Heat, 2023).

OSHA preliminarily finds that two-way, regular communication is a critical element of HRI prevention. Paragraph (e)(9) requires the employer maintain effective, two-way communication with employees and regularly communicate with employees. The means of communication must be effective. In some cases, voice (or hand signals) may be effective, but if that is not effective at a particular workplace (e.g., if employees are not close together and/or not near a supervisor), then electronic means may be needed to maintain effective communication (e.g., handheld transceiver, phone, or radio). If the employer is communicating with employees by electronic means, the employer must respond in a timely manner for communication to be effective (e.g., providing a phone number for employees to call would not be effective if no one answers or responds in a timely manner).

The means of communication must also be “two-way” (i.e., a way for the employer to communicate with employees, and for employees to communicate with the employer). This is important because this provides a means for employees to reach the employer when someone is exhibiting the signs and symptoms of heat-related illness.

Paragraph (e)(9) also requires that employers regularly communicate with employees. The employer could comply with this requirement by regularly reaching out to employees, or setting up a system by which employees are required to make contact, or check in, with the employer. However, it is the

employer’s responsibility to ensure that regular communication is maintained with employees (e.g., every few hours). If a system is chosen whereby the employer requires employees to initiate communication with the employer, and if the employer does not hear from the employee in a reasonable amount of time, the employer must reach out to the employee to ensure that they are not experiencing heat-related illness symptoms. Employers must ensure that when it is necessary for an employee to leave a message (e.g., text) with the employer, the employer will respond, if necessary, in a reasonable amount of time.

This proposed requirement also applies for employees who work alone on the work site. This means that the communication system chosen by the employer must allow for communication between these employees and the employer, although the means may be different than for employees who work on a work site with multiple employees (e.g., by electronic means).

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- How employers currently communicate with employees working alone, including any challenges for effectively communicating with employees working alone and any situations where communication with employees working alone may not be feasible; and
- Whether OSHA should specify a specific time interval at which employers must communicate with employees and, if so, what the interval should be, and the basis for such a requirement.

X. Personal Protective Equipment (PPE)

Paragraph (e)(10) of the proposed standard would require employers to maintain the cooling properties of cooling PPE if provided to employees. The proposed standard does not require employers to provide employees with cooling PPE. However, if employers do provide cooling PPE, they must ensure the PPE’s cooling properties are maintained at all times during use. It is critical that employers who provide cooling PPE maintain the equipment’s cooling properties; when these properties are not maintained, the defective equipment can heighten the risk of heat injury or illness with continued use. Reports from employees indicate that the use of cooling PPE, such as cooling vests, is burdensome and increases heat retention once the

cooling properties are lost or ice packs have melted (Chicas et al., 2021).

A. Requests for Comments

OSHA requests comments and evidence as to whether there are any scenarios in which wearing cooling PPE is warranted and feasible and OSHA should require its use.

F. Paragraph (f) Requirements at or Above the High Heat Trigger

I. Timing

Paragraph (f) of the proposed standard would establish requirements when employees are exposed to heat at or above the high heat trigger. As discussed in Section V.B., Basis for Initial and High Heat Triggers, OSHA has preliminarily determined that the experimental and observational evidence support that heat index triggers of 80 °F and 90 °F are highly sensitive and therefore highly protective of employees. Exposures at or above the high heat trigger, a heat index of 90 °F, or a corresponding wet bulb globe temperature equal to the NIOSH Recommended Exposure Limit, would require the employer to provide the protections outlined in paragraphs (f)(2) through (5). These protections would be in addition to the measures required by paragraph (e) *Requirements at or above the initial heat trigger*, which remain in effect after the high heat trigger is met.

The employer would only be required to provide the protections specified in paragraph (f) during the time period when employees are exposed to heat at or above the high heat trigger. In many cases, employees may only be exposed at or above the high heat trigger for part of their work shift. For example, employees may begin work at 9 a.m. and finish work at 5 p.m. If their exposure is below the high heat trigger from 9 a.m. until 2 p.m., and at or above the high heat trigger from 2 p.m. to 5 p.m., the employer would only be required to provide the protections specified in this paragraph from 2 p.m. to 5 p.m. Protective measures outlined in paragraph (e) *Requirements at or above the initial heat trigger*, would be required at any time when employees are exposed to heat at or above the initial heat trigger.

II. Rest Breaks

Proposed paragraph (f)(2) specifies the minimum frequency and duration for rest breaks that would be required (*i.e.*, 15 minutes every two hours) when the high heat trigger is met or exceeded and provides clarification on requirements for those rest breaks.

A. Background on the Provision

As discussed in Section V.C., Risk Reduction, rest breaks have been shown to be an effective intervention for preventing HRI by allowing employees to reduce their work rate and body temperature. Rest breaks also allow employees time to hydrate and cool down in areas that are shaded, air-conditioned, or cooled with other measures. OSHA preliminarily finds there are at least two reasons that warrant the inclusion of rest breaks at a minimum frequency and duration when the high heat trigger is met or exceeded. The first is that heat strain is greater in employees exposed to higher levels of heat. (See Section IV., Health Effects).

The second is that the available evidence shows many employees are not taking adequate or enough rest breaks. This evidence shows that while workers paid on a piece-rate basis (*e.g.*, compensated based on factors such as quantity of produce picked, jobs completed, or products produced) may be especially reluctant to take breaks because of financial concerns (Lam et al., 2013; Mizelle et al., 2022; Iglesias-Rios et al., 2023; Spector et al., 2015; Wadsworth et al., 2019), a significant portion of employees paid on an hourly basis are also not taking adequate breaks for other reasons such as pressure from co-workers or supervisors, high work demands, or attitudes related to work ethics (Arnold et al., 2020; Wadsworth et al., 2019). For example, Langer et al. (2021) surveyed 507 Latinx California farmworkers (77% paid hourly) during the summers of 2014 and 2015, when California regulations to protect employees from heat required employers to provide rest breaks if needed but did not require rest breaks at a minimum frequency and duration; 39% of surveyed employees reported taking fewer than 2 rest breaks (not including lunch) per day. Additionally, in a study of 165 legally employed child Latinx farm employees (64% hourly workers) ranging in age from 10–17 years in North Carolina, 88% reported taking breaks in shade, but based on some interviews, the breaks appeared to be of short duration (*e.g.*, “for some five minutes;” “you can take a break whenever you want . . . not for a long time . . . if you wanna get a drink of water only for a couple of minutes, three or five”) (Arnold et al., 2020). The children who were interviewed by Arnold et al. (2020) reported pressure to keep up with the pace of work and being discouraged to take breaks by co-workers or supervisors. In interviews of 405 migrant farmworkers in Georgia,

20% reported taking breaks in the shade (Fleischer et al., 2013).

In a study of 101 farmworkers (61% paid hourly) in the Florida/Georgia region, Luque et al. (2020) reported that only 23% took breaks in the shade. The need for breaks was supported by observations that while some employees carried water bottles, most were only seen drinking during rest breaks. In another study, focus group discussions with piece-rate farm employees revealed that many expressed concerns about possible losses in earnings and that they might be replaced by another employee if they took breaks. Many such employees brought their own water to work to reduce the time they are not picking produce (Wadsworth et al., 2019). In that same study by Wadsworth et al. (2019), piece rate farmworkers also described “their desire to be seen as a good worker, with great fortitude.” Good workers were described by the farmworkers as those who “work fast and do not slow things down and jeopardize success for the group. They continue working in spite of the conditions or how they feel.” (Wadsworth et al., 2019, p. 224). A case study highlighted in the NIOSH criteria document discusses a migrant farmworker who died from HRI after he continued to work despite a supervisor instructing him to take a break because he was working slowly (NIOSH 2016, pp. 46–47). On the day of his death, the heat index ranged from 86 to 112 °F.

Evidence supporting the need for required rest breaks is not limited to farmworkers. For example, a NIOSH health hazard evaluation (HHE) indicated that truck drivers for an airline catering facility often skipped breaks they were allowed to take between deliveries in an air-conditioned room at the catering facility to keep up with job demands (NIOSH, 2016, p. 44). Such attitudes appear common in employees of all sectors. Phan and Beck (2023) surveyed 107 office workers, and 25–33% of those employees reported they skipped breaks because of a high workload, not wanting to lose momentum, or to reduce the amount of work to be completed in the future. A number of informal surveys reported similar findings for office and remote workers. In those surveys, many employees (approximately 40%) skip some breaks, particularly lunch breaks (Tork, June 14, 2021; Joblist, July 5, 2022). Common reasons for skipping lunch breaks included work demands and feelings of guilt or being judged for taking a break (Tork, June 14, 2021; Joblist, July 5, 2022). One survey also reported that a major reason why many employees do not take paid time off is

because of concerns for coworkers (Joblist, July 5, 2022). Although these informal surveys cover employees who would likely not be covered by the scope of this proposed standard, these informal surveys echo the findings of the studies in the preceding paragraphs and show that employees generally do not take rest breaks or other paid time off.

Studies of presenteeism (*i.e.*, working while ill or injured) suggest that employees may be more likely to ignore signs of excessive heat strain than they are to take breaks needed to prevent overheating. Hemp (October 2004, pp. 3–4) stated “[u]nderlying the research of presenteeism is the assumption that employees do not take their jobs lightly, that most of them need and want to continue working if they can.” Although financial reasons such as lack of paid leave are often drivers of presenteeism, non-financial considerations also play a major role. One study analyzed presenteeism in many of the industries covered by the proposed standard including in the categories of agriculture, utilities, manufacturing, transportation and storage, and construction (Marklund et al., 2021). Non-financially related reasons for presenteeism reported by Marklund et al. (2021) were not wanting to burden coworkers, perception that no one else can do the work, enjoyment of work, not wanting to be perceived as lazy or unproductive, and pride. Similar reasons were reported in other studies including wanting to spare co-workers from additional work, pressure from coworkers, strong teamwork and good relationships with coworkers, examples set by management, institutional loyalty, or a perception that taking time off is underperformance (Garrow, February 2016; Lohaus et al., 2022).

The proposed requirement to include mandatory rest breaks is consistent with recommendations by authoritative sources. For example, NIOSH recommends mandatory rest breaks (NIOSH, 2016, p. 45; NIOSH, 2017b, p.1). Additionally, ACGIH (2023) lists “appropriate breaks with shade” as an essential element of a heat stress management program. The NACOSH Working Group on Heat also recommended that scheduled, mandatory rest breaks be provided without retaliation (NACOSH Working Group on Heat, 2023, pp. 6–7).

OSHA examined a number of studies to determine an appropriate frequency and duration of rest breaks. First, a series of laboratory studies by Notley et al. (2021; 2022a, b) provide insight on the appropriate frequency of rest breaks. In those studies, unacclimatized

participants wearing a single clothing layer exercised at a moderate intensity level until stay time was reached (*i.e.*, core temperatures reached 38 °C (100.4 °F) or increased by at least 1 °C) at various ambient temperatures and at a relative humidity of 35% (Notley et al., 2021; 2022a, b).¹ In a study of younger (18–30 years old) and older men (50–70 years old), data from all participants were pooled to calculate initial stay times of 111 minutes at ambient conditions of 34.1 °C (93.4 °F) (heat index = 93.9 °F) and 44 minutes at ambient conditions of 41.4 °C (106.5 °F) (heat index = 119.8 °F) (Notley et al., 2022b). In a study of unacclimatized younger men (mean age 22 years), older men (mean age 58 years), and older men with diabetes (mean age 60 years) or hypertension (mean age 61 years), median stay times were 128 minutes at 36.6 °C (97.9 °F) (heat index = 101.5 °F) and 68 minutes at 41.1 °C (106.5 °F) (heat index = 118.5 °F) (Notley et al., 2021). In a third study, unacclimatized men and women were able to work for a median time of 117 minutes at 36.6 °C (97.9 °F) (heat index = 101.5 °F) and 63 minutes at 41.4 °C (106.5 °F) (heat index = 119.8 °F) (Notley et al., 2022a). Overall, the results of these studies support work times ranging from 111 minutes to 128 minutes at heat indices of 93.9 °F to 101.5 °F and 44 to 68 minutes at heat indices of 118.5 °F to 119.8 °F.

Two laboratory studies support a preliminary conclusion that rest breaks contribute to the protection of workers from the effects of heat (Uchiyama et al., 2022; Smallcombe et al., 2022). These studies were conducted over periods that could represent all or part of a workday, with light exertion exercise conducted under hot conditions (*e.g.*, 37 °C (98.6 °F) and 40% relative humidity (heat index = 106 °F)) in Uchiyama et al. (2022), and moderate to heavy exertion exercise conducted under four conditions: 15 °C (59 °F) and 50% relative humidity (referent group, heat index not relevant), 35 °C (95 °F) 50% relative humidity (heat index = 105 °F); 40 °C (104 °F) and 50% relative humidity (heat index = 131 °F); and 40 °C (104 °F), and 70% relative humidity (heat index=161 °F) in Smallcombe et al. (2022). In both studies, breaks were provided in air-conditioned or cooler areas. The studies show little evidence of excessive heat strain in participants as mean core temperatures remained within 1 °C of 37.5 °C (99.5 °C) (ACGIH, 2023, p. 244). Uchiyama et al. (2022) evaluated two work/rest protocols, including one in which participants exercised for 1 hour,

rested for 30 minutes, exercised for 1 hour, rested for 15 minutes, and then exercised for another hour; increases in mean core temperatures were less than 1 °C above mean baseline temperature (37.2 °C) in five of the six time points reported and slightly exceeded a 1 °C increase at 180 minutes, the final time point of measurement (38.29 °C). OSHA finds these work/rest cycles to be similar to a late morning period of work, followed by a 30-minute lunch and then an early afternoon work/rest period, although acknowledges that the duration between rest periods is longer in the proposed rule than in this study. Also, in the Uchiyama et al. (2022) study, a lack of heat strain was also observed in a protocol consisting of 1 hour of work and 15 minutes rest, followed by three half hour work periods separated by 10-minute rest periods and, and a final half hour work period.

The Smallcombe et al. (2022) study most closely reflected a typical workday because it was conducted over a 7-hour period with cycles of 50-minute work/10-minute rest and a 1-hour lunch. Participants were tested under one referent conditions and three hot temperature conditions and average rectal temperature remained at or below 38 °C (100.4 °F) in all groups during each exercise period at heat indices ranging from 105 °F to 161 °F (table S2).

Overall, OSHA preliminarily finds that these studies show that 15-minute rest breaks would offer more protection for employees than shorter duration rest breaks, because the frequency of rest breaks in these studies by Uchiyama et al. (2022) and Smallcombe et al. (2022) was greater than what OSHA is proposing and rest breaks were provided in air-conditioned or cooler areas. OSHA expects some employees will not have access to air-conditioned areas during break periods. OSHA acknowledges uncertainties in determining a precise rest break frequency and duration, but preliminarily concludes that a minimum of a 15-minute rest break every two hours would be highly protective in many circumstances at or above the high heat trigger, while offering employers administrative convenience. For example, other approaches such as adjusting rest break frequency and duration based on weather conditions, work intensity, or protective clothing are likely to be difficult for many employers to implement. A 15-minute break every two hours is administratively convenient to implement because, as explained below, a standard meal break could qualify as a rest break, and

therefore, assuming an 8-hour workday with a meal break in the middle of the day, paragraph (f)(2) would only require two other breaks, one break in the morning and a second break in the afternoon, assuming the high heat trigger is met or exceeded the entire day.

The frequency and duration of these proposed rest breaks are within the ranges of frequencies and durations required by four U.S. States that have finalized regulations protecting against HRI by requiring rest breaks under high heat conditions. First, the California regulation for outdoor employees requires a minimum ten-minute rest period every two hours for agricultural employees, when temperatures reach or exceed 95 °F (Cal. Code Regs. tit. 8, section 3395 (2024)). Second and similarly, the Colorado regulation for agricultural employees requires a minimum 10-minute rest period every two hours under increased risk conditions that include a temperature at or above 95 °F (7 Colo. Code Regs. section 1103–15:3 (2023)). Third, in Oregon rules applying to agriculture as well as indoor and outdoor workplaces, employers can select from three different options for work-rest periods at high heat, including: (1) an employer-designed program with a minimum of a 10-minute break every two hours at a heat index of 90 °F or greater and a 15-minute break every hour at a heat index of 100 °F or greater, with possible increased frequency and duration of breaks based on PPE use, clothing, relative humidity, and work intensity; (2) development of work/rest schedules based on the approach recommended by NIOSH (see NIOSH, 2016), or (3) a simplified rest break schedule that calls for a 10-minute break every two hours, with durations and frequencies of rest breaks increasing with increases in heat index (Or. Admin. R. 437–002–0156 (2024); Or. Admin. R. 437–004–1131 (2024)). Fourth and finally, for outdoor workplaces, Washington requires a minimum 10-minute rest period every two hours at an air temperature at or above 90 °F and a minimum 15-minute rest period every hour at an air temperature at or above 100 °F (Wash. Admin. Code 296–307–09747 (2023)).

A NIOSH guidance document recommends work/rest cycles for employees wearing “normal clothing” that considers temperature adjusted for humidity levels and cloud cover and work intensity; in that guidance, when the need for rest cycles is triggered, work/rest cycles range from 45 minutes work/15 minutes rest to 15 minutes work/45 minutes rest, with extreme cautioned urged under some conditions (NIOSH, 2017b).

OSHA acknowledges the requirements of some States and recommendations by NIOSH to increase frequency and duration of rest breaks as heat conditions increase, but OSHA has preliminarily decided on a more simplified approach, in part because of implementation concerns raised by stakeholders, such as difficulty in implementing a more complex approach (e.g., longer and more frequent rest breaks with increasing temperature), and interference with certain types of work tasks (e.g., continuous production work and tasks such as pouring concrete that could be disrupted by more frequent breaks). In addition, the requirement to continue providing paid breaks if needed above the high heat trigger, coupled with the requirement to encourage employees to take these breaks, will help ensure that any employee that needs an additional break can take one. However, OSHA acknowledges that, for the reasons discussed above, this encouragement may become more vital as the temperature increases to ensure that employees don't forego the breaks they are entitled to. OSHA welcomes comment and data on the appropriateness of this approach.

B. Complying With Rest Break Provisions

The required break periods under paragraph (f)(2) are a minimum. Nothing in the proposed standard would preclude employers from providing longer or more frequent breaks. Additionally, employers would need to comply with paragraph (e)(8) (i.e., providing rest breaks if needed to prevent overheating), which may include situations where employees need more frequent or longer break periods. Paragraph (f)(2) requires employers to ensure that employees have at least one break that lasts a minimum of 15 minutes every two hours when the high heat trigger is met or exceeded. The requirement is in addition to employers' obligation under paragraph (e)(8) to allow and encourage rest breaks if needed to prevent overheating, which continues after the high heat trigger is met. However, if an employee takes a rest break under paragraph (e)(8) that lasts at least 15 consecutive minutes, that would impact when the employer would next need to provide a break under paragraph (f)(2). For example, if the high heat trigger is exceeded for an entire 8-hour work day, and the employee takes a 15-minute break after their first hour of work because they need one to prevent overheating, the employer would not be required to provide another 15-minute

break under paragraph (f)(2) for the next two hours. However, the employer's ongoing obligation under paragraph (e)(8) would remain. Employers would also need to comply with paragraph (g)(2) (i.e., relieving an employee from duty when they are experiencing signs and symptoms of heat-related illness).

Under proposed paragraph (f)(2), when the high heat trigger is met or exceeded, employers would be required to provide a minimum 15-minute paid rest break at least every two hours in the break area that would be required under paragraph (e)(3) or (4). These rest breaks would be mandatory, and the employer would need to ensure that rest breaks are taken as required.

Proposed paragraphs (f)(2) and (e)(8) would require that employees be paid during rest breaks. As discussed further in the *Explanation of Proposed Requirements* for paragraph (j), *Requirements implemented at no cost to employees*, OSHA finds it important that employees be paid during the time they are taking breaks that are mandatory or needed to prevent overheating so that employees are not financially penalized and thus discouraged from taking advantage of those protections. See *Explanation of Proposed Requirements* for paragraph (j) for *Requirements implemented at no cost to employees* for a discussion of approaches employers can take to ensure that both hourly employees and piece rate employees are compensated for time on rest breaks.

Rest breaks are not the same as slowing down or pacing. In addition, performing a sedentary work activity, even if done in an area that meets the requirements of a break area under proposed paragraphs (e)(3) or (4), would not be considered a rest break under the proposed standard. This ensures that employees can rest (thus modulating increases in heat strain) and hydrate during that rest break.

OSHA recognizes that providing a rest break every two hours might be challenging for some employers. However, employers could consider approaches such as staggering employee break times, within the required two-hour period, to ensure that some employees are always available to continue working. In other cases, employers who have concerns about employee safety, such as having to climb up and down from high locations to take a break, might be able to provide portable shade structures, if safe to use under the conditions (e.g., elevation, wind conditions). In addition, employers could consider scheduling work tasks during cooler parts of the day to avoid required rest breaks.

Proposed paragraphs (f)(2)(i) indicates that a meal break that is not required to be paid under law may count as a rest break. Whether a meal break must be paid is governed by other laws, including State laws. Under the Federal Fair Labor Standards Act, bona fide meal periods (typically 30 minutes or more) generally do not need to be compensated as work time (see 29 CFR 785.19). The employee must be completely relieved from duties for the purpose of eating regular meals. Furthermore, an employee is not relieved if they are required to perform any duties, whether active or inactive, while eating.

Proposed paragraphs (f)(2)(ii) and (iii) further clarify that total time of the rest break would not include the time that employees take to put on and remove PPE or the time to walk to and from the break area. OSHA preliminarily finds it important to exclude this time from the 15-minute rest period so employees have the full 15 minutes to cool down.

C. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Stakeholders' experiences with rest breaks required under law or by the employer, including successes and challenges with such approaches;
- Whether there is additional evidence to support a 15-minute rest break every 2 hours as effective in reducing heat strain and preventing HRIs;
- Whether OSHA should consider an alternative scheme for the frequency and/or duration of rest breaks under paragraph (f)(2). If so, what factors (such as weather conditions, intensity of work tasks, or types of clothing/PPE) should it be based on and why;
- Whether varying frequency and duration of rest breaks based on factors such as the heat index would be administratively difficult for employers to implement and how any potential administrative concerns could be addressed;
- Whether employees could perform certain sedentary work activities in areas that meet the proposed requirements for break areas without hindering the effectiveness of rest breaks for preventing HRI, including examples of activities that would or would not be acceptable; and
- Whether OSHA should require removal of PPE that may impair cooling during rest breaks.

III. Observation for Signs and Symptoms

Paragraph (f)(3) of the proposed standard would establish requirements for observing employees for signs and

symptoms of heat-related illness when the high heat trigger is met or exceeded. As explained in Section IV., Health Effects, heat-related illnesses can progress to life-threatening conditions if not treated properly and promptly. Therefore, it is important to identify the signs and symptoms of heat-related illness early so appropriate action can be taken to prevent the condition from worsening. OSHA preliminarily finds that observation for signs and symptoms of heat-related illness in employees is a critical component of heat injury and illness prevention.

NIOSH recommends observation for signs and symptoms of heat-related illness by a fellow worker or supervisor (NIOSH, 2016). The NACOSH Heat Injury and Illness Prevention Work Group also provided recommendations related to observation for signs and symptoms of heat-related illness in its recommendations to OSHA on potential elements of heat injury and illness prevention standard. The NACOSH Work Group recommended that there be additional requirements for workers who work alone since a buddy system is not possible in those cases, including a communication system with regular check-ins (NACOSH Working Group on Heat, 2023).

Paragraph (f)(3) would require that the employer implement at least one of two methods of observing employees for signs and symptoms of heat-related illness, with a third option for employees who work alone at a work site. As defined under proposed paragraph (b), *Signs and symptoms of heat related illness* means the physiological manifestations of a heat-related illness and includes headache, nausea, weakness, dizziness, elevated body temperature, muscle cramps, and muscle pain or spasms.

The first option, under proposed paragraph (f)(3)(i), that an employer may choose is to implement a mandatory buddy system in which co-workers observe each other. Employers could satisfy this requirement by pairing employees as "buddies" to observe each other for signs and symptoms of heat-related illness. Co-workers assigned as buddies would need to be in the same work area so that it is possible for them to observe each other. Co-workers could also use visual cues or signs and/or verbal communication to communicate signs and symptoms of heat-related illness to each other.

The second option, under proposed paragraph (f)(3)(ii), that the employer may choose is for observation to be carried out by a supervisor or heat safety coordinator. If the employer chooses this option, proposed paragraph (f)(3)(ii)

specifies that no more than 20 employees can be observed per supervisor or heat safety coordinator. OSHA preliminarily finds that it is important to limit the number of employees being observed to ensure that each employee is receiving the amount of observation needed to determine if they are experiencing any signs and symptoms of heat-related illness. Supervisors or heat safety coordinators would need to be in a position to observe the employees they are responsible for observing for signs and symptoms (e.g., in close enough proximity to communicate with and see) when observing for signs/symptoms. The supervisor or heat safety coordinator could have other tasks or work responsibilities while implementing the observation role, but they must be able to be within close enough proximity to communicate with and see those they are observing and be able to check in with the employee regularly (e.g., every two hours). When the high heat trigger is met, employers would still be responsible for meeting the proposed requirements of paragraph (e)(9), *Effective Communication*. Employees need to have a means of effective communication with a supervisor (e.g., phone, radio) and employers must regularly communicate with employees at or above both the initial and high heat triggers.

Because symptoms of heat-related illness may not be outwardly visible (e.g., nausea, headache), employers should ensure employees are asked if they are experiencing any signs and symptoms. This is especially true if the employee shows changes in behavior such as working more slowly or dropping things because this could indicate that the employee is experiencing heat-related illness but not recognizing it. It is also important that employees report any signs and symptoms they are experiencing or that they observe in others in order to prevent development of potentially life-threatening forms of heat-related illness (see proposed paragraph (h)(1)(x), *Training*). Additionally, as discussed below, certain signs and symptoms indicate a heat-related emergency.

Employees who work alone at a work site do not have a co-worker, supervisor, or heat safety coordinator present who can observe them to determine if they are experiencing signs and symptoms of heat-related illness. For employees working alone at a work site, the employer would instead need to comply with proposed paragraph (f)(3)(iii) and maintain a means of effective, two-way communication with those employees and make contact with them at least

every two hours. This means that employers must not only reach out to lone employees, but also receive a communication back from the employees. Receiving communication back from the employee allows the employee to report any symptoms. If no communication is received, this may be a sign that the employee is having a problem.

Under proposed paragraph (h)(1)(iv), employers would be required to train employees on signs and symptoms of heat-related illness and which ones require immediate emergency action. Proposed paragraph (b) defines *signs and symptoms of a heat emergency* as physiological manifestations of a heat-related illness that requires emergency response and includes loss of consciousness (*i.e.*, fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate. Employer obligations when an employee is experiencing signs and symptoms of a heat-related illness or heat emergency are addressed under proposed paragraph (g).

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Stakeholders' experiences with implementing observational systems such as those that OSHA is proposing and examples of the implementation of other observational systems for signs and symptoms of heat-related illness that OSHA should consider;

- Data of the effectiveness of such observation systems;

- The frequency at which observation as described in this section should occur;

- Whether there are alternative definitions of signs and symptoms of heat-related illness that OSHA should consider;

- Whether employers should be able to select a designee to implement observation in situations where it may not be possible to have a supervisor or heat safety coordinator present;

- Possible logistical concerns regarding proposed requirements for communication at least every two hours for employees who work alone at the work site; whether there are examples of successful implementation of these types of communication systems; examples of the types of technologies or modes of communication that most effectively support this type

communication; and whether there are innovative approaches for keeping employees working alone safe from HRI and allowing for prompt response in an emergency; and

- For employees who work alone at the work site, whether the employer should know the location of the employee at all times.

IV. Hazard Alert

Paragraph (f)(4) of the proposed standard would require employers to issue a hazard alert to employees prior to a work shift or when employees are exposed to heat at or above the high heat trigger.

As explained in Section IV., Health Effects, hazardous heat can lead to sudden and traumatic injuries and heat-related illnesses can quickly progress to life threatening forms if not treated properly and promptly. To protect employees, it is not sufficient to respond to HRIs after they occur. Prevention of HRIs is critical. A hazard alert will help prevent HRIs by notifying employees of heat hazards, providing information on HRI prevention, empowering employees to utilize preventative measures, and providing practical information about how to access prevention resources (*e.g.*, drinking water, break areas to cool down) and seek help in case of emergency.

Heat alert programs have been identified as important prevention strategies (NIOSH, 2016; Khogali, 1997). NIOSH identified heat alert programs as a strategy to prevent excessive heat stress and recommended that heat alert programs be implemented under certain high heat conditions (NIOSH, 2016, p. 10). NIOSH further describes an example of an effective heat alert program, drawing in part on recommendations described by Dukes-Dobos (1981). Effective elements of a hazard alert program include similar elements to the proposed provision (f)(4), such as “Establish[ing] criteria for the declaration of a heat alert” and “Procedures to be followed during the state of [the] [h]eat [a]lert” (*e.g.*, reminding employees to drink water) (NIOSH, 2016, pp. 80–81).

Employees may face pressure or incentives to work through hazardous heat which can increase their risk of heat-related illness; some employees also may not recognize that they are developing signs and symptoms of a heat-related illness (see Section IV., Health Effects). The hazard alert provision would require that employers provide information about prevention measures, including employees' right to take rest breaks if needed, at the

employees' election, and the rest breaks required by paragraph (f)(2), which will empower employees to utilize the preventative measures available. This requirement would also enable effective response in the event of a heat emergency by requiring employers to remind employees in advance of its heat emergency procedures.

OSHA preliminarily finds that the hazard alert requirement in proposed paragraph (f)(4) is an important strategy for the prevention of HRIs. The provision includes minimum requirements for the hazard alert and provides flexibility for employers in how they implement the provision. Additionally, employers may choose to include additional information in the alert that is appropriate for their work sites.

Paragraph (f)(4) would require that prior to the work shift or upon determining the high heat trigger is met or exceeded, the employer must notify employees of specific information relevant to the prevention of heat hazards. Specifically, the employer would be required to notify employees of the following: the importance of drinking plenty of water; employees' right to, at employees' election, take rest breaks if needed and the rest breaks required by paragraph (f)(2); how to seek help and the procedures to take in a heat emergency; and for mobile work sites, information on the location of break area(s) required by paragraph (e)(3) or (4) and drinking water required by paragraph (e)(2). Because the location of break area(s) and drinking water may change frequently for mobile work sites, it is important to make sure employees at those work sites are reminded of their location on high heat days. Mobile work sites include work sites that change as projects progress or when employees relocate to a new project (*e.g.*, landscaping, construction).

Paragraph (f)(4) would require the employer to issue the hazard alert prior to the work shift or upon determining the high heat trigger is met or exceeded. However, issuing the alert prior to the start of the work shift would not be required unless exposures will be at or above the high heat trigger at the start of the work shift. If the start of the work shift is below the high heat trigger and the hazard alert is not issued at the start of the work shift, then the hazard alert must be issued when the high heat trigger is met and ideally before exposure occurs. For example, if a work shift runs from 8 a.m. to 5 p.m. and the high heat trigger is not met until 10 a.m., the employer must either issue the alert at the beginning of the work shift, or issue the alert when the high heat

trigger is met at 10 a.m. If an employer regularly communicates with an employee via a particular means of communication and uses that form of communication to issue the alert, then the employer can presume the notification was received. If, however, the employer has reason to believe the hazard alert was not received, they would need to take additional steps to confirm.

Employers could satisfy the requirements of this provision by posting signs with the required information at locations readily accessible and visible to employees. For example, some employers may choose to post signs at the entrance to the work site. Signs are not an option for all employers as they may not be sufficient to ensure employees receive the hazard alert (e.g., employers with mobile employees or employees who work alone on a work site). Additionally, signs may not be an option for employers who choose not to provide the hazard alert at the start of the work shift. For example, posting a sign at the entrance to the work site would not be sufficient to ensure employees are notified after all employees have already entered the work site. Employers may also satisfy the hazard alert notification requirement by issuing the alert electronically (e.g., via email, text message) or through verbal means (e.g., an in-person meeting, radio or voicemail). Employers may be able to use the system they have in place to meet the requirements of paragraph (e)(9) for effective, two-way communication with employees to issue the hazard alert.

For any method the employer chooses to issue the hazard alert notification, the hazard alert must be sufficient to ensure all employees are notified of the information in paragraphs (f)(2)(i) through (iv). To ensure this, the hazard alert must be issued in languages and at a literacy level understood by employees.

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether any additional information should be required in the hazard alert;
- The frequency of the hazard alert, particularly in locations that frequently exceed the high heat trigger; and
- Any alternatives to a hazard alert requirement that OSHA should consider.

V. Excessively High Heat Areas

Paragraph (f)(5) of the proposed standard would require that employers place warning signs at indoor work

areas with ambient temperatures that regularly exceed 120 °F. The warning signs must be legible, visible, and understandable to employees entering the work area. Specifying the requirement for warning signs ensures that all employees and contractors at the work site are aware of areas with excessively high heat. Warning signs signal a hazardous situation that, if not avoided, could result in death or serious injury and, if employees need to enter the areas, serve as a reminder to take appropriate precautions.

The warning signs must be legible, visible, and understandable to employees entering the work areas. The sign must be in a location that employees can clearly see before they enter the excessively high heat area. To maintain visibility of the warning signs, employers must ensure that there is adequate lighting in the area to read the signs and that the signs are not blocked by items that would prevent employees from seeing them. The signs would have to be legible (e.g., writing or print that can be read easily). The proposed standard does not specify contents of the sign, but signs could include a signal word such as “Danger”, the hazard (e.g., “High Heat Area”), possible health effects (e.g., May Cause Heat-Related Illness or Death), information pertaining to who is permitted to access the area (e.g., Authorized Personnel Only), and what precautions entrants would have to take to safely enter the area. Employees must be able to understand the signs. Therefore, the signs must be printed in a language or languages that all potentially exposed employees understand. If it is not practical to provide signs in a language or languages spoken by all employees, employers still must ensure all employees understand what the signs mean. Employers could do this by training on what the warning signs mean and providing those employees with information regarding the extent of the hazardous area as indicated on the signs.

Employers would have to place warning signs at indoor work areas with ambient temperatures that regularly exceed 120 °F. The term “regularly” means a pattern or frequency of occurrence rather than isolated incidents. This would mean that the indoor work areas experience temperatures exceeding 120 °F on a frequent or recurring basis, such as daily during certain seasons or under specific operational conditions. The process of identifying heat hazards pursuant to proposed paragraph (d) may help employers identify excessively high heat areas. Under proposed paragraph

(d)(3), employers would be required to identify each work area(s) where employees are reasonably expected to be exposed to heat at or above the initial heat trigger and develop a monitoring plan. If, while monitoring, an employer determines temperatures in an indoor work area regularly exceed the 120 °F threshold, then the employer would need to ensure that warning signs are placed at that work area to alert employees to the potential hazards associated with such extreme temperatures.

If an employer’s work site contains an excessively high heat area(s), the employer must train employees in the procedures to follow when working in these areas (see proposed provision (h)(1)(xvi)).

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether OSHA should further specify the required location of warning signs;
- Whether OSHA should specify the wording/contents of the warning signs; and
- Whether OSHA should consider defining “excessively high heat area” as something other than a work area in which ambient temperatures regularly exceed 120 °F; and evidence available to support a different temperature threshold or other defining criteria.

G. Paragraph (g) Heat Illness and Emergency Response and Planning

Paragraph (g) of the proposed standard would establish requirements for heat illness and emergency response and planning. It would require that employers develop and implement a heat emergency response plan as part of their HIIPP, as well as specify what an employer’s responsibilities would be if an employee experiences signs and symptoms of heat-related illness or a heat emergency. Effective planning and emergency response measures can minimize the severity of heat-related illnesses when they occur and allow for more efficient access to medical care when needed.

Proposed paragraph (g)(1) specifies that the employer would be required to develop and implement a heat emergency response plan as part of their HIIPP and specifies the elements that would be required in an employer’s emergency response plan. Because the emergency response plan is part of the HIIPP, some of the requirements in paragraph (c) are relevant to the emergency response plan. For example, the employer would need to seek the input and involvement of non-

managerial employees and their representatives, if any, in the development and implementation of the emergency response plan (see proposed paragraph (c)(6)). See *Explanation of Proposed Requirements* for paragraph (c), for a detailed explanation of the requirements that apply to the HIIPP. Only one plan would be required for each employer (*i.e.*, for the whole company). However, if the employer has multiple work sites that are distinct from each other, the plan would be tailored to each work site or type of work site. For instance, if an employer has employees engaged in work activities outdoors on a farm, as well as employees loading and unloading product from vehicles at various locations, the employer could have one emergency response plan with the specifications for each of these types of work sites represented. Employers may also choose to include other elements in the plan to account for any work activities unique to their workplace.

Proposed paragraph (g)(1)(i) would require employers to include a list of emergency phone numbers (*e.g.*, 911, emergency services) in their emergency response plan. Indicating the most appropriate phone number(s) to contact in the case of an emergency helps ensure medical support and assistance are provided timely and efficiently during a heat emergency. Examples of other phone numbers for assistance aside from 911 that employers might include in the plan are those for on-site clinicians or nurses to be contacted if an employee is experiencing signs and symptoms of a heat-related illness.

Proposed paragraph (g)(1)(ii) would require employers to include a description of how employees can contact a supervisor and emergency medical services in their emergency response plan. Because time is of the essence in emergency situations, it is important that employees know beforehand how to contact a supervisor and emergency medical services in the event of a heat emergency. For example, if employees do not have phone service or access to a phone to call for medical help, but they do have access to other means of communication such as radios, walkie-talkies, personal locator beacons, and audio signals, the employer's plan would describe how to use these other means of communication to contact a supervisor and emergency medical services.

Proposed paragraph (g)(1)(iii) would require the emergency response plan to include the individual(s) designated to ensure that heat emergency procedures are invoked when appropriate. Clearly assigning this responsibility to an

individual(s) can reduce confusion and allow for swift action in the event of a heat emergency. Employers with multiple work sites or dispersed work areas may not be able to ensure heat emergency procedures are invoked without designating different individuals for each work site/area. For example, an employer with work activities inside two factories in different geographic locations would need to designate an individual(s) to ensure heat emergency procedures are invoked at each factory location.

Proposed paragraph (g)(1)(iv) would require the emergency response plan to have a description of how to transport employees to a place where they can be reached by an emergency medical provider. Planning for where employees can access emergency medical services can ensure aid is provided efficiently. This is especially important for employers with employees engaging in work activities in remote locations, where medical services cannot reach them. For example, an employee working in an area of a farm not easily accessible by vehicle or an employee in a difficult to reach location inside a building being constructed.

Proposed paragraph (g)(1)(v) would require the emergency response plan to include clear and precise directions to the work site, including the address of the work site, which can be provided to emergency dispatchers. For certain work sites that are remote/hard to reach or do not have an address, GPS coordinates may be necessary to share with emergency responders, or a description of how to get to their location from the main road, entrance, building, etc. If an employee's work site changes frequently, the emergency response plan would need to include a clear strategy to account for their changing locations and ensure directions to the work site are readily accessible when needed to provide to emergency dispatchers.

Proposed paragraph (g)(1)(vi) would require the emergency response plan to include procedures for responding to an employee experiencing signs and symptoms of heat-related illness, including heat emergency procedures for responding to an employee with suspected heat stroke. Prior development of emergency response procedures can ensure assistance and medical attention are provided efficiently and quickly. In developing the procedures, OSHA expects that employers would look to resources such as OSHA guidance (*e.g.*, www.osha.gov/heat-exposure/illness-first-aid) and NIOSH recommendations (NIOSH, 2016) for more information.

The proposed standard does not require employers to develop a plan for each work site. However, the employer's emergency response plan(s) must contain all the information required by paragraphs (g)(1)(i) through (vi), some of which will vary based on work site. The employer may be able to incorporate the information needed for different work sites into the same emergency response plan. For instance, if an employer has employees engaged in work activities outdoors on a farm, as well as employees loading and unloading product from vehicles at various locations, the employer could have one emergency response plan with the specifications for each of these types of work sites represented. Employers may also choose to include elements beyond those required by paragraphs (g)(1)(i) through (vi) in their plan to account for any work activities unique to their workplace.

Proposed paragraph (g)(2) specifies the actions employers would be required to perform if an employee is experiencing signs and symptoms of heat-related illness. Under proposed paragraph (b) *signs and symptoms of heat-related illness* means the physiological manifestations of a heat-related illness and includes headache, nausea, weakness, dizziness, elevated body temperature, muscle cramps, and muscle pain or spasms.

Proposed paragraph (g)(2)(i) would require employers to relieve from duty employees who are experiencing signs and symptoms of heat-related illness. Relieving the employee from duty would allow the employer to address the heat-related illness according to the procedures outlined in proposed paragraphs (g)(2)(ii) through (v). This relief from duty, including the time it takes to address the heat-related illness according to the procedures outlined in proposed paragraphs (g)(2)(ii) through (v), must be with pay and must continue at least until symptoms have subsided.

Proposed paragraph (g)(2)(ii) would require that employers monitor employees who are experiencing signs and symptoms of heat-related illness, and proposed paragraph (g)(2)(iii) would require employers to ensure that employees who are experiencing signs and symptoms of heat-related illness are not left alone. Continuous monitoring of employees who are experiencing signs and symptoms of a heat-related illness is important to ensure that if the employee's condition progresses to a heat emergency, someone is there to observe it and quickly respond.

Proposed paragraph (g)(2)(iv) would require employers to offer employees who are experiencing signs and

symptoms of heat-related illness on-site first aid or medical services before ending any monitoring. This requirement is intended to be consistent with existing first aid standards (e.g. 29 CFR 1910.151, 1915.87, 1926.23 and 1926.50), which require accessibility of medical services and first aid to varying degrees depending on the industry or whether the workplace is near an infirmary, clinic or hospital. Proposed paragraph (g)(2)(iv) would not add new requirements for staff to be fully trained in first aid. Employers would offer the first aid or medical resources they have available to employees on site to the extent already required by first aid standards and follow the procedures developed in paragraph (g)(1)(vi) as applicable.

Proposed paragraph (g)(2)(v) would require employers to provide employees who are experiencing signs and symptoms of heat-related illness with means to reduce their body temperature. Examples of means to reduce body temperature are instructing those employees to remove all PPE and heavy outer clothing (e.g., heavy/impermeable protective clothing) and moving them to a cooled or shaded area (e.g., the break areas required under paragraphs (e)(3) and (4)) where they can sit and drink cool water. If the employer has cooling PPE (e.g., cooling bandanas or neck wraps, and vests and cooling systems such as hybrid personal cooling systems (HPCS), and fans) available on site, those could also be used to cool employees as well. (For information related to the requirement to reduce an employee's body temperature in the case of a heat emergency, see discussion below.)

Proposed paragraph (g)(3) specifies the actions employers would have to perform if an employee is experiencing signs and symptoms of a heat emergency. Proposed paragraph (b) defines *signs and symptoms of a heat emergency* as the physiological manifestations of a heat-related illness that requires emergency response and includes loss of consciousness (i.e., fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate.

Proposed paragraph (g)(3)(i) would require employers to take immediate actions to reduce the employee's body temperature before emergency medical services arrive. Rapid cooling of body temperature during a heat emergency is

essential because the potential for organ damage and risk of death increase in a short period of time, often before medical personnel can respond, transport, and treat the affected individual (Belval et al., 2018). Immersion in ice water or cold water has been reported to have the fastest cooling rates (McDermott et al., 2009b; Casa et al., 2007). However, OSHA realizes that immersing an employee in a tub of ice/cold water is not an option that will be available at most work sites. Other, more practical methods of reducing employee body temperature using materials that employers are likely to have, or are similar to materials that an employer is likely to have, on site have been reported to be highly effective in preventing death from exertional heat stroke. DeGroot et al. (2023) reported survival of 362 of 363 military personnel who were suffering from exertional heat stroke and were treated with strategically placed "ice sheets" (i.e., bed sheets soaked in ice water). McDermott et al. (2009a) reported 100% survival in nine marathon runners who were suffering from exertional heat stroke and treated by dousing with cold water and rubbing of ice bags over major muscle groups. Another possible approach is the tarp-assisted cooling oscillation (TACO) method that involves wrapping the affected individual in a tarp with ice (Luhning et al., 2016).

Proposed paragraph (g)(3)(ii) would require employers to contact emergency medical services immediately for employees experiencing signs and symptoms of a heat emergency, and proposed paragraph (g)(3)(iii) would require employers to also perform the activities described in paragraphs (g)(2)(i) through (iv) to aid an employee during a heat emergency until emergency medical services arrives. Some heat-related illnesses can quickly progress and become fatal (see Section IV., Health Effects). The severity and survival of heat stroke is highly dependent on how quickly effective cooling and emergency medical services are provided (Vicario et al., 1986; Demartini et al., 2015; Belval et al., 2018).

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether OSHA should require a minimum duration of time an employee who has experienced signs and symptoms of heat-related illness must be relieved from duty, and what an appropriate duration of time would be before returning employees to work;
- Whether OSHA should add or remove any signs or symptoms in the

definitions of *signs and symptoms of heat-related illness* and *signs and symptoms of a heat emergency* in proposed paragraph (b). If so, provide clear and specific evidence for inclusion or exclusion;

- Whether paragraph (g)(3)(i) should require specific actions that the employer must take to reduce an employee's body temperature before emergency medical services arrive, rather than merely requiring unspecified "immediate actions". If so, describe those specific actions; and

- Whether paragraph (g)(3)(i) should prohibit certain actions to reduce an employee's body temperature before emergency medical services arrive. If so, indicate if there is evidence or observations that certain actions are not helpful or are counterproductive.

H. Paragraph (h) Training

Paragraph (h) of the proposed standard establishes requirements for training on HRI prevention. It addresses the topics to be addressed in training, the types of employees who are to be trained, the frequency of training, triggers for supplemental training, and how training is to be conducted. OSHA regularly includes training requirements in its standards to ensure employees understand the hazards addressed by the standard, the protections they are entitled to under the standard, and the measures to take to protect themselves. Here, OSHA believes that it is essential that employees are trained on heat-related hazards and how to identify signs and symptoms of HRIs as well as on the requirements of the proposed standard and the employer's heat-related policies and procedures. This training ensures that employees understand heat hazards and the workplace specific control measures that would be implemented to address the hazard. The effectiveness of the proposed standard would be undermined if employees did not have sufficient knowledge and understanding to identify heat hazards and their health effects or sufficient knowledge and understanding of their employer's policies and procedures for addressing those hazards.

Surveys and interviews with diverse working populations highlight the need for additional education and training on HRIs and prevention strategies amongst employees (Luque et al., 2020; Smith et al., 2021; Fleischer et al., 2013; Stoecklin-Marois et al., 2013; Langer et al., 2021; Jacklitsch et al., 2018). The NACOSH Heat Injury and Illness Prevention Work Group recommended that both workers and supervisors are trained in heat illness and injury

prevention strategies. Additionally, the Work Group recommended that the training program includes the following elements: identification of hazards; mitigation of hazards through prevention; reporting of signs and symptoms; and emergency response. OSHA preliminarily finds that effective training is an essential element of any heat injury and illness prevention program and that the requirements in proposed paragraph (h) are necessary and appropriate to ensure the effectiveness of the standard as a whole.

Proposed paragraph (h)(1) establishes the initial training requirements for all exposed employees. It would require employers to ensure that each employee receives, and understands, training on the topics outlined in proposed paragraphs (h)(1)(i) through (xvi) prior to the employee performing any work at or above the initial heat trigger. Requiring that initial training occur before employees perform any work at or above the initial heat trigger ensures that the employees have all the knowledge necessary to protect themselves prior to their exposure to the hazard.

This provision, like paragraphs (h)(2) through (h)(4), would require employers to ensure that employees, including supervisors and heat safety coordinators, understand the training topics. While OSHA does not mandate testing or specific modes of ascertaining employee understanding of the training materials, OSHA expects that all required training will include some measure of comprehension. Different ways that employers could ensure comprehension of the training materials include a knowledge check (e.g., written or oral assessment) or discussions after the training. Post training assessments may be particularly useful for ensuring employee participation and comprehension when employers offer online training. Proposed paragraph (h)(5), discussed below, includes additional requirements for presentation of the training.

Proposed paragraph (h)(1)(i) would require employers to provide training on heat stress hazards. Heat stress is the total heat load on the body. There are three major types of hazards which contribute to heat stress: (1) environmental factors such as high humidity, high temperature, solar radiation, lack of air movement, and process heat (i.e., radiant heat produced by machinery or equipment, such as ovens and furnaces), (2) use of personal protective equipment or clothing that can inhibit the body's ability to cool itself, and (3) the body's metabolic heat (i.e., heat produced by the body during

work involving physical activity and exertion). Employers should make employees aware of all the sources of heat at the workplace that contribute to heat stress.

Proposed paragraph (h)(1)(ii) would require employers to provide training on heat-related injuries and illnesses. See Section IV., Health Effects, for a discussion of HRIs. Examples of heat-related illnesses include heat stroke, heat exhaustion, heat cramps, heat syncope, and rhabdomyolysis. Heat-related injuries that could result from heat illness include slips, trips, falls, and other injuries that could result from the mishandling of equipment due to the effects of heat stress.

Proposed paragraph (h)(1)(iii) would require employers to provide training on risk factors for heat-related injury or illness, including the contributions of physical exertion, clothing, personal protective equipment, a lack of acclimatization, and personal risk factors (e.g., age, health, alcohol consumption, and use of certain medications). As noted above, physical exertion, clothing, and personal protective equipment all increase an employee's heat load. More information on acclimatization and how it affects risk is included in Section V.C., Risk Reduction, and more information about personal risk factors is included in Section IV.O., Factors that Affect Risk for Heat-Related Health Effects.

Proposed paragraph (h)(1)(iv) would require employers to provide training on signs and symptoms of heat-related illness and which ones require immediate emergency action. As defined in proposed paragraph (b), *signs and symptoms of heat-related illness* means the physiological manifestations of a heat-related illness and includes headache, nausea, weakness, dizziness, elevated body temperature, muscle cramps, and muscle pain or spasms. Also defined in proposed paragraph (b), *signs and symptoms of a heat emergency* means the physiological manifestations of a heat-related illness that requires emergency response and includes loss of consciousness (i.e., fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate. Employers must train employees on how to identify these signs and symptoms of heat-related illness in themselves and their coworkers and when to employ the employer's emergency response

procedures, as required under proposed paragraph (g). That provision specifies the actions that an employer must take both when an employee experiences signs and symptoms of a heat-related illness and when an employee experiences signs and symptoms of a heat emergency. For further discussion see the *Explanation of Proposed Requirements for Paragraph (g)*.

Proposed paragraphs (h)(1)(v) through (vii) would require employers to train employees on the importance of removing PPE that may impair cooling during rest breaks, taking rest breaks to prevent heat-related illness or injury, and that rest breaks are paid, and drinking water to prevent heat-related illness or injury. Removing PPE when possible, allows employees to cool down faster during rest breaks. As discussed in Section V.C., Risk Reduction, drinking adequate amounts of water and taking rest breaks are important for reducing heat strain that could lead to HRI. Training on these topics could give the employer an opportunity to address common misperceptions regarding heat, such as that drinking cold water in the heat is harmful. In addition, proposed paragraph (h)(1)(viii) and (ix) would require that employers train employees on where break areas and employer provided water are located. This would ensure employees are aware of the locations of break areas and water and encourage their effective utilization.

Proposed paragraph (h)(1)(x) would require employers to train employees on the importance of reporting signs and symptoms of heat-related illnesses that they experience personally or those they observe in co-workers. Training employees to be observant of and to report early any signs and symptoms of heat-related illnesses they see at the workplace is a key factor to identifying and addressing potential heat-related incidents before they result in a serious illness or injury. In addition, employers should ensure that employees are familiar with the employer's own procedures for reporting signs and symptoms of a heat emergency or heat-related illness pursuant to its heat emergency response plan as required in proposed paragraph (g).

Proposed paragraph (h)(1)(xi) would require employers to train employees on all the policies and procedures applicable to the employee's duties, as indicated in the work site's HIIPP. Employees play an important role in effective implementation of the employer's work site-specific policies and procedures to prevent heat-related illnesses and injury, and training on these policies and procedures is

necessary to ensure that they are implemented effectively. OSHA recognizes that employees perform various duties and therefore likely need different types of training, and the proposed requirement allows employers flexibility to account for these differences in their training programs. Thus, certain components of the training may need to be tailored to an employee's assigned duties. For example, while all employees would require training on recognizing signs and symptoms of heat-related illness, employees observing a co-worker as part of buddy system under proposed paragraph (f)(3)(i) may require additional training on how to report signs and symptoms according to the policies and procedures established and implemented by the employer. In another example, the individual designated by the employer to ensure that emergency procedures are invoked when appropriate under proposed paragraph (g)(1)(iii) might require more detailed training on the employer's heat emergency response procedures. Another example could be training employees who wear vapor-impermeable clothing on the policies and procedures the employer has implemented to protect them under proposed paragraph (c)(3).

Proposed paragraph (h)(1)(xii) would require employers to train employees on the identity of the heat safety coordinator. Under proposed paragraph (c)(5), the heat safety coordinator would be designated to implement and monitor the HIIPP and would be given authority to ensure compliance with the HIIPP. Therefore, employees could contact the heat safety coordinator to ask questions about the HIIPP, to provide feedback on the policies and procedures, or report possible deficiencies with implementation of the HIIPP. Employers should encourage employees to contact the heat safety coordinator for these reasons. To ensure that employees are able to contact the heat safety coordinator, employers could provide the name of the individual and other information needed to contact them as part of the training required under this paragraph.

Proposed paragraph (h)(1)(xiii) would require employers to train employees on the requirements of this standard. While proposed paragraph (h)(1)(xi) would require training on all policies and procedures applicable to an employee's duties as noted in the employer's HIIPP, training under (h)(1)(xiii) would ensure that employees are familiar with all requirements of this proposed standard. For example, employees would have to be informed of the requirements related

to employee participation, including in the development, implementation, review and update of the HIIPP under proposed paragraph (c), and identifying work areas with reasonable expectations of exposures at or above the initial heat trigger, and in developing and updating the monitoring plan under proposed paragraph (d). Employees would also need to be informed that requirements of the proposed standard would be implemented at no cost to employees under proposed paragraph (j). The proposed provision would also ensure that employees are made familiar with the employer's heat-related policies and procedures.

Proposed paragraph (h)(1)(xiv) would require employers to train employees on how to access the work site's HIIPP. If relevant this would include training on how to access both digital or physical copies.

Proposed paragraph (h)(1)(xv) would require employers to train employees on their right to protections under this standard (*e.g.*, rest breaks, water), and that employers are prohibited from discriminating against any employee for exercising those rights. Employees' right to be free from retaliation for availing themselves of the protections of the standard or for raising safety concerns comes from section 11(c) of the OSH Act, 29 U.S.C. 660(c), and requiring employers to train on these protections is consistent with the purpose of that provision. Proposed paragraph (h)(1)(xv) is also consistent with section 8(c)(1) of the Act, 29 U.S.C. 657(c)(1), which directs the Secretary to issue regulations requiring employers to keep their employees informed of their protections under the Act and any applicable standards, through posting of notices or "other appropriate means." This training ensures that employees know that they have a right to the protections required by the standard. Having employers acknowledge and train their employees about their rights under this standard provides assurance that employees are aware of the protections afforded them and encourages them to exercise their rights without fear of reprisal. They may otherwise fear retaliation for utilizing the protections afforded them under the standard or for speaking up about workplace heat hazard concerns. This fear would undermine the effectiveness of the standard because employee participation plays a central role in effectuating the standard's purpose.

Proposed paragraph (h)(1)(xvi) would require that if the employer is required under paragraph (f)(5) to place warning signs for excessively high heat areas,

they would be required to train employees on procedures to follow when working in these areas. These procedures could include, but are not limited to, any PPE that might be required when working in those areas, if relevant, and reminders to remove PPE when taking rest breaks in break areas and should reinforce employees' access to rest breaks in break areas, required under paragraph (f)(2), and drinking water, required under paragraph (e)(2), as appropriate.

Proposed paragraph (h)(2) would require the employer to ensure that each supervisor responsible for supervising employees performing any work at or above the initial heat trigger and each heat safety coordinator receives training on, and understands, both the topics outlined in paragraph (h)(1) and the topics outlined in paragraphs (h)(2)(i) and (ii). Proposed paragraph (h)(2)(i) would require the employer to train supervisors and heat safety coordinators on the policies and procedures developed to comply with the applicable requirements of this standard, including the policies and procedures for monitoring heat conditions developed to comply with paragraphs (d)(1) and (d)(3)(ii). Proposed paragraph (h)(2)(ii) would require the employer to train supervisors and heat safety coordinators on procedures they would have to follow if an employee exhibits signs and symptoms of heat related illness, which an employer is required to develop for its HIIPP pursuant to proposed paragraph (g)(1)(vi). This would ensure effective and rapid treatment and care for employees experiencing signs and symptoms of heat-related illness. OSHA included these proposed provisions to ensure that supervisors and heat safety coordinators receive additional training needed to perform their duties as specified in the proposed standard.

Proposed paragraph (h)(3) would require the employer to ensure that each employee receives annual refresher training on, and understands, the subjects addressed in paragraph (h)(1) of the proposed standard. This paragraph would also require that each supervisor and heat safety coordinator additionally receive annual refresher training on, and understands, the topics addressed in paragraph (h)(2). OSHA preliminarily finds that annual training is needed to refresh and reinforce an employee's recollection and knowledge about the topics addressed in this paragraph. This proposed provision also indicates that for employees who perform work outdoors, the employer must conduct the annual refresher training before or at the start of the heat season. This can

vary depending on the weather conditions in the geographic region where the employer is located. Accordingly, OSHA intends this requirement to be flexible and to allow employers leeway to determine the start of the heat season, so long as those determinations are reasonable. For example, in northern States such as Michigan, employers might find it best to do annual training before the time when temperatures commonly reach the initial heat trigger or above. In those cases, temperatures are likely to be below the initial heat trigger for a substantial portion of the year and employees are likely to need reminders of all policies and procedures related to heat, both for the initial and high heat triggers. Employers can determine when heat season is for them based on normal weather patterns and would be required to conduct training prior to or at the start of the heat season. In most instances, OSHA expects that employers would do this no sooner than 30 days before the start of their heat season, so that employees can recall training materials easily, rather than for example, 6-months before the start of heat season. For new employees at outdoor work sites, this may result in some employees receiving the annual refresher training less than a year after the initial training.

Proposed paragraph (h)(4) specifies when supplemental training would be required. Proposed paragraph (h)(4)(i) would require the employer to ensure that employees promptly receive and understand additional training whenever changes occur that affect the employee's exposure to heat at work (e.g., new job tasks, relocation to a different facility or area of a facility). For example, if an employee is assigned to a new task or workstation that exposes them to high process heat or to outdoor work where the employee is exposed to hazardous heat, and such employee was not previously trained on the necessary topics required under this paragraph, then the employer would have to provide that employee with the requisite training. Similarly, if an employee is assigned to a new work area to which different heat-related policies and procedures apply, they would need to be trained on these area-specific policies and procedures. Additional examples could include when an employer's work site experiences heat waves, when new heat sources are added to the workplace, or when employees are assigned to a new task where they need to wear vapor-impermeable PPE (i.e., non-breathable). In these instances, the training required

under this provision would have to comport with the requirements of the rest of this paragraph.

Proposed paragraph (h)(4)(ii) would require that each employee promptly receives, and understands, additional training whenever changes occur in policies and procedures addressed in paragraph (h)(1)(xi) of this proposed standard. Proposed paragraph (c) would require employers to monitor their HIIPP to ensure ongoing effectiveness. When doing so, the employer may find that the policies and procedures are inadequate to protect employees from heat hazards. If so, the employer would have to update those policies and procedures. When this happens, employers would be required to train all employees on the new or altered policies and procedures so that the employees are aware of the new policies and procedures and how to follow them to reduce their risk of developing heat-related illnesses and injuries.

Proposed paragraph (h)(4)(iii) would require that each employee promptly receives, and understands, additional training whenever there is an indication that an employee(s) has not retained the necessary understanding. Examples of this would include employees who appear to have forgotten signs and symptoms of heat-related illnesses or how to respond when an employee is experiencing those signs and symptoms. It is essential that employees remain familiar with training they have received so they continue to have the knowledge and skills needed to protect themselves and possibly co-workers from heat hazards. Supplemental training under paragraph (h)(4)(iii) must be provided to those employees who have demonstrated a lack of understanding or failure to follow the employer's heat policies and procedures or comply with the requirements of this proposed standard.

Proposed paragraph (h)(4)(iv) would require that each employee promptly receives, and understands, additional training whenever a heat-related injury or illness occurs at the work site that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness. Occurrences of these types of heat-related injuries and illnesses could indicate that one or more employees are not following policies and procedures for preventing or responding to heat-related illnesses and injuries. After a heat-related illness or injury in the workplace occurs that meets the requirements of proposed paragraph (h)(4)(iv), OSHA expects that each employee would receive supplemental training. This training

could be a "lessons learned" or "alert" type training.

Both initial and supplemental training are important components of an effective heat injury and illness prevention program. Initial training provides employees with the knowledge and skills they need to protect themselves against heat hazards, and also emphasizes the importance of following workplace policies and procedures in the HIIPP. Supplemental training ensures employees continue to have the knowledge and skills they need to protect themselves from heat hazards. It provides an opportunity to present new information that was not available during the initial training or that becomes relevant when an employee's duties change. Additionally, supplemental training is necessary when an employee demonstrates that they have not retained information from the initial training (e.g., by failing to follow appropriate policies and procedures). Supplemental training does not necessarily need to include all information covered in the initial training, as only some policies or procedures may need to be reviewed, and employees will receive a full refresher training annually.

Proposed paragraph (h)(5) would require that all training provided under paragraphs (h)(1) through (4) is provided in a language and at a literacy level each employee, supervisor, and heat safety coordinator understands. In addition, the provision would require that the employer provide employees with an opportunity for questions and answers about the training materials. For the training to be effective, the employer must ensure that it is provided in a manner that the employee is able to understand. Employees have varying educational levels, literacy, and language skills, and the training must be presented in a language, or languages, and at a level of understanding that accounts for these differences. This may mean, for example, providing materials, instruction, or assistance in Spanish rather than English if the employees being trained are Spanish-speaking and do not understand English. The employer is not required to provide training in the employee's preferred language if the employee understands both languages; as long as the employee is able to understand the material in the language used, the intent of the proposed standard would be met. As explained above with respect to paragraph (h)(1), OSHA does not mandate testing or specific modes of ascertaining employee understanding of the training materials, but expects that

all required training will include some measure of comprehension.

The proposed provision does not specify the manner in which training would be delivered. Employers may conduct training in various ways, such as in-person (e.g., classroom instruction or informal discussions during safety meetings/toolbox talks), virtually (e.g., videoconference, recorded video, online training), using written materials, or any combination of those methods. However, this paragraph would require the employer to provide an opportunity for employees to ask questions regardless of the medium of training. It is critical that trainees have the opportunity to ask questions and receive answers if they do not fully understand the material that is presented to them. If it is not possible to have someone present or available during the training, employers could provide the contact information of the individual that employees can contact to answer their questions (e.g., an email or telephone contact). OSHA expects employers to make an effort to respond to questions promptly.

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether the agency should require other training topics in the standard;
- Whether the inclusion of separate training requirements for supervisors and heat safety coordinators is appropriate, or whether the duty-specific training requirements in proposed paragraph (h)(1) are sufficient;
- Whether the agency has identified appropriate triggers for supplemental training;
- Whether the agency should require annual refresher training or whether the more performance-based supplemental training requirements are sufficient; and
- Whether the agency should specify certain criteria that define the start of heat season.

I. Paragraph (i) Recordkeeping

Paragraph (i) of the proposed standard would require certain employers to create written or electronic records of on-site temperature measurements and establishes the duration of time that employers must retain those records. Specifically, it applies to employers that have indoor work areas where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger, and that are therefore required to conduct on-site temperature measurements under paragraph (d)(3)(ii). These employers must have and maintain written or electronic records of these

measurements. Under paragraph (i), employers must retain these records for a minimum of six months.

Maintaining these records, whether written or electronic, serves several purposes. It will assist OSHA in determining conditions at the work site, which will facilitate OSHA's ability to verify employers' compliance with the standard's provisions. Additionally, these records may facilitate employers identifying trends in indoor temperatures and their effect on employee health and safety. In the event of a heat-related injury or illness, these records can help employers assess the conditions at the time of the injury or illness in order to prevent such an event from recurring.

Paragraph (i) applies to indoor work areas only. This is because employers cannot accurately rely on weather forecasting to predict and monitor temperatures in these areas like they can for outdoor work areas. It is therefore not possible for OSHA or the employer to recreate historic temperature records for indoor work areas in the absence of on-site temperature measurement records. OSHA has preliminarily determined that six months is an appropriate timeframe for records retention because this is the maximum time permitted for an OSHA investigation (see 29 U.S.C. 658(c)). There are several commercially available heat monitoring devices that are capable of maintaining electronic logs of recorded measurements for six months (ERG, 2024b). Therefore, employers can comply with the recordkeeping requirement by using monitoring devices with sufficient storage capability. Alternatively, employers could comply by creating and maintaining written records based on monitoring devices that do not have digital recording capabilities.

A. Requests for Comments

OSHA requests comments and evidence regarding the following:

- Whether six months is an appropriate and feasible duration of time to maintain records of monitoring data;
- Whether permitting employers to maintain records on devices that store data locally is appropriate; and
- Whether the standard should require retention of any other records, and if so, for what duration.

J. Paragraph (j) Requirements Implemented at no Cost to Employees

Proposed paragraph (j) provides that implementation of all requirements of the standard must be at no cost to employees, including paying employees

their normal rate of pay when compliance requires employee time. This provision is included to make it clear that the employer is responsible for all costs associated with implementing the standard, including not only direct monetary expenses to the employee, but also reasonable time to perform required tasks and training.

This proposed requirement is consistent with the OSH Act, which requires employers to ensure a safe and healthful workplace. The OSH Act reflects Congress's determination that the costs of compliance with the Act and OSHA standards are part of the cost of doing business and OSHA may foreclose employers from shifting those costs to employees (see *Am. Textile Mfrs. Inst., Inc. v. Donovan*, 452 U.S. 490, 514 (1981); *Phelps Dodge Corp. v. OSHRC*, 725 F.2d 1237, 1239–40 (9th Cir. 1984); see also *Sec'y of Labor v. Beverly Healthcare-Hillview*, 541 F.3d 193, 198–201 (3d Cir. 2008)). The proposed requirement is also consistent with OSHA's longstanding practice in prior rulemakings. See, e.g., *Employer Payment for Personal Protective Equipment*; 72 FR 64342, 64344 (Nov. 15, 2007); *Occupational Exposure to Bloodborne Pathogens*, 56 FR 64004, 64125 (Dec. 1991). The intent of proposed paragraph (j) is that the standard be implemented at no cost to employees because employer payment for items, such as access to water and shade, is necessary to ensure employees are provided safe working conditions and are protected from the hazard of heat stress. Employees are more likely to take advantage of various workplace protections if such protections are provided at no cost to them. Moreover, as explained in Section VIII., Distributional Analysis, workers from underserved populations are disproportionately exposed to occupational heat hazards. For all workers, but particularly more vulnerable workers, protection from occupational hazards must not depend on workers' ability to pay for those protections. In indicating that the implementation of all requirements of this standard must be at no cost to the employee, OSHA considers costs to include not only direct monetary expenses to the employee, but also the time and other expenses necessary to perform required tasks.

The following discussion highlights specific proposed requirements in paragraphs (c) *Heat injury and illness prevention plan*, (d) *Identifying heat hazards*, (e) *Requirements at or above the initial heat trigger*, (f) *Requirements at or above the high heat trigger*, (g) *Heat illness and emergency response*

and planning, and (h) *Training*. This discussion is illustrative of the requirement that employees are not to bear the costs of implementing the standard. However, the requirement in proposed paragraph (j) applies to all provisions of the proposed standard, including employee time spent to implement or comply with those provisions.

Proposed paragraphs (c)(6) and (7) would require employers to seek the input and involvement of non-managerial employees and their representatives, if any, in the development and implementation of the heat injury and illness prevention plan (HIIPP) and during any reviews or updates of the HIIPP. Similarly, proposed paragraph (d)(3)(iv) would require the employer to seek the input and involvement of non-managerial employees and their representatives, if any, when evaluating the work site to identify work areas with a reasonable expectation of exposures at or above the initial heat trigger and in developing and updating monitoring plans. Under these paragraphs, the employer would be required to cover the expenses of non-managerial employees such as any travel costs that may be necessary, and to pay employees their normal rate of pay for the time necessary to engage in the development, implementation, and the required reviews and updates of the employer's HIIPP and monitoring plan.

Proposed paragraph (e)(2) would require the employer to provide access to potable water for drinking that is placed in locations readily accessible to the employee, suitably cool, and of sufficient quantity to provide access to 1 quart of drinking water per employee per hour. To ensure this is provided at no cost to employees, the employer would not only need to pay for the water, its container, and the means to utilize the water (cups, bottles, etc.) but would be required to pay employees their normal rate of pay for time necessary to consume water and any time that may be necessary to travel to and from the location where water is provided. For example, if an employee works in an area where water cannot be made available due to safety considerations (e.g., certain areas in foundries) or because of the presence of toxic materials, and must walk to a water fountain in a break room to obtain water, the employer would be required to pay the employee for the time required to walk to the water fountain, consume water, and return to the work area.

Proposed paragraph (e)(7) would require employers to implement an acclimatization protocol for new and

returning employees when they would be exposed to heat at or above the initial heat trigger except when the employer can demonstrate the employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days. An acclimatization protocol sets forth the process whereby employees gradually adapt to work in the heat. Proposed paragraph (e)(7)(i) specifies the acclimatization protocol for new employees exposed to heat at or above the initial heat trigger during their first week on the job. The employer would have a choice to either: (A) implement an acclimatization plan that, at minimum, would include the measures in proposed paragraph (f) (i.e., rest breaks, observation for signs and symptoms of heat-related illness, a hazard alert, and warning signs at excessively high heat areas); or (B) provide for gradual acclimatization to heat in which employee exposure to heat is restricted to no more than 20% of a normal work shift exposure duration on the first day of work, 40% on the second day of work, 60% of the third day of work, and 80% on the fourth day of work. Proposed paragraph (e)(7)(ii) specifies the acclimatization protocol for returning employees (i.e., employees who have been away (e.g., on vacation or sick leave) for more than 14 days) exposed to heat at or above the initial heat trigger during their first week back on the job. The employer would have a choice to either: (A) implement an acclimatization plan that, at minimum, would incorporate the measures in proposed paragraph (f) whenever the heat index is at or above the initial heat trigger during the employee's first week upon returning to work; or (B) provide for gradual acclimatization to heat in which employee exposure to heat is restricted to no more than 50% of a normal work shift exposure during the first day of work, 60% on the second day of work, and 80% on the third day of work.

An employer who chooses to provide a plan for gradual acclimatization to heat in which employee exposure to heat is restricted would be required to compensate the employee for the hours they would typically be expected to work, i.e., the employee's normal full shift, after acclimatization. For example, if a new employee would be expected to work 8 hours on a normal shift after acclimatization and the new employee would be restricted to 50% exposure during the normal work shift or 4 hours on the first day, the employer would be required to compensate the employee at their normal rate of pay for the full 8

hours even if the employee worked for only 4 hours.

OSHA anticipates that many employers would provide employees with other work (e.g., work activities performed in indoor work areas or vehicles where air-conditioning consistently keeps the ambient temperature below 80 °F, sedentary work activities at indoor work sites) during the acclimatization period when they are restricted from duties that involve exposure to heat at or above the initial heat trigger. Employees would still be able to work a full 8-hour shift as long as their duration of exposure to heat at or above the initial heat trigger is limited to the specified duration.

Proposed paragraphs (e)(8) and (f)(2) would require that employees be paid during the rest breaks required by those provisions. OSHA finds it important that employees be paid during the breaks to which they are entitled under the standard so that employees are not financially penalized and thus discouraged from taking advantage of those protections. For employees compensated on an hourly basis, this means employees would need to receive the same hourly rate of pay during rest breaks required by paragraphs (e)(8) and (f)(2) as they would receive while working.

Some employees are paid on a piece-rate basis, meaning they are compensated based on factors such as jobs completed, quantity of produce picked, or products produced. Examples of employees compensated on a piece-rate basis include agricultural employees paid by the pound of produce picked, mechanics paid for each type of job completed (e.g., oil change or tune-up), warehouse employees paid by the number and size of orders filled, manufacturing employees paid by the number of products manufactured, or construction employees paid by the size and type of job completed. Employees paid on a piece-rate basis may be especially reluctant to take breaks. In a study by Wadsworth et al., 2019, focus group discussions with piece-rate farm employees revealed that many expressed concerns about possible losses in earnings and that they might be replaced by another employee if they took breaks, and many such employees brought their own water to work to reduce the time they are not picking produce.

To ensure piece rate employees are not discouraged from taking rest breaks, the proposed standard would require employers to compensate them at their normal rate of pay for time necessary for rest breaks. In the context of piece rate

employees and for purposes of this proposed standard, OSHA intends the phrase “normal rate of pay” to mean the rate that results from the following approach, which has also been adopted by the State of California (Cal. Lab. Code section 226.2 (eff. Jan 1, 2021)): employers would determine the normal rate of pay for piece-rate employees by dividing the total weekly pay by the total hours worked during the work week, not including heat-related rest breaks. That value would be multiplied by the total time of heat-related rest breaks to determine how much employees need to be paid for those breaks. For example, if a piece-rate employee works a 5-day work week, 8 a.m. to 4:30 p.m. with a 30-minute unpaid lunch break from 12–12:30 each day, and earns \$600 in piece rate pay for the week, and under proposed paragraph (f)(2) the employer would be obligated to provide two 15-minute heat-related rest breaks per day (*i.e.*, the employee is exposed at or above the high heat trigger from 8 a.m. to 4:30 p.m. each day), that employee would receive a normal rate of pay of \$16/hour for heat-related rest breaks based on the following formula:

Formula for Heat-Related Rest Break Compensation of Piece-rate Employees

$$\frac{\text{Total heat-related rest break time/week} = 0.5 \text{ hours/day} \times 5 \text{ days/week} = 2.5 \text{ hours/week}}{\text{Hours worked, excluding non-meal heat-related breaks} = 40 \text{ hours} - 2.5 \text{ hours} = 37.5 \text{ hours}}$$

$$\text{Heat-related rest break compensation per hour} = \$600 \div 37.5 \text{ hours} = \$16/\text{hour}$$

For an employee who also took rest breaks needed to prevent overheating under proposed paragraph (e)(8), the time of those rest break(s) would be added to the total heat-related rest break time per week to calculate the employee's normal rate of pay. OSHA has preliminarily determined that this approach accurately represents the normal rate of pay for piece-rate workers and thereby ensures that these workers would not lose pay when taking advantage of the standard's protection.

Proposed paragraph (g)(2)(i) would require that an employee experiencing signs and symptoms of heat-related illness must be relieved from duty. The proposed standard would require the employer to pay employees their normal pay while they are relieved from duty until the signs and symptoms subside.

Proposed paragraph (h) would establish requirements for training on heat hazards and associated protective measures. All training provided by the

employer to meet the requirements of the standard would be required to be provided at no cost to the employee. The employer would be required to pay employees for time spent in training, including any time needed to travel to and from training.

A. Requests for Comments

OSHA requests comments and information on the following:

- Whether OSHA should consider an alternative approach to calculating normal rate of pay for piece-rate employees, and what those alternative approaches are;
- Whether OSHA should make the calculation for piece rate workers' normal rate of pay explicit in paragraph (j); and
- Whether proposed paragraph (j) mandating that requirements be implemented at no cost to employees is adequate, or whether there are other potential costs to employees that OSHA should take into consideration.

K. Paragraph (k) Dates

Paragraph (k) of the proposed standard would establish the effective date for the final standard and the date for compliance with the requirements specified in the standard. In paragraph (k)(1), OSHA proposes an effective date 60 days after the date of publication of the final standard in the **Federal Register**. This period is intended to allow affected employers the opportunity to familiarize themselves with the standard.

Paragraph (k)(2) of the proposed standard would require employers to comply with all requirements of the standard 90 days after the effective date (150 days after the date of publication of the final standard in the **Federal Register**). The proposed compliance date is intended to allow adequate time for employers to undertake the necessary planning and preparation steps to comply with the standard. OSHA has preliminarily concluded that 90 days is sufficient time for employers to develop a heat injury and illness prevention plan (HIIPP), identify heat hazards in their workplace(s), implement the protective measures required under the standard, and provide required training to employees.

A. Requests for Comments

OSHA solicits comment on the adequacy of the proposed effective and compliance dates. OSHA aims to ensure that protective measures are implemented as quickly as possible, while also ensuring that employers have sufficient time to implement these measures. In addition, the agency is

interested in whether there are any circumstances that would warrant an alternative timeframe for compliance, including a shorter timeframe, and seeks comment on approaches that would phase in requirements of the standard.

L. Paragraph (l) Severability

The severability provision, paragraph (l) of the proposed standard, serves two purposes. First, it expresses OSHA's intent that the general presumption of severability should be applied to this standard; *i.e.*, if any section or provision of the proposed standard is held invalid or unenforceable or is stayed or enjoined by any court of competent jurisdiction, the remaining sections or provisions should remain effective and operative. Second, the severability provision also serves to express OSHA's judgment, based on its technical expertise, that each individual section and provision of the proposed standard remains workable in the event that one or more sections or provisions are invalidated, stayed, or enjoined; thus, the severance of any provisions, sections, or applications of the standard will not render the standard ineffective or unlawful as a whole. Consequently, the remainder of the standard should be allowed to take effect.

With respect to this rulemaking, it is OSHA's intent that all provisions and sections be considered severable. In this regard, the agency intends that: (1) in the event that any provision within a section of the standard is stayed, enjoined, or invalidated, all remaining provisions within remain workable and shall remain effective and operative; (2) in the event that any whole section of the standard is stayed, enjoined, or invalidated, all remaining sections remain workable and shall remain effective and operative; and (3) in the event that any application of a provision is stayed, enjoined, or invalidated, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law.

Although OSHA always intends for a presumption of severability to be applied to its standards, the agency has opted to include an explicit severability clause in this standard to remove any potential for doubt as to its intent. OSHA believes that this clarity is useful because of the multilayered programmatic approach to risk reduction it proposes here. The agency has preliminarily determined that the suite of programmatic requirements described in Section VII., Explanation of Proposed Requirements, is reasonably necessary and appropriate to protect employees from the significant risks posed by exposure to heat in the

workplace. While OSHA preliminarily finds that these requirements substantially reduce the risk of occupational injury and illness from exposure to heat when implemented together, the agency also believes that each individual requirement will independently reduce this risk to some extent, and that each requirement added to the first will result in a progressively greater reduction of risk. For example, should a reviewing court find the requirement of paragraph (f)(2), requiring 15 minute rest breaks every two hours in high heat conditions invalid for some reason, the remainder of controls required by the standard in those conditions would still provide necessary protections to employees, and OSHA would intend that the rest of the standard should stand. Therefore, OSHA intends to have as many of the protective measures in this standard implemented as possible to reduce employees' risk of occupational injury, illness, and death from exposure to heat. Should a court of competent jurisdiction determine that any provision or section of this standard is invalid on its face or as applied, the court should presume that OSHA would have issued the remainder of the standard without the invalidated provision(s) or application(s). Similarly, should a court of competent jurisdiction determine that any provision, section, or application of this standard is required to be stayed or enjoined, the court should presume that OSHA intends for the remainder of the standard to take effect. See, e.g., *Am. Dental Ass'n v. Martin*, 984 F.2d 823, 830–31 (7th Cir. 1993) (affirming and allowing most of OSHA's bloodborne pathogens standard to take effect while vacating application of the standard to certain employers).

VIII. Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis

OSHA has examined the impacts of this rulemaking as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), Executive Order 14094 entitled "Modernizing Regulatory Review" (April 6, 2023), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96354), section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), and Executive Order 13132 on Federalism (August 4, 1999).

Executive Orders 12866 and 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, distributive impacts, and equity).⁵ The Executive Order 14094 entitled "Modernizing Regulatory Review" (hereinafter, the Modernizing E.O.) amends section 3(f)(1) of Executive Order 12866 (Regulatory Planning and Review). The amended section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action that is likely to result in a rule: (1) having an annual effect on the economy of \$200 million or more in any 1 year (adjusted every 3 years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product), or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities; (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in this Executive Order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

A regulatory impact analysis (RIA) must be prepared for regulatory actions that are significant per section 3(f)(1) (\$200 million or more in any 1 year). OMB's OIRA has determined this rulemaking is significant per section 3(f)(1) as measured by the \$200 million or more in any 1 year. Accordingly, OSHA has prepared this Preliminary Economic Analysis (PEA)⁶ that to the best of the agency's ability presents the costs and benefits of the rulemaking. OIRA has reviewed this proposed standard, and the agency has provided the following assessment of its impact.

⁵ While OSHA presents the following analysis under the requirements of Executive Orders 12866 and 13563, the agency ultimately cannot simply maximize net benefits due to the overriding legal requirements in the OSH Act.

⁶ OSHA historically has referred to their regulatory impact analyses (RIAs) as Economic Analyses in part because performing an analysis of economic feasibility is a core legal function of their purpose. But a PEA (or Final Economic Analysis) should be understood as including an RIA.

A. Market Failure and Need for Regulation

I. Introduction

Executive Order 12866 (58 FR 51735 (September 30, 1993)) and Executive Order 13563 (76 FR 3821 (January 18, 2011)) direct regulatory agencies to assess whether, from a legal or an economic view, a Federal regulation is needed to the extent it is not "required by law." Executive Order 12866 states: "Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." This Executive Order further requires that each agency "identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action)" and instructs agencies to "identify and assess available alternatives to direct regulation." (58 FR 51735 (September 30, 1993)). This section addresses those issues of market failure and alternatives to regulation as directed by the Executive Order.

OSHA is proposing a new standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings (29 CFR 1910.148) because the agency has preliminarily determined, based on the evidence in the record, that there is a compelling public need for a comprehensive standard addressing employees' occupational exposure to hazardous heat. OSHA presents the legal requirements governing this standard and its preliminary findings and conclusions supporting the proposed standard in Section II., Pertinent Legal Authority, and throughout other sections of the preamble.

As detailed in Section VIII.B., Profile of Affected Industries, OSHA has preliminarily determined that millions of employees are exposed to occupational heat hazards that place them at a significant risk of serious injury, illness, and death. Employees exposed to heat suffer higher rates of non-fatal heat-related injuries and illnesses (HRIs) and heat-related fatalities, including heat stroke, heat exhaustion, heat syncope, rhabdomyolysis, heat cramps, hyponatremia, heat edema, and heat rash; and heat-related injuries, including falls, collisions, and other workplace accidents (see Section IV., Health Effects for additional information). OSHA estimates that the

proposed standard would prevent 531 heat-related fatalities (of the estimated 559 annual fatalities) and 16,027 HRIs per year (of the estimated 24,656 annual HRIs).

These estimates have potential limitations. The parameters used to estimate the magnitude of underreporting of HRIs and the effectiveness of the proposed standard have considerable uncertainty. Furthermore, these estimates do not account for other expected benefits from the rule (e.g., reduction in indirect traumatic injuries due to heat and reduction in worker disutility). For additional discussion see Sections VIII.E.IV., Additional Unquantified Potential Benefits and VIII.E.V., Uncertainty in Benefits.

OSHA has also preliminarily determined that the standard is technologically and economically feasible (see Section IX., Technological Feasibility and Section VIII.D., Economic Feasibility). The agency not only finds that this proposed standard is necessary and appropriate to ensure the safety and health of employees exposed to heat, as required by the OSH Act, but also demonstrates, in this section, that this standard corrects a market failure in which labor markets fail to adequately protect employee health and safety.

Even a perfectly functioning market maximizes efficient allocation of goods and services at the expense of other important social values to which the market (as reflected in the collective actions of its participants) is indifferent or undervalues. In such cases, government intervention might be justified to address a compelling public need. The history and enactment of the OSH Act indicate a Congressional view that American markets undervalued occupational safety and health when it set forth the Act's protective purposes and authorized the Secretary of Labor to promulgate occupational safety and health standards.

As discussed in this section, OSHA concludes there is a demonstrable failure of labor markets to protect employees from exposure to significant, unnecessary risks from heat exposure. The agency recognizes that many firms and governments have responded to the risks from heat exposure by implementing control programs for their employees. Information that OSHA has collected suggests that many employees with occupational exposure to hazardous heat currently receive some level of protection against heat hazards and some existing control programs may be as protective as the proposed standard. Nevertheless, the effectiveness of labor markets in providing the level

of employee health and safety required by the OSH Act is not universal, as many other employers in the same sectors fail to provide their employees with adequate protection against heat hazards. This is evidenced by the documented injuries, illnesses, and deaths discussed throughout this preamble. Accordingly, the existence of adequate protections in some workplaces speaks to the feasibility of the standard, not necessarily to the lack of need.

In this case, OSHA has preliminarily determined that protections are needed to ensure the safety and health of employees exposed to heat. This section is devoted to showing that markets fail with respect to optimal risk for occupational exposure to heat hazards. Other sections of this preamble address whether, given that markets fail, a new regulation is needed.

The discussion below considers why labor markets, as well as information dissemination programs, workers' compensation systems, and tort liability options, each may fail to protect employees from heat hazards, resulting in the need for a more protective OSHA standard.

II. Labor Market Imperfections

Under suitable conditions, a market system is economically efficient in the following sense: resources are allocated where they are most highly valued; the appropriate mix of goods and services, embodying the desired bundle of characteristics, is produced; and further improvements in the welfare of any member of society cannot be attained without making at least one other member worse off.

Economic theory, supported by empirical data, posits that, in the labor market, employers and their potential employees bargain over the conditions of employment, including not only salary and other employee benefits, but also occupational risks to employee safety and health. Employers compete among themselves to attract employees. In order to induce potential employees to accept hazardous jobs, employers must offer a higher salary—termed a “wage premium for risk” or “risk premium” for short—to compensate for the additional job risk.⁷ Because employers must pay higher wages for

⁷ The concept of compensating wage differentials for undesirable job characteristics, including occupational hazards, goes back to Adam Smith's *The Wealth of Nations*, which was originally published in 1776. More recent empirical investigation has tended to validate the core theory, with the acknowledgement of labor market imperfections, as otherwise noted in this section (e.g., Lavetti, 2023).

more hazardous work, they have an incentive to make the workplace safer by making safety-related investments in equipment and training or by using more costly but safer work practices. According to economic theory, the operation of the labor market will provide the optimal level of occupational risk when each employer's additional cost for job safety just equals the avoided payout in risk premiums to employees (Lavetti, 2023). The theory assumes that each employer is indifferent to whether it pays the higher wage or pays for a safer or more healthful workplace but will opt for whichever costs less or improves productivity more.

For the labor market to function in a way that leads to optimal levels of occupational risk, three conditions must be satisfied. First, potential employees and employers must have the same, perfect information—that is, they must be fully informed about their workplace options, including job hazards, or be able to acquire such information. Second, participants in the labor market must directly bear all the costs and obtain all the benefits of their actions. In other words, none of the direct impacts of labor market transactions can be externalized to outside parties. Third, the relevant labor markets must be perfectly competitive, which requires a large number of employers, a large number of employees, and other conditions such that no individual economic agent is able to influence the risk-adjusted wage, and such that the risk-adjusted wage, net of other amenities, is equal to the marginal revenue associated with their output (Card, 2022).

The discussion below examines (1) imperfect information, (2) externalities, and (3) imperfect competition in the labor market in more detail, with particular emphasis on employee exposure to heat hazards, as appropriate.⁸

A. Imperfect Information

As described below, imperfect information about job hazards is present at several levels that reinforce each other: employers frequently lack knowledge about workplace hazards and how to reduce them; employees are often unaware of the workplace risks to which they are exposed; and employees typically have difficulty in understanding the risk information they are able to obtain. Imperfect information at these various levels has likely

⁸ The section on workers' compensation insurance later in this section identifies and discusses other related market imperfections.

impeded the efficient operation of the labor market regarding workplace risk because employees—unaware of job hazards—do not seek, or receive, full compensation for the risks they bear. As a result, even if employers have full knowledge about the risk, their employees do not. If employees do not have full knowledge about the risk, employers have less incentive to invest in safer working conditions than they would in the presence of full information since wages are suppressed below what full knowledge by the employees would yield.

I. Lack of Employer Information

In the absence of regulation, employers may lack economic incentives to optimally identify the safety and health risks that their employees face.⁹ Furthermore, employers have an economic incentive to withhold the information they do possess about job hazards from their employees, whose response would be to demand safe working conditions or higher wages to compensate for the risk. Relatedly, in the absence of regulation, employers, as well as third parties, may have fewer incentives to develop new technological solutions to protect employees on the job.¹⁰

This suggests that, without regulation, and the incentives that come with it, many employers are unlikely to make themselves aware of the magnitude of heat-related safety and health risks in the workplace or of the availability of effective ways of ameliorating or eliminating these risks. OSHA believes that requiring employers to monitor heat conditions will help to alleviate situations in which employers and/or employees may not realize situations when heat becomes hazardous.

II. Lack of Employee Information About Health Hazards

Markets cannot adequately address the risks of occupational heat exposure if employees and employers are unaware of the changes in risk brought about by an employer's actions or inaction. Even if employees and employers are aware of a risk, the employer may have limited economic motivation to install controls unless the employees are able to accurately assess

the effects of those controls on their occupational risks.

Accordingly, even if employees have a general understanding that they are at increased risk of injury or illness from occupational exposure to heat, it is unrealistic to expect, absent mandatory regulatory requirements, that they know the precise risks associated with different exposure levels or the exposures they are experiencing, much less that they can use that knowledge to negotiate a significant reduction in exposures and other protections or (if more desirable) trade it for greater hazard pay.

Both experimental studies and observed market behavior suggest that individuals have considerable difficulty rationally processing information about low-probability, high-consequence events such as occupational fatalities and long-term disabilities.¹¹ For example, many individuals may not be able to comprehend or rationally act on risk information when it is presented, as risk analysis often is, in mathematical terms—a 1/1,000 versus a 1/10,000 versus a 1/100,000 annual risk of death from occupational causes.

Of course, in the abstract, many of the problems that employers and employees face in obtaining and processing occupational risk can lead employees to overestimate as well as underestimate the risk. However, some of the impacts of heat exposure may be sufficiently infrequent, unfamiliar, or unobvious that many employees (and at least some employers) may be completely unaware of the risk, and therefore will underestimate it.

In addition, for markets to optimally address this risk, employees need to be aware of the changes in risk brought about by an employer's actions. Even if employees are aware of a risk, the employer may have limited economic motivation to install controls or implement protective measures unless the employees are able to accurately assess the effects of those controls or measures on their occupational risks. Furthermore, there is substantial evidence that most individuals are unrealistically optimistic, even in high-stakes, high-risk situations and even if they are aware of the statistical risks (Thaler and Sunstein, 2009). Although the agency lacks specific evidence on the effect of these attitudes on assessing occupational safety and health risks, this suggests that some employees underestimate their own risk of work-

related injury or illness and, therefore, even in situations where they have the bargaining power to do so, may not bargain for or receive adequate compensation for bearing those risks. Finally, the difficulty that employees have in distinguishing marginal differences in risk at alternative worksites, both within an industry and across industries, creates a disincentive for employers to incur the costs of reducing workplace risk.

B. Externalities

Externalities arise when an economic transaction generates direct positive or negative spillover effects on third parties not involved in the transaction. The resulting spillover effect, which leads to a divergence between private and social costs, undermines the efficient allocation of resources in the market because the market is imparting inaccurate cost and price signals to the transacting parties. Applied to the labor market, when costs are externalized, they are not reflected in the decisions that employers and their potential employees make—leading to allocative distortions in that market.

Negative externalities exist in the labor market because many of the costs of occupational injury and illness are borne by parties other than individual employers or employees. The major source of these negative externalities is the occupational injury or illness cost that workers' compensation does not cover.¹² Employees and their employers often bear only a portion of these costs. Outside of workers' compensation, employees incapacitated by an occupational injury or illness and their families often receive health care, rehabilitation, retraining, direct income maintenance, or life insurance benefits, much of which are paid for by society through Social Security and other social insurance and social welfare programs.¹³

Furthermore, substantial portions of the medical care system in the United States are heavily subsidized by the

⁹ Other private parties may lack sufficient incentives to invest resources to collect and analyze occupational risk data due to the public-good nature of the information. See Ashford and Caldart (1996).

¹⁰ For evidence of regulatory stimuli inducing innovations to improve employee health and safety, see, for example, Ashford et al. (1985), as well as more recent evidence from OSHA's regulatory reviews under section 610 of the RFA (5 U.S.C. 610).

¹¹ The literature documenting risk perception problems is extensive. See the classic work of Tversky and Kahneman (1974). For a recent summary of risk perception problems and their causes (Thaler and Sunstein, 2009).

¹² Workers' compensation is discussed separately later in this section. As described there, in many cases (particularly for smaller firms), the premiums that an individual employer pays for workers' compensation are only loosely related, or unrelated, to the occupational risks that that employer's employees bear. In addition, workers' compensation does not cover chronic occupational diseases in most instances. For that reason, negative externalities tend to be a more significant issue in the case of occupational exposures that result in diseases.

¹³ In addition, many occupational injuries and most occupational illnesses are not processed through the workers' compensation system at all. In these instances, employees receive care from their own private physician rather than from their employer's physician.

government so that part of the medical cost of treating injured or ill employees is paid for by the rest of society (Nichols and Zeckhauser, 1977). To the extent that employers and employees do not bear the full costs of occupational injury and illness, they will ignore these externalized costs in their labor market negotiations. The result may be an inefficiently high level of occupational risk.

C. Imperfect Competition

In the idealized labor market, the actions of large numbers of buyers and sellers of labor services establish the market-clearing, risk-compensated wage, so that individual employers and employees effectively take that wage as given. However, the labor market is not one market, but many markets differentiated by location, occupation, and other factors; entrants in the labor market face search frictions because of limited information on employment options; and, furthermore, in wage negotiations with their own employees, employers are typically in an advantageous position relative to all other potential employers (e.g., Card, 2022). In these situations, discussed below, employers may have sufficient power to influence or to determine the wage their employees receive. This may undermine the conditions necessary for perfect competition and can result in inadequate compensation for employees exposed to workplace hazards. Significant unemployment levels, local or national, may also undermine the conditions necessary for adequate compensation for exposure to workplace hazards (Hirsch et al., 2018).

Beyond the classic—but relatively rare—example of a town dominated by a single company, there is significant evidence that some employers throughout the economy are not wage-takers but, rather, face upward-sloping labor supply curves and enjoy some market power in setting wages and other conditions of employment.¹⁴ An important source of this phenomenon is the cost of a job search and the employer's relative advantage, from size and economies of scale, in acquiring labor market information.¹⁵ Another potentially noteworthy problem in the

labor market is that, contrary to the model of perfect competition, employees with jobs cannot without cost quit and obtain a similar job at the same wage with another employer. Employees leaving their current job may be confronted with the expense and time requirements of a job search, the expense associated with relocating to take advantage of better employment opportunities, the loss of firm-specific human capital (i.e., firm-specific skills and knowledge that the employee possesses¹⁶), the cost and difficulty of upgrading job skills, and the risk of a prolonged period of unemployment. Finally, employers derive market power from the fact that a portion of the compensation their employees receive is not transferable to other jobs. Examples include job-specific training and associated compensation, seniority rights and associated benefits, and investments in a pension plan.

Under the conditions described above, employers would not have to take the market-clearing wage as given but could offer a lower wage than would be observed in a perfectly competitive market,¹⁷ including less than full compensation for workplace health and safety risks. As a result, relative to the idealized competitive labor market, employers would have less incentive to invest in workplace safety. In any event, for reasons already discussed, an idealized wage premium is not an adequate substitute for a workplace that puts a premium on health and safety.

III. Non-Market and Quasi-Market Alternatives

The following discussion considers whether non-market and quasi-market alternatives to the proposed standard would be capable of protecting employees from heat hazards. The alternatives under consideration are information dissemination programs, workers' compensation systems, and tort liability options.

A. Information Dissemination Programs

One alternative to OSHA's proposed standard could be the dissemination of information, either voluntarily or through compliance with a targeted mandatory information rule, akin to OSHA's Hazard Communication standard (29 CFR 1910.1200), which would provide more information about the safety and health risks associated with exposure to environmental heat.

Better informed potential employees could more accurately assess the occupational risks associated with different jobs, thereby facilitating, through labor market transactions, higher risk premiums for more hazardous work and inducing employers to make the workplace less hazardous. The proposed standard recognizes the link between the dissemination of information and workplace risks by requiring that employees exposed to heat be provided with information and training about the risks they encounter and ways to mitigate those risks. There are several reasons, however, why reliance on information dissemination programs alone would not yield the level of employee protection achievable through the proposed standard, which incorporates hazard communication as part of a comprehensive approach designed to control the hazard in addition to providing for the disclosure of information about it.

First, in the case of voluntary information dissemination programs, absent a regulation, there may be significant economic incentives, for all the reasons discussed in section VIII.A.II. above, for the employer *not* to gather relevant exposure data or distribute occupational risk information so that the employees would not change jobs or demand higher wages to compensate for their newly identified occupational risks.

Second, even if employees were better informed about workplace risks and hazards, all of the defects in the functioning of the private labor market previously discussed—the limited ability of employees to evaluate risk information, externalities, and imperfect competition—would still apply. Because of the existence of these defects, better information alone would not lead to wage premiums for risk that would incentivize employers to make workplaces safer, in accordance with compensating differentials theory (Lavetti, 2023). Regardless, as mentioned above in section VIII.A.I., even the level of employee safety and health attained by the wage premium under efficient markets may be lower than the level justified by other important social values that efficient markets may undervalue. Finally, as discussed in Section VIII.E., Benefits, a number of additional safety provisions under the proposed standard would complement information and training provided by other regulatory vehicles.

Thus, while improved access to information about heat-related hazards can provide for more rational decision-making in the private labor market,

¹⁴ See Borjas (2000), Ashenfelter et al. (2010), and Boal and Ransom (1997). The term “monopsony” power or “oligopsony” power are sometimes applied to this situation.

¹⁵ See Borjas (2000). As supplemental authorities, Weil (2014) presents theory and evidence both in support of this proposition and to show that, in many situations, larger firms have more market power than smaller firms, while Boal and Ransom (1997) note that the persistent wage dispersion observed in labor markets is a central feature of equilibrium search models.

¹⁶ MacLeod and Nakavachara (2007) note the correlation between firm-specific skills and relatively high income.

¹⁷ For a graphical demonstration that an employer with monopsony power will pay less than the competitive market wage, see Borjas (2000).

OSHA concludes that information dissemination programs would not, by themselves, produce an adequate level of employee protection.

B. Workers' Compensation Systems

Another theoretical alternative to OSHA regulation could be to determine that no standard is needed because State workers' compensation programs augment the workings of the labor market to limit occupational risks to employee safety and health. After all, one of the objectives of the workers' compensation system is to shift the costs of occupational injury and illness from employees to employers in order to induce employers to improve working conditions. Two other objectives relevant to this discussion are to provide fair and prompt compensation to employees for medical costs and lost wages resulting from workplace injury and illness and, through the risk-spreading features of the workers' compensation insurance pool, to prevent individual employers from suffering a catastrophic financial loss (Ashford, 2007).

OSHA identifies two primary reasons, discussed below, why the workers' compensation system has fallen short of the goal of shifting to employers the costs of workplace injury and illness—including, in particular, the costs of employee exposure to heat-related hazards. As a result, OSHA concludes that workers' compensation programs alone do not adequately protect employees.

I. Limitations on Payouts

The first reason that employers do not fully pay the costs of work-related injuries and illnesses under the workers' compensation system is that, even for those claims that are accepted into the system, States have imposed significant limitations on payouts. Depending on the State, these limitations and restrictions include:

- Caps on wage replacement based on the average wage in the State rather than the injured employee's actual wage;
- Restrictions on which medical care services are compensated and the amount of that compensation;
- No compensation for non-pecuniary losses, such as pain and suffering or impairment not directly related to earning power;
- Either no, or limited, cost-of-living increases;
- Restrictions on permanent, partial, and total disability benefits, either by specifying a maximum number of weeks for which benefits can be paid or by imposing an absolute ceiling on dollar payouts; and

- A low absolute ceiling on death benefits.

II. A Divergence Between Workers' Compensation Premiums and Workplace Risk

The second reason workers' compensation does not adequately shift the costs of work-related injuries and illnesses to employers is that the risk-spreading objective of workers' compensation conflicts with, and ultimately helps to undermine, the cost-internalization objective.¹⁸ For the 99 percent of employers who rely on workers' compensation insurance,¹⁹ the payment of premiums represents their primary cost for occupational injuries and illnesses, such as heat-related injuries and illnesses. However, the mechanism for determining an employer's workers' compensation insurance premium typically fails to reflect the actual occupational risk present in that employer's workplace.

Approximately 85 percent of employers have their premiums set based on a "class rating," which is based on *industry* illness and injury history. Employers in this class are typically the smallest firms and represent only about 15 percent of employees (Ashford, 2007). Small firms are often ineligible for experience rating because of insufficient claims history or because of a high year-to-year variance in their claim rates. These firms are granted rate reductions only if the experience of the entire class improves. The remaining 14 percent of employers, larger firms representing approximately 70 percent of employees, have their premiums set based on a combination of "class rating" and "experience rating," which adjusts the class rating to reflect a firm's individual claims experience. A firm's experience rating is generally based on the history of workers' compensation payments to employees injured at that firm's workplace, not on the quality of the firm's overall employee protection program or safety and health record. Thus, for example, the existence of circumstances that may lead to catastrophic future losses are not included in an experience rating—only

actual past losses are included.²⁰ Insurance companies do have the right to refuse to provide workers' compensation insurance to an employer—and frequently exercise that right based on their inspections and evaluations of a firm's health and safety practices. However, almost all States have assigned risk pools that insist that any firm that cannot obtain workers' compensation policies from any insurer must be provided workers' compensation insurance at a State-mandated rate that reflects a combination of class and experience rating. Workers' compensation insurance does protect individual employers against a catastrophic financial loss due to work-related injury or illness claims. As a result of risk spreading, however, employers' efforts to reduce the incidence of occupational injuries and illnesses are not fully reflected in reduced workers' compensation premiums. Conversely, employers who devote fewer resources to promoting employee safety and health may not incur commensurately higher workers' compensation costs. This creates a type of moral hazard, in that the presence of risk spreading in workers' compensation insurance may induce employers to make fewer investments in equipment and training to reduce the risk of workplace injuries and illnesses.

In short, the premiums most individual employers pay for workers' compensation insurance coverage do not reflect the actual cost burden those employers impose on the worker's compensation system. Consequently, employers considering measures to lower the incidence of workplace injuries and illnesses can expect to receive a less-than-commensurate reduction in workers' compensation premiums. Thus, for all the reasons discussed above, the workers' compensation system does not provide adequate incentives to employers to control occupational risks to worker safety and health.

C. Tort Liability Options

Another alternative to OSHA regulation could be for employees to use the tort system to seek redress for work-related injuries and illnesses, including heat-related ones.²¹ A tort is a civil

¹⁸ Recall from the earlier discussion of externalities that the failure to internalize costs leads to allocative distortions and inefficiencies in the market.

¹⁹ Only the largest firms, constituting approximately 1 percent of employers and representing approximately 15 percent of employees, are self-insured. These individual firms accomplish risk-spreading as a result of the large number of employees they cover (Ashford, 2007). From 2000 to 2020, the share of Workers' Compensation Benefits paid by self-insured employers rose from 22.0 percent to 24.7 percent (Murphy and Wolf, 2022).

²⁰ In order to spread risks in an efficient manner, it is critical that insurers have adequate information to set individual premiums that reflect each individual employer's risks. As the preceding discussion has made clear, by and large, they do not. In that sense, insurers can be added to employers and employees as possessing imperfect information about job hazards.

²¹ The OSH Act does not provide a private right of action that would allow affected workers to sue

wrong (other than breach of contract) for which the courts can provide a remedy by awarding damages. The application of the tort system to occupational injury and illness would allow employees to sue their employer, or other responsible parties where applicable (e.g., “third parties” such as suppliers of hazardous material or equipment used in the workplace) to recover damages. In theory, the tort system could shift the liability for the direct costs of occupational injury and illness from the employee to the employer or to other responsible parties. In turn, the employer or third parties would be induced to improve employee safety and health.

With limited exceptions, the tort system has not been a viable alternative to occupational safety and health regulation. In addition, State statutes make workers’ compensation the “exclusive remedy” for work-related injuries and illnesses. Workers’ compensation is essentially a type of no-fault insurance. In return for employers’ willingness to provide, through workers’ compensation, timely wage-loss and medical coverage for workers’ job-related injuries and illnesses, regardless of fault, employees are barred from suing their employers for damages, except in cases of intentional harm or, in some States, gross negligence (Ashford and Caldwell, 1996). Even in cases of gross negligence where it is possible for employees to sue, establishing gross negligence in these incidences is complicated by heat conditions as these conditions may be temporary and localized, and not necessarily measured at the time of incident. Practically speaking, in most cases, workers’ compensation is the exclusive legal remedy available to employees for workplace injuries and illnesses.

Employees are thus generally barred from suing their own employers in tort for occupational injuries or illnesses but may attempt to recover damages for work-related injuries and illnesses, where applicable, from third parties through the tort system. However, it is unlikely that a third party could be successfully sued for workplace exposure to hazardous heat since there is no third party responsible for exposing employees to dangerous conditions in these circumstances. This means that even this inadequate remedy would be unavailable to employees injured from heat exposure.

In sum, the use of the tort system as an alternative to regulation is severely limited because of the “exclusive remedy” provisions in workers’ compensation statutes; because of the various legal and practical difficulties in seeking recovery from responsible third parties or the lack of a responsible third party altogether; and because of the substantial costs associated with a tort action. The tort system, therefore, does not adequately protect employees from exposure to hazards in the workplace.

IV. Summary

OSHA’s primary reasons for proposing this standard are based on the requirements of the OSH Act, which are discussed in Section II., Pertinent Legal Authority. As shown in the preamble to the proposed standard and this PEA, OSHA has determined that employees in many industries are exposed to safety and health hazards from exposure to environmental and process heat in the workplace. This section has shown that labor markets—even when augmented by information dissemination programs, workers’ compensation systems, and tort liability options—still operate at a level of risk for these employees that is higher than socially optimal due to a lack of information about safety and health risks, the presence of externalities or imperfect competition, and other factors discussed above.

B. Profile of Affected Industries

I. Introduction

This section presents a profile of the entities and employees for all industries that would be affected by OSHA’s proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings. OSHA first outlines all industries that would be subject to the proposed standard. Next, OSHA summarizes the number of entities and employees that would be exempt from this proposed standard based on coverage under existing standards, jurisdiction of local or State government entities, or based on one of the exemptions in paragraph (a)(2) of this proposed standard. Lastly, OSHA provides summary statistics for the affected entities,²² including the number of affected entities and the number of affected employees. This information is provided for each industry (1) in total, (2) for small entities as defined by the Regulatory Flexibility Act (RFA) and by the Small

Business Administration (SBA), and (3) for very small entities with fewer than 20 employees.

II. Potentially Affected Industries and Employees

This section characterizes the industries and employees that are likely to be affected by the proposed standard.

A. Potentially Affected Industries

OSHA broadly characterizes industries that are potentially within the scope of the regulatory framework as core industries²³ and all other covered industries. OSHA considers core industries to be those industries where employees have the most exposure to heat-related hazards, such as through exposure to high outdoor temperatures, radiant heat sources, or insufficient temperature control or ventilation in indoor work settings. Core industries include:

- Agriculture, Forestry, and Fishing;
- Building Materials and Equipment Suppliers;
- Commercial Kitchens;
- Construction;
- Drycleaning and Commercial Laundries;
- Landscaping and Facilities Support;
- Maintenance and Repair;
- Manufacturing;
- Oil and Gas;
- Postal and Delivery Services;
- Recreation and Amusement;
- Sanitation and Waste Removal;
- Telecommunications;
- Temporary Help Services;
- Transportation;
- Utilities; and
- Warehousing.

While employee exposure to heat-related hazards is expected to be more frequent in the core industries, employees in all other industries within the agency’s jurisdiction have the potential to experience occupational heat-related hazards and would also be covered by this proposed standard, with the exception of employers that meet

²³ To identify core industries, OSHA reviewed multiple sources. The agency reviewed its OSHA Information System (OIS) database to identify industries with fatal and non-fatal heat-related injuries and illnesses. In addition, OSHA identified occupations with the most exposure to heat-related hazards by analyzing (1) occupational information on outdoor work settings from the Occupational Information Network (O*NET) and (2) occupation-level data from the Occupational Requirements Survey (ORS) on exposure to process heat. Occupations flagged by those two data sources were then mapped to detailed 2012 North American Industry Classification System (NAICS) codes using the Occupational Employment and Wage Statistics (OEWS). Finally, OSHA evaluated industries that were included in OSHA’s National Emphasis Program for Outdoor and Indoor Heat Related Hazards, ANPRM comments, and stakeholder comments.

their employers for safety hazards subject to the Act (see *Am. Fed. of Gov. Employees, AFL-CIO v. Rumsfeld*, 321 F.3d 139, 143–44 (DC Cir. 2003)).

²² Spreadsheet detailing all calculations discussed in this analysis are available in Analytical Support for OSHA’s Preliminary Economic Analysis for the Heat Injury and Illness Prevention (OSHA, 2024c).

the criteria for one of the scope exemptions in paragraph (a)(2) (discussed in detail in section VII.A., and below). For example, there are certain jobs, such as maintenance and landscaping occupations, regardless of the industry in which they are performed, that require physical exertion which may increase the risk of heat stress.

Most of the economic data on number of firms, number of establishments, employment,²⁴ and annual receipts are sourced from the Census Bureau's Statistics of U.S. Businesses (SUSB) 2017 dataset (Census Bureau, 2021a). SUSB²⁵ presents these data²⁶ by North American Industry Classification System (NAICS) code, employee class size, and State. Unlike most other standards that OSHA proposes, costs will differ not just by industry, but also by the geographical location of workplaces due to variations in environmental conditions. See discussion of geographic location later in this section.

The SUSB glossary (Census Bureau, 2024b) defines the following terms as follows. Establishments are defined as an economic unit, typically a single physical location where business is conducted, services are performed, or industrial operations occur. Firms are legal business organizations and may consist of a single establishment or multiple establishments under common ownership or control. Employment is a measure of paid full- and part-time employees, including employees on paid sick leave, holidays, and vacations.²⁷ Annual receipts are defined as operating revenue for goods and services summed by industry, net of

taxes collected from customers or clients.

There are instances where estimates are left undisclosed in the SUSB dataset because there are only a few companies in a certain industry in a given State. Relying solely on SUSB datafiles would result in an undercount of the potentially affected employers and employees due to the undisclosed data. For this reason, OSHA attempted to fill in these data gaps in these undisclosed industries with alternative data sources. These industries with data gaps are listed below, along with the alternative sources and methods for estimating the number of firms, number of establishments, employment, and annual receipts. OSHA welcomes additional data sources or alternative methodologies to fill these data gaps.

Agriculture: Most agricultural industries are not included in the SUSB dataset,²⁸ so OSHA used the Department of Agriculture's 2017 Census of Agriculture (USDA, 2019) to derive estimates of the necessary industry profile information. OSHA used the count of farms from chapter 2, table 44 "Farms by North American Industry Classification System" to represent the number of establishments for each agricultural industry. OSHA assumed that the number of firms is equal to the number of establishments.²⁹ OSHA used industry-level estimates of "workers" on hired labor farms and "total sales" from chapter 1, table 75 "Summary by North American Industry Classification System" to represent employment counts and annual receipts, respectively. OSHA welcomes feedback on alternative sources, estimation methods, and assumptions for estimations of firms, establishments, and employment in the agricultural sector.

Local Government³⁰: The SUSB dataset excludes most government entities, including local governments. OSHA primarily relied on data from three alternative sources for local government estimates. To estimate the

number of government entities, number of establishments, and employment, OSHA used the county-, city-, and town-level data from the Census Bureau's Government Units Survey (GUS) for 2022 (Census Bureau, 2023d) by State to estimate the number of firms per State. Then, OSHA assumed that each entity represented one firm which was equal to one establishment.³¹ Since the GUS data do not include estimates for local government employment by State, OSHA used the 2022 Census of Governments' Survey of Public Employment & Payroll local employment data (Census Bureau, 2023b) to develop these estimates. OSHA distributed these local employees based on a ratio of local government employees to population served within each State as provided in the GUS, resulting in an estimate of employment for each local government entity within the GUS. These estimates were summed to the State level for OSHA's analysis.

OSHA's estimate for annual receipts per government entity also required two steps. First, OSHA estimated the average annual receipts per resident by State. The estimate was equal to the ratio of total local government receipts in the datasets found in the Census Bureau's 2021 Annual Survey of State and Local Government Finances (Census Bureau, 2023a) to the total population served in the GUS dataset. Then, OSHA multiplied the population associated with each government entity captured in the GUS with the ratio from step one to arrive at an estimate of total annual receipts per government entity. OSHA again aggregated these estimates to the State level for this analysis.

OSHA welcomes feedback on alternative sources, estimation methods, and assumptions for estimations of firms, establishments, and employment in local governments.

State Government: State government entities are excluded from the SUSB dataset, so OSHA relied on two alternative data sources for counts of firms and establishments, employment, and annual receipts. OSHA assumed that each State government is equal to one firm and that each State government firm is equal to one State government establishment.³²

OSHA used the total State government full-time and part-time employment data from the 2022 Census of Governments' Survey of Public

²⁴ For some industry-state combinations, the total employment in the SUSB data was less than the number of establishments. For these cases, OSHA adjusted total employment so that total employment is equal to the number of establishments.

²⁵ SUSB covers most NAICS industries excluding Crop and Animal Production (NAICS 111, 112); Rail Transportation (NAICS 482); Postal Service (NAICS 491); Pension, Health, Welfare, and Other Insurance Funds (NAICS 525110, 525120, 525190); Trusts, Estates, and Agency Accounts (NAICS 525920); Offices of Notaries (NAICS 541120); Private Households (NAICS 814); and Public Administration (NAICS 92). SUSB also excludes most establishments reporting government employees. (<https://www.census.gov/programs-surveys/susb/about.html>) To the extent that there are some establishments reporting government employees that are also captured in Government Units Survey or the Census of Governments database, OSHA's estimates may overstate the number of covered employees and establishments.

²⁶ These annual SUSB figures are based on the counts of these variables during the week of March 12th of the reference year.

²⁷ Employment includes salaried officers and executives and excludes sole proprietors and partners of unincorporated businesses.

²⁸ The NAICS industries that were estimated using this method are Oilseed and Grain Farming (111100), Vegetable and Melon Farming (111200), Fruit and Nut Tree Farming (111300), Greenhouse, Nursery, and Floriculture (111400), Other Crop Farming (111900), Cattle Ranch and Farming (112100), Hog and Pig Farming (112200), Poultry and Egg Production (112300), Sheep and Goat Farming (112400), Aquaculture (112500), and Other Animal Production (112900).

²⁹ Family farms account for 96 percent of all U.S. farms (<https://www.nass.usda.gov/Newsroom/archive/2021/01-22-2021.php>).

³⁰ In this analysis, OSHA only considered government entities in OSHA state plan states. See section VIII.B.III.H. later in this section for a discussion of exemptions based on OSHA jurisdiction.

³¹ To the extent that there are multiple establishments for a single local government entity, this method underestimates the number of establishments.

³² To the extent that state governments have multiple establishments, this method underestimates the number of establishments.

Employment & Payroll (Census Bureau, 2023b) to represent State government employment estimates. OSHA used the State government revenues estimated in the Census Bureau's 2021 Annual Survey of State and Local Government Finances (Census Bureau, 2023a) to estimate annual receipts for State governments.

OSHA welcomes feedback on alternative sources, estimation methods, and assumptions for estimations of firms, establishments, and employment in State governments.

Rail Transportation,³³ *Postal Service, and Insurance and Employee Benefit Funds*: SUSB data relied upon for the majority of the estimates in this industry profile do not include estimates for a small subset of non-agricultural industries: Rail Transportation (NAICS 4821), Postal and Delivery Services

(NAICS 4911), and Insurance and Employment Benefit Funds (NAICS 5251). The economic data estimates for these three industries were derived from the Quarterly Census of Employment and Wages (QCEW) collected by the Bureau of Labor Statistics (BLS). OSHA used industry-level establishment and employment counts by State from the 2022 QCEW dataset (BLS, 2023f). OSHA assumed that each establishment was also a unique firm,³⁴ thus each firm equals one establishment. While the QCEW does not present revenue data, it does include total annual wages by industry and State. OSHA used the ratio of receipts to wages from the SUSB dataset for each State to convert the QCEW wage data into annual receipts by industry and State.

OSHA welcomes additional data sources or alternative methodologies to

fill data gaps in the SUSB data for industries including agriculture, local and State governments. The agency is particularly interested in data and information on the number of firms, establishments, and employment. OSHA has assumed that one establishment is equal to one firm in industries where data on this parameter are not available including in governments, agriculture, postal services, and rail transportation. The agency welcomes comment on this approach and suggestions for alternative approaches.

B. States and Geographic Regions.

For this PEA, OSHA categorized States into geographic regions based on the National Weather Service (NWS) regions.³⁵ Table VIII.B.1. presents the grouping of States into these regions.

TABLE VIII.B.1—STATES AND GEOGRAPHIC REGIONS

Alaskan	Central	Eastern	Pacific	Southern	Western
Alaska	Colorado Iowa Illinois Indiana Kansas Kentucky Michigan Minnesota Missouri North Dakota Nebraska South Dakota Wisconsin	Connecticut Delaware District of Columbia Maine Maryland Massachusetts New Hampshire New Jersey New York North Carolina Ohio Pennsylvania Rhode Island South Carolina Vermont Virginia West Virginia	American Samoa Guam Hawaii Northern Mariana Islands	Alabama Arkansas Florida Georgia Louisiana Mississippi New Mexico Oklahoma Puerto Rico Tennessee Texas U.S. Virgin Islands	Arizona California Idaho Montana Nevada Oregon Utah Washington Wyoming

Source: NWS, 2024b.

C. Potentially Affected Employees Based on Work Conditions

OSHA estimated the number of potentially affected employees across all affected industries based on their work conditions. To do so, OSHA used a combination of O*NET, Occupational Requirement Survey (ORS), and Occupational Employment and Wage Statistics (OEWS) program data. Employment is characterized using the Standard Occupational Classification

(SOC) detailed occupations (*i.e.*, six-digit SOC code).

O*NET (O*NET, 2023) provides data on the percent of employees in a given occupation that work in certain climatic work conditions for specified frequencies.³⁶ The climatic work conditions that OSHA evaluated in this analysis are (1) Indoors, Environmentally Controlled; (2) Indoors, Not Environmentally Controlled; (3) Outdoors, Exposed to

Weather; and (4) Outdoors, Under Cover. For modeling purposes, OSHA mapped the O*NET frequency categories (O*NET, 2023) to number and percentages of work days worked in certain climatic work conditions, as shown in table VIII.B.2. For the purposes of this analysis, OSHA assumes that employees in work conditions (2), (3), and (4) are in-scope of the proposed standard unless they meet exemptions discussed later.

³³ The Federal Railroad Administration (FRA) has promulgated regulations requiring the use of environmental controls to address heat hazards in three specific, limited contexts: non-steam-powered locomotives purchased or remanufactured after June 8, 2012 (49 CFR 229.119(g)), camp cars (49 CFR 228.313(c)), and certain on-track roadway maintenance machines (49 CFR 214.505(a)). OSHA's standard would apply to the working conditions of railroad employees in all other

contexts, including within trains and machinery not covered by these regulations and during all outdoor work.

³⁴ To the extent that there are multiple establishments per firm, this will lead to an overestimate. OSHA welcomes feedback on this assumption and information on alternative data sources for the number of firms in these industries.

³⁵ In the NWS groupings, three states were divided between two regions: Georgia (Eastern and

Southern), Kentucky (Central and Eastern), and Wyoming (Central and Western). OSHA assigned these states to a single region, with Georgia assigned to the Southern region, Kentucky to the Central region, and Wyoming to the Western region.

³⁶ These frequency categories are defined as: (1) "Never;" (2) "Once a year or more but not every month;" (3) "Once a month or more but not every week;" (4) "Once a week or more but not every day;" (5) "Every day."

TABLE VIII.B.2—FREQUENCY OF WORK IN CERTAIN CONDITIONS

Category No.	O*NET frequency category name	Minimum number of days for category	Maximum number of days for category	Estimated percentage of days ^a
1	Never	0	0	0
2	Less than Monthly	1	<12	2.60
3	Less than Weekly	12	<50	12.40
4	Less than Daily	50	<250	60
5	Every Day	250	250	100

Sources: Frequency categories are defined by O*NET Online Resource Center (O*NET, 2023). Estimated percentage of days are based on methodology from Park et al. (2021).
^a These percentages are based on a 250-day work year.

There are multiple SOC occupation codes for which the O*NET dataset does not provide the percentages of employees in an occupation for each of these brackets. In these instances, OSHA used the average frequency of work in these conditions from similar SOC occupation codes as representative of the missing SOC occupation code to estimate the frequency of work in these conditions for occupations with missing data.

Using the percentages of each occupation within the frequency categories and the estimated percentages of days worked by category presented in the table above, OSHA estimated the percentage of employees that would be working regularly in certain climatic work conditions by occupation. OSHA then multiplied these percentages by the percentage of total industry employment in a given occupation from the 2022 OEWS dataset (BLS, 2023c). The aggregation of these products by 4-digit NAICS code yields OSHA’s estimate of the percentage of all employees in a given industry that work in the four climatic work conditions.

OSHA assumes that employees working indoors in environmentally controlled workspaces are not covered under the proposed standard unless they are exposed to process heat (e.g., kitchens, foundries). It is possible that employees exposed to process heat in

indoor work settings are counted in the O*NET data as being in climatic work condition (2) Indoors, Not Environmentally Controlled, and therefore already captured in counts of potentially affected employees. However, to account for the possibility that some employees exposed to process heat are categorized in climatic work condition (1) Indoors, Environmentally Controlled (which is possible if survey respondents considered areas that were environmentally controlled but hot due to process heat to be within the definition of environmentally controlled), OSHA relied on the ORS dataset (BLS, 2023d) to identify occupations exposed to process heat. To the extent that employees exposed to process heat are included in both climatic work condition (2) Indoors, Not Environmentally Controlled and the ORS data on exposure to extreme heat, this method may overstate the number of employees exposed to process heat. The ORS dataset contains estimates for the percent of employees that are exposed (or not) to extreme heat.³⁷ The ORS data are available by SOC occupation code, although not all SOC codes have an estimate available for all data series. Similar to the estimation for climatic conditions described above, the percentage of employees exposed to extreme heat was multiplied by the

percentage of total industry employment in a given occupation from the 2022 OEWS dataset (BLS, 2023c), resulting in an estimate of the percentage of employees by industry exposed to process heat.

OSHA acknowledges that the temperature criteria for the ORS definition of exposure to extreme heat has a higher temperature criterion than the proposed standard’s initial heat trigger of 80 °F, which, to the extent employees are not otherwise included in this analysis because they are in climatic work condition (2) Indoors, Not Environmentally Controlled, may result in an undercount of employees exposed to process heat.

The percentage of employees exposed to process heat using this method was added to the percentage of employees in exposed climatic conditions to determine the total percentage of employees exposed to heat for all affected industries.³⁸ To estimate the total number of potentially affected employees for each industry, OSHA multiplied the percentage of total exposed employees in the industry by the OEWS for May 2022 (BLS, 2023c) employment totals for that industry.

Table VIII.B.3. shows a summary of potentially affected firms, establishments, and employees across all these industries by region.

TABLE VIII.B.3—INDUSTRY PROFILE SUMMARIZED BY REGION

Region	Entities	Establishments	Employees
Alaskan	18,563	21,940	314,444
Central	1,578,125	1,906,757	32,567,699
Eastern	2,157,549	2,631,175	47,954,519
Pacific	33,857	40,139	704,767
Southern	1,776,945	2,205,794	38,771,537
Western	1,432,624	1,720,933	29,839,496

³⁷ ORS considers extreme heat present when (1) employees’ exposure is related to critical tasks and not due to weather and (2) the atmosphere is dry with temperatures above 90 °F, or the atmosphere

is humid with temperatures above 85 °F (BLS, 2021).

³⁸ To the extent that the employees exposed to process heat are already accounted for as being in one of the affected climatic conditions (indoors-not

environmentally controlled, outdoors- exposed to weather, and outdoors- under cover), this method may overestimate the percentage of employees and establishments that are affected by the proposed standard.

TABLE VIII.B.3—INDUSTRY PROFILE SUMMARIZED BY REGION—Continued

Region	Entities	Establishments	Employees
Total	6,997,663	8,526,738	150,152,463

Source: OSHA, based on BLS, 2023c; BLS, 2023f; Census Bureau, 2021a; Census Bureau 2023a; Census Bureau, 2023b; Census Bureau, 2023d; Census Bureau, 2023a; USDA, 2019; and USFA, 2019.

III. Entities Not Covered by the Proposed Standard

The proposed standard would apply to all employers in the industries outlined in Section VIII.B.II., Potentially Affected Industries and Employees, unless they have a workforce that is exclusively performing work activities that meet one or more of following definitions: (1) work activities for which there is no reasonable expectation of exposure at or above the initial heat trigger; (2) work activities where the employee is exposed to temperatures above the initial heat trigger for fifteen minutes or less in any sixty-minute period; (3) emergency response activities of workplace emergency response teams or any emergency response activities already covered under 29 CFR 1910.120, 1910.146, 1910.156, part 1915, subpart P, 1926.65, and 1926.1211; (4) work activities performed in indoor work areas or vehicles where air conditioning consistently keeps ambient temperature below 80 °F; (5) telework; and (6) sedentary work activities in indoor work areas where the work only involves some combination of the following: sitting, occasional standing and walking for brief periods of time, and occasional lifting of objects weighing less than ten pounds. Employees that are exclusively performing these types of work activities are also exempt from this standard. Where employers and employees are outside OSHA's jurisdiction, they are also not covered by the standard and OSHA's estimates of the types and number of such employers and employees is discussed in this section.

A. Work Activities With No Reasonable Expectation of Exposure at or Above Initial Heat Trigger

OSHA assumes that the estimates of affected employees cover all employees potentially affected by the proposed standard (reported in Section VIII.B.II., Potentially Affected Industries and Employees) and excludes those employees who are exempt under the scope exemption for work activities with no reasonable expectation of exposure at or above the initial heat trigger. Employees that are working in "Indoors, Environmentally Controlled" settings as identified by the O*NET data are considered out of scope based on this exemption unless they are also exposed to process heat. OSHA believes that this methodology, combined with the additional exemptions discussed below, removes from scope the employees who would fall under this exemption and thus does not make any additional adjustments for this specific exemption.

B. Short Duration Exposure at or Above Initial Heat Trigger

To estimate the number of employees that might be exposed to temperatures at or above the initial heat trigger for fifteen minutes or less in any sixty-minute period, OSHA relied on the ORS dataset. For indoor work settings, OSHA used the percentages of employees not exposed to extreme heat and the percentage of employees seldomly³⁹ exposed to extreme heat as reflective of those employees that are exposed to temperatures at or above the initial heat trigger for fifteen minutes or less in any sixty-minute period. For outdoor work settings, OSHA used the percentages of

employees that either do not work outdoors or seldomly work outdoors to estimate the number of employees exposed to temperatures at or above the initial heat trigger for fifteen minutes or less in any sixty-minute period. OSHA added the percentages for each SOC occupation code (OSHA, 2024d).

Using the 2022 OEWS data (BLS, 2023c) described in Section VIII.B.II., Potentially Affected Industries and Employees, OSHA multiplied the percentage of total industry employment in a given occupation and the summation of the percentages of employees in that same occupation that are either not exposed or seldomly exposed to extreme heat to estimate the percentage of employees in an SOC occupation code in a certain industry that meet the exemption criteria for indoor employees. These estimates were aggregated for each 4-digit NAICS industry to estimate the percentage of total employment in that industry that is exposed to temperatures at or above the initial heat trigger for fifteen minutes or less in any sixty-minute period. For 4-digit NAICS industries otherwise captured in OSHA's economic analysis that are not available in the OEWS dataset, OSHA used the average percentage of employees meeting this definition within the same industry sector (2-digit NAICS). This same process also applies for the percentages of employees that either do not work outdoors or seldomly work outdoors.

Table VIII.B.4. shows the number of employees that OSHA estimates are exempt from the proposed standard because of qualification as employees with only short duration exposure.

TABLE VIII.B.4—SUMMARY OF EMPLOYEES EXEMPT DUE TO SHORT DURATION EXPOSURE

Region	Indoor employees	Outdoor employees
Alaskan	199,838	27,312
Central	21,511,842	2,957,214
Eastern	32,085,256	4,285,342
Pacific	458,099	66,205
Southern	25,520,407	3,497,694
Western	19,598,994	2,676,549

³⁹ ORS defines seldom as spending up to two percent of total time working in extreme heat, or

less than ten minutes daily, less than 45 minutes weekly, or less than one week annually (BLS, 2021).

TABLE VIII.B.4—SUMMARY OF EMPLOYEES EXEMPT DUE TO SHORT DURATION EXPOSURE—Continued

Region	Indoor employees	Outdoor employees
Total	99,374,435	13,510,315

Source: OSHA, based on Census Bureau, 2021a; USDA, 2019; Census Bureau, 2023a; Census Bureau, 2023d; USFA, 2023; BLS, 2023c; and BLS, 2023d.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

C. Emergency Response Activities

OSHA's proposed standard exempts organizations whose primary function is the performance of firefighting; emergency response activities of workplace emergency response teams, emergency medical services, or technical search and rescue; and any emergency response activities already covered under 29 CFR 1910.120, 1910.146, 1910.156, part 1915, subpart P, 1926.65, and 1926.1211. See the *Explanation of the Proposed Requirement* for Paragraph (a) Scope for a full discussion of this exemption.⁴⁰

To identify exempt career firefighters, OSHA used the U.S. Fire Administration's National Fire Department Registry (USFA, 2023) to determine the number of firefighters in each State. Each fire department recorded in the National Fire Department Registry is considered a firm in the industry profile and each fire station is considered an establishment. Employment figures are based on the aggregation of counts of active career firefighters. Volunteer and paid-per-call

firefighters are not included as employees in the data on government employees that form the basis of OSHA's estimates of government employees, so no adjustment was made to employment regarding these responders. (See OSHA–2007–0073–0118, chapter VII, for additional information). OSHA welcomes comment on these estimates including whether there are additional types of establishments or employees who should be considered out of scope for this analysis and suggestions on methodologies that could better represent this exemption.

D. Sedentary Work Activities at Indoor Work Areas

To estimate the number of employees engaged in indoor sedentary work activities as defined in the proposed standard, OSHA used ORS and OEWS data. The ORS dataset includes estimates for the percent of employees involved in work where the strength required is considered sedentary.⁴¹ These data are available by SOC code,

although not all codes have an estimate available for all data series.

As described in section VIII.B.III.B., OEWS provides employment data for all SOC occupation codes within each 4-digit NAICS industry. OSHA multiplied the percentage of total industry employment in a given occupation by the percentage of employees in a given SOC code considered sedentary (OSHA, 2024d). Similar to the estimates for short duration exposure, these percentages were aggregated for each 4-digit NAICS industry to estimate the percentage of total employment in that NAICS industry that is considered sedentary. For 4-digit NAICS industries otherwise captured in OSHA's economic analysis that are not available in the OEWS dataset, OSHA used the average percentage of employees meeting this definition within the same sector.

Table VIII.B.5. shows the number of employees that OSHA estimates are exempt from the proposed standard because their work is sedentary.

TABLE VIII.B.5—SUMMARY OF SEDENTARY EMPLOYEES EXEMPT FROM THE PROPOSED STANDARD

Region	Employees
Alaskan	66,112
Central	7,236,687
Eastern	11,038,630
Pacific	142,075
Southern	8,543,839
Western	6,830,356
Total	33,857,699

Source: OSHA, based on Census Bureau, 2021a; USDA, 2019; Census Bureau, 2023a; Census Bureau, 2023d; USFA, 2023; BLS, 2023c; and BLS, 2023d.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

E. Telework

To estimate the number of employees working remotely, OSHA used the 2022 BLS Business Response Survey (BRS) data (BLS, 2024a) on telework. The BRS provides percentages of employment by sector that are working remotely, on-site

(i.e., non-remote work), or hybrid. OSHA applied these percentages of employment by sector to the employment data derived from the sources outlined in Section VIII.B.II., Potentially Affected Industries and Employees. Remote employees are considered exempt from the proposed

standard and hybrid employees are considered exempt from the proposed standard during the time they are teleworking.

Table VIII.B.6. shows the number of employees that OSHA estimates work remotely, hybrid, and on-site.

⁴⁰ OSHA did not attempt to adjust the share of employee's time spent engaged in emergency response activities and aside from firefighters, did not remove any employees from the scope of the standard due to this exemption. To the extent that

there are additional establishments where employees exclusively perform emergency response activities, this analysis may overstate the number of affected establishments and employees.

⁴¹ Sedentary work involves less than or equal to one-third of the workday standing while only seldomly or occasionally lifting or carrying up to ten pounds.

TABLE VIII.B.6—SUMMARY OF ON-SITE, REMOTE, AND HYBRID EMPLOYEES

Region	Remote	Hybrid	On-site
Alaskan	9,933	93,485	206,311
Central	1,100,860	10,324,319	20,885,970
Eastern	1,716,903	15,412,798	30,383,027
Pacific	22,912	195,421	483,328
Southern	1,391,099	12,060,519	25,087,691
Western	1,100,879	9,289,249	19,318,010
Total	5,342,586	47,375,792	96,364,336

Source: OSHA, based on BLS 2024a; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023d; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

F. Indoor Work Areas Where Temperature Is Maintained Below 80 °F

To estimate the number of establishments that might qualify as having indoor work areas where the ambient temperature is maintained below 80 °F (26.7 °C), OSHA used the Energy Information Administration (EIA) Commercial Buildings Energy Consumption Survey (CBECS) data (EIA, 2022). The CBECS data provide estimates on the number of buildings by building activity with some percentage of cooled floorspace. OSHA assumed that buildings with at least 51 percent of floorspace cooled qualify as

establishments where work activities take place in ambient temperatures below 80 °F (26.7 °C). OSHA assumed that employees likely work in environmentally controlled areas of buildings regardless of what percent of floorspace is cooled. For example, loading docks, storage areas, or areas where processes are automated may not be cooled but they also may not be regular work locations for employees.⁴² OSHA mapped these building activities to sectors to estimate the percentage of establishments in a given sector that would fit the definition of this exemption. These estimates were applied to the number of

establishments, as well as the number of firms, to determine those firms and establishments that are exempt from the proposed standard based on this exemption. OSHA welcomes comment on whether this is a reasonable assumption. If not, the agency welcomes comment on more appropriate methodologies or data source that might better allow OSHA to estimate which establishments would be covered by this proposed standard.

Table VIII.B.7. shows the number of firms and establishments where the ambient temperature indoors is maintained below 80 °F (26.7 °C).

TABLE VIII.B.7—SUMMARY OF ENTITIES AND ESTABLISHMENTS WITH SUFFICIENT ENVIRONMENTAL CONTROLS

Region	Entities	Establishments
Alaskan	11,047	13,469
Central	883,924	1,142,591
Eastern	1,362,384	1,739,119
Pacific	20,783	25,630
Southern	1,096,146	1,428,219
Western	922,625	1,146,582
Total	4,296,908	5,495,610

Source: OSHA, based on Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023d; EIA, 2022; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

G. Employees Working in Cooled Vehicles

To estimate the number of employees working in cooled vehicles, OSHA first estimated the percentage of employees working in vehicles by NAICS code. The estimated percentage of drivers is based on the percentage of total industry employment in occupations that involve driving. OSHA acknowledges that some non-driving occupations may work in vehicles and assumes that these occupations are already captured in estimates of other work conditions (e.g., they may be included in the group

working indoors in environmentally controlled settings or working outdoors in covered areas). OSHA determined that the following SOC occupation codes represent occupations that involve driving vehicles exposed to outdoor heat conditions for most of their work activities:

- Postal Service Mail Carriers (43–5052);
- Agricultural Equipment Operators (45–2091);
- Paving, Surfacing, and Tamping Equipment Operators (47–2071);
- Pile Driver Operators (47–2072);

- Operating Engineers and Other Construction Equipment Operators (47–2073);

- Ambulance Drivers and Attendants, Except Emergency Medical Technicians (53–3011);

- Driver/Sales Workers (53–3031);
- Heavy and Tractor-Trailer Truck Drivers (53–3032);

- Light Truck Drivers (53–3033);
- Bus Drivers, School (53–3051);
- Bus Drivers, Transit and Intercity (53–3052);

- Shuttle Drivers and Chauffeurs (53–3053);
- Taxi Drivers (53–3054); and

OSHA is counting too few establishments as covered, this would mean that the affected employees are concentrated into fewer establishments than they truly are and the average cost per establishment may be too high.

⁴² To the extent this assumption is incorrect, this may result in too few establishments being considered in-scope of this proposed standard which potentially underestimates total establishment-based costs. However, this

adjustment does not affect the number of covered employees who are included or excluded based on their job characteristics. The estimated employees who are covered by this proposed standard are distributed among the covered establishments. If

• Refuse and Recyclable Material Collectors (53–7081).

OSHA then multiplied the percentage of total industry employment comprised of these SOC occupation codes by the percentage of drivers in vehicles with sufficiently cooled vehicle cabs. In the absence of data on the percentage of

vehicles with sufficiently cooled vehicle cabs, OSHA estimates that 34 percent of postal service (Hooker and Baker, 2023) and assumes that 50 percent of all other delivery service drivers work in sufficiently cooled vehicle cabs. OSHA welcomes additional data on the percent

of vehicle cabs that are sufficiently cooled for all types of drivers.

Table VIII.B.8. shows the total number of employees working as drivers and those OSHA estimates to be in-scope (*i.e.*, those who are not working in sufficiently cooled vehicle cabs).

TABLE VIII.B.8—SUMMARY OF DRIVERS, TOTAL AND IN-SCOPE

Region	Drivers	In-scope drivers
Alaskan	10,572	5,419
Central	1,062,955	543,165
Eastern	1,501,620	768,853
Pacific	21,039	10,736
Southern	1,249,063	637,255
Western	963,917	490,865
Total	4,809,165	2,456,292

Source: OSHA, based on Census Bureau, 2021a; Census Bureau, 2023a; U.S. Census Bureau, 2023d; Hooker and Baker, 2023; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

H. Exemptions Based on OSHA Jurisdiction

Beyond the exemptions laid out in the scope section of the proposed regulatory text, OSHA must factor in jurisdictional considerations when determining those establishments and employees that are in scope of the proposed standard. A subset of public entities is considered in-scope depending on whether or not the public entity is located in an OSHA State Plan State. Those public entities that are in non-State Plan States, as well as their employees, are considered out

of scope. The following States and territories have State Plans: ⁴³ Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, U.S. Virgin Islands, Utah, Vermont, Virginia, Washington, and Wyoming.

I. Summary of Exempt Employees

Table VIII.B.9. summarizes the total number of employees estimated to be exempt from the proposed standard by each exemption. OSHA welcomes comment and feedback on whether the approaches detailed above used to estimate the number of employees affected by the proposed standard's exemptions are appropriate. The agency welcomes additional data or information on how to appropriately account for the exemptions in the proposed standard.

TABLE VIII.B.9—SUMMARY OF EMPLOYEES BY EXEMPTION TYPE BY REGION

Region	Indoor short duration	Outdoor short duration	Sedentary	Remote	Hybrid	Drivers
Alaskan	199,838	27,312	66,112	9,933	93,485	5,153
Central	21,511,842	2,957,214	7,236,687	1,100,860	10,324,319	519,790
Eastern	32,085,256	4,285,342	11,038,630	1,716,903	15,412,798	732,767
Pacific	458,099	66,205	142,075	22,912	195,421	10,302
Southern	25,520,407	3,497,694	8,543,839	1,391,099	12,060,519	611,808
Western	19,598,994	2,676,549	6,830,356	1,100,879	9,289,249	473,052
Total	99,374,435	13,510,315	33,857,699	5,342,586	47,375,792	2,352,873

Source: OSHA, based on BLS, 2023c; BLS, 2023d; BLS, 2024a; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 20203b; Hooker and Baker, 2023; USDA, 2019; and USFA, 2023.

Note: Many employees fit multiple exemption types outlined in this table. The total number of exempt employees is less than the summation of employees across all exemption types. Due to rounding, figures in the columns and rows may not sum to the totals shown.

OSHA welcomes comment and feedback on whether these approaches to estimate the number of employees affected by the proposed standard's exemptions are appropriate. The agency welcomes additional data or information on how to appropriately

account for the exemptions in the proposed standard.

IV. Affected Employees

The categories that employees impacted by the proposed exemptions fall into are likely to overlap. Employees that perform office work may (1) work

indoors in climate control, (2) only perform sedentary work activities, and (3) may occasionally work remotely. In these situations, such employees may be included in the total estimate for each of these exemptions discussed above, therefore simply adding the totals of

⁴³ Seven of these—Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and U.S.

Virgin Islands—only cover public sector employees. The private sector employees in those states are

covered by Federal OSHA and have been included in this analysis.

those exemptions may overstate the number of exempt employees. This section adjusts for that overlap and presents the number of estimated employees by work condition. This section also presents estimates on the number of affected employees by work shift which is used for specific cost estimates discussed in Section VIII.C., Costs of Compliance.

A. Affected Employees by Work Conditions

This section estimates the percentage of affected employees by work conditions, using the number of employees potentially exposed to heat from section VIII.B.II. and the exemptions outlined in section VIII.B.III. OSHA recognizes that some employees are likely to fall under multiple exemptions. For example, an employee that teleworks and performs sedentary work in a climate-controlled environment is included in three exemption categories (telework, sedentary, and no reasonable expectation of exposure to heat). To avoid double-counting employees, OSHA relied on the following method to estimate the number of affected employees.

First, the agency excluded public-sector employees that are not within OSHA's jurisdiction, as discussed in section VIII.B.III.H. After excluding employees outside OSHA's jurisdiction, the agency applied the estimated percentages of employees engaged in sedentary work, as estimated in section VIII.B.III.D., to the percentage of employees working in indoor, not environmentally controlled work conditions since those employees performing sedentary work indoors are exempt regardless of the presence of climate control. OSHA assumes that the majority of employees estimated to be exempt due to telework, detailed in section VIII.B.III.E., are also captured by the sedentary work exemption, and therefore did not make an additional adjustment for these employees.

Next, OSHA applied the estimated percentage of employees exposed to extreme heat according to the ORS data (BLS, 2023d) to the percentage of employees working in indoor, environmentally controlled work conditions to account for employees exposed to process heat who are covered by this proposed standard. The percentages of outdoor employees (both under cover and exposed to weather) are

adjusted to remove from scope employees that have short duration outdoor exposure as estimated in section VIII.B.III.B. OSHA assumed that indoor employees that are exempt based on short duration exposure are likely to be captured in the sedentary work exemption and did not make an additional adjustment for these employees.

These percentages were aggregated for each 4-digit NAICS industry to estimate the percentage of total employment in that industry that work in either indoor, environmentally controlled conditions (while only accounting for those employees that are exposed to process heat); indoor, not environmentally controlled conditions (while only accounting for those employees that are not sedentary); or outdoor conditions. For 4-digit NAICS industries otherwise captured in OSHA's economic analysis that are not available in the OEWS dataset, OSHA used the average percentage of employees meeting these definitions within the same sector.

Table VIII.B.10. shows the number of employees that are considered within the scope of the proposed standard, broken out by work conditions.

TABLE VIII.B.10—SUMMARY OF EMPLOYEES BY WORK CONDITION

Region	Indoor, not environmentally controlled	Indoor, process heat	Outdoor	Total
Alaskan	38,078	6,240	39,652	83,969
Central	4,119,613	688,813	3,110,084	7,918,510
Eastern	5,677,620	1,011,200	4,545,121	11,233,941
Pacific	80,274	19,346	74,030	173,649
Southern	4,473,460	822,673	3,448,321	8,744,454
Western	3,780,957	665,729	3,353,115	7,799,801
Total	18,170,002	3,214,001	14,570,322	35,954,325

Source: OSHA, based on BLS, 2023d; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023d; O*NET, 2023; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

B. Affected Employees by Shift Type

To estimate the number of employees that work during certain periods of the day and therefore during different heat conditions, OSHA used the American Time Use Survey (ATUS) for 2017–2018 (BLS, 2023a). The ATUS outlines the percent of employees that work certain shifts by sector. For the purposes of estimating the variations in heat exposure over the course of a day, OSHA has categorized these into three shifts: daytime, evening, and overnight. OSHA mapped work shifts defined in the ATUS to these three categories in the following sections.

I. Daytime

The daytime work shift category corresponds to the regular daytime schedule grouping in the ATUS. The ATUS defines regular daytime schedule as having a majority of respondents that worked between 6 a.m. and 6 p.m. For this analysis, employees categorized as daytime employees are assumed to work between 8 a.m. and 4 p.m. to adjust for overlap with the other work shift categories.

II. Evening

The evening work shift category corresponds to the evening shift in the ATUS. The evening schedule is defined as having respondents work a majority

of the time between 2 p.m. and midnight. For this analysis, employees categorized as evening employees are assumed to work between 4 p.m. and midnight.

III. Overnight

The overnight work shift category corresponds to the night shift in the ATUS. The night schedule is defined as having respondents work a majority of the time between 9 p.m. and 8 a.m. For this analysis, employees categorized as overnight employees are assumed to work between midnight and 8 a.m.

IV. Other Shift Categories

There are additional shift groups in the ATUS whose definitions do not fit neatly into a certain timeframe (*e.g.*, rotating, irregular, split shift, other). The percentages of employees that fit these additional groups were evenly distributed across the other categories.

V. Estimates of the Number of In-Scope Employees by Work Shift

Estimating the number of employees that work certain shifts is important because some requirements of the proposed standard are dependent on whether the heat index is at or above a trigger while employees are working.

Employees working in the early afternoon will be exposed to warmer temperatures than those working during the evening or night hours, and thus will more often qualify for a required rest break, as an example.

Table VIII.B.11. shows the number of employees that OSHA estimates work certain work shifts.

TABLE VIII.B.11—SUMMARY OF IN-SCOPE EMPLOYEES BY WORK SHIFT AND WORK CONDITION

Region	Indoor, not environmentally controlled	Indoor, process heat	Outdoor	Total
Daytime				
Alaskan	32,572	4,683	34,729	71,985
Central	3,520,992	513,412	2,727,273	6,761,677
Eastern	4,858,352	752,843	3,989,031	9,600,226
Pacific	67,919	13,914	64,780	146,614
Southern	3,837,670	601,003	3,046,594	7,485,266
Western	3,241,443	492,814	2,952,787	6,687,044
Subtotal	15,558,949	2,378,669	12,815,194	30,752,813
Evening				
Alaskan	3,151	1,114	2,643	6,908
Central	344,832	126,294	211,761	682,888
Eastern	476,846	186,505	309,284	972,635
Pacific	7,580	4,029	5,298	16,906
Southern	376,759	163,150	228,820	768,729
Western	315,621	125,450	221,400	662,471
Subtotal	1,524,789	606,543	979,205	3,110,537
Overnight				
Alaskan	2,355	442	2,280	5,076
Central	253,789	49,106	171,050	473,945
Eastern	342,421	71,853	246,806	661,079
Pacific	4,774	1,403	3,952	10,129
Southern	259,031	58,520	172,907	490,459
Western	223,893	47,465	178,928	450,287
Subtotal	1,086,263	228,789	775,922	2,090,975
Total				
Alaskan	38,078	6,240	39,652	83,969
Central	4,119,613	688,813	3,110,084	7,918,510
Eastern	5,677,620	1,011,200	4,545,121	11,233,941
Pacific	80,274	19,346	74,030	173,649
Southern	4,473,460	822,673	3,448,321	8,744,454
Western	3,780,957	665,729	3,353,115	7,799,801
Total	18,170,002	3,214,001	14,570,322	35,954,325

Source: OSHA, based on BLS, 2023a; BLS, 2023c; BLS 2023d; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023d; O*NET, 2023; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

V. Affected Entities

This section summarizes the total estimated number of entities, small

entities, and very small entities impacted by the proposed standard.

A. Summary of Affected Entities

Table VIII.B.12. summarizes the number of affected entities by core industry and region.

TABLE VIII.B.12—PROFILE OF AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION

Region	Entities	Establishments	Employees
Agriculture, Forestry, and Fishing			
Alaskan	483	490	892
Central	35,466	35,586	281,481
Eastern	18,684	18,729	160,691
Pacific	253	253	1,666
Southern	32,393	32,534	237,522
Western	18,176	18,287	453,041
Subtotal	105,455	105,879	1,135,293
Building Materials and Equipment Suppliers			
Alaskan	38	51	1,142
Central	2,912	4,090	105,785
Eastern	4,280	5,858	131,370
Pacific	72	93	2,030
Southern	3,692	5,338	122,798
Western	2,889	3,876	92,573
Subtotal	13,884	19,306	455,698
Commercial Kitchens			
Alaskan	517	623	6,270
Central	36,975	49,684	739,565
Eastern	66,334	83,069	1,100,671
Pacific	1,353	1,605	23,824
Southern	43,422	60,794	987,885
Western	39,486	52,286	733,222
Subtotal	188,087	248,060	3,591,437
Construction			
Alaskan	2,468	2,518	11,776
Central	161,546	163,268	867,865
Eastern	234,565	236,970	1,264,969
Pacific	3,436	3,477	24,954
Southern	168,126	171,053	1,232,019
Western	155,060	157,053	947,205
Subtotal	725,200	734,340	4,348,789
Drycleaning and Commercial Laundries			
Alaskan	18	20	114
Central	1,994	2,485	13,861
Eastern	5,711	6,383	25,423
Pacific	43	50	554
Southern	3,145	3,767	20,037
Western	2,396	2,706	14,349
Subtotal	13,307	15,411	74,338
Landscaping and Facilities Support			
Alaskan	111	127	4,334
Central	11,606	13,203	273,784
Eastern	18,686	21,487	443,136
Pacific	238	313	8,574
Southern	13,103	15,123	367,104
Western	9,836	11,827	262,938
Subtotal	53,581	62,080	1,359,870
Maintenance and Repair			
Alaskan	189	217	1,291
Central	20,398	21,964	143,311
Eastern	27,230	29,112	185,126
Pacific	329	350	2,261
Southern	21,642	23,646	172,454

TABLE VIII.B.12—PROFILE OF AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Entities	Establishments	Employees
Western	17,080	18,515	129,094
Subtotal	86,868	93,804	633,538
Manufacturing			
Alaskan	174	207	3,489
Central	31,890	34,082	1,149,535
Eastern	37,652	39,539	1,064,032
Pacific	307	316	3,243
Southern	27,569	29,654	852,094
Western	26,893	28,053	551,798
Subtotal	124,483	131,849	3,624,192
Oil and Gas			
Alaskan	72	98	3,809
Central	3,210	3,976	27,709
Eastern	1,631	2,146	18,110
Pacific	0	0	0
Southern	11,216	14,406	173,419
Western	1,794	2,110	18,053
Subtotal	17,924	22,736	241,099
Postal and Delivery Services			
Alaskan	207	229	273
Central	8,796	9,820	48,711
Eastern	11,053	12,421	77,808
Pacific	112	131	776
Southern	7,782	9,144	55,205
Western	4,874	5,860	46,414
Subtotal	32,824	37,605	229,188
Recreation and Amusement			
Alaskan	261	272	1,156
Central	9,879	10,799	117,890
Eastern	14,551	16,161	196,438
Pacific	185	200	2,558
Southern	9,316	10,524	153,835
Western	7,815	9,004	138,003
Subtotal	42,006	46,961	609,880
Sanitation and Waste Removal			
Alaskan	19	22	691
Central	648	815	21,373
Eastern	982	1,176	36,177
Pacific	15	18	635
Southern	642	853	28,844
Western	441	576	22,484
Subtotal	2,747	3,460	110,204
Telecommunications			
Alaskan	7	30	619
Central	418	1,853	32,035
Eastern	532	2,536	48,653
Pacific	6	28	580
Southern	479	2,227	44,194
Western	384	1,554	28,506
Subtotal	1,825	8,228	154,587

TABLE VIII.B.12—PROFILE OF AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Entities	Establishments	Employees
Temporary Help Services			
Alaskan	6	9	363
Central	910	1,623	340,619
Eastern	1,469	2,286	435,338
Pacific	14	22	10,226
Southern	1,192	1,941	704,748
Western	837	1,395	382,328
Subtotal	4,428	7,276	1,873,621
Transportation			
Alaskan	515	645	4,950
Central	36,839	39,510	214,151
Eastern	32,523	35,567	218,252
Pacific	374	443	7,332
Southern	31,794	36,180	290,503
Western	23,246	25,732	170,998
Subtotal	125,290	138,077	906,187
Utilities			
Alaskan	59	98	817
Central	1,481	4,192	61,651
Eastern	1,628	5,255	86,266
Pacific	20	36	336
Southern	2,678	5,894	73,865
Western	1,470	3,002	41,136
Subtotal	7,336	18,477	264,071
Warehousing			
Alaskan	21	22	126
Central	2,247	3,195	74,468
Eastern	2,877	4,040	109,065
Pacific	42	51	452
Southern	2,631	3,966	92,288
Western	2,068	3,000	70,103
Subtotal	9,887	14,274	346,503
Non-Core			
Alaskan	1,907	2,218	41,857
Central	138,849	171,223	3,404,715
Eastern	221,457	269,307	5,632,414
Pacific	3,497	4,224	83,648
Southern	169,479	211,935	3,135,642
Western	140,429	169,045	3,697,556
Subtotal	675,618	827,952	15,995,832
Total			
Alaskan	7,073	7,895	83,969
Central	506,064	571,365	7,918,510
Eastern	701,843	792,041	11,233,941
Pacific	10,295	11,611	173,649
Southern	550,301	638,982	8,744,454
Western	455,175	513,879	7,799,801
Total	2,230,750	2,535,774	35,954,325

Source: OSHA, based on Census Bureau, 2021a; USDA, 2019; Census Bureau, 2023a; Census Bureau, 2023d; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

B. Determining Entity Size

OSHA also estimates the number of firms, establishments, and employees that are considered small by both SBA regulations in 13 CFR 121.201 and the Regulatory Flexibility Act (RFA). Private entities are defined as small according to various employment- or revenue-based definitions by 6-digit NAICS code as laid out in the SBA table of size standards (SBA, 2023). Public entities (or “small governments”) are defined as small if they serve a population of less than 50,000.⁴⁴ OSHA also looks at the economic impacts on very small entities, which, for all industries, the agency defines as those employing fewer than 20 employees.

For this PEA, OSHA analyzed costs at the 4-digit NAICS code and State level. Since there are no SBA definitions of small entities at the 4-digit level, OSHA aggregated the number of firms, establishments, and employees within each 6-digit NAICS industry to the 4-digit level. For employee-based SBA definitions, OSHA summed all economic data within employee-class sizes below the SBA-determined cut-off number of employees. For revenue-based definitions, OSHA summed all economic data for all employee-class sizes under the largest employee-class size where the average revenue per firm was under the SBA-determined cut-off revenue. Where available, SUSB data is used to estimate firms, establishments, and employees by size class. As discussed in section VIII.B.II., there are some NAICS industries that are unavailable in the SUSB, so OSHA used alternative data sources, as discussed in section VIII.B.II.A., to estimate employment and establishment counts by size class in those instances.

For the private sector industries that were missing from the SUSB dataset due

to data disclosure limitations, OSHA estimated the percentage of employment and establishments in each size class category using SUSB data where available for the sector and then applied that to the total counts of employment and establishments described in Section VIII.B.II., Potentially Affected Industries and Employees. OSHA used data from the Census of Agriculture (USDA, 2019) to estimate the industry characteristics for NAICS industries within the agriculture sector and QCEW data for the remaining NAICS industries that were missing size class information due to data disclosure limitations.

Local government data were drawn from the Census Bureau’s (2023) GUS data for 2022 (BLS, 2023d). The data include the 2021 population of each city, county, and town served by the listed local governments. Using the GUS data, OSHA found that, of the 38,736 local governments listed, 18,028 are in State Plan States and 16,893 of these have a population of less than 50,000 and are, thus, considered small. No State governments are considered small under the RFA definition.

Based on the exemption for emergency response activities, OSHA estimated the number of fire departments that serve small governmental jurisdictions and the number of firefighters that they employ. To derive these estimates, OSHA estimated the median population served per fire department employee and used that to estimate how many employees a department would need to employ to serve a population greater than 50,000. OSHA used data from two Firehouse Magazine surveys to determine the median population served per employee for career and mixed fire departments at various employment size classes to extrapolate to the entire universe of fire

departments. Part 1 of the 2021 National Run Survey (Firehouse Magazine, 2022b) presents data from 229 career fire departments’ statistics about population and staffing. Similarly, the 2021 Combination Fire Department Run Survey (Firehouse Magazine, 2022a) has mixed fire department data. Estimates of the median population served per employee derived from both surveys are multiplied by the number of employees for each department in the U.S. Fire Administration’s (USFA, 2022) registry data (used for the Fire Department profile (see Section VIII.B.II., Potentially Affected Industries and Employees)) within each employee size class to determine how many departments serve populations of fewer than 50,000. These estimated counts of employees and fire departments corresponding to those departments were removed from the count of employees, entities, and establishments at affected small governments.

C. Summary of Small and Very Small Entities

Table VIII.B.13. presents the number of small firms and establishments and the number of very small firms and establishments, as well as the number of employees estimated to work for these small and very small entities. In some industries with revenue-based SBA thresholds for small entities, the counts of small affected firms (establishments) are less than the counts for very small firms (establishments). This occurs when some very small firms (establishments) have revenue that exceeds the small entity revenue threshold and are therefore not included in the counts of small firms (establishments).

TABLE VIII.B.13—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Agriculture, Forestry, and Fishing						
Alaskan	475	478	831	466	466	544
Central	24,294	24,322	149,091	15,065	15,065	55,208
Eastern	16,193	16,208	115,421	12,736	12,738	53,826
Pacific	199	199	1,399	138	138	1,082
Southern	26,346	26,377	169,979	17,326	17,331	62,951

⁴⁴ The RFA also includes small organizations defined as any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Traditionally, OSHA considers all non-profit organizations to be small entities based on this definition. This has the effect of including some very large organizations in the analysis of small entities (e.g., some major hospital

systems with tens of thousands of employees are non-profit entities) thus skewing the costs and impacts for the average small entity. For this analysis, OSHA did not separately assess impacts on non-profit entities. To the extent that non-profit entities are similar in size to small-for-profit entities (either based on the number of employees or revenues), the costs and impact estimates would be

consistent. The costs of this proposed standard are largely employee based and the agency has not found there to be feasibility concerns for entities of any size. Including large non-profits in the profile of SBA/RFA defined small entities would not alter the findings of the Initial Regulatory Flexibility Analysis (See section VIII.F.).

TABLE VIII.B.13—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Western	16,211	16,268	314,889	10,009	10,012	58,338
Subtotal	83,717	83,853	751,608	55,739	55,750	231,950
Building Materials and Equipment Suppliers						
Alaskan	14	15	216	27	27	202
Central	1,192	1,282	25,975	2,192	2,231	18,113
Eastern	1,999	2,128	40,838	3,358	3,409	27,914
Pacific	38	41	679	52	52	395
Southern	1,814	1,946	34,426	2,855	2,898	23,385
Western	1,509	1,596	28,722	2,311	2,345	18,858
Subtotal	6,566	7,009	130,856	10,795	10,962	88,866
Commercial Kitchens						
Alaskan	509	579	4,603	430	432	1,745
Central	36,119	40,201	472,283	26,822	26,939	130,727
Eastern	65,298	69,963	724,441	51,676	51,830	233,251
Pacific	1,282	1,388	16,812	946	949	4,411
Southern	42,239	47,058	571,817	31,027	31,159	145,802
Western	38,954	43,511	487,920	29,838	30,051	149,486
Subtotal	184,402	202,700	2,277,876	140,740	141,361	665,422
Construction						
Alaskan	2,383	2,400	6,784	2,277	2,279	4,532
Central	158,425	158,752	562,118	147,997	148,028	315,449
Eastern	230,158	230,528	840,221	214,268	214,313	467,181
Pacific	3,308	3,317	15,761	2,986	2,986	8,179
Southern	163,896	164,295	695,987	149,782	149,827	359,212
Western	151,930	152,258	602,318	140,362	140,392	322,939
Subtotal	710,101	711,550	2,723,189	657,671	657,825	1,477,491
Drycleaning and Commercial Laundries						
Alaskan	17	19	95	16	17	69
Central	1,929	2,171	8,814	1,754	1,797	4,391
Eastern	5,626	5,994	17,624	5,330	5,438	10,761
Pacific	39	41	313	32	34	83
Southern	3,087	3,449	12,989	2,843	2,951	7,977
Western	2,352	2,501	8,319	2,214	2,268	5,138
Subtotal	13,051	14,174	48,155	12,190	12,506	28,419
Landscaping and Facilities Support						
Alaskan	105	109	1,938	98	99	860
Central	11,364	11,974	165,112	10,565	10,796	82,930
Eastern	18,330	19,096	270,325	17,103	17,308	131,677
Pacific	223	250	5,027	202	203	2,067
Southern	12,805	13,271	200,425	11,867	11,974	101,006
Western	9,634	9,974	152,217	8,953	9,030	77,219
Subtotal	52,461	54,673	795,043	48,789	49,410	395,758
Maintenance and Repair						
Alaskan	174	186	1,055	174	176	821
Central	19,068	19,653	108,461	19,174	19,344	84,101
Eastern	25,688	26,211	144,821	25,704	25,857	113,180
Pacific	304	318	1,926	304	306	1,384
Southern	20,023	20,552	117,782	20,239	20,395	87,092
Western	15,931	16,477	100,556	16,000	16,166	72,908
Subtotal	81,188	83,397	474,600	81,595	82,245	359,487

TABLE VIII.B.13—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Manufacturing						
Alaskan	161	180	1,703	141	147	430
Central	28,332	29,454	617,095	20,447	20,529	95,353
Eastern	33,582	34,481	611,009	25,312	25,388	112,950
Pacific	282	288	2,422	248	248	818
Southern	24,499	25,279	450,901	18,822	18,884	83,417
Western	24,347	24,818	337,592	19,945	19,989	76,876
Subtotal	111,203	114,500	2,020,722	84,915	85,185	369,844
Oil and Gas						
Alaskan	53	61	692	29	29	70
Central	2,861	3,003	15,645	2,423	2,443	4,948
Eastern	1,391	1,458	9,518	1,116	1,125	2,497
Pacific	0	0	0	0	0	0
Southern	10,562	11,375	87,027	8,658	8,691	17,744
Western	1,561	1,631	9,034	1,306	1,308	2,807
Subtotal	16,428	17,527	121,915	13,532	13,596	28,065
Postal and Delivery Services						
Alaskan	21	33	34	18	18	26
Central	1,374	1,951	11,199	1,168	1,171	1,544
Eastern	2,238	3,001	18,998	1,899	1,900	2,351
Pacific	25	36	56	20	20	27
Southern	1,965	2,731	17,147	1,709	1,720	2,104
Western	1,533	2,081	17,285	1,302	1,309	1,733
Subtotal	7,155	9,832	64,719	6,115	6,139	7,785
Recreation and Amusement						
Alaskan	258	262	836	243	244	407
Central	9,660	9,978	76,652	8,093	8,131	23,284
Eastern	14,184	14,593	126,221	11,535	11,573	34,163
Pacific	176	182	1,996	131	131	387
Southern	9,058	9,335	79,313	7,510	7,547	22,207
Western	7,620	7,976	68,703	6,226	6,251	18,228
Subtotal	40,956	42,326	353,720	33,738	33,877	98,674
Sanitation and Waste Removal						
Alaskan	17	17	260	16	16	144
Central	598	613	11,803	519	519	5,716
Eastern	908	925	21,423	763	765	8,892
Pacific	13	16	510	10	10	186
Southern	579	600	13,810	481	482	5,650
Western	403	416	10,566	333	334	4,111
Subtotal	2,517	2,586	58,372	2,120	2,125	24,699
Telecommunications						
Alaskan	0	0	0	4	4	18
Central	6	6	28	281	303	1,237
Eastern	11	12	108	370	388	1,356
Pacific	0	0	0	2	3	13
Southern	14	16	124	341	361	1,341
Western	14	14	71	271	286	1,089
Subtotal	46	48	332	1,269	1,344	5,054
Temporary Help Services						
Alaskan	3	3	111	2	2	24
Central	746	785	58,271	487	490	4,506

TABLE VIII.B.13—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Eastern	1,258	1,305	92,651	845	847	7,409
Pacific	9	10	1,444	5	5	43
Southern	1,001	1,064	81,872	663	666	5,193
Western	734	765	47,601	520	525	3,995
Subtotal	3,752	3,933	281,950	2,522	2,537	21,170
Transportation						
Alaskan	472	551	2,648	402	407	779
Central	35,362	35,967	100,567	32,172	32,196	40,920
Eastern	30,938	31,687	109,558	27,247	27,290	38,381
Pacific	336	378	3,401	248	252	513
Southern	30,063	31,185	121,185	26,656	26,726	38,318
Western	22,303	23,056	77,739	19,941	20,008	26,654
Subtotal	119,474	122,823	415,098	106,667	106,879	145,566
Utilities						
Alaskan	56	86	742	34	37	110
Central	1,169	2,078	18,326	711	760	2,076
Eastern	1,235	2,285	22,667	835	957	2,177
Pacific	12	25	105	9	9	28
Southern	2,393	3,494	28,343	1,911	1,960	4,049
Western	1,279	1,717	11,810	1,067	1,103	3,123
Subtotal	6,144	9,686	81,995	4,568	4,826	11,564
Warehousing						
Alaskan	21	22	126	10	10	17
Central	2,193	3,078	70,279	732	753	1,639
Eastern	2,820	3,920	105,756	1,034	1,051	2,412
Pacific	42	51	449	8	8	34
Southern	2,570	3,800	87,420	965	975	2,066
Western	2,035	2,888	67,352	806	820	1,817
Subtotal	9,681	13,759	331,382	3,555	3,618	7,985
Non-Core						
Alaskan	1,503	1,582	14,497	1,594	1,620	5,729
Central	109,785	114,774	1,251,037	117,012	117,910	428,271
Eastern	175,885	181,593	1,867,095	189,755	190,941	648,153
Pacific	2,738	2,857	22,687	2,818	2,851	9,578
Southern	133,234	138,262	1,099,714	147,342	148,376	508,465
Western	113,249	117,242	1,000,087	122,703	123,582	423,075
Subtotal	536,394	556,310	5,255,118	581,225	585,280	2,023,270
Total						
Alaskan	6,241	6,582	37,172	5,982	6,031	16,526
Central	444,478	460,042	3,722,756	407,614	409,405	1,300,411
Eastern	627,742	645,388	5,138,694	590,884	593,119	1,898,531
Pacific	9,027	9,397	74,988	8,161	8,205	29,227
Southern	486,148	504,089	3,870,261	450,999	452,925	1,477,979
Western	411,599	425,189	3,342,781	384,105	385,778	1,268,393
Total	1,985,235	2,050,685	16,186,651	1,847,745	1,855,463	5,991,068

Source: OSHA, based on BLS, 2023; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023b; Census Bureau, 2023d; Firehouse Magazine, 2022a; Firehouse Magazine 2022b; SBA 2023; USDA, 2019; USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

C. Costs of Compliance

I. Introduction

This section presents OSHA's preliminary analysis of the compliance costs associated with the proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings.

OSHA estimates that the proposed standard would cost annually \$7.8 billion (in 2023 dollars) at a discount rate of 2 percent. On average, the annualized cost per establishment is estimated to be \$3,085.⁴⁵ All costs were annualized using a discount rate of 2 percent, consistent with OMB Circular A-4 (OMB, 2023).⁴⁶ A 10-year period is used to annualize one-time costs or other costs that do not occur every year. Note that the benefits of the proposed standard, discussed in Section VIII.E., Benefits, are also annualized over a 10-year period. Therefore, the time horizon of OSHA's complete analysis of this proposed standard is 10 years. Employment and production in affected sectors are implicitly held constant over this time horizon for purposes of the analysis.

While some employers may be able to make fixed investments to reduce their marginal per-employee costs (e.g., on-site freezers, air conditioning) as a result of the proposed standard, for the purposes of this cost analysis OSHA assumes that employers do not make these adjustments. This assumption may result in an overestimate of the costs of compliance (e.g., for some firms it may be less costly to install air conditioning rather than increasing rest break time for employees). The agency also did not explore all potential societal costs (i.e., those that do not affect the proposed standard's economic feasibility). OSHA welcomes comment on other impacts the rule may have on employees that the agency has not considered in this preliminary analysis but should consider in the final analysis.

The remainder of this section is organized as follows: first, OSHA discusses cost assumptions used in the analysis, followed by the derivation of

the wage rates used to estimate labor costs. Next, OSHA presents unit and total costs by affected industry sector and region and by applicable provision of the proposed standard. The final section presents the total costs of the proposed standard for all affected entities and employees as well as those that meet the SBA/RFA definitions of small entities and those with fewer than 20 employees. Discussion of burden reducing regulatory alternatives and regulatory options that may increase costs of compliance are discussed in Section VIII.F.II.G., Alternatives and Regulatory Options to the Proposed Rule.

II. Cost Assumptions

This section describes the cost assumptions used in this analysis including those relevant to baseline conditions, temperature, and heat-related incidence rates. OSHA welcomes comment on all assumptions and estimates discussed in this section. Additional data or suggestions on methodological changes the agency should consider are also welcome.

A. Baseline Non-Compliance Rates

The estimated costs of the proposed standard are measured against the baseline activities of the affected industries, including core and non-core industries (see Section VIII.B., Profile of Affected Industries for a discussion and definition of core industries). The baseline for this analysis includes existing conformity ("compliance") with the provisions of the proposed standard. Compliance costs are estimated only for "non-compliant" entities with practices that currently do not conform to the proposed standard and who would therefore incur costs to comply with it.

OSHA developed baseline non-compliance rates (percent of non-compliant entities) based on a review of existing State requirements (e.g., State heat standards, non-heat-specific paid rest break State laws⁴⁷), State-level workforce characteristics (e.g., prevalence of piece-rate pay, collective bargaining), and other industry practices when employees are exposed to heat-related hazards in the workplace, datasets and reports detailing current

practices within specific industries, feedback from participants in the Small Business Advocacy Review (SBAR) Panel, and professional expertise of OSHA staff. OSHA prioritized the use of State-specific data sources wherever possible; however, in the absence of State-specific data, national data sources were used to develop baseline non-compliance rates. In some instances, no data were available to develop baseline non-compliance rates for certain provisions within certain industries. In these cases, OSHA assumed default non-compliance rates for those industries, in some cases distinguishing between core and non-core industries (see section VIII.B.II.A. for more information on core industries). For certain provisions (i.e., heat hazard evaluation and acclimatization), OSHA believes that non-compliance rates among core industries may be lower than those within non-core industries (i.e., employers in core industries are doing more of what OSHA would require under this proposed standard) because core industries have more affected employees, and more heat-related hazards present in their work processes. For this reason, core industries may be more likely to have policies and procedures in place to protect employees from heat-related hazards on their work sites than employers in non-core industries who may be less aware of heat hazards present in their workplace. However, for other provisions (e.g., providing drinking water and rest break policies) current employment practices are affected by factors beyond heat; therefore, OSHA assumes default non-compliance rates for all industries, assuming they are the same for core and non-core industries.

Some States already have heat standards that address some or all settings in the State. While the agency estimates that all covered employers would incur some costs to comply with this proposed standard, employers in States that have heat standards will likely have lower compliance costs since they are already doing some of what would be required by OSHA. This is reflected in this analysis. Table VIII.C.1. shows the States with existing State heat standards and the corresponding industries and work settings within the scope of those State standards.

⁴⁵ Spreadsheet detailing all calculations discussed in this analysis are available in Analytical Support for OSHA's Preliminary Economic Analysis for the Heat Injury and Illness Prevention (OSHA, 2024c).

⁴⁶ Section VIII.C.V., Total Costs, presents total annualized costs, discounted (2 percent over a 10-year period) and undiscounted.

⁴⁷ In most cases, Federal law does not require the provision of rest breaks, see <https://www.dol.gov/general/topic/workhours/breaks>.

TABLE VIII.C.1—STATES AND INDUSTRIES WITH EXISTING STATE HEAT STANDARDS

Sector	State	Source
Outdoor Settings—NAICS 11, 23, 2111, 213111, 213112, 561730 ^a .	California	Cal. Code of Regs. tit. 8, section 3395 (2005).
Indoor and Outdoor Settings—NAICS11	Colorado	7 Colo. Code Regs. section 1103–15 (2022).
Indoor Settings—All Sectors	Minnesota	Minn. R. 5205.0110 (1997).
Indoor and Outdoor Settings—All sectors	Oregon	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
Outdoor Settings—All Sectors	Washington	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).

^a California's standard only covers outdoor workers within select industries within sector 11. Covered agricultural sectors include 1111, 1112, 1113, 1114, 1119, 1121, 1122, 1123, 1124, 1125, 1129, 1151, and 1152.

Since all affected establishments would need to incur some cost to develop a HIIPP that meets OSHA's requirements, OSHA assumes that even

establishments with existing HIIPPs in place would incur costs to review and modify their HIIPP to meet OSHA's requirements. Table VIII.C.2. shows the

percentages of establishments estimated to have existing HIIPPs in place in certain industries and States.

TABLE VIII.C.2—PERCENTAGE OF ESTABLISHMENTS WITH EXISTING HEAT INJURY AND ILLNESS PREVENTION PLANS

Sector	State	Percent of establishments	Source
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^a .	California	^b 100.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	100.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Minnesota	100.0	Minn. R. 5205.0110 (1997).
All Sectors	Oregon	100.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
All Sectors	Washington	100.0	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).
Sectors 23 and 31–33	National	75.0	OSHA Estimate.
Core Industries	National	50.0	OSHA Estimate.
Non-Core Industries	National	10.0	OSHA Estimate.

^a California's standard only covers select industries within sector 11. Covered agricultural sectors include 1111, 1112, 1113, 1114, 1119, 1121, 1122, 1123, 1124, 1125, 1129, 1151, and 1152.

^b California's standard specifies that 6-digit NAICS industries 213111, 213112, and 561730 need to follow the requirements of that rule. Since OSHA analyzes costs and economic impacts for this proposed standard at the 4-digit NAICS level, OSHA assumes that only a subset of NAICS 2131 and 5617 in California are already compliant with the requirements of OSHA's proposed standard. For NAICS 2131, OSHA assumes that 40 percent of NAICS 2131 are already compliant (since 213111 and 213112 represent two of the five 6-digit NAICS within the 4-digit NAICS 2131). For NAICS 5617, OSHA assumes that 20 percent of NAICS 5617 are already compliant (since 561730 represents one of the five 6-digit NAICS within the 4-digit NAICS 5617).

Table VIII.C.3. shows the estimated baseline non-compliance rates for rest breaks at both the initial and high heat triggers by State. OSHA estimated State-level non-compliance rates for rest breaks at the initial and high heat triggers based on a review of existing State requirements (State heat standards, non-heat-specific paid rest break State laws), State-level workforce characteristics (prevalence of piece-rate pay, collective bargaining), and existing paid rest breaks in collective bargaining agreements (Justia, 2022; DOL, 2023a; DOL, 2023b; NCFH, 2022; Gittleman and Pierce, 2013; Adams et al. 2009; Hirsch et al., n.d.; DOL, 2024b).

For each State, the State-level non-compliance rate for initial heat trigger rest breaks is assumed to be equal to the percentage of non-union piece-rate

workers in that State.⁴⁸ Based on review of existing collective bargaining agreements, feedback from Small Entity Representatives during the SBAR Panel process reporting high current compliance with if-needed rest breaks (which is also consistent with worker surveys such as Mirabelli et al. (2010) and Langer et al. (2021) reporting high current compliance with if-needed rest breaks), and evidence that piece-rate workers are incentivized to work faster and take fewer rest breaks than non-piece-rate workers as reported in focus group discussions with U.S. farmworkers (Wadsworth et al., 2019; Lam et al., 2013), OSHA assumes that, nationwide, all non-piece-rate workers and workers affiliated with a union (both piece-rate and non-piece-rate) are

already allowed rest breaks if needed from their employer.

State-level non-compliance rates for high heat trigger rest breaks were calculated based on the State or territory's current paid rest break laws, State heat standards, prevalence of rest breaks in collective bargaining agreements, and the share of employees affiliated with a union (by membership or representation).⁴⁹ The rationale

⁴⁹ Detailed formulas are available in Noncompliance Rates for Rest Breaks (OSHA, 2024e). In estimating unit costs of compliance with the high heat trigger breaks, OSHA estimates that employers that are fully noncompliant in outdoor and indoor settings will incur 47 minutes and 41 minutes per employee, respectively. However, in the State-level baseline compliance calculations OSHA assumes that employers (indoor and outdoor) that offer 47 minutes of break plus travel time are 100 percent compliant with the high heat trigger breaks. This simplifying assumption results in an underestimate of baseline compliance for

⁴⁸ Detailed formulas are available in Noncompliance Rates for Rest Breaks (OSHA, 2024e).

behind the formulas is as follows. Non-union piece-rate employees in any State are likely the least protected, currently assumed to be taking zero breaks at the high heat trigger.⁵⁰ Non-union non-piece-rate employees are likely most protected in States with a heat standard (*i.e.*, these employees are getting most required scheduled rest breaks in addition to if-needed rest breaks), less protected in States with some non-heat-related paid break law (these workers are getting some scheduled rest breaks), and the least protected in States with no paid break law (these employees may be getting no scheduled rest breaks). Also, in any State, OSHA assumes that employees (both piece-rate and non-

piece-rate) affiliated with a union are more protected than non-union employees by being provided some scheduled as well as if-needed rest breaks. Collective bargaining agreements differ across employers and States; however, collective bargaining agreements are likely more protective (meaning employees covered by a union are likely to get more scheduled rest breaks) in States with a heat standard or non-heat-related paid break law than in States with no paid break law.

OSHA acknowledges that there is limited information on current baseline non-compliance rates for rest breaks in (1) States without existing rest breaks laws and (2) States with existing rest

break laws. OSHA welcomes feedback on the assumptions and estimates of rest break non-compliance by State (and territory) described above. OSHA is soliciting feedback on whether the assumptions regarding compliance differences by workforce characteristics (*e.g.*, piece rate workers, union work, State break laws, State heat laws) are reasonable or if there are alternative methods, sources of data, or assumptions that should be considered. OSHA is especially interested in existing research or data sources that can be used to evaluate the impact of rest breaks in States with existing requirements.

TABLE VIII.C.3—REST BREAK NON-COMPLIANCE RATES BY STATE AND TERRITORY

State	Initial heat trigger (%)	High heat trigger (%)
Alabama	6.3	67.7
Alaska	6.0	^a 65.7
American Samoa ^b	6.2	67.1
Arkansas	6.4	68.3
Arizona	6.6	70.0
California	5.7	13.7
Colorado	6.3	15.3
Connecticut	6.0	65.9
District of Columbia	6.3	67.9
Delaware	6.3	67.9
Florida	6.6	69.7
Georgia	6.6	69.5
Guam ^b	6.2	67.1
Hawaii	4.8	58.4
Idaho	6.6	69.5
Illinois	5.8	28.4
Indiana	6.1	66.3
Iowa	6.3	67.6
Kansas	6.0	66.2
Kentucky	6.0	29.0
Louisiana	6.6	69.6
Maine	6.4	68.2
Maryland	6.2	29.8
Massachusetts	5.9	65.6
Michigan	5.6	63.2
Minnesota	5.9	28.6
Mississippi	6.0	66.2
Missouri	5.9	65.5
Montana	6.0	66.0
Nebraska	6.4	68.4
Nevada	5.6	27.4
New Hampshire	6.4	68.4
New Jersey	5.5	62.9
New Mexico	6.4	68.7
New York	5.2	61.1
North Carolina	6.7	70.4
North Dakota	6.4	68.3
Northern Mariana Islands ^b	6.2	67.1
Ohio	6.0	65.6
Oklahoma	6.6	69.6
Oregon	5.9	5.9
Pennsylvania	5.8	64.9
Puerto Rico ^b	6.2	67.1
Rhode Island	5.9	65.0
South Carolina	6.7	70.6
South Dakota	6.7	70.5

indoor employers—employers with indoor workers that are technically currently 100 percent compliant by already providing 41 minutes of break time (including travel time) are calculated as being 87

percent compliant (41 minutes provided/47 minutes), instead of 100 percent (fully compliant).

⁵⁰ This assumption may overestimate non-compliance of employers of piece-rate workers in

states that have laws requiring paid rest breaks for piece-rate workers (in all sectors for California, in the agricultural sector for Washington State).

TABLE VIII.C.3—REST BREAK NON-COMPLIANCE RATES BY STATE AND TERRITORY—Continued

State	Initial heat trigger (%)	High heat trigger (%)
Tennessee	6.4	68.6
Texas	6.6	69.7
Utah	6.5	68.8
U.S. Virgin Islands ^b	6.2	67.1
Vermont	5.8	64.9
Virginia	6.6	69.9
Washington	5.5	13.3
West Virginia	6.0	66.0
Wisconsin	6.2	67.1
Wyoming	6.6	69.5

^a The weather data (discussed in Section VIII.B., Profile of Affected Industries) do not show Alaska meeting or exceeding the high heat trigger. However, OSHA applied the same assumptions used for other States to arrive at a non-compliance rate for Alaska that would be applied if there were exposure to heat at or above the high heat trigger. In the current analysis, the cost for high heat trigger rest breaks is zero for employers in Alaska. In the event that the estimation methodology for exposure to heat used in the final analysis is changed in a manner that results in employees in Alaska being found to be exposed to heat at or above the high heat trigger, this non-compliance rate will be applied in those situations.

^b Rest break non-compliance rates for U.S. territories were imputed using the employment-weighted average of the non-compliance rates of the States without any paid break law.

Source: OSHA estimates based on Justia, 2022; DOL, 2023a; DOL, 2023b; NCFH, 2022; Gittleman and Pierce, 2013; Adams et al. 2009; Hirsch et al., n.d.; DOL, 2024b; formulas in OSHA, 2024e.

Table VIII.C.4. shows the estimated baseline non-compliance rates for all other requirements of the proposed standard. Within certain provisions, OSHA outlines different non-compliance rates for certain requirements under each provision (*e.g.*, OSHA found that some State rules

require initial training on heat-related hazards for employees but do not require refresher training).

OSHA welcomes feedback on the baseline non-compliance estimates that are detailed in table VIII.C.4. OSHA seeks information and feedback on the following topics: alternative sources; existing employer practices in States

with or without existing heat regulations; variation in non-compliance based on employer size, industry, and occupation; and the assumption that non-core industries tend to have lower baseline compliance (and higher non-compliance) than core industries.

TABLE VIII.C.4—NON-COMPLIANCE RATES BY PROVISION

Industry/sector	State	Non-compliance estimate (%)	Source
Heat Injury and Illness Prevention Plan			
Develop or Modify HIIPP:			
All Sectors ^a	National	100.0	OSHA estimate.
Review HIIPP:			
All Sectors	National	50.0	OSHA estimate.
Employee Involvement:			
All Sectors	National	75.0	OSHA estimate.
Identifying Heat Hazards			
Environmental Monitoring—Outdoor:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Minnesota	0.0	Minn. R. 5205.0110 (1997).
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
All Sectors	Washington	0.0	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).
Sectors 23 and 31–33	National	16.7	OSHA, 2023.
All Other Industries	National	20.0	OSHA Estimate.
Environmental Monitoring—Indoor:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Minnesota	0.0	Minn. R. 5205.0110 (1997).
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
All Sectors	Washington	0.0	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).

TABLE VIII.C.4—NON-COMPLIANCE RATES BY PROVISION—Continued

Industry/sector	State	Non-compliance estimate (%)	Source
Sectors 23 and 31–33	National	16.7	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Hazard Evaluation:			
NAICS 2211	National	28.3	Kaltsatou et al., 2021.
Sectors 23 and 31–33	National	7.7	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Employee Involvement:			
All sectors	National	75.0	OSHA Estimate.
Requirements at or Above the Initial Heat Trigger			
Drinking Water:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 23	Texas	59.0	Workers Defense Project, 2013.
Sector 11 ^d	National	3.0	DOL, 2022.
All Other Industries	National	10.0	OSHA Estimate.
Break Area(s) at Outdoor Work Sites:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sectors 23 and 31–33	National	20.0	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Indoor Work Area and Break Area Controls:			
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
Sectors 23 and 31–33	National	50.0	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Acclimatization—New Employees:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sectors 23 and 31–33	National	44.8	OSHA, 2023.
NAICS 2111	National	72.0	Ergodyne, 2020.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Acclimatization—Returning Employees:			
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
Sectors 23 and 31–33	National	67.2	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Effective Communication—Supervisor ^e :			
All sectors	National	25.0	OSHA Estimate.
Effective Communication—Employee ^e :			
All sectors	National	50.0	OSHA Estimate.
Requirements at or Above the High Heat Trigger			
Observation for Signs and Symptoms—Supervisor:			
All Sectors	National	25.0	OSHA Estimate.
Observation for Signs and Symptoms—Employee:			
All Sectors	National	50.0	OSHA Estimate.
Hazard Alert:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
Sectors 23 and 31–33	National	9.1	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Heat Illness and Emergency Response and Planning			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	50.0	7 Colo. Code Regs. section 1103–15 (2022).
Sectors 23 and 31–33	National	16.7	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.

TABLE VIII.C.4—NON-COMPLIANCE RATES BY PROVISION—Continued

Industry/sector	State	Non-compliance estimate (%)	Source
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Training			
Initial Training:			
NAICS 11, 23, 2111, 213111, 213112, 4841, 4842, 4884, 4889, 561730 ^b .	California	0.0	Cal. Code of Regs. tit. 8, section 3395 (2005).
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Minnesota	0.0	Minn. R. 5205.0110 (1997).
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
All Sectors	Washington	0.0	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).
Sectors 23 and 31–33	National	20.0	OSHA, 2023.
NAICS 2211	National	26.1	Kaltsatou et al., 2021.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Refresher Training			
Sector 11	Colorado	0.0	7 Colo. Code Regs. section 1103–15 (2022).
All Sectors	Minnesota	0.0	Minn. R. 5205.0110 (1997).
All Sectors	Oregon	0.0	Or. Admin. R. 437–002–0156 (2022); Or. Admin. R. 437–004–1131 (2022).
All Sectors	Washington	0.0	Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296–307–097 through 296–307–09760 (2023).
Sectors 23 and 31–33	National	0.0	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.
Recordkeeping			
Sectors 23 and 31–33	National	64.3	OSHA, 2023.
All Other Core Industries	National	50.0	OSHA Estimate.
All Other Non-Core Industries	National	90.0	OSHA Estimate.

^a OSHA assumes that all employers will need to develop a HIIPP, either by creating a new HIIPP or reviewing and updating an existing HIIPP to comply with the proposed standard. More discussion of the calculation of HIIPP total costs can be found in section VIII.C.V.B.

^b The California State rule only covers select industries within sector 11. Covered agricultural sectors include NAICS 1111, 1112, 1113, 1114, 1119, 1121, 1122, 1123, 1124, 1125, 1129, 1151, and 1152.

^c California's standard specifies that 6-digit NAICS 213111, 213112, and 561730 need to follow the requirements of that rule. Since OSHA analyzes costs and economic impacts for this proposed standard at the 4-digit NAICS level, OSHA assumes that only a subset of NAICS 2131 and 5617 in California are already compliant with the requirements of OSHA's proposed standard. For NAICS 2131, OSHA assumes that 40 percent of NAICS 2131 are already compliant (since NAICS 213111 and 213112 represent two of the five 6-digit NAICS within the 4-digit NAICS 2131). For NAICS 5617, OSHA assumes that 20 percent of NAICS 5617 are already compliant (since NAICS 561730 represents one of the five 6-digit NAICS industries within the 4-digit NAICS 5617). Using these assumptions, 60 percent of NAICS 2131 and 80 percent of NAICS 5617 are considered non-compliant.

^d Only covers NAICS industry groups 1111, 1112, 1113, 1114, 1119, 1121, 1122, 1123, 1151, and 1152 within sector 11.

^e Compliance with the effective communication provision of the proposed standard requires employers to maintain two-way communication with employees and to regularly communicate with employees. For the purposes of this cost analysis, OSHA assumes that 50 percent of employers are currently compliant with the provision. OSHA also assumes that half of the remaining non-compliant employers currently engage in one-way communication (from supervisor to employee) and would only incur costs for the employee's time communicating with or responding to the supervisor, which is reflected in the different non-compliance estimates (for employer and supervisor) for effective communication.

B. Cost Savings

OSHA also considers potential cost savings from the proposed standard as a result of requiring employers to provide employees if-needed or scheduled rest breaks (see appendix A at the end of this section for additional details on the assumptions and estimates discussed in this section). The best available evidence indicates that when employees are exposed to heat and are not allowed to take rest breaks or adjust their work hours, they must

pace themselves (*i.e.*, work more slowly) to counteract the effects of heat exposure. OSHA has preliminarily determined that when employees are offered rest breaks, cost savings will accrue to employers who are currently noncompliant with the rest break requirements because their employees will work more efficiently (*i.e.*, pace themselves less) during work time not spent on rest breaks. For the purposes of this analysis, OSHA assumes that when calculating the unit cost of rest

break requirements, these accrued cost savings partially offset the wage cost of the employee's time spent in required rest breaks.

OSHA has estimated how many minutes of work time are lost due to employees pacing themselves when the heat index is equal to the initial and high heat triggers.⁵¹ OSHA bases these

⁵¹ The extent of labor productivity loss due to pacing is evaluated when the heat index is equal to the initial or high heat triggers. However, the

Continued

estimates on empirical studies and assumed that the employees in these studies represent a nationwide average employee (for any State, industry, type of worksite, etc.). Some studies included employees who took no rest breaks. Some studies included employees who took only if-needed rest breaks but not scheduled rest breaks, and others included employees who took both if-needed and scheduled rest breaks. OSHA found that there was a decrease in pacing among employees who took if-needed rest breaks and a greater decrease in pacing among those who took scheduled rest breaks as well as if-needed rest breaks, as compared with employees who took no rest breaks. Reductions in pacing at the initial heat trigger from adding if-needed rest breaks and reductions in pacing at the high heat trigger from adding scheduled rest breaks are translated into equivalent minutes of work time saved as a share of the full unit time-cost of these rest breaks, which are then monetized to derive total labor costs saved for employers.

C. Temperature

Some of the requirements of the proposed standard would only be required when the heat index meets or exceeds a certain heat trigger (*i.e.*, the initial heat trigger at 80 °F or the high heat trigger at 90 °F). Requirements

dependent on the heat index meeting or exceeding certain triggers include, among other things:

- Rest breaks (at both the initial and high heat triggers),
- Acclimatization (at the initial heat trigger),
- Effective communication (initial heat trigger),
- Observation for signs and symptoms (high heat trigger), and
- Hazard Alert (high heat trigger).

In order to calculate the number of times these costs would be incurred by entities on a state-by-state basis, OSHA used heat index data from the NOAA Local Climatological Data (LCD) for 2020 through 2022 (NOAA, 2023b). The LCD data included heat index measurements on an hourly basis for NWS stations across the country. Due to limited data availability, OSHA reviewed a subset of 245 weather stations, ultimately analyzing 238 stations for the calculation. For each station, OSHA determined the number of workday⁵² hours that met or exceeded each of the heat triggers within each shift type as outlined in Section VIII.B., Profile of Affected Industries. From here, OSHA took the average of the number of workday hours meeting or exceeding each of the heat triggers across stations in each State.⁵³ OSHA excluded seven of the 245 stations for which 10 percent or more of

all heat index measurements across all three years of data analyzed were missing.⁵⁴ OSHA also evaluated the temperature data to identify States with relatively low levels of humidity⁵⁵ (Arizona, Nevada, New Mexico, and Utah) to inform costs related to dehumidification. OSHA used outdoor weather data as a proxy for high heat conditions in indoor settings without adequate climate control. Logically, where a building does not have air conditioning, there is a correlation between the temperature indoors and the temperature outdoors. This may overstate or understate the effects of outdoor temperature on indoor temperatures. A well-insulated building without air conditioning may be cooler than the outside environment, but a poorly insulated, poorly ventilated building that absorbs considerable direct sunlight may be hotter. Even though exposure to process heat may be exacerbated by outdoor temperatures (*e.g.*, on a hot day existing climate control may be inadequate in a hot kitchen), there may be instances where exposure to process heat occurs on relatively cool days. The agency lacks data to make a finer estimate than using outdoor weather as a proxy for indoor heat conditions but welcomes data and suggestions for improved estimation methodology. The results of this analysis are presented in table VIII.C.5.

TABLE VIII.C.5—AVERAGE ANNUAL HOURS EXCEEDING HEAT TRIGGERS BY STATE AND WORK SHIFT

State	Daytime shift		Evening shift		Overnight shift	
	Initial heat trigger	High heat trigger	Initial heat trigger	High heat trigger	Initial heat trigger	High heat trigger
Alaska	2	0	2	0	0	0
Alabama	766	372	347	93	101	15
American Samoa ^a	1,481	231	576	11	168	0
Arkansas	674	376	498	218	145	15
Arizona	701	321	536	233	239	55
California	452	158	256	75	41	0
Colorado	401	61	155	15	8	0
Connecticut	312	87	152	22	22	0
District of Columbia ^b	535	236	278	75	68	2
Delaware	457	182	245	55	54	3
Florida	1,259	669	781	273	440	103
Georgia	740	339	393	115	49	1
Guam ^a	1,481	231	576	11	168	0
Hawaii	1,481	231	576	11	168	0
Iowa	389	119	214	51	24	1
Idaho	347	86	237	49	15	0
Illinois	446	123	205	44	36	2
Indiana	413	113	214	43	28	2
Kansas	565	242	334	108	57	1

annual number of work hours used in the calculation of total labor cost savings from the required rest breaks capture work hours when the heat index is at or above the triggers (see discussion of temperature data in the following section VIII.C.II.C.). That is, in the calculation of the total labor cost savings, for example, a worker exposed to 95 °F heat index is assumed to lose the same amount of labor productivity as a worker exposed to 90 °F heat index (the high heat trigger). This discrepancy and other simplifying assumptions would result in potential misestimate of labor

productivity losses from pacing and therefore potential misestimate of total labor cost savings, as discussed in more detail in appendix A.

⁵² Workday hours in the LCD data are defined as hours on weekdays Monday through Friday for each shift type.

⁵³ OSHA acknowledges that this may be imprecise in states where the climate varies widely between different parts of the state. However, the agency lacks data that would allow for employers and employees to be more precisely located within a given state. OSHA welcomes comment on this

issue and suggestions for methodologies to more precisely represent employee exposure within States.

⁵⁴ Based on this methodology, seven stations were excluded: McGrath, AK; St. Paul Island, AK; North Little Rock, AR; Eureka, CA; Marquette, MI; Minneapolis, MN; and Mt. Washington, NH.

⁵⁵ OSHA acknowledges that due to intrastate variation in climatic conditions, this method may underestimate the number of geographic areas that have relatively low humidity.

TABLE VIII.C.5—AVERAGE ANNUAL HOURS EXCEEDING HEAT TRIGGERS BY STATE AND WORK SHIFT—Continued

State	Daytime shift		Evening shift		Overnight Shift	
	Initial heat trigger	High heat trigger	Initial heat trigger	High heat trigger	Initial heat trigger	High heat trigger
Kentucky	474	158	272	67	42	4
Louisiana	925	516	585	220	310	61
Massachusetts	225	61	96	15	22	1
Maryland	539	243	286	77	68	0
Maine	150	30	42	4	6	0
Michigan	243	35	120	13	6	0
Minnesota	186	29	78	10	5	0
Missouri	546	214	325	98	75	7
Mississippi	789	420	389	132	107	15
Montana	250	39	141	17	2	0
North Carolina	566	222	297	72	51	4
North Dakota	270	55	163	29	7	0
Nebraska	482	169	286	79	30	1
New Hampshire	248	68	93	13	8	0
New Jersey	451	176	243	60	66	5
New Mexico	579	125	304	41	33	0
Nevada	557	189	328	99	130	14
New York	256	48	106	9	17	1
Northern Mariana Islands ^a	1,481	231	576	11	168	0
Ohio	357	73	179	26	12	0
Oklahoma	643	334	456	182	132	10
Oregon	245	56	141	28	4	0
Pennsylvania	342	87	184	31	23	1
Puerto Rico	1,942	1,115	1,604	502	1,104	126
Rhode Island	304	108	118	23	23	1
South Carolina	687	301	361	92	73	3
South Dakota	377	96	203	44	18	0
Tennessee	571	214	334	88	63	7
Texas	908	498	676	277	279	38
Utah	489	136	368	71	55	0
U.S. Virgin Islands ^c	1,942	1,115	1,604	502	1,104	126
Virginia	532	230	270	74	67	4
Vermont	229	46	115	12	15	0
Washington	170	36	94	16	5	0
Wisconsin	310	68	145	26	22	1
West Virginia	318	58	143	23	4	0
Wyoming	323	28	110	5	3	0

Source: NOAA, 2023b.

^a The NOAA data OSHA used did not have data available for American Samoa, Guam, and the Northern Mariana Islands. Estimates for these island areas are set equal to Hawaii's estimates.^b The NOAA data OSHA used did not have data available for the District of Columbia. These estimates reflect the midpoint between Maryland and Virginia's estimates presented in this table.^c The NOAA data OSHA used did not have data available for the U.S. Virgin Islands. Estimates for the USVI are set equal to Puerto Rico's estimates given their relative proximity.

D. Heat-Related Illnesses—Counts and Incidence Rates

The provisions of the proposed standard addressing Heat Illness and Emergency Response and Planning would require establishments to develop and implement a plan to treat employees experiencing heat-related illnesses, including heat emergencies. The proposed standard requires additional actions for employers when the heat-related illness is considered a heat emergency; therefore, it is important to estimate separately the incidents of heat-related illnesses that are heat emergencies and those that are not heat emergencies. Using the methods detailed in Section VIII.E., Benefits, OSHA estimated the average expected annual number of heat-related illnesses by industry sector after the implementation of the proposed standard, including adjustments for effectiveness and undercount as described below. Using the estimates of

heat-related fatal and non-fatal illnesses by industry sector from the Bureau of Labor Statistics (BLS) Census of Fatal Occupational Injuries (CFOI) (BLS, 2024c) and Survey of Occupational Injuries and Illnesses (SOII) from 2011–2022 (BLS, 2023b), OSHA assumed an undercount by a factor of 7.5 for non-fatal heat-related illnesses and 3 for fatal heat-related illnesses. As also discussed in Section V.C., Risk Reduction and Section VIII.E., Benefits, OSHA also assumed an effectiveness rate of 95 percent in reducing heat-related fatal illnesses and 65 percent for non-fatal illnesses. Finally, since costs are dependent on the severity of illness, OSHA assumed that 5.3 percent⁵⁶ of heat-related illnesses are emergencies,

⁵⁶ OSHA estimated the percentage of heat-related illnesses that would be considered emergencies using Harduar Morano and Watkins (2017). Using their results reported in table 2 in that paper, OSHA calculated the percentage of all HRIs reviewed (emergency room visits, hospitalizations, and deaths) that were coded as heat stroke (5.3 percent).

and all others are considered non-emergencies for this analysis. Then, the number of estimated incidents for each sector was divided by the number of establishments deemed in-scope of the proposed standard to calculate the estimated per-establishment incident rate for each sector. OSHA welcomes feedback on the data, assumptions, and methods used to estimate the number of heat-related illnesses (emergencies and non-emergencies) by sector, as well as the per-establishment incidence rates by sector.

Table VIII.C.6. shows the total estimated number of heat-related illness emergencies and non-emergencies anticipated annually with the proposed standard in place for each sector, as well as per-establishment incidence rates for each sector.⁵⁷

⁵⁷ This assumes that rates in the future will be the same as rates in the recent past. This may be inaccurate if rates are reduced due to the efficacy

Continued

OSHA welcomes feedback on the assumptions, methods of estimation, and data used to estimate per-establishment incidence rates

(emergencies and non-emergencies) for each sector. OSHA acknowledges the possibility that there may be variability in underreporting by industry sector,

occupation, or some other measure and welcomes additional data or information on that possibility.

TABLE VIII.C.6.—SUMMARY OF HEAT-RELATED ILLNESSES—NON-EMERGENCIES AND EMERGENCIES BY SECTOR

Sector	Non-emergencies		Emergencies	
	Annual Incidents	Incidence rate	Annual incidents	Incidence rate
11	249	0.002	16	0.000
21	120	0.006	8	0.000
22	68	0.004	4	0.000
23	1,270	0.002	80	0.000
31–33	1,056	0.007	62	0.000
42	325	0.008	19	0.000
44–45	456	0.003	26	0.000
48–49	808	0.004	46	0.000
51	236	0.011	14	0.001
52	27	0.000	2	0.000
53	141	0.003	8	0.000
54	102	0.001	6	0.000
55	51	0.007	3	0.000
56	729	0.013	44	0.001
61	23	0.001	1	0.000
62	207	0.005	12	0.000
71	112	0.001	7	0.000
72	255	0.001	15	0.000
81	259	0.001	15	0.000
92	1,643	0.317	94	0.018

Source: OSHA estimate derived from BLS, 2023b, and BLS, 2024c.

III. Labor Rates

Labor costs associated with the proposed standard are derived using wage data from BLS' cross-industry Occupational Employment and Wage Statistics (OEWS) for May 2022 (BLS, 2023c). For the purposes of this cost analysis, two employee types are used to represent affected employees: "designated person" and "at-risk worker." For each industry sector, OSHA estimated the average hourly wage for these two employee types.

For the purpose of estimating costs, wages for the designated person position were derived by filtering the OEWS data for occupations that included "Manager," "Supervisor," or "Director" in their Standard Occupational Classification (SOC) title and then reviewing those occupations to identify those that may be expected to directly supervise employees exposed to heat-related hazards.⁵⁸ Occupations used in the analysis include those (1) that have detailed occupation codes (i.e., six-digit SOC code), (2) deemed to supervise potentially at-risk employees, (3) with recorded employment numbers, and (4) with recorded median hourly wage data. For these occupations, OSHA calculated the percentage of each

industry sector's total available employment that each detailed occupation represented. OSHA then calculated the weighted average hourly wage for each sector using the product of these percentages and the corresponding median hourly wage estimates from the OEWS. OSHA assumes that the average hourly wages calculated for each represent those for designated workers. OSHA acknowledges that this method of estimation may lead to an overestimate in wage costs as the designated person does not necessarily have to be a supervisor, manager, or director in all cases. For this analysis, OSHA also uses these wages developed for designated persons to represent supervisors' wages. OSHA welcomes feedback on the assumptions, methods, and data used to estimate the wages of a designated person.

Wages for at-risk workers are calculated using a process similar to the process used to calculate the number of affected employees in section VIII.B.IV.A. The main differences for determining the wages for at-risk workers are that the methodology for estimating wages uses OEWS data at the 2-digit NAICS sector level instead of the

4-digit NAICS industry group level and that some occupations that are otherwise used to determine the percentage of employees that are exposed to heat-related hazards are not included for the wage calculation because the relevant employment and/or wage data are undisclosed. OSHA calculated the percentage of a given sector's at-risk employment made up by each SOC code and multiplied this percentage by the hourly median wage from OEWS. Finally, OSHA summed these products for each sector to estimate the weighted average hourly wage for at-risk workers in each sector.

OSHA uses the estimated hourly wage rates to calculate a loaded wage rate that includes three types of cost: hourly base wage, fringe benefits, and overhead costs.

For the calculation of fringe benefit costs, OSHA used data from BLS' Employer Costs for Employee Compensation (ECEC) for December 2023 (BLS, 2024b) to determine that fringe benefits can be estimated as 45 percent of base wages or 31.1 percent of total compensation.

OSHA also accounts for indirect expenses that cannot be tied to producing a specific product or service, called overhead costs. Common

of this proposed standard or if rates increase if more workers are exposed to hot environments.

⁵⁸ Although for purposes of this cost analysis OSHA distinguishes between a "designated person" and "at-risk workers," this terminology is not intended to suggest that supervisors or managers

who supervise workers exposed to heat related hazards are not themselves also "at risk" when exposed to the same hazards.

examples include rent, utilities, and office equipment. There is no consensus on the cost elements that fit this definition and the lack of a common definition has led to a wide range of overhead estimates. Consequently, the treatment of overhead costs needs to be case-specific. In this analysis, OSHA used an overhead rate of 17 percent of base wages (EPA, 2002; Rice, 2002). This 17 percent rate is based on an estimate of overhead costs for safety and health professionals in large private organizations. This overhead rate is consistent with, for example, the overhead rate used in the Final

Economic Analysis (FEA) in support of OSHA's 2023 final rule amending its occupational injury and illness recordkeeping (88 FR 47254) and the economic feasibility analysis in support of OSHA's 2021 Healthcare Emergency Temporary Standard (Healthcare ETS).⁵⁹ (86 FR 32376). OSHA expects that this rate is likely an overestimate in this context, as this reflects a component of *average* overhead; in this case, however, the agency anticipates that, for example, designated persons and at-risk workers will be able to work within the general physical infrastructure in which they currently

operate. A rate of 17 percent of base wages is equivalent to 11.71 percent of the hourly wage rate with fringe applied.⁶⁰

To calculate the fully loaded hourly labor cost, OSHA added the three components together: base wages + fringe benefits (31.1 percent of total compensation) + applicable overhead (17 percent of base wages). Table VIII.C.7. shows the loaded hourly wages used in the analysis. OSHA welcomes feedback on the assumptions, methods, and data used to estimate the wages of a designated person and at-risk worker.

TABLE VIII.C.7—WAGE RATES USED IN THE ANALYSIS
[2023\$]

Sector	Median hourly wage ^a	Fringe ^b (%)	Fringe-adjusted overhead ^c (%)	Loaded hourly wage ^d
Designated Person				
11	\$30.73	45.0	11.7	\$49.83
21	50.76	45.0	11.7	82.31
22	57.93	45.0	11.7	93.94
23	42.26	45.0	11.7	68.53
31–33	43.15	45.0	11.7	69.97
42	42.41	45.0	11.7	68.77
44–45	26.45	45.0	11.7	42.89
48–49	37.37	45.0	11.7	60.59
51	54.75	45.0	11.7	88.78
52	49.94	45.0	11.7	80.98
53	36.94	45.0	11.7	59.91
54	59.00	45.0	11.7	95.67
55	60.81	45.0	11.7	98.62
56	34.51	45.0	11.7	55.97
61	36.68	45.0	11.7	59.49
62	34.49	45.0	11.7	\$55.92
71	28.83	45.0	11.7	46.75
72	20.50	45.0	11.7	33.24
81	33.58	45.0	11.7	54.45
92	45.08	45.0	11.7	73.10
At-Risk Worker				
11	16.53	45.0	11.7	26.80
21	28.65	45.0	11.7	46.46
22	46.58	45.0	11.7	75.53
23	27.10	45.0	11.7	43.95
31–33	22.62	45.0	11.7	36.68
42	26.11	45.0	11.7	42.34
44–45	16.21	45.0	11.7	26.28
48–49	20.52	45.0	11.7	33.27
51	35.48	45.0	11.7	57.54
52	35.92	45.0	11.7	58.24
53	23.09	45.0	11.7	37.44
54	47.08	45.0	11.7	76.34
55	54.28	45.0	11.7	88.02
56	17.00	45.0	11.7	27.56
61	20.15	45.0	11.7	32.68
62	17.56	45.0	11.7	28.48

⁵⁹ See the FEAs in in the Improved Tracking of Workplace Injuries and Illnesses FEA (<https://www.govinfo.gov/content/pkg/FR-2023-07-21/pdf/2023-15091.pdf>) and the feasibility analysis support of OSHA's 2021 Healthcare ETS (86 FR 32376) (<https://www.govinfo.gov/content/pkg/FR-2021-06-21/pdf/2021-12428.pdf>). The methodology was modeled after an approach used by the EPA. More information on this approach can be found at: U.S.

Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program," June 10, 2002 (Ex. 2066). This analysis itself was based on a survey of several large chemical manufacturing plants: Heiden Associates, *Final Report: A Study of Industry Compliance Costs Under the Final Comprehensive Assessment Information Rule*, Prepared for the Chemical

Manufacturers Association, December 14, 1989, Ex. 2065.

⁶⁰ The fringe-adjusted overhead rate, 11.71%, is calculated as 68.9 percent * 17 percent, *i.e.*, the percent of wages that are the base hourly rate exclusive of fringe (68.9 percent) multiplied by the overhead rate as a percentage of base hourly wages (17 percent).

TABLE VIII.C.7—WAGE RATES USED IN THE ANALYSIS—Continued
[2023\$]

Sector	Median hourly wage ^a	Fringe ^b (%)	Fringe-adjusted overhead ^c (%)	Loaded hourly wage ^d
71	15.55	45.0	11.7	25.21
72	14.88	45.0	11.7	24.13
81	21.17	45.0	11.7	34.33
92	31.28	45.0	11.7	50.72

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

^aMedian hourly wage rates are drawn from BLS' sector-level OEWS for May 2022. For the designated person, the wages represent a weighted average of wage across SOC codes that would directly supervise potentially at-risk workers. For the at-risk worker, the wages reflect weighted averages between SOC codes that are deemed in-scope for this proposed standard.

^bThe fringe rate is drawn from BLS' ECEC for December 2023 (BLS, 2024b).

^cThe overhead rate is derived from EPA (2002) and Rice (2002).

^dThe loaded hourly wage = median hourly wage * (1 + fringe rate) * (1 + fringe-adjusted overhead rate).

IV. Estimated Unit Costs of Compliance

This section presents the estimated unit costs of the proposed standard by industry sector and proposed provision. Unless otherwise noted in this section, the time estimates for complying with proposed provisions are based on OSHA's professional expertise, considering what the proposed standard requires and estimates of the hours necessary to comply with similar requirements in other OSHA rules. OSHA welcomes comment on all

estimates discussed here. Additional data or suggestions on methodological changes the agency should consider are also welcome.

A. Rule Familiarization

All employers affected by the proposed standard would need to review the requirements under the proposed standard. While some employers will read the standard, many will likely rely on compliance assistance documents prepared by

OSHA or by trade or industry associations that will provide the needed information in a simpler manner that would take less time to review and digest than the regulatory language. OSHA estimates that rule familiarization would take a designated person one hour to complete. Table VIII.C.8. shows the unit costs for rule familiarization by industry sector.

B. Heat Injury and Illness Prevention Plan (HIIPP)

TABLE VIII.C.8—UNIT COSTS—RULE FAMILIARIZATION
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
11	1.0	\$49.83	Designated Person	Establishment	One-Time.
21	1.0	82.31	Designated Person	Establishment	One-Time.
22	1.0	93.94	Designated Person	Establishment	One-Time.
23	1.0	68.53	Designated Person	Establishment	One-Time.
31–33	1.0	69.97	Designated Person	Establishment	One-Time.
42	1.0	68.77	Designated Person	Establishment	One-Time.
44–45	1.0	42.89	Designated Person	Establishment	One-Time.
48–49	1.0	60.59	Designated Person	Establishment	One-Time.
51	1.0	88.78	Designated Person	Establishment	One-Time.
52	1.0	80.98	Designated Person	Establishment	One-Time.
53	1.0	59.91	Designated Person	Establishment	One-Time.
54	1.0	95.67	Designated Person	Establishment	One-Time.
55	1.0	98.62	Designated Person	Establishment	One-Time.
56	1.0	55.97	Designated Person	Establishment	One-Time.
61	1.0	59.49	Designated Person	Establishment	One-Time.
62	1.0	55.92	Designated Person	Establishment	One-Time.
71	1.0	46.75	Designated Person	Establishment	One-Time.
72	1.0	33.24	Designated Person	Establishment	One-Time.
81	1.0	54.45	Designated Person	Establishment	One-Time.
92	1.0	73.10	Designated Person	Establishment	One-Time.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

Under paragraph (c) of the proposed standard, employers must create a written HIIPP,⁶¹ with the input from employees. OSHA acknowledges that some employers may already have an existing HIIPP that may only need to be

modified to comply with the proposed standard. The HIIPP must include:

- A comprehensive list of the types of work activities covered by the plan;
- All policies and procedures necessary to comply with the requirements of this proposed standard including those to protect employees

while wearing vapor-impermeable clothing; and

- Identification of the heat metric (*i.e.*, heat index or wet bulb globe temperature) the employer will monitor to identify heat hazards.

Further, the employer must designate one or more heat safety coordinators to implement and monitor the HIIPP, make

⁶¹ Employers with 10 or fewer employees do not have to write out their HIIPP.

the HIIPP readily available to all employees in a language that all employees understand, and review the HIIPP whenever a heat-related incident occurs those results in death, days away from work, medical treatment beyond first aid, or loss of consciousness. The review of the HIIPP must occur at least annually.

For employers with an existing HIIPP in place, OSHA assumes that employers will designate someone to review their HIIPP and make any modifications necessary to comply with the proposed standard. OSHA estimates this process will require 2.5 hours of the designated person's time. Employers that do not have an existing HIIPP could either choose to use a HIIPP template (for example, one provided by OSHA as part of rollout materials or one from a trade organization) or write a HIIPP from scratch. Because writing a HIIPP from scratch without the help of a template would be considerably more onerous, OSHA expects that most employers would not choose this option and would, instead, opt to use a template which the agency estimates would require approximately six hours of a designated person's time to locate,

review, identify relevant sections, and fill in worksite-specific information on hazards, controls, and procedures. For employers that are exempt from writing their HIIPP (*i.e.*, those with ten or less employees) OSHA assumes that they will spend four hours using a template to guide their creation of a HIIPP. OSHA assumes that five percent of employers will have complex or unique situations where a template would not be usable. For these employees, OSHA estimates that it will take 30 hours of a designated person's time to prepare the HIIPP. OSHA welcomes comments and input on these estimates and assumptions. The agency would like information and data on how these estimates correspond to the costs incurred by employers who have developed written HIIPPs, whether the time estimates are reasonable, and what method employers have taken when developing their plans.

Additionally, the proposed standard would require employers to review and update the HIIPP periodically. Regardless of how employers develop or modify their HIIPPs initially, OSHA estimates that the process of reviewing and updating the HIIPP would take the

person designated on average one hour per year to do so.

The proposed standard would also require that employers involve non-managerial employees in the creation or initial modification of the HIIPP, as well as in the process of periodically reviewing and updating the HIIPP. OSHA assumes that a representative group of employees (four employees per establishment) will take one hour each during the initial development of the HIIPP to provide feedback, regardless of whether the employer has an existing HIIPP. This same representative group of employees would take 20 minutes each during the review and update of the HIIPP to provide feedback. OSHA welcomes comments and input on these estimates and assumptions. The agency would like information and data on how these estimates correspond to the costs incurred by employers who have developed written HIIPPs, whether the time estimates are reasonable, and what method employers have taken when developing their plans.

Table VIII.C.9. shows the units costs for developing and updating the HIIPP by industry sector.

TABLE VIII.C.9—UNIT COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
Write HIIPP from Scratch					
11	30.0	\$1,494.92	Designated Person	Establishment	One-Time.
21	30.0	2,469.40	Designated Person	Establishment	One-Time.
22	30.0	2,818.32	Designated Person	Establishment	One-Time.
23	30.0	2,055.78	Designated Person	Establishment	One-Time.
31–33	30.0	2,099.13	Designated Person	Establishment	One-Time.
42	30.0	2,063.18	Designated Person	Establishment	One-Time.
44–45	30.0	1,286.74	Designated Person	Establishment	One-Time.
48–49	30.0	1,817.75	Designated Person	Establishment	One-Time.
51	30.0	2,663.34	Designated Person	Establishment	One-Time.
52	30.0	2,429.29	Designated Person	Establishment	One-Time.
53	30.0	1,797.15	Designated Person	Establishment	One-Time.
54	30.0	2,869.97	Designated Person	Establishment	One-Time.
55	30.0	2,958.49	Designated Person	Establishment	One-Time.
56	30.0	1,678.99	Designated Person	Establishment	One-Time.
61	30.0	1,784.56	Designated Person	Establishment	One-Time.
62	30.0	1,677.73	Designated Person	Establishment	One-Time.
71	30.0	1,402.49	Designated Person	Establishment	One-Time.
72	30.0	997.21	Designated Person	Establishment	One-Time.
81	30.0	1,633.62	Designated Person	Establishment	One-Time.
92	30.0	2,193.10	Designated Person	Establishment	One-Time.
Review and Modify HIIPP—Existing Plan in Place					
11	2.5	124.58	Designated Person	Establishment	One-Time.
21	2.5	205.78	Designated Person	Establishment	One-Time.
22	2.5	234.86	Designated Person	Establishment	One-Time.
23	2.5	171.31	Designated Person	Establishment	One-Time.
31–33	2.5	174.93	Designated Person	Establishment	One-Time.
42	2.5	171.93	Designated Person	Establishment	One-Time.
44–45	2.5	107.23	Designated Person	Establishment	One-Time.
48–49	2.5	151.48	Designated Person	Establishment	One-Time.
51	2.5	221.94	Designated Person	Establishment	One-Time.
52	2.5	202.44	Designated Person	Establishment	One-Time.
53	2.5	149.76	Designated Person	Establishment	One-Time.

TABLE VIII.C.9—UNIT COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
54	2.5	239.16	Designated Person	Establishment	One-Time.
55	2.5	246.54	Designated Person	Establishment	One-Time.
56	2.5	139.92	Designated Person	Establishment	One-Time.
61	2.5	148.71	Designated Person	Establishment	One-Time.
62	2.5	139.81	Designated Person	Establishment	One-Time.
71	2.5	116.87	Designated Person	Establishment	One-Time.
72	2.5	83.10	Designated Person	Establishment	One-Time.
81	2.5	136.14	Designated Person	Establishment	One-Time.
92	2.5	182.76	Designated Person	Establishment	One-Time.

Use HIIPP Template

11	6.0	298.98	Designated Person	Establishment	One-Time.
21	6.0	493.88	Designated Person	Establishment	One-Time.
22	6.0	563.66	Designated Person	Establishment	One-Time.
23	6.0	411.16	Designated Person	Establishment	One-Time.
31–33	6.0	419.83	Designated Person	Establishment	One-Time.
42	6.0	412.64	Designated Person	Establishment	One-Time.
44–45	6.0	257.35	Designated Person	Establishment	One-Time.
48–49	6.0	363.55	Designated Person	Establishment	One-Time.
51	6.0	532.67	Designated Person	Establishment	One-Time.
52	6.0	485.86	Designated Person	Establishment	One-Time.
53	6.0	359.43	Designated Person	Establishment	One-Time.
54	6.0	573.99	Designated Person	Establishment	One-Time.
55	6.0	591.70	Designated Person	Establishment	One-Time.
56	6.0	335.80	Designated Person	Establishment	One-Time.
61	6.0	356.91	Designated Person	Establishment	One-Time.
62	6.0	335.55	Designated Person	Establishment	One-Time.
71	6.0	280.50	Designated Person	Establishment	One-Time.
72	6.0	199.44	Designated Person	Establishment	One-Time.
81	6.0	326.72	Designated Person	Establishment	One-Time.
92	6.0	438.62	Designated Person	Establishment	One-Time.

No Written HIIPP

11	4.0	199.32	Designated Person	Establishment	One-Time.
21	4.0	329.25	Designated Person	Establishment	One-Time.
22	4.0	375.78	Designated Person	Establishment	One-Time.
23	4.0	274.10	Designated Person	Establishment	One-Time.
31–33	4.0	279.88	Designated Person	Establishment	One-Time.
42	4.0	275.09	Designated Person	Establishment	One-Time.
44–45	4.0	171.57	Designated Person	Establishment	One-Time.
48–49	4.0	242.37	Designated Person	Establishment	One-Time.
51	4.0	355.11	Designated Person	Establishment	One-Time.
52	4.0	323.91	Designated Person	Establishment	One-Time.
53	4.0	239.62	Designated Person	Establishment	One-Time.
54	4.0	382.66	Designated Person	Establishment	One-Time.
55	4.0	394.46	Designated Person	Establishment	One-Time.
56	4.0	223.87	Designated Person	Establishment	One-Time.
61	4.0	237.94	Designated Person	Establishment	One-Time.
62	4.0	223.70	Designated Person	Establishment	One-Time.
71	4.0	187.00	Designated Person	Establishment	One-Time.
72	4.0	132.96	Designated Person	Establishment	One-Time.
81	4.0	217.82	Designated Person	Establishment	One-Time.
92	4.0	292.41	Designated Person	Establishment	One-Time.

HIIPP Development Involvement—Employee

11	1.0	26.80	At-Risk Worker	Establishment	One-Time.
21	1.0	46.46	At-Risk Worker	Establishment	One-Time.
22	1.0	75.53	At-Risk Worker	Establishment	One-Time.
23	1.0	43.95	At-Risk Worker	Establishment	One-Time.
31–33	1.0	36.68	At-Risk Worker	Establishment	One-Time.
42	1.0	42.34	At-Risk Worker	Establishment	One-Time.
44–45	1.0	26.28	At-Risk Worker	Establishment	One-Time.
48–49	1.0	33.27	At-Risk Worker	Establishment	One-Time.
51	1.0	57.54	At-Risk Worker	Establishment	One-Time.
52	1.0	58.24	At-Risk Worker	Establishment	One-Time.
53	1.0	37.44	At-Risk Worker	Establishment	One-Time.
54	1.0	76.34	At-Risk Worker	Establishment	One-Time.
55	1.0	88.02	At-Risk Worker	Establishment	One-Time.

TABLE VIII.C.9—UNIT COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
56	1.0	27.56	At-Risk Worker	Establishment	One-Time.
61	1.0	32.68	At-Risk Worker	Establishment	One-Time.
62	1.0	28.48	At-Risk Worker	Establishment	One-Time.
71	1.0	25.21	At-Risk Worker	Establishment	One-Time.
72	1.0	24.13	At-Risk Worker	Establishment	One-Time.
81	1.0	34.33	At-Risk Worker	Establishment	One-Time.
92	1.0	50.72	At-Risk Worker	Establishment	One-Time.
Review and Update HIIPP					
11	1.0	49.83	Designated Person	Establishment	Annual.
21	1.0	82.31	Designated Person	Establishment	Annual.
22	1.0	93.94	Designated Person	Establishment	Annual.
23	1.0	68.53	Designated Person	Establishment	Annual.
31–33	1.0	69.97	Designated Person	Establishment	Annual.
42	1.0	68.77	Designated Person	Establishment	Annual.
44–45	1.0	42.89	Designated Person	Establishment	Annual.
48–49	1.0	60.59	Designated Person	Establishment	Annual.
51	1.0	88.78	Designated Person	Establishment	Annual.
52	1.0	80.98	Designated Person	Establishment	Annual.
53	1.0	59.91	Designated Person	Establishment	Annual.
54	1.0	95.67	Designated Person	Establishment	Annual.
55	1.0	98.62	Designated Person	Establishment	Annual.
56	1.0	55.97	Designated Person	Establishment	Annual.
61	1.0	59.49	Designated Person	Establishment	Annual.
62	1.0	55.92	Designated Person	Establishment	Annual.
71	1.0	46.75	Designated Person	Establishment	Annual.
72	1.0	33.24	Designated Person	Establishment	Annual.
81	1.0	54.45	Designated Person	Establishment	Annual.
92	1.0	73.10	Designated Person	Establishment	Annual.
HIIPP Review and Update Involvement—Employee					
11	0.33	8.93	At-Risk Worker	Establishment	Annual.
21	0.33	15.49	At-Risk Worker	Establishment	Annual.
22	0.33	25.18	At-Risk Worker	Establishment	Annual.
23	0.33	14.65	At-Risk Worker	Establishment	Annual.
31–33	0.33	12.23	At-Risk Worker	Establishment	Annual.
42	0.33	14.11	At-Risk Worker	Establishment	Annual.
44–45	0.33	8.76	At-Risk Worker	Establishment	Annual.
48–49	0.33	11.09	At-Risk Worker	Establishment	Annual.
51	0.33	19.18	At-Risk Worker	Establishment	Annual.
52	0.33	19.41	At-Risk Worker	Establishment	Annual.
53	0.33	12.48	At-Risk Worker	Establishment	Annual.
54	0.33	25.45	At-Risk Worker	Establishment	Annual.
55	0.33	29.34	At-Risk Worker	Establishment	Annual.
56	0.33	9.19	At-Risk Worker	Establishment	Annual.
61	0.33	10.89	At-Risk Worker	Establishment	Annual.
62	0.33	9.49	At-Risk Worker	Establishment	Annual.
71	0.33	8.40	At-Risk Worker	Establishment	Annual.
72	0.33	8.04	At-Risk Worker	Establishment	Annual.
81	0.33	11.44	At-Risk Worker	Establishment	Annual.
92	0.33	16.91	At-Risk Worker	Establishment	Annual.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

C. Identifying Heat Hazards

The proposed standard would require employers to assess where and when employees are exposed to temperatures at or above the initial and high heat triggers. For outdoor work sites, the proposed standard would require employers to monitor heat conditions using either local heat index forecasts or on-site measurement of heat index or wet bulb globe temperature (WBGT). OSHA assumes that all outdoor

employers without current monitoring practices will choose the option to monitor local forecasts since the time necessary to do so would be minimal (and many individuals check local forecasts regularly without regard to this proposed standard). Employers may have a designated person at each work site track local forecasts of ambient temperature and humidity provided by the National Weather Service (NWS) (or others) to determine the daily maximum

heat index, which the employer would then use to determine which protocols are triggered, if any. For this analysis, OSHA assumes that employers, on average, will take approximately 15 seconds twice a day to monitor the local forecast via a smart phone app.

Alternatively, employers can set up monitoring devices as close as possible to the work area to conduct on-site monitoring. Employers may choose between measuring the heat index or

WBGT using monitoring devices. Employers with indoor work sites do not have the option of monitoring local weather forecasts. The first approach, measuring the heat index, would require the employer to designate someone to take measurements of the heat index, or to measure separately the ambient temperature and humidity to calculate heat index (if needed, using the OSHA–NIOSH Heat Safety Tool App as a calculator or the online calculator available from the NWS). OSHA estimates that on average, it will take the designated person 1 minute each time they measure the heat index or ambient temperature and humidity, including calculating the heat index (e.g., by consulting the OSHA–NIOSH App or NWS’s online calculator). OSHA also assumes that measurements will be taken on average twice per work day (260 days per year) and that employers using this approach will use a temperature and humidity logger that is capable of automatically uploading relevant environmental information for recordkeeping purposes. OSHA assumes that the designated person will spend 15 minutes to read the logger’s user manual. OSHA also assumes that all indoor employers without current monitoring in place will adopt this option.

The second approach, measuring the WBGT, would require the employer to designate someone to take measurements of wet bulb globe

temperature. This approach would require the purchase of one WBGT thermometer for each worksite and some of a designated person’s time to read the thermometer manual. OSHA assumes that no employers will adopt this option, however some employers may already be using this method. Those employers can continue to use this method under this proposed standard and are not estimated to incur any costs to do so since they are already in compliance.

Employers with indoor work sites would be required to conduct a hazard evaluation to identify the work areas where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger. OSHA estimates that conducting the hazard evaluation would require about 3 hours in total.

Employers would be required to seek the input and involvement of non-managerial employees and their representatives, if any, when evaluating the work site to identify work areas with a reasonable expectation of exposures at or above the initial heat trigger and in developing and updating monitoring plans. The time to develop monitoring plans, as well as the time for employee input, is already captured within the time estimate for HIIPP development and employee involvement in HIIPP development. Otherwise, OSHA estimates that employee input for evaluating work sites would require 15

minutes per employee providing input. For this analysis, OSHA assumes four employees per establishment would provide input.

The proposed standard would allow employers to forgo taking measurements if they assume that a work area meets or exceeds both heat triggers. Employers that elect to do this would not incur monitoring costs. These employers would be required to comply with all control measures required at both the initial and high heat triggers as though they took a measurement that meets or exceeds the high heat trigger. OSHA assumes that no employers will newly adopt this option, because the Annual monitoring cost per establishment is relatively low compared to the costs to implement other parts of the rule that would be required for employers choosing this option. Most employers will find it less expensive to monitor temperatures and implement the requirements when a trigger is met or exceeded. OSHA welcomes feedback on this assumption, specifically the types of employers that might forgo monitoring and assume that their workplace is at or above both heat triggers.

Table VIII.C.10. shows the labor-based unit costs for identifying heat hazards by industry sector. Table VIII.C.11. shows the equipment costs that employers would incur to comply with the requirements for identifying heat hazards.

TABLE VIII.C.10—LABOR-BASED UNIT COSTS—IDENTIFYING HEAT HAZARDS
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
Outdoor Environmental Monitoring					
11	2.2	\$107.97	Designated Person	Establishment	Annual.
21	2.2	178.35	Designated Person	Establishment	Annual.
22	2.2	203.55	Designated Person	Establishment	Annual.
23	2.2	148.47	Designated Person	Establishment	Annual.
31–33	2.2	151.60	Designated Person	Establishment	Annual.
42	2.2	149.01	Designated Person	Establishment	Annual.
44–45	2.2	92.93	Designated Person	Establishment	Annual.
48–49	2.2	131.28	Designated Person	Establishment	Annual.
51	2.2	192.35	Designated Person	Establishment	Annual.
52	2.2	175.45	Designated Person	Establishment	Annual.
53	2.2	129.79	Designated Person	Establishment	Annual.
54	2.2	207.28	Designated Person	Establishment	Annual.
55	2.2	213.67	Designated Person	Establishment	Annual.
56	2.2	121.26	Designated Person	Establishment	Annual.
61	2.2	128.88	Designated Person	Establishment	Annual.
62	2.2	121.17	Designated Person	Establishment	Annual.
71	2.2	101.29	Designated Person	Establishment	Annual.
72	2.2	72.02	Designated Person	Establishment	Annual.
81	2.2	117.98	Designated Person	Establishment	Annual.
92	2.2	158.39	Designated Person	Establishment	Annual.
Indoor Environmental Monitoring					
11	8.7	431.87	Designated Person	Establishment	Annual.
21	8.7	713.38	Designated Person	Establishment	Annual.

TABLE VIII.C.10—LABOR-BASED UNIT COSTS—IDENTIFYING HEAT HAZARDS—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
22	8.7	814.18	Designated Person	Establishment	Annual.
23	8.7	593.89	Designated Person	Establishment	Annual.
31–33	8.7	606.42	Designated Person	Establishment	Annual.
42	8.7	596.03	Designated Person	Establishment	Annual.
44–45	8.7	371.72	Designated Person	Establishment	Annual.
48–49	8.7	525.13	Designated Person	Establishment	Annual.
51	8.7	769.41	Designated Person	Establishment	Annual.
52	8.7	701.80	Designated Person	Establishment	Annual.
53	8.7	519.18	Designated Person	Establishment	Annual.
54	8.7	829.10	Designated Person	Establishment	Annual.
55	8.7	854.67	Designated Person	Establishment	Annual.
56	8.7	485.04	Designated Person	Establishment	Annual.
61	8.7	515.54	Designated Person	Establishment	Annual.
62	8.7	484.68	Designated Person	Establishment	Annual.
71	8.7	405.16	Designated Person	Establishment	Annual.
72	8.7	288.08	Designated Person	Establishment	Annual.
81	8.7	471.94	Designated Person	Establishment	Annual.
92	8.7	633.56	Designated Person	Establishment	Annual.
Indoor Identification of Heat-Exposed Work Areas					
11	3.0	149.49	Designated Person	Establishment	Every 5 Years.
21	3.0	246.94	Designated Person	Establishment	Every 5 Years.
22	3.0	281.83	Designated Person	Establishment	Every 5 Years.
23	3.0	205.58	Designated Person	Establishment	Every 5 Years.
31–33	3.0	209.91	Designated Person	Establishment	Every 5 Years.
42	3.0	206.32	Designated Person	Establishment	Every 5 Years.
44–45	3.0	128.67	Designated Person	Establishment	Every 5 Years.
48–49	3.0	181.77	Designated Person	Establishment	Every 5 Years.
51	3.0	266.33	Designated Person	Establishment	Every 5 Years.
52	3.0	242.93	Designated Person	Establishment	Every 5 Years.
53	3.0	179.72	Designated Person	Establishment	Every 5 Years.
54	3.0	287.00	Designated Person	Establishment	Every 5 Years.
55	3.0	295.85	Designated Person	Establishment	Every 5 Years.
56	3.0	167.90	Designated Person	Establishment	Every 5 Years.
61	3.0	178.46	Designated Person	Establishment	Every 5 Years.
62	3.0	167.77	Designated Person	Establishment	Every 5 Years.
71	3.0	140.25	Designated Person	Establishment	Every 5 Years.
72	3.0	99.72	Designated Person	Establishment	Every 5 Years.
81	3.0	163.36	Designated Person	Establishment	Every 5 Years.
92	3.0	219.31	Designated Person	Establishment	Every 5 Years.
Work Area Evaluation—Employee					
11	0.25	6.70	At-Risk Worker	Establishment	Every 5 Years.
21	0.25	11.61	At-Risk Worker	Establishment	Every 5 Years.
22	0.25	18.88	At-Risk Worker	Establishment	Every 5 Years.
23	0.25	10.99	At-Risk Worker	Establishment	Every 5 Years.
31–33	0.25	9.17	At-Risk Worker	Establishment	Every 5 Years.
42	0.25	10.58	At-Risk Worker	Establishment	Every 5 Years.
44–45	0.25	6.57	At-Risk Worker	Establishment	Every 5 Years.
48–49	0.25	8.32	At-Risk Worker	Establishment	Every 5 Years.
51	0.25	14.38	At-Risk Worker	Establishment	Every 5 Years.
52	0.25	14.56	At-Risk Worker	Establishment	Every 5 Years.
53	0.25	9.36	At-Risk Worker	Establishment	Every 5 Years.
54	0.25	19.08	At-Risk Worker	Establishment	Every 5 Years.
55	0.25	22.01	At-Risk Worker	Establishment	Every 5 Years.
56	0.25	6.89	At-Risk Worker	Establishment	Every 5 Years.
61	0.25	8.17	At-Risk Worker	Establishment	Every 5 Years.
62	0.25	7.12	At-Risk Worker	Establishment	Every 5 Years.
71	0.25	6.30	At-Risk Worker	Establishment	Every 5 Years.
72	0.25	6.03	At-Risk Worker	Establishment	Every 5 Years.
81	0.25	8.58	At-Risk Worker	Establishment	Every 5 Years.
92	0.25	12.68	At-Risk Worker	Establishment	Every 5 Years.
Review Monitoring Equipment User Manual—Indoor					
11	0.25	12.46	Designated Person	Establishment	One-Time.
21	0.25	20.58	Designated Person	Establishment	One-Time.
22	0.25	23.49	Designated Person	Establishment	One-Time.
23	0.25	17.13	Designated Person	Establishment	One-Time.

TABLE VIII.C.10—LABOR-BASED UNIT COSTS—IDENTIFYING HEAT HAZARDS—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
31–33	0.25	17.49	Designated Person	Establishment	One-Time.
42	0.25	17.19	Designated Person	Establishment	One-Time.
44–45	0.25	10.72	Designated Person	Establishment	One-Time.
48–49	0.25	15.15	Designated Person	Establishment	One-Time.
51	0.25	22.19	Designated Person	Establishment	One-Time.
52	0.25	20.24	Designated Person	Establishment	One-Time.
53	0.25	14.98	Designated Person	Establishment	One-Time.
54	0.25	23.92	Designated Person	Establishment	One-Time.
55	0.25	24.65	Designated Person	Establishment	One-Time.
56	0.25	13.99	Designated Person	Establishment	One-Time.
61	0.25	14.87	Designated Person	Establishment	One-Time.
62	0.25	13.98	Designated Person	Establishment	One-Time.
71	0.25	11.69	Designated Person	Establishment	One-Time.
72	0.25	8.31	Designated Person	Establishment	One-Time.
81	0.25	13.61	Designated Person	Establishment	One-Time.
92	0.25	18.28	Designated Person	Establishment	One-Time.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

TABLE VIII.C.11—EQUIPMENT-BASED UNIT COSTS—IDENTIFYING HEAT HAZARDS
[2023\$]

Item	Units	Unit cost	Total cost per unit	Basis	Frequency
Monitoring Equipment—Indoor	1.0	99.00	99.00	Establishment	One-Time.

Source: Kestrel Instruments, 2024.

D. Requirements at or Above the Initial Heat Trigger

When employees are exposed to heat at or above the initial heat trigger, the proposed standard includes provisions related to drinking water, break areas, work area controls, acclimatization, rest breaks, and effective communication. The costs associated with the evaluation of fan use in paragraph I(6) are included as part of the planning and hazard evaluation discussed in section VIII.C.IV.C. OSHA has not included costs related to cooling PPE as included in proposed paragraph I(e)(10). Based on feedback from Small Entity Representatives who spoke on the topic during the SBAR Panel process, OSHA believes that use of cooling PPE is not widespread. Where employers are requiring or permitting the use of cooling PPE, OSHA expects that these employers will train employees to remove the PPE once it loses its cooling properties and will include this requirement in their HIIPPs. The cost for this would be included in the costs associated with proposed paragraphs (c) and (h).

I. Drinking Water

Employers would be required to provide access to one quart (32 fluid ounces) of suitably cool drinking water per employee per hour for the entire shift. To comply with this requirement

at both outdoor and indoor work sites, OSHA assumes employers would purchase 40-quart water coolers (with spigots) sufficient to provide the required amount of water. For this analysis, OSHA estimates that the cost of one 40-quart cooler is incurred for every 40 employees. Employers are assumed to purchase one reusable water bottle per employee. Because existing OSHA standards already require employers to provide drinking water, OSHA assumes that nearly all employers currently provide water to their employees. The costs incurred to comply with this proposed standard are assumed to be a result of employers not providing the quantity of water specified by the proposed standard.

II. Break Area(s) at Outdoor Work Sites

For outdoor work sites, OSHA would require employers to provide employees working outdoors with a break area. Break areas must be readily accessible to the work area and able to accommodate the number of employees on break. Additionally, break areas must have artificial or natural shade, or be an air-conditioned space (e.g., trailers, vehicles, structures). OSHA assumes that employers without existing break areas will use artificial shade in the form of a 12x12 foot tent that all employees on break can reasonably access.

III. Break Area(s) and Work Area(s) at Indoor Work Sites

OSHA would require employers with indoor work sites to provide employees at those sites with a break area. These break areas must be readily accessible to the work area and able to accommodate the number of employees on break. This space must be air-conditioned or have increased air movement and, if appropriate, de-humidification. OSHA assumes that employers without existing air-conditioned breakrooms will designate a room or an area large enough to accommodate employees on break and that these areas will contain adequate fans and dehumidifiers. Further, employers would be required to provide measures that reduce employee exposure to heat in the work area. One of the ways employers can comply with this requirement is by providing increased air movement and, if appropriate, de-humidification. Adequate fans and dehumidifiers could be used to comply with this requirement. Overall, OSHA assumes that, in all States and territories in the U.S., the average employer that does not already have air conditioning, fans, or dehumidifiers in place will provide two fans per ten employees and, in States where humid conditions may occur, the average employer would also provide two dehumidifiers per ten employees.

IV. Acclimatization

The proposed standard would require employers to adopt protections for new and returning employees who may not be acclimatized to working in the heat at or above the initial heat trigger during their first week on the job or their first week back on the job after an employee is away from work for more than 14 days. For new employees, OSHA assumes that employers would implement a plan that incorporates the measures required in paragraph (f) when the initial heat trigger is met or exceeded during the first week of work. For purposes of estimating the cost of compliance with this provision, OSHA calculated the cost of rest breaks and observation for signs and symptoms during an employee's first week. While paragraph (f) also requires a hazard alert, OSHA assumes that the hazard alert can be provided by the designated person while conducting observation or during training (for new employees).

The cost of rest breaks and observation during the first week of work, assuming 8-hour shifts that coincide with heat index measurements that meet or exceed the initial heat trigger but do not meet the high heat trigger, equates to roughly 41.75 minutes per day for every new indoor employee and 47.75 minutes per day for every new outdoor employee during the employee's first week on the job. These estimates are the same for returning employees during their first week after returning to work when the heat index is at or above the initial heat trigger. No additional costs were estimated for new or returning employees when the temperature meets or exceeds the high heat trigger, as employers are already required to follow the high heat procedures.

OSHA did not make an additional adjustment for cost savings (see Appendix A at the end of this section for a description of cost savings methodology) as the conditions of those additional rest breaks are different (*i.e.*, different temperature range-rest break combination) than those at which the estimates of labor productivity loss due to pacing in the heat were calculated. To the extent that pacing is reduced for employees undergoing acclimatization protocols, this could overstate the costs of acclimatization. OSHA welcomes comment on this issue and whether the agency should extend the potential cost

savings from reduced pacing to workers during their acclimatization period.

V. Rest Breaks if Needed

The proposed standard would require that employers allow and encourage their employees to take paid rest breaks if needed once the initial heat trigger is met or exceeded to prevent overheating. OSHA assumes that, per 8-hour shift, at-risk employees will take one 10-minute if-needed rest break.⁶² OSHA estimates, on average, an additional two minutes for indoor employees per break and an additional four minutes for outdoor employees per break to account for the time to walk to and from the break area.⁶³ OSHA welcomes feedback on the assumption that an average employee will take one ten-minute if-needed rest break when the temperature is at or above the initial heat trigger and the assumptions for travel time to and from the break area for indoor and outdoor settings.

OSHA has preliminarily determined that when employees are offered rest breaks, cost savings will accrue to employers currently noncompliant with the rest break requirements, as their employees will work more efficiently during the work time not spent on rest breaks (*i.e.*, pace less). At the initial heat trigger, some of the estimated unit cost for if-needed rest breaks (*i.e.*, 10 minutes plus travel time) will be offset by this reduction in pacing, which OSHA considers as cost savings for employers.

For the purposes of calculating accrued employer cost savings, OSHA

⁶² If-needed rest breaks by new and returning employees when the temperature meets or exceeds the initial heat trigger and is below the high heat trigger are accounted for in the acclimatization costs (section VIII.C.IV.D.IV). To avoid double counting, if-needed rest breaks were not costed for these employees during their first week of work (for new hires) or the first week back from leave (for returning workers).

⁶³ These estimates of time needed to walk to and from the break area are meant to be averages across all workers in all settings. In some large indoor settings like warehouses or large manufacturing facilities, the break area may be further from the work areas than other indoor settings where the break area may be directly adjacent to work areas. In outdoor settings, OSHA expects the employer will use a mobile break area set up that allows the break area to be relocated as close as possible to the location employees are working on a given day. However, OSHA recognizes that it may not always be possible to have a break area immediately adjacent to all outdoor work area(s) and some outdoor work sites may have workers spread over relatively large areas (*e.g.*, some agricultural settings, large-scale infrastructure construction projects), which could result in slightly longer times needed to walk to and from the break area.

defined three groups of employees with varying existing break levels (see the introduction in appendix A at the end of this section for detailed definitions of each group). Group 1 corresponds to employees at establishments that do not currently provide rest breaks when the initial heat trigger is met or exceeded. Group 2 corresponds to employees at establishments that do provide if-needed rest breaks when the initial heat trigger is met or exceeded, but do not have required rest breaks for when the high heat trigger is met or exceeded. Group 3 captures employees at establishments that have already implemented rest breaks protocols that meet the rest break requirements outlined in this proposed standard.⁶⁴

As mentioned in section VIII.C.II.B. and detailed further in appendix A at the end of this section, OSHA estimated the minutes spent pacing for each of the three groups when they are working at or above the initial heat trigger. Table VIII.C.12. below shows the time (minutes) per 8-hour shift that OSHA estimates employees in each group currently spend pacing when the initial heat trigger is met or exceeded. Using these estimates, OSHA assumes that with the implementation of if-needed rest breaks, all employees in Group 1 (*i.e.*, not currently taking any breaks) will behave like Group 2 (*i.e.*, those currently taking if-needed rest breaks at or above the initial heat trigger but not scheduled rest breaks at or above the high heat trigger), reducing their pacing (working more efficiently) by 14.0 – 11.2 = 2.8 minutes per shift at the initial heat trigger.

For outdoor employees, this reduction in pacing translates into accrued cost savings of 20 percent (2.8 minutes of pacing reduced/14 minutes of if-needed rest break time⁶⁵) of the unit time-cost per break. This effectively reduces the unit cost of if-needed rest breaks for outdoor employees from 14 to 11.2 minutes. Similarly, for indoor employees, this reduction in pacing reduces the unit time-cost by 2.8/12 = 23.33 percent, from 12⁶⁶ to 9.2 minutes per 8-hour shift.

⁶⁴ OSHA estimates that approximately 6.1% of employees are in Group 1, 46.9% are in Group 2, and the remaining 47.0% are in Group 3.

⁶⁵ 10 minutes of if-needed rest break time and 4 minutes of travel time.

⁶⁶ 10 minutes of if-needed rest break time and 2 minutes of travel time.

TABLE VIII.C.12—LABOR PRODUCTIVITY LOSS FROM PACING ABOVE INITIAL HEAT TRIGGER BEFORE AND AFTER IMPLEMENTATION OF REQUIRED IF NEEDED REST BREAKS AND LABOR COST SAVINGS PER 8-HOUR SHIFT PER EMPLOYEE

Group	Group description	Labor productivity loss from pacing before required initial heat trigger rest breaks (minutes)	Labor productivity loss from pacing after required initial heat trigger rest breaks (minutes)	Estimated labor cost savings (minutes)
Group 1	Employees at establishments that do not currently provide any rest breaks.	14.0	11.2	2.8
Group 2	Employees at establishments that provide rest breaks that meet the initial heat trigger rest break requirements, but not the high heat trigger rest break requirements.	11.2	11.2	0.0
Group 3	Employees at establishments that provide rest breaks that meet the initial and high heat trigger rest break requirements.	0.0	0.0	0.0

Source: OSHA estimate.

Note: OSHA estimates that approximately 6.1 percent of employees are in Group 1, 46.9 percent are in Group 2, and 47.0 percent are in Group 3.

VI. Effective Communication

Employers would be required to maintain a means of effective two-way communication with employees whenever the initial heat trigger is met or exceeded. OSHA assumes that a designated person would communicate with each employee three times for every 8-hour shift that meets or exceeds the initial heat trigger and would spend 15 seconds on each communication. At-risk workers are assumed to spend the same amount of time in communication

with the designated person. It is assumed that all employers and employees have a current method for effective two-way communication (*e.g.*, cell phones, walkie talkies) that may be currently used to communicate information about work-related concerns and that these methods may be used when the initial heat trigger is met or exceeded. OSHA welcomes comments on existing methods of two-way communication between employees and employers.

Table VIII.C.13. shows the unit costs for the requirements at or above the initial heat trigger by industry sector. The rest break unit costs reported in table VIII.C.13. do not reflect the cost savings offset discussed above. Table VIII.C.14. shows the equipment costs (water coolers, water bottles, pedestal fans, dehumidifiers, and tents for artificial shade) that employers would incur to comply with the requirements when the initial heat trigger is met or exceeded.

TABLE VIII.C.13—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER [2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
New Employee Acclimatization—Designated Person					
11	0.01	\$0.62	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.01	1.03	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.01	1.17	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.01	0.87	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
44–45	0.01	0.54	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.01	0.76	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
51	0.01	1.11	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.01	1.01	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.01	0.75	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.01	1.20	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.01	1.23	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.01	0.74	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.01	0.58	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.01	0.42	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.01	0.68	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.01	0.91	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
Returning Employee Acclimatization—Designated Person					
11	0.01	0.62	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.01	1.03	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.01	1.17	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.01	0.87	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).

TABLE VIII.C.13—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
44–45	0.01	0.54	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.01	0.76	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
51	0.01	1.11	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.01	1.01	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.01	0.75	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.01	1.20	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.01	1.23	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.01	0.74	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.01	0.58	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.01	0.42	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.01	0.68	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.01	0.91	Designated Person	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
New Indoor Employee Acclimatization					
11	0.7	18.65	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.7	32.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.7	52.56	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.7	30.58	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.7	25.52	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.7	29.46	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
44–45	0.7	18.29	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.7	23.15	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
51	0.7	40.04	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.7	40.53	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.7	26.05	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.7	53.12	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.7	61.25	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.7	19.18	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.7	22.74	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.7	19.82	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.7	17.54	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.7	16.79	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.7	23.88	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.7	35.30	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
New Outdoor Employee Acclimatization					
11	0.8	21.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.8	36.97	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.8	60.11	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.8	34.97	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.8	29.19	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.8	33.69	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
44–45	0.8	20.92	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.8	26.48	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
51	0.8	45.79	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.8	46.35	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.8	29.80	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.8	60.75	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.8	70.05	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.8	21.94	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.8	26.01	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.8	22.66	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.8	20.06	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.8	19.20	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.8	27.32	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.8	40.37	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
Returning Indoor Employee Acclimatization					
11	0.7	18.65	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.7	32.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.7	52.56	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.7	30.58	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.7	25.52	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.7	29.46	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
44–45	0.7	18.29	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.7	23.15	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).

TABLE VIII.C.13—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
51	0.7	40.04	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.7	40.53	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.7	26.05	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.7	53.12	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.7	61.25	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.7	19.18	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.7	22.74	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.7	19.82	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.7	17.54	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.7	16.79	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.7	23.88	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.7	35.30	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
Returning Outdoor Employee Acclimatization					
11	0.8	21.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
21	0.8	36.97	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
22	0.8	60.11	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
23	0.8	34.97	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
31–33	0.8	29.19	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
42	0.8	33.69	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
44–45	0.8	20.92	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
48–49	0.8	26.48	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
51	0.8	45.79	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
52	0.8	46.35	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
53	0.8	29.80	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
54	0.8	60.75	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
55	0.8	70.05	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
56	0.8	21.94	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
61	0.8	26.01	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
62	0.8	22.66	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
71	0.8	20.06	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
72	0.8	19.20	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
81	0.8	27.32	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
92	0.8	40.37	At-Risk Worker	Employee	Daily at Initial Heat Trigger (Up to 5 Days).
Rest Breaks at Initial Heat Trigger—Indoor					
11	0.20	5.36	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
21	0.20	9.29	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
22	0.20	15.11	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
23	0.20	8.79	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
31–33	0.20	7.34	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
42	0.20	8.47	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
44–45	0.20	5.26	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
48–49	0.20	6.65	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
51	0.20	11.51	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
52	0.20	11.65	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
53	0.20	7.49	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
54	0.20	15.27	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
55	0.20	17.60	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
56	0.20	5.51	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
61	0.20	6.54	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
62	0.20	5.70	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
71	0.20	5.04	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
72	0.20	4.83	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
81	0.20	6.87	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
92	0.20	10.14	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
Rest Breaks at Initial Heat Trigger—Outdoor					
11	0.23	6.25	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
21	0.23	10.84	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
22	0.23	17.62	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
23	0.23	10.25	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
31–33	0.23	8.56	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
42	0.23	9.88	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
44–45	0.23	6.13	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
48–49	0.23	7.76	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
51	0.23	13.43	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
52	0.23	13.59	At-Risk Worker	Employee	Daily at Initial Heat Trigger.

TABLE VIII.C.13—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
53	0.23	8.74	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
54	0.23	17.81	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
55	0.23	20.54	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
56	0.23	6.43	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
61	0.23	7.63	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
62	0.23	6.65	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
71	0.23	5.88	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
72	0.23	5.63	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
81	0.23	8.01	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
92	0.23	11.84	At-Risk Worker	Employee	Daily at Initial Heat Trigger.

Effective Communication—Supervisor

11	0.01	0.62	Designated Person	Employee	Daily at Initial Heat Trigger.
21	0.01	1.03	Designated Person	Employee	Daily at Initial Heat Trigger.
22	0.01	1.17	Designated Person	Employee	Daily at Initial Heat Trigger.
23	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger.
31–33	0.01	0.87	Designated Person	Employee	Daily at Initial Heat Trigger.
42	0.01	0.86	Designated Person	Employee	Daily at Initial Heat Trigger.
44–45	0.01	0.54	Designated Person	Employee	Daily at Initial Heat Trigger.
48–49	0.01	0.76	Designated Person	Employee	Daily at Initial Heat Trigger.
51	0.01	1.11	Designated Person	Employee	Daily at Initial Heat Trigger.
52	0.01	1.01	Designated Person	Employee	Daily at Initial Heat Trigger.
53	0.01	0.75	Designated Person	Employee	Daily at Initial Heat Trigger.
54	0.01	1.20	Designated Person	Employee	Daily at Initial Heat Trigger.
55	0.01	1.23	Designated Person	Employee	Daily at Initial Heat Trigger.
56	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger.
61	0.01	0.74	Designated Person	Employee	Daily at Initial Heat Trigger.
62	0.01	0.70	Designated Person	Employee	Daily at Initial Heat Trigger.
71	0.01	0.58	Designated Person	Employee	Daily at Initial Heat Trigger.
72	0.01	0.42	Designated Person	Employee	Daily at Initial Heat Trigger.
81	0.01	0.68	Designated Person	Employee	Daily at Initial Heat Trigger.
92	0.01	0.91	Designated Person	Employee	Daily at Initial Heat Trigger.

Effective Communication—Employee

11	0.01	0.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
21	0.01	0.58	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
22	0.01	0.94	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
23	0.01	0.55	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
31–33	0.01	0.46	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
42	0.01	0.53	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
44–45	0.01	0.33	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
48–49	0.01	0.42	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
51	0.01	0.72	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
52	0.01	0.73	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
53	0.01	0.47	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
54	0.01	0.95	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
55	0.01	1.10	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
56	0.01	0.34	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
61	0.01	0.41	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
62	0.01	0.36	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
71	0.01	0.32	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
72	0.01	0.30	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
81	0.01	0.43	At-Risk Worker	Employee	Daily at Initial Heat Trigger.
92	0.01	0.63	At-Risk Worker	Employee	Daily at Initial Heat Trigger.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

TABLE VIII.C.14—EQUIPMENT-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER
[2023\$]

Item	Units	Unit cost	Total cost per unit	Basis	Frequency
Coolers with Spigot	1.0	\$79.99	\$79.99	Employee	One-Time.
Reusable Water Bottle	1.0	0.59	0.59	Employee	One-Time.
Outdoor Break Area Engineering Control.	1.0	119.99	119.99	Establishment	One-Time.
Air Movement	2.0	134.99	269.98	Employee	One-Time.

TABLE VIII.C.14—EQUIPMENT-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—
Continued
[2023]

Item	Units	Unit cost	Total cost per unit	Basis	Frequency
Humidity Control	2.0	39.19	78.38	Employee	One-Time.

Source: OSHA estimate based on Igloo Products Corp., 2024; DiscountMugs, 2024; Amazon.com, Inc, 2024a; Amazon.com, Inc., 2024b; and WebstaurantStore, 2024.

E. Requirements At or Above the High Heat Trigger

When the high heat trigger is met or exceeded, this proposed standard includes provisions related to rest breaks, observation of employees for signs and symptoms of heat illness, hazard alerts, and excessively high heat areas.

I. Rest Breaks

When the high heat trigger is met or exceeded, employers would be required to provide a minimum of 15-minute paid rest breaks at least every two hours. The proposed standard specifies that a meal break may count as a rest break, even if it is not otherwise required by law to be paid. For this analysis, OSHA assumes two paid 15-minute rest breaks and an unpaid meal break per at-risk worker per 8-hour shift where the high heat trigger is met or exceeded. At the high heat trigger, employers must also provide if-needed rest breaks (as part of the requirements of the initial heat trigger). Therefore, OSHA assumes that when the high heat trigger is met or exceeded, in addition to 30 minutes per 8-hour shift of scheduled rest break time, at-risk workers would take a five-minute if-needed rest break. The travel time to walk to and from the break area is also accounted for and OSHA assumes two minutes for indoor employees and four minutes for outdoor employees per rest break.

Similar to the discussion in section VIII.C.IV.D.V., OSHA estimated the amount of time that employees spend pacing themselves when the high heat trigger is met or exceeded over an 8-hour shift (see table VIII.C.15.). These estimates reflect three groups of employees based on their respective establishments' estimated compliance with the rest break requirements outlined in this proposed standard. Group 1 corresponds to employees at establishments that do not currently provide rest breaks that meet the requirements when the initial heat trigger is met. Group 2 corresponds to employees at establishments that do provide if-needed rest breaks when the initial heat trigger is met or exceeded, but do not have required rest breaks for when the high heat trigger is met or exceeded. Group 3 captures employees at establishments that have already implemented rest breaks protocols that meet the initial and high heat trigger rest break requirements outlined in this proposed standard.

Based on the estimates for pacing mentioned in section VIII.C.II.B. and detailed further in appendix A at the end of this section, OSHA estimated the reduction in pacing at the high heat trigger; the estimates for pacing for each group are shown in table VIII.C.15. OSHA estimated that with the implementation of scheduled rest breaks as well as if-needed rest breaks at the high heat trigger, employees in Group 1

(i.e., that are currently noncompliant with scheduled rest breaks as well as if-needed rest breaks) will behave like those in Group 3 (i.e., rest break protocols are consistent with the requirements of the standard at both triggers) and therefore their pacing reduces by $40.6 - 8.4 = 32.2$ minutes. This reduction in pacing translates into $32.2/47 = 68.51$ percent of the unit time-cost for rest breaks of 47 minutes and $32.2/41 = 78.53$ percent out of the unit time-cost for rest breaks of 41 minutes saved for outdoor and indoor employees, respectively.

Based on the estimates for pacing mentioned in section VIII.C.II.B. and detailed further in appendix A at the end of this section and displayed in table VIII.C.15., OSHA estimates that with the implementation of scheduled rest breaks at the high heat trigger, employees in Group 2 (i.e., that are currently noncompliant with only scheduled rest breaks and currently compliant with if-needed rest breaks) will now behave like those in Group 3 and for those employees pacing is reduced by $39.5 - 8.4 = 31.1$ minutes per shift. This reduction in pacing (i.e., increase in worker efficiency) translates into $31.1/47 = 66.17$ percent of the unit time-cost of 47 minutes⁶⁷ ($31.1/41 = 75.85$ percent out of the unit time-cost of 41 minutes⁶⁸) saved for outdoor (indoor) employees that are currently in Group 2.⁶⁹

⁶⁷ $2 \times (15\text{-minute scheduled break} + 4\text{-minute travel time}) + 1 \times (5\text{-minute if-needed rest break} + 4\text{-minute travel time})$.

⁶⁸ $2 \times (15\text{-minute scheduled break} + 2\text{-minute travel time}) + 1 \times (5\text{-minute if-needed rest break} + 2\text{-minute travel time})$.

⁶⁹ For Group 2 as well as Group 1, for presentation purposes, the denominator over which unit time cost savings is translated as a share of the unit time cost of high heat trigger rest breaks is presented as 47 minutes for outdoor employees (41 minutes for indoor employees). The fact that employees in Group 2 are already spending some portion of the 47 minutes or 41 minutes in if-

needed rest breaks is already reflected in the estimated (State-level) share of employees in Group 2, which is equivalent to the difference between the (State-level) non-compliance rate for high heat trigger rest breaks (scheduled as well as if-needed rest breaks) and the (State-level) non-compliance rate for initial heat trigger rest breaks (if-needed rest breaks). Most of the employees in Group 2 (approximately 74 percent) are estimated to be already taking if-needed rest breaks but not scheduled breaks. The rest of the employees in Group 2 are, in addition to if-needed rest breaks, also already taking partial scheduled breaks that fall short of (i.e., are not fully compliant with) the scheduled breaks that are required in the proposed

standard. The purpose of such classification of employees already taking partial scheduled breaks as part of Group 2 (employees at establishments that do not have required rest breaks for when the high heat trigger is met or exceeded) is to avoid overcomplicating the computation and presentation of the cost savings. Such classification may potentially result in the overestimation of cost savings from the high heat trigger rest breaks. However, as mentioned throughout this section, there are also reasons why the cost savings are also potentially underestimated (e.g., due to temperature data limitations as mentioned in section VIII.C.II.B.).

TABLE VIII.C.15—LABOR PRODUCTIVITY LOSS FROM SPENT PACING AT HIGH HEAT TRIGGER BEFORE AND AFTER IMPLEMENTATION OF REQUIRED IF-NEEDED AND SCHEDULED REST BREAKS PER 8-HOUR SHIFT PER EMPLOYEE

Group	Group description	Labor productivity loss from pacing at before required high heat trigger rest breaks (minutes)	Labor productivity loss from pacing after required high heat trigger rest breaks (minutes)	Estimated labor cost savings (minutes)
Group 1	Employees at establishments that do not currently provide any rest breaks.	40.6	8.4	32.2
Group 2	Employees at establishments that provide rest breaks that meet the initial heat trigger rest break requirements.	39.5	8.4	31.1
Group 3	Employees at establishments that provide rest breaks that meet the initial and high heat trigger rest break requirements.	8.4	8.4	0.0

Source: OSHA estimate.

Note: OSHA estimates that approximately 6.1 percent of employees are in Group 1, 46.9 percent are in Group 2, and 47.0 percent are in Group 3.

II. Observation for Signs and Symptoms

Employers would be required to observe employees for signs and symptoms of heat-related illness at or above the high heat trigger. The proposed standard provides options for complying with this requirement, including a mandatory buddy system and observation of employees by a supervisor or heat safety coordinator. Additionally, the proposed standard has a provision for communication with employees who are lone workers every 2 hours. OSHA assumes that all employers will use supervisors⁷⁰ to conduct observation of employees⁷¹ (with one supervisor or heat safety coordinator responsible for observing no more than 20 employees). OSHA estimates this option would require 15 seconds of the designated person's time three times per employee for every 8-hour shift that meets or exceeds the high heat trigger. This observation requirement would also take 15 seconds of each at-risk worker's time three times for every 8-hour shift that meets or exceeds the high heat trigger.

III. Hazard Alert

When the high heat trigger is met or exceeded, OSHA would require employers to notify employees of the importance of staying hydrated, their right to take breaks, procedures to take in a heat emergency, and the locations of break areas and drinking water (for mobile work sites). OSHA estimates that it would take five minutes one time for a designated person to prepare and deliver the first notification message to employees for the year or heat season, and that for each subsequent notification, the designated person will use the same format and spend 30 seconds to update and resend the alert for each 8-hour shift at or above the initial heat trigger. OSHA assumes the time for at-risk workers to review the hazard alert is negligible and thus is not estimated to require any time.

IV. Warning Signs for Excessively High Heat Areas

For indoor workplaces, employers would be required to place warning signs at areas with ambient

temperatures that regularly exceed 120 °F. OSHA assumes that this requirement imposes costs only to certain industries that are likely to have radiant heat sources (e.g., furnaces, hot water systems, ovens, smelting processes). OSHA assumes that this control would require 1–2 warning signs for each establishment in industries where radiant heat sources are likely present (or an average of 1.5 signs per establishment). OSHA estimates it would take a designated person 5 minutes to install each sign.

Table VIII.C.16. shows the unit costs for the requirements under the high heat trigger conditions by industry sector. The rest break unit costs reported in table VIII.C.16. do not reflect the cost savings offset discussed above. Table VIII.C.17. shows the equipment costs that employers would incur in order to comply with the requirements when the high heat trigger is met or exceeded.

TABLE VIII.C.16—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER [2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
Rest Breaks at High Heat Trigger—Indoor					
11	0.68	\$18.31	At-Risk Worker	Employee	Daily at High Heat Trigger.
21	0.68	31.74	At-Risk Worker	Employee	Daily at High Heat Trigger.
22	0.68	51.61	At-Risk Worker	Employee	Daily at High Heat Trigger.
23	0.68	30.03	At-Risk Worker	Employee	Daily at High Heat Trigger.
31–33	0.68	25.07	At-Risk Worker	Employee	Daily at High Heat Trigger.
42	0.68	28.93	At-Risk Worker	Employee	Daily at High Heat Trigger.
44–45	0.68	17.96	At-Risk Worker	Employee	Daily at High Heat Trigger.

⁷⁰ For this analysis, OSHA uses the wages developed for designated persons to represent supervisors' time as well.

⁷¹ OSHA was unable to estimate the number of affected lone workers. OSHA assumes that the cost of lone workers communication with supervisors is the same as the cost of observation for the purposes

of this analysis. The agency welcomes comment on this assumption and additional data that would allow OSHA to better estimate the costs for communication with lone workers.

TABLE VIII.C.16—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
48–49	0.68	22.74	At-Risk Worker	Employee	Daily at High Heat Trigger.
51	0.68	39.32	At-Risk Worker	Employee	Daily at High Heat Trigger.
52	0.68	39.80	At-Risk Worker	Employee	Daily at High Heat Trigger.
53	0.68	25.58	At-Risk Worker	Employee	Daily at High Heat Trigger.
54	0.68	52.16	At-Risk Worker	Employee	Daily at High Heat Trigger.
55	0.68	60.15	At-Risk Worker	Employee	Daily at High Heat Trigger.
56	0.68	18.84	At-Risk Worker	Employee	Daily at High Heat Trigger.
61	0.68	22.33	At-Risk Worker	Employee	Daily at High Heat Trigger.
62	0.68	19.46	At-Risk Worker	Employee	Daily at High Heat Trigger.
71	0.68	17.23	At-Risk Worker	Employee	Daily at High Heat Trigger.
72	0.68	16.49	At-Risk Worker	Employee	Daily at High Heat Trigger.
81	0.68	23.46	At-Risk Worker	Employee	Daily at High Heat Trigger.
92	0.68	34.66	At-Risk Worker	Employee	Daily at High Heat Trigger.

Rest Breaks at High Heat Trigger—Outdoor

11	0.78	20.99	At-Risk Worker	Employee	Daily at High Heat Trigger.
21	0.78	36.39	At-Risk Worker	Employee	Daily at High Heat Trigger.
22	0.78	59.17	At-Risk Worker	Employee	Daily at High Heat Trigger.
23	0.78	34.43	At-Risk Worker	Employee	Daily at High Heat Trigger.
31–33	0.78	28.73	At-Risk Worker	Employee	Daily at High Heat Trigger.
42	0.78	33.17	At-Risk Worker	Employee	Daily at High Heat Trigger.
44–45	0.78	20.59	At-Risk Worker	Employee	Daily at High Heat Trigger.
48–49	0.78	26.06	At-Risk Worker	Employee	Daily at High Heat Trigger.
51	0.78	45.07	At-Risk Worker	Employee	Daily at High Heat Trigger.
52	0.78	45.62	At-Risk Worker	Employee	Daily at High Heat Trigger.
53	0.78	29.33	At-Risk Worker	Employee	Daily at High Heat Trigger.
54	0.78	59.80	At-Risk Worker	Employee	Daily at High Heat Trigger.
55	0.78	68.95	At-Risk Worker	Employee	Daily at High Heat Trigger.
56	0.78	21.59	At-Risk Worker	Employee	Daily at High Heat Trigger.
61	0.78	25.60	At-Risk Worker	Employee	Daily at High Heat Trigger.
62	0.78	22.31	At-Risk Worker	Employee	Daily at High Heat Trigger.
71	0.78	19.75	At-Risk Worker	Employee	Daily at High Heat Trigger.
72	0.78	18.90	At-Risk Worker	Employee	Daily at High Heat Trigger.
81	0.78	26.89	At-Risk Worker	Employee	Daily at High Heat Trigger.
92	0.78	39.73	At-Risk Worker	Employee	Daily at High Heat Trigger.

Observation for Signs and Symptoms—Designated Person

11	0.01	0.62	Designated Person	Employee	Daily at High Heat Trigger.
21	0.01	1.03	Designated Person	Employee	Daily at High Heat Trigger.
22	0.01	1.17	Designated Person	Employee	Daily at High Heat Trigger.
23	0.01	0.86	Designated Person	Employee	Daily at High Heat Trigger.
31–33	0.01	0.87	Designated Person	Employee	Daily at High Heat Trigger.
42	0.01	0.86	Designated Person	Employee	Daily at High Heat Trigger.
44–45	0.01	0.54	Designated Person	Employee	Daily at High Heat Trigger.
48–49	0.01	0.76	Designated Person	Employee	Daily at High Heat Trigger.
51	0.01	1.11	Designated Person	Employee	Daily at High Heat Trigger.
52	0.01	1.01	Designated Person	Employee	Daily at High Heat Trigger.
53	0.01	0.75	Designated Person	Employee	Daily at High Heat Trigger.
54	0.01	1.20	Designated Person	Employee	Daily at High Heat Trigger.
55	0.01	1.23	Designated Person	Employee	Daily at High Heat Trigger.
56	0.01	0.70	Designated Person	Employee	Daily at High Heat Trigger.
61	0.01	0.74	Designated Person	Employee	Daily at High Heat Trigger.
62	0.01	0.70	Designated Person	Employee	Daily at High Heat Trigger.
71	0.01	0.58	Designated Person	Employee	Daily at High Heat Trigger.
72	0.01	0.42	Designated Person	Employee	Daily at High Heat Trigger.
81	0.01	0.68	Designated Person	Employee	Daily at High Heat Trigger.
92	0.01	0.91	Designated Person	Employee	Daily at High Heat Trigger.

Observation for Signs and Symptoms—At-Risk Worker

11	0.01	0.33	At-Risk Worker	Employee	Daily at High Heat Trigger.
21	0.01	0.58	At-Risk Worker	Employee	Daily at High Heat Trigger.
22	0.01	0.94	At-Risk Worker	Employee	Daily at High Heat Trigger.
23	0.01	0.55	At-Risk Worker	Employee	Daily at High Heat Trigger.
31–33	0.01	0.46	At-Risk Worker	Employee	Daily at High Heat Trigger.
42	0.01	0.53	At-Risk Worker	Employee	Daily at High Heat Trigger.
44–45	0.01	0.33	At-Risk Worker	Employee	Daily at High Heat Trigger.
48–49	0.01	0.42	At-Risk Worker	Employee	Daily at High Heat Trigger.
51	0.01	0.72	At-Risk Worker	Employee	Daily at High Heat Trigger.

TABLE VIII.C.16—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
52	0.01	0.73	At-Risk Worker	Employee	Daily at High Heat Trigger.
53	0.01	0.47	At-Risk Worker	Employee	Daily at High Heat Trigger.
54	0.01	0.95	At-Risk Worker	Employee	Daily at High Heat Trigger.
55	0.01	1.10	At-Risk Worker	Employee	Daily at High Heat Trigger.
56	0.01	0.34	At-Risk Worker	Employee	Daily at High Heat Trigger.
61	0.01	0.41	At-Risk Worker	Employee	Daily at High Heat Trigger.
62	0.01	0.36	At-Risk Worker	Employee	Daily at High Heat Trigger.
71	0.01	0.32	At-Risk Worker	Employee	Daily at High Heat Trigger.
72	0.01	0.30	At-Risk Worker	Employee	Daily at High Heat Trigger.
81	0.01	0.43	At-Risk Worker	Employee	Daily at High Heat Trigger.
92	0.01	0.63	At-Risk Worker	Employee	Daily at High Heat Trigger.
Initial Hazard Alert—Supervisor					
11	0.08	4.15	Designated Person	Establishment	Annual.
21	0.08	6.86	Designated Person	Establishment	Annual.
22	0.08	7.83	Designated Person	Establishment	Annual.
23	0.08	5.71	Designated Person	Establishment	Annual.
31–33	0.08	5.83	Designated Person	Establishment	Annual.
42	0.08	5.73	Designated Person	Establishment	Annual.
44–45	0.08	3.57	Designated Person	Establishment	Annual.
48–49	0.08	5.05	Designated Person	Establishment	Annual.
51	0.08	7.40	Designated Person	Establishment	Annual.
52	0.08	6.75	Designated Person	Establishment	Annual.
53	0.08	4.99	Designated Person	Establishment	Annual.
54	0.08	7.97	Designated Person	Establishment	Annual.
55	0.08	8.22	Designated Person	Establishment	Annual.
56	0.08	4.66	Designated Person	Establishment	Annual.
61	0.08	4.96	Designated Person	Establishment	Annual.
62	0.08	4.66	Designated Person	Establishment	Annual.
71	0.08	3.90	Designated Person	Establishment	Annual.
72	0.08	2.77	Designated Person	Establishment	Annual.
81	0.08	4.54	Designated Person	Establishment	Annual.
92	0.08	6.09	Designated Person	Establishment	Annual.
Subsequent Hazard Alert—Supervisor					
11	0.01	0.42	Designated Person	Establishment	Daily at High Heat Trigger.
21	0.01	0.69	Designated Person	Establishment	Daily at High Heat Trigger.
22	0.01	0.78	Designated Person	Establishment	Daily at High Heat Trigger.
23	0.01	0.57	Designated Person	Establishment	Daily at High Heat Trigger.
31–33	0.01	0.58	Designated Person	Establishment	Daily at High Heat Trigger.
42	0.01	0.57	Designated Person	Establishment	Daily at High Heat Trigger.
44–45	0.01	0.36	Designated Person	Establishment	Daily at High Heat Trigger.
48–49	0.01	0.50	Designated Person	Establishment	Daily at High Heat Trigger.
51	0.01	0.74	Designated Person	Establishment	Daily at High Heat Trigger.
52	0.01	0.67	Designated Person	Establishment	Daily at High Heat Trigger.
53	0.01	0.50	Designated Person	Establishment	Daily at High Heat Trigger.
54	0.01	0.80	Designated Person	Establishment	Daily at High Heat Trigger.
55	0.01	0.82	Designated Person	Establishment	Daily at High Heat Trigger.
56	0.01	0.47	Designated Person	Establishment	Daily at High Heat Trigger.
61	0.01	0.50	Designated Person	Establishment	Daily at High Heat Trigger.
62	0.01	0.47	Designated Person	Establishment	Daily at High Heat Trigger.
71	0.01	0.39	Designated Person	Establishment	Daily at High Heat Trigger.
72	0.01	0.28	Designated Person	Establishment	Daily at High Heat Trigger.
81	0.01	0.45	Designated Person	Establishment	Daily at High Heat Trigger.
92	0.01	0.61	Designated Person	Establishment	Daily at High Heat Trigger.
Signage Placement					
11	0.08	4.15	Designated Person	Establishment	One-Time.
21	0.08	6.86	Designated Person	Establishment	One-Time.
22	0.08	7.83	Designated Person	Establishment	One-Time.
23	0.08	5.71	Designated Person	Establishment	One-Time.
31–33	0.08	5.83	Designated Person	Establishment	One-Time.
42	0.08	5.73	Designated Person	Establishment	One-Time.
44–45	0.08	3.57	Designated Person	Establishment	One-Time.
48–49	0.08	5.05	Designated Person	Establishment	One-Time.
51	0.08	7.40	Designated Person	Establishment	One-Time.
52	0.08	6.75	Designated Person	Establishment	One-Time.
53	0.08	4.99	Designated Person	Establishment	One-Time.

TABLE VIII.C.16—LABOR-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
54	0.08	7.97	Designated Person	Establishment	One-Time.
55	0.08	8.22	Designated Person	Establishment	One-Time.
56	0.08	4.66	Designated Person	Establishment	One-Time.
61	0.08	4.96	Designated Person	Establishment	One-Time.
62	0.08	4.66	Designated Person	Establishment	One-Time.
71	0.08	3.90	Designated Person	Establishment	One-Time.
72	0.08	2.77	Designated Person	Establishment	One-Time.
81	0.08	4.54	Designated Person	Establishment	One-Time.
92	0.08	6.09	Designated Person	Establishment	One-Time.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

TABLE VIII.C.17—EQUIPMENT-BASED UNIT COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER
[2023\$]

Item	Units	Unit cost	Total cost per unit	Basis	Frequency
Warning Signs	1.5	\$13.50	\$20.25	Establishment	One-Time.

Source: OSHA based on *SafetySign.com*, 2024.

F. Heat Illness and Emergency Response and Planning

In addition to requirements for a heat emergency response plan that employers must include in their HIIPP, OSHA would require employers to undertake certain activities for any at-risk worker experiencing signs and symptoms of heat-related illness, including requiring immediate action appropriate to the severity of the illness or emergency. There are other methods to cool an individual experiencing a heat emergency, but OSHA is estimating costs here assuming that employers will implement the method recommended by the U.S. Army (Department of the Army, 2023). The agency welcomes comment on this issue and information on methods currently used for cooling.

In the case of a non-emergency heat-related illness, OSHA estimates that a designated person will spend 45 minutes per incident monitoring the employee. When an employee is suspected of a heat emergency, the

proposed standard would require immediate action to reduce body temperature. OSHA estimates this would take 12.5 minutes per incident (based on Casa et al., 2007), accompanied by an immediate call to emergency medical services (EMS) taking an estimated 2 minutes.⁷² For any employee experiencing a heat emergency working in a location that is off a roadway that needs EMS, a designated person will spend time transporting the employee to a location where EMS can reach them. OSHA estimated that, on average, it will take a designated person 30 minutes to transport an employee per incident.⁷³ Finally, OSHA would require employers to have a way to reduce an employee's body temperature when necessary. OSHA assumes that employers will use two sets of four bed sheets⁷⁴ that have been wetted and cooled per employee experiencing a heat emergency, with one set on the employee and one set in a cooler such that they can be swapped every three minutes. OSHA further

assumes that employers will need to have supplies on hand to potentially handle two incidents concurrently. In all, this means that an employer would need 16 sheets (8 per individual to cool two individuals, where four sheets can be cooled while four are used which can then be switched and reused in a cycle of cooling then using the sheets) and two coolers at their establishment, as well as six seven-pound bags of ice⁷⁵ for each 8-hour shift that meets or exceeds the initial heat trigger.

See table VIII.C.6. for anticipated annual incidence rates by sector used in this analysis. Table VIII.C.18. shows the unit costs for the requirements to respond to and plan for heat-related illnesses by severity of illness and industry sector. Table VIII.C.19. shows the equipment costs that employers would incur in order to perform emergency response procedures in the event of a heat-related illness by severity of illness (emergency or non-emergency).

TABLE VIII.C.18—LABOR-BASED UNIT COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
Medical Response—Non-Emergency					
11	0.75	\$37.37	Designated Person	Incident	Annual.

⁷² OSHA estimates that a heat emergency will require less time from a designated person because, in a heat emergency, the affected employee will be transported to a medical facility by EMS rather than monitored for the duration at the work site.

⁷³ This time estimate includes time for the designated person to return to the work site.

⁷⁴ This assumption is based on guidance from the U.S. Army on treatment of heat casualties. The guidance suggests treating an ill person with two sheets, one to wrap their body and the other for their head, and to rotate between four sets of two sheets every three minutes (Department of the Army, 2023).

⁷⁵ OSHA assumes that approximately 50 percent of employers will make and/or store ice on their premises using existing freezers and/or ice machines.

TABLE VIII.C.18—LABOR-BASED UNIT COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
21	0.75	61.74	Designated Person	Incident	Annual.
22	0.75	70.46	Designated Person	Incident	Annual.
23	0.75	51.39	Designated Person	Incident	Annual.
31–33	0.75	52.48	Designated Person	Incident	Annual.
42	0.75	51.58	Designated Person	Incident	Annual.
44–45	0.75	32.17	Designated Person	Incident	Annual.
48–49	0.75	45.44	Designated Person	Incident	Annual.
51	0.75	66.58	Designated Person	Incident	Annual.
52	0.75	60.73	Designated Person	Incident	Annual.
53	0.75	44.93	Designated Person	Incident	Annual.
54	0.75	71.75	Designated Person	Incident	Annual.
55	0.75	73.96	Designated Person	Incident	Annual.
56	0.75	41.97	Designated Person	Incident	Annual.
61	0.75	44.61	Designated Person	Incident	Annual.
62	0.75	41.94	Designated Person	Incident	Annual.
71	0.75	35.06	Designated Person	Incident	Annual.
72	0.75	24.93	Designated Person	Incident	Annual.
81	0.75	40.84	Designated Person	Incident	Annual.
92	0.75	54.83	Designated Person	Incident	Annual.
Medical Response—Emergency					
11	0.21	10.38	Designated Person	Incident	Annual.
21	0.21	17.15	Designated Person	Incident	Annual.
22	0.21	19.57	Designated Person	Incident	Annual.
23	0.21	14.28	Designated Person	Incident	Annual.
31–33	0.21	14.58	Designated Person	Incident	Annual.
42	0.21	14.33	Designated Person	Incident	Annual.
44–45	0.21	8.94	Designated Person	Incident	Annual.
48–49	0.21	12.62	Designated Person	Incident	Annual.
51	0.21	18.50	Designated Person	Incident	Annual.
52	0.21	16.87	Designated Person	Incident	Annual.
53	0.21	12.48	Designated Person	Incident	Annual.
54	0.21	19.93	Designated Person	Incident	Annual.
55	0.21	20.55	Designated Person	Incident	Annual.
56	0.21	11.66	Designated Person	Incident	Annual.
61	0.21	12.39	Designated Person	Incident	Annual.
62	0.21	11.65	Designated Person	Incident	Annual.
71	0.21	9.74	Designated Person	Incident	Annual.
72	0.21	6.93	Designated Person	Incident	Annual.
81	0.21	11.34	Designated Person	Incident	Annual.
92	0.21	15.23	Designated Person	Incident	Annual.
Contact Emergency Medical Services					
11	0.03	1.66	Designated Person	Incident	Annual.
21	0.03	2.74	Designated Person	Incident	Annual.
22	0.03	3.13	Designated Person	Incident	Annual.
23	0.03	2.28	Designated Person	Incident	Annual.
31–33	0.03	2.33	Designated Person	Incident	Annual.
42	0.03	2.29	Designated Person	Incident	Annual.
44–45	0.03	1.43	Designated Person	Incident	Annual.
48–49	0.03	2.02	Designated Person	Incident	Annual.
51	0.03	2.96	Designated Person	Incident	Annual.
52	0.03	2.70	Designated Person	Incident	Annual.
53	0.03	2.00	Designated Person	Incident	Annual.
54	0.03	3.19	Designated Person	Incident	Annual.
55	0.03	3.29	Designated Person	Incident	Annual.
56	0.03	1.87	Designated Person	Incident	Annual.
61	0.03	1.98	Designated Person	Incident	Annual.
62	0.03	1.86	Designated Person	Incident	Annual.
71	0.03	1.56	Designated Person	Incident	Annual.
72	0.03	1.11	Designated Person	Incident	Annual.
81	0.03	1.82	Designated Person	Incident	Annual.
92	0.03	2.44	Designated Person	Incident	Annual.
Transport Worker					
11	0.50	24.92	Designated Person	Incident	Annual.
21	0.50	41.16	Designated Person	Incident	Annual.
22	0.50	46.97	Designated Person	Incident	Annual.

TABLE VIII.C.18—LABOR-BASED UNIT COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
23	0.50	34.26	Designated Person	Incident	Annual.
31–33	0.50	34.99	Designated Person	Incident	Annual.
42	0.50	34.39	Designated Person	Incident	Annual.
44–45	0.50	21.45	Designated Person	Incident	Annual.
48–49	0.50	30.30	Designated Person	Incident	Annual.
51	0.50	44.39	Designated Person	Incident	Annual.
52	0.50	40.49	Designated Person	Incident	Annual.
53	0.50	29.95	Designated Person	Incident	Annual.
54	0.50	47.83	Designated Person	Incident	Annual.
55	0.50	49.31	Designated Person	Incident	Annual.
56	0.50	27.98	Designated Person	Incident	Annual.
61	0.50	29.74	Designated Person	Incident	Annual.
62	0.50	27.96	Designated Person	Incident	Annual.
71	0.50	23.37	Designated Person	Incident	Annual.
72	0.50	16.62	Designated Person	Incident	Annual.
81	0.50	27.23	Designated Person	Incident	Annual.
92	0.50	36.55	Designated Person	Incident	Annual.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

TABLE VIII.C.19—EQUIPMENT-BASED UNIT COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING
[2023\$]

Item	Units	Unit cost	Total cost	Basis	Frequency
Ice Sheets	16.0	\$9.99	\$159.84	Establishment	One-Time.
Ice	6.0	^a 0.69	4.14	Establishment	Daily at Initial Heat Trig- ger.
Ice Cooler	2.0	31.70	63.40	Establishment	One-Time.

Source: OSHA based on Amazon.com, Inc., 2024c; W.W. Grainger, Inc., 2024; and Walmart Inc., 2024.

^a Under the assumption that approximately 50 percent of employers will make and/or store ice on their premises using existing freezers and/or ice machines, half of the unit cost of a seven-pound bags of ice = \$1.38 ÷ 2 = \$0.69 is reported.

G. Training

The proposed standard would require employers to develop and implement a training program for employees and supervisors. Training would be required at certain frequencies, including initially (*e.g.*, prior to any work at or above the initial heat trigger), annual refresher training, and supplemental training when necessary (*e.g.*, following each heat-related incident at the work site, new job tasks, or changes in employer policies and procedures). OSHA assumes the training program would be developed and implemented by a designated person.

OSHA estimates a designated person would spend four hours developing the initial employee training program, 30 minutes preparing for the initial employee training sessions, and one hour administering each initial training

session.⁷⁶ OSHA estimates that a designated person would spend 15 minutes preparing for the refresher employee training(s) and 30 minutes conducting each refresher employee training. Finally, OSHA estimates that all employees would spend one hour each for the initial employee training and 30 minutes each for every refresher employee training.

For the supervisor and heat safety coordinator training, OSHA estimates that a designated person would spend four hours developing the initial training, 15 minutes preparing, and one hour per session to deliver the initial supervisor training. OSHA estimates that each supervisor and heat safety coordinator would spend one hour attending the supervisor training. For supervisor refresher training, OSHA estimates that a designated person would spend 15 minutes preparing for

the refresher training and 30 minutes conducting the refresher training. Each supervisor and heat safety coordinator would spend 30 minutes attending the supervisor refresher training.

Finally, OSHA estimates that a designated person would spend 15 minutes preparing supplemental employee training and 30 minutes conducting each supplemental employee training. Each employee would spend 30 minutes attending the employee supplemental training. For this analysis, OSHA assumes that these supplemental trainings would be conducted by one percent of establishments each year and that one percent of employees would attend these supplemental trainings.

Table VIII.C.20. shows the unit costs for the training requirements by industry sector.

⁷⁶ OSHA expects to provide training materials and templates. To the extent that employers are able to incorporate and develop training using those

materials and templates, this estimate may overstate the amount of time needed to develop training. OSHA welcomes comment on this issue, how

training is generally developed, how long that development takes, and/or information about any other costs related to training development.

TABLE VIII.C.20—LABOR-BASED UNIT COSTS—TRAINING
[2023]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
Initial Employee Training Development					
11	4.0	\$199.32	Designated Person	Establishment	One-Time.
21	4.0	329.25	Designated Person	Establishment	One-Time.
22	4.0	375.78	Designated Person	Establishment	One-Time.
23	4.0	274.10	Designated Person	Establishment	One-Time.
31–33	4.0	279.88	Designated Person	Establishment	One-Time.
42	4.0	275.09	Designated Person	Establishment	One-Time.
44–45	4.0	171.57	Designated Person	Establishment	One-Time.
48–49	4.0	242.37	Designated Person	Establishment	One-Time.
51	4.0	355.11	Designated Person	Establishment	One-Time.
52	4.0	323.91	Designated Person	Establishment	One-Time.
53	4.0	239.62	Designated Person	Establishment	One-Time.
54	4.0	382.66	Designated Person	Establishment	One-Time.
55	4.0	394.46	Designated Person	Establishment	One-Time.
56	4.0	223.87	Designated Person	Establishment	One-Time.
61	4.0	237.94	Designated Person	Establishment	One-Time.
62	4.0	223.70	Designated Person	Establishment	One-Time.
71	4.0	187.00	Designated Person	Establishment	One-Time.
72	4.0	132.96	Designated Person	Establishment	One-Time.
81	4.0	217.82	Designated Person	Establishment	One-Time.
92	4.0	292.41	Designated Person	Establishment	One-Time.
Initial Employee Training—Designated Person					
11	1.50	74.75	Designated Person	Establishment	One-Time.
21	1.50	123.47	Designated Person	Establishment	One-Time.
22	1.50	140.92	Designated Person	Establishment	One-Time.
23	1.50	102.79	Designated Person	Establishment	One-Time.
31–33	1.50	104.96	Designated Person	Establishment	One-Time.
42	1.50	103.16	Designated Person	Establishment	One-Time.
44–45	1.50	64.34	Designated Person	Establishment	One-Time.
48–49	1.50	90.89	Designated Person	Establishment	One-Time.
51	1.50	133.17	Designated Person	Establishment	One-Time.
52	1.50	121.46	Designated Person	Establishment	One-Time.
53	1.50	89.86	Designated Person	Establishment	One-Time.
54	1.50	143.50	Designated Person	Establishment	One-Time.
55	1.50	147.92	Designated Person	Establishment	One-Time.
56	1.50	83.95	Designated Person	Establishment	One-Time.
61	1.50	89.23	Designated Person	Establishment	One-Time.
62	1.50	83.89	Designated Person	Establishment	One-Time.
71	1.50	70.12	Designated Person	Establishment	One-Time.
72	1.50	49.86	Designated Person	Establishment	One-Time.
81	1.50	81.68	Designated Person	Establishment	One-Time.
92	1.50	109.66	Designated Person	Establishment	One-Time.
Initial Employee Training—At-Risk Worker					
11	1.0	26.80	At-Risk Worker	Employee	One-Time.
21	1.0	46.46	At-Risk Worker	Employee	One-Time.
22	1.0	75.53	At-Risk Worker	Employee	One-Time.
23	1.0	43.95	At-Risk Worker	Employee	One-Time.
31–33	1.0	36.68	At-Risk Worker	Employee	One-Time.
42	1.0	42.34	At-Risk Worker	Employee	One-Time.
44–45	1.0	26.28	At-Risk Worker	Employee	One-Time.
48–49	1.0	33.27	At-Risk Worker	Employee	One-Time.
51	1.0	57.54	At-Risk Worker	Employee	One-Time.
52	1.0	58.24	At-Risk Worker	Employee	One-Time.
53	1.0	37.44	At-Risk Worker	Employee	One-Time.
54	1.0	76.34	At-Risk Worker	Employee	One-Time.
55	1.0	88.02	At-Risk Worker	Employee	One-Time.
56	1.0	27.56	At-Risk Worker	Employee	One-Time.
61	1.0	32.68	At-Risk Worker	Employee	One-Time.
62	1.0	28.48	At-Risk Worker	Employee	One-Time.
71	1.0	25.21	At-Risk Worker	Employee	One-Time.
72	1.0	24.13	At-Risk Worker	Employee	One-Time.
81	1.0	34.33	At-Risk Worker	Employee	One-Time.
92	1.0	50.72	At-Risk Worker	Employee	One-Time.
Initial Supervisor Training Development					
11	2.0	99.66	Designated Person	Establishment	One-Time.

TABLE VIII.C.20—LABOR-BASED UNIT COSTS—TRAINING—Continued
[2023]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
21	2.0	164.63	Designated Person	Establishment	One-Time.
22	2.0	187.89	Designated Person	Establishment	One-Time.
23	2.0	137.05	Designated Person	Establishment	One-Time.
31–33	2.0	139.94	Designated Person	Establishment	One-Time.
42	2.0	137.55	Designated Person	Establishment	One-Time.
44–45	2.0	85.78	Designated Person	Establishment	One-Time.
48–49	2.0	121.18	Designated Person	Establishment	One-Time.
51	2.0	177.56	Designated Person	Establishment	One-Time.
52	2.0	161.95	Designated Person	Establishment	One-Time.
53	2.0	119.81	Designated Person	Establishment	One-Time.
54	2.0	191.33	Designated Person	Establishment	One-Time.
55	2.0	197.23	Designated Person	Establishment	One-Time.
56	2.0	111.93	Designated Person	Establishment	One-Time.
61	2.0	118.97	Designated Person	Establishment	One-Time.
62	2.0	111.85	Designated Person	Establishment	One-Time.
71	2.0	93.50	Designated Person	Establishment	One-Time.
72	2.0	66.48	Designated Person	Establishment	One-Time.
81	2.0	108.91	Designated Person	Establishment	One-Time.
92	2.0	146.21	Designated Person	Establishment	One-Time.

Initial Supervisor Training—Supervisor

11	1.25	62.29	Designated Person	Establishment	One-Time.
21	1.25	102.89	Designated Person	Establishment	One-Time.
22	1.25	117.43	Designated Person	Establishment	One-Time.
23	1.25	85.66	Designated Person	Establishment	One-Time.
31–33	1.25	87.46	Designated Person	Establishment	One-Time.
42	1.25	85.97	Designated Person	Establishment	One-Time.
44–45	1.25	53.61	Designated Person	Establishment	One-Time.
48–49	1.25	75.74	Designated Person	Establishment	One-Time.
51	1.25	110.97	Designated Person	Establishment	One-Time.
52	1.25	101.22	Designated Person	Establishment	One-Time.
53	1.25	74.88	Designated Person	Establishment	One-Time.
54	1.25	119.58	Designated Person	Establishment	One-Time.
55	1.25	123.27	Designated Person	Establishment	One-Time.
56	1.25	69.96	Designated Person	Establishment	One-Time.
61	1.25	74.36	Designated Person	Establishment	One-Time.
62	1.25	69.91	Designated Person	Establishment	One-Time.
71	1.25	58.44	Designated Person	Establishment	One-Time.
72	1.25	41.55	Designated Person	Establishment	One-Time.
81	1.25	68.07	Designated Person	Establishment	One-Time.
92	1.25	91.38	Designated Person	Establishment	One-Time.

Initial Supervisor Training—Designated Person

11	1.0	49.83	Designated Person	Establishment	One-Time.
21	1.0	82.31	Designated Person	Establishment	One-Time.
22	1.0	93.94	Designated Person	Establishment	One-Time.
23	1.0	68.53	Designated Person	Establishment	One-Time.
31–33	1.0	69.97	Designated Person	Establishment	One-Time.
42	1.0	68.77	Designated Person	Establishment	One-Time.
44–45	1.0	42.89	Designated Person	Establishment	One-Time.
48–49	1.0	60.59	Designated Person	Establishment	One-Time.
51	1.0	88.78	Designated Person	Establishment	One-Time.
52	1.0	80.98	Designated Person	Establishment	One-Time.
53	1.0	59.91	Designated Person	Establishment	One-Time.
54	1.0	95.67	Designated Person	Establishment	One-Time.
55	1.0	98.62	Designated Person	Establishment	One-Time.
56	1.0	55.97	Designated Person	Establishment	One-Time.
61	1.0	59.49	Designated Person	Establishment	One-Time.
62	1.0	55.92	Designated Person	Establishment	One-Time.
71	1.0	46.75	Designated Person	Establishment	One-Time.
72	1.0	33.24	Designated Person	Establishment	One-Time.
81	1.0	54.45	Designated Person	Establishment	One-Time.
92	1.0	73.10	Designated Person	Establishment	One-Time.

Annual Employee Refresher Training—Designated Person

11	0.75	37.37	Designated Person	Establishment	Annual.
21	0.75	61.74	Designated Person	Establishment	Annual.
22	0.75	70.46	Designated Person	Establishment	Annual.

TABLE VIII.C.20—LABOR-BASED UNIT COSTS—TRAINING—Continued
[2023]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
23	0.75	51.39	Designated Person	Establishment	Annual.
31–33	0.75	52.48	Designated Person	Establishment	Annual.
42	0.75	51.58	Designated Person	Establishment	Annual.
44–45	0.75	32.17	Designated Person	Establishment	Annual.
48–49	0.75	45.44	Designated Person	Establishment	Annual.
51	0.75	66.58	Designated Person	Establishment	Annual.
52	0.75	60.73	Designated Person	Establishment	Annual.
53	0.75	44.93	Designated Person	Establishment	Annual.
54	0.75	71.75	Designated Person	Establishment	Annual.
55	0.75	73.96	Designated Person	Establishment	Annual.
56	0.75	41.97	Designated Person	Establishment	Annual.
61	0.75	44.61	Designated Person	Establishment	Annual.
62	0.75	41.94	Designated Person	Establishment	Annual.
71	0.75	35.06	Designated Person	Establishment	Annual.
72	0.75	24.93	Designated Person	Establishment	Annual.
81	0.75	40.84	Designated Person	Establishment	Annual.
92	0.75	54.83	Designated Person	Establishment	Annual.

Annual Employee Refresher Training—At-Risk Worker

11	0.50	13.40	At-Risk Worker	Employee	Annual.
21	0.50	23.23	At-Risk Worker	Employee	Annual.
22	0.50	37.77	At-Risk Worker	Employee	Annual.
23	0.50	21.97	At-Risk Worker	Employee	Annual.
31–33	0.50	18.34	At-Risk Worker	Employee	Annual.
42	0.50	21.17	At-Risk Worker	Employee	Annual.
44–45	0.50	13.14	At-Risk Worker	Employee	Annual.
48–49	0.50	16.64	At-Risk Worker	Employee	Annual.
51	0.50	28.77	At-Risk Worker	Employee	Annual.
52	0.50	29.12	At-Risk Worker	Employee	Annual.
53	0.50	18.72	At-Risk Worker	Employee	Annual.
54	0.50	38.17	At-Risk Worker	Employee	Annual.
55	0.50	44.01	At-Risk Worker	Employee	Annual.
56	0.50	13.78	At-Risk Worker	Employee	Annual.
61	0.50	16.34	At-Risk Worker	Employee	Annual.
62	0.50	14.24	At-Risk Worker	Employee	Annual.
71	0.50	12.61	At-Risk Worker	Employee	Annual.
72	0.50	12.06	At-Risk Worker	Employee	Annual.
81	0.50	17.16	At-Risk Worker	Employee	Annual.
92	0.50	25.36	At-Risk Worker	Employee	Annual.

Annual Supervisor Refresher Training—Supervisor

11	0.63	31.14	Designated Person	Establishment	Annual.
21	0.63	51.45	Designated Person	Establishment	Annual.
22	0.63	58.72	Designated Person	Establishment	Annual.
23	0.63	42.83	Designated Person	Establishment	Annual.
31–33	0.63	43.73	Designated Person	Establishment	Annual.
42	0.63	42.98	Designated Person	Establishment	Annual.
44–45	0.63	26.81	Designated Person	Establishment	Annual.
48–49	0.63	37.87	Designated Person	Establishment	Annual.
51	0.63	55.49	Designated Person	Establishment	Annual.
52	0.63	50.61	Designated Person	Establishment	Annual.
53	0.63	37.44	Designated Person	Establishment	Annual.
54	0.63	59.79	Designated Person	Establishment	Annual.
55	0.63	61.64	Designated Person	Establishment	Annual.
56	0.63	34.98	Designated Person	Establishment	Annual.
61	0.63	37.18	Designated Person	Establishment	Annual.
62	0.63	34.95	Designated Person	Establishment	Annual.
71	0.63	29.22	Designated Person	Establishment	Annual.
72	0.63	20.78	Designated Person	Establishment	Annual.
81	0.63	34.03	Designated Person	Establishment	Annual.
92	0.63	45.69	Designated Person	Establishment	Annual.

Annual Supervisor Refresher Training—Designated Person

11	0.5	24.92	Designated Person	Establishment	Annual.
21	0.5	41.16	Designated Person	Establishment	Annual.
22	0.5	46.97	Designated Person	Establishment	Annual.
23	0.5	34.26	Designated Person	Establishment	Annual.
31–33	0.5	34.99	Designated Person	Establishment	Annual.

TABLE VIII.C.20—LABOR-BASED UNIT COSTS—TRAINING—Continued
[2023]

Sector	Hours	Unit cost	Labor category	Basis	Frequency
42	0.5	34.39	Designated Person	Establishment	Annual.
44–45	0.5	21.45	Designated Person	Establishment	Annual.
48–49	0.5	30.30	Designated Person	Establishment	Annual.
51	0.5	44.39	Designated Person	Establishment	Annual.
52	0.5	40.49	Designated Person	Establishment	Annual.
53	0.5	29.95	Designated Person	Establishment	Annual.
54	0.5	47.83	Designated Person	Establishment	Annual.
55	0.5	49.31	Designated Person	Establishment	Annual.
56	0.5	27.98	Designated Person	Establishment	Annual.
61	0.5	29.74	Designated Person	Establishment	Annual.
62	0.5	27.96	Designated Person	Establishment	Annual.
71	0.5	23.37	Designated Person	Establishment	Annual.
72	0.5	16.62	Designated Person	Establishment	Annual.
81	0.5	27.23	Designated Person	Establishment	Annual.
92	0.5	36.55	Designated Person	Establishment	Annual.
Supplemental Employee Refresher Training—Designated Person					
11	0.75	37.37	Designated Person	Establishment	Annual.
21	0.75	61.74	Designated Person	Establishment	Annual.
22	0.75	70.46	Designated Person	Establishment	Annual.
23	0.75	51.39	Designated Person	Establishment	Annual.
31–33	0.75	52.48	Designated Person	Establishment	Annual.
42	0.75	51.58	Designated Person	Establishment	Annual.
44–45	0.75	32.17	Designated Person	Establishment	Annual.
48–49	0.75	45.44	Designated Person	Establishment	Annual.
51	0.75	66.58	Designated Person	Establishment	Annual.
52	0.75	60.73	Designated Person	Establishment	Annual.
53	0.75	44.93	Designated Person	Establishment	Annual.
54	0.75	71.75	Designated Person	Establishment	Annual.
55	0.75	73.96	Designated Person	Establishment	Annual.
56	0.75	41.97	Designated Person	Establishment	Annual.
61	0.75	44.61	Designated Person	Establishment	Annual.
62	0.75	41.94	Designated Person	Establishment	Annual.
71	0.75	35.06	Designated Person	Establishment	Annual.
72	0.75	24.93	Designated Person	Establishment	Annual.
81	0.75	40.84	Designated Person	Establishment	Annual.
92	0.75	54.83	Designated Person	Establishment	Annual.
Supplemental Employee Refresher Training—At-Risk Worker					
11	0.50	13.40	At-Risk Worker	Employee	Annual.
21	0.50	23.23	At-Risk Worker	Employee	Annual.
22	0.50	37.77	At-Risk Worker	Employee	Annual.
23	0.50	21.97	At-Risk Worker	Employee	Annual.
31–33	0.50	18.34	At-Risk Worker	Employee	Annual.
42	0.50	21.17	At-Risk Worker	Employee	Annual.
44–45	0.50	13.14	At-Risk Worker	Employee	Annual.
48–49	0.50	16.64	At-Risk Worker	Employee	Annual.
51	0.50	28.77	At-Risk Worker	Employee	Annual.
52	0.50	29.12	At-Risk Worker	Employee	Annual.
53	0.50	18.72	At-Risk Worker	Employee	Annual.
54	0.50	38.17	At-Risk Worker	Employee	Annual.
55	0.50	44.01	At-Risk Worker	Employee	Annual.
56	0.50	13.78	At-Risk Worker	Employee	Annual.
61	0.50	16.34	At-Risk Worker	Employee	Annual.
62	0.50	14.24	At-Risk Worker	Employee	Annual.
71	0.50	12.61	At-Risk Worker	Employee	Annual.
72	0.50	12.06	At-Risk Worker	Employee	Annual.
81	0.50	17.16	At-Risk Worker	Employee	Annual.
92	0.50	25.36	At-Risk Worker	Employee	Annual.

Source: OSHA estimate derived from BLS, 2023c; BLS, 2024b; O*NET, 2023; EPA, 2002; and Rice, 2002.

H. Recordkeeping

The proposed standard would require that indoor work area measurements be retained for 6 months. OSHA assumes

that employers would purchase a wireless temperature and humidity data logger described in section VIII.C.IV.C. (with the costs accounted for there) to meet this requirement. Since employers

would purchase data loggers that can automatically record the heat index measurements in and around a work site, OSHA assumes employers would

incur no additional cost to comply with this recordkeeping requirement.

V. Estimated Total Costs of Compliance

This section summarizes the estimated total costs of compliance with the proposed standard. The total costs are generally calculated by multiplying the basis for each cost (the number of affected establishments or affected employees as shown in Section VIII.B. Profile of Affected Industries) by the unit costs shown in section VIII.C.IV. Each of these costs are then multiplied by their corresponding non-compliance rates (as shown in section VIII.C.II.A.) to determine total compliance-adjusted costs.

Many costs in this analysis are incurred one time, and most others are either annual or can be annualized based on days of exposure or events that happen multiple times per year. For the purposes of this cost analysis, total costs are annualized based on several assumptions, such as estimates of the number of hours at or above both heat triggers and incidence rates for HRIs and heat-related fatalities (see Section

VIII.C.II., Cost Assumptions for additional detail). The exceptions are the identification and evaluation of heat-exposed work areas for indoor work sites and the corresponding employee involvement in that work area evaluation, which are assumed to impact 20 percent of establishments each year. Based on that assumption, OSHA estimates that these costs are both incurred every five years. In order to present compliance costs and benefits estimates on a consistent basis across proposed standard provisions, they are presented as annualized costs.

For each provision described below, this analysis annualizes one-time costs using a 2 percent discount rate over a 10-year period. For the two costs incurred every five years, OSHA calculated the present value of these costs assuming that they would be incurred in the first year and the sixth year after adoption of the proposed standard using a 2 percent discount rate. Using the present value of these costs, OSHA then annualized using a 2 percent discount rate. Annualized one-time and annual costs, plus the

annualized period costs, are then summed to estimate total annualized costs.

For each provision in the proposed standard, OSHA also calculated the estimated total annualized undiscounted costs, using the same method as above but assuming a 0 percent discount rate over a 10-year period.

A. Rule Familiarization

All affected establishments would incur rule familiarization costs. To calculate the total cost of rule familiarization, OSHA multiplies the number of affected establishments from table VIII.B.12. in Section VIII.B., Profile of Affected Industries, by the unit costs presented in table VIII.C.8. As all affected employers incur this cost, no compliance adjustment is necessary. Table VIII.C.21. shows the annualized one-time, annual, and total annualized costs for each of these requirements by industry category, discounted (2 percent over a 10-year period) and undiscounted.

TABLE VIII.C.21—TOTAL COSTS—RULE FAMILIARIZATION
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Agriculture, Forestry, and Fishing	\$527,603	\$587,362	\$0	\$527,603	\$587,362
Building Materials and Equipment Suppliers ...	104,224	116,029	0	104,224	116,029
Commercial Kitchens	846,038	941,865	0	846,038	941,865
Construction	5,074,534	5,649,302	0	5,074,534	5,649,302
Drycleaning and Commercial Laundries	83,921	93,426	0	83,921	93,426
Landscaping and Facilities Support	342,744	381,565	0	342,744	381,565
Maintenance and Repair	510,799	568,655	0	510,799	568,655
Manufacturing	922,558	1,027,052	0	922,558	1,027,052
Oil and Gas	180,543	200,992	0	180,543	200,992
Postal and Delivery Services	227,857	253,665	0	227,857	253,665
Recreation and Amusement	215,821	240,265	0	215,821	240,265
Sanitation and Waste Removal	19,362	21,555	0	19,362	21,555
Telecommunications	73,042	81,316	0	73,042	81,316
Temporary Help Services	40,721	45,333	0	40,721	45,333
Transportation	836,631	931,392	0	836,631	931,392
Utilities	173,581	193,241	0	173,581	193,241
Warehousing	86,490	96,286	0	86,490	96,286
Non-Core	5,076,915	5,651,954	0	5,076,915	5,651,954
Total	15,343,382	17,081,254	0	15,343,382	17,081,254

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

B. Heat Injury and Illness Prevention Plan (HIIPP)

All affected establishments would incur costs for developing a HIIPP. For those establishments that already have a HIIPP, they are expected to review their HIIPP and make any modifications necessary to match the requirements outlined in this proposed standard. Section VIII.C.II.A. discusses the

percentages of establishments with HIIPPs already in place in certain industries and States.

The proposed standard does not require establishments with ten or less employees to develop their HIIPP in writing. For the purpose of this analysis, OSHA assumed that all affected establishments with ten or less employees would choose to use OSHA's

template to guide their development of an unwritten HIIPP. Of the remaining establishments that do not have an existing HIIPP and have more than ten employees, OSHA assumes that, as discussed in section VIII.C.IV.B., 90 percent of these establishments without an existing plan would choose the less burdensome option of using OSHA's

template, while the other 10 percent would write their HIIPP from scratch.⁷⁷

Affected establishments would have to review and update their HIIPPs annually. The time to perform this requirement (one hour) does not depend on the option that establishments choose when initially developing their HIIPP.

The proposed standard would also require that non-managerial employees be involved in the development, review, and update of the HIIPP. As discussed in section VIII.C.IV.B., OSHA assumed that four employees per establishment would spend one hour providing input on the development of the HIIPP and 20 minutes on the review and update of their establishments' HIIPP. These time

estimates are assumed to be the same regardless of the option that the establishment chooses when developing, reviewing, and updating their HIIPP. Table VIII.C.22. shows the annualized one-time, annual, and total annualized costs for each of these requirements by industry category, discounted (2 percent over a 10-year period) and undiscounted.

TABLE VIII.C.22—TOTAL COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Write HIIPP from Scratch					
Agriculture, Forestry, and Fishing	\$571,516	\$636,249	\$0	\$571,516	\$636,249
Building Materials and Equipment Suppliers	79,076	88,032	0	79,076	88,032
Commercial Kitchens	687,870	765,782	0	687,870	765,782
Construction	736,175	819,558	0	736,175	819,558
Drycleaning and Commercial Laundries	34,901	38,854	0	34,901	38,854
Landscaping and Facilities Support	147,130	163,795	0	147,130	163,795
Maintenance and Repair	149,423	166,347	0	149,423	166,347
Manufacturing	316,372	352,206	0	316,372	352,206
Oil and Gas	123,156	137,105	0	123,156	137,105
Postal and Delivery Services	287,792	320,388	0	287,792	320,388
Recreation and Amusement	123,726	137,740	0	123,726	137,740
Sanitation and Waste Removal	13,733	15,288	0	13,733	15,288
Telecommunications	90,704	100,978	0	90,704	100,978
Temporary Help Services	41,207	45,874	0	41,207	45,874
Transportation	336,424	374,530	0	336,424	374,530
Utilities	196,764	219,050	0	196,764	219,050
Warehousing	99,757	111,055	0	99,757	111,055
Non-Core	4,758,864	5,297,878	0	4,758,864	5,297,878
Subtotal	8,794,588	9,790,710	0	8,794,588	9,790,710
Review and Modify HIIPP—Existing Plan in Place					
Agriculture, Forestry, and Fishing	602,197	670,405	0	602,197	670,405
Building Materials and Equipment Suppliers	71,235	79,303	0	71,235	79,303
Commercial Kitchens	640,861	713,448	0	640,861	713,448
Construction	1,869,454	2,081,199	0	1,869,454	2,081,199
Drycleaning and Commercial Laundries	30,363	33,802	0	30,363	33,802
Landscaping and Facilities Support	127,030	141,418	0	127,030	141,418
Maintenance and Repair	134,784	150,051	0	134,784	150,051
Manufacturing	862,318	959,989	0	862,318	959,989
Oil and Gas	104,531	116,371	0	104,531	116,371
Postal and Delivery Services	256,231	285,253	0	256,231	285,253
Recreation and Amusement	111,630	124,274	0	111,630	124,274
Sanitation and Waste Removal	12,418	13,825	0	12,418	13,825
Telecommunications	81,702	90,956	0	81,702	90,956
Temporary Help Services	36,857	41,032	0	36,857	41,032
Transportation	348,769	388,272	0	348,769	388,272
Utilities	172,636	192,190	0	172,636	192,190
Warehousing	89,576	99,722	0	89,576	99,722
Non-Core	645,831	718,981	0	645,831	718,981
Subtotal	6,198,424	6,900,490	0	6,198,424	6,900,490
Use HIIPP Template					
Agriculture, Forestry, and Fishing	1,028,729	1,145,248	0	1,028,729	1,145,248
Building Materials and Equipment Suppliers	142,336	158,458	0	142,336	158,458
Commercial Kitchens	1,238,166	1,378,407	0	1,238,166	1,378,407
Construction	1,325,114	1,475,204	0	1,325,114	1,475,204
Drycleaning and Commercial Laundries	62,822	69,938	0	62,822	69,938
Landscaping and Facilities Support	264,834	294,830	0	264,834	294,830
Maintenance and Repair	268,961	299,425	0	268,961	299,425
Manufacturing	569,469	633,971	0	569,469	633,971
Oil and Gas	221,681	246,789	0	221,681	246,789
Postal and Delivery Services	518,025	576,699	0	518,025	576,699
Recreation and Amusement	222,707	247,932	0	222,707	247,932
Sanitation and Waste Removal	24,719	27,519	0	24,719	27,519

⁷⁷ The percentage of establishments overall that will choose to write a HIIPP from scratch as reported in section VIII.C.IV.B. is estimated using these assumptions. The percentage of

establishments choosing to write the HIIPP from scratch is equal to the estimated percentage of establishments without an existing HIIPP (50 percent) multiplied by the percentage of

establishments without a HIIPP that will write from scratch (10 percent), resulting in an estimate of 5 percent.

TABLE VIII.C.22—TOTAL COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Telecommunications	163,268	181,761	0	163,268	181,761
Temporary Help Services	74,172	82,574	0	74,172	82,574
Transportation	605,564	674,153	0	605,564	674,153
Utilities	354,175	394,291	0	354,175	394,291
Warehousing	179,562	199,900	0	179,562	199,900
Non-Core	8,565,954	9,536,180	0	8,565,954	9,536,180
Subtotal	15,830,259	17,623,278	0	15,830,259	17,623,278
No Written HIIPP					
Agriculture, Forestry, and Fishing	384,875	428,468	0	384,875	428,468
Building Materials and Equipment Suppliers	197,485	219,853	0	197,485	219,853
Commercial Kitchens	1,441,614	1,604,899	0	1,441,614	1,604,899
Construction	16,325,441	18,174,547	0	16,325,441	18,174,547
Drycleaning and Commercial Laundries	240,566	267,814	0	240,566	267,814
Landscaping and Facilities Support	971,555	1,081,599	0	971,555	1,081,599
Maintenance and Repair	1,628,310	1,812,741	0	1,628,310	1,812,741
Manufacturing	1,888,694	2,102,618	0	1,888,694	2,102,618
Oil and Gas	390,715	434,970	0	390,715	434,970
Postal and Delivery Services	117,737	131,073	0	117,737	131,073
Recreation and Amusement	519,705	578,570	0	519,705	578,570
Sanitation and Waste Removal	39,269	43,717	0	39,269	43,717
Telecommunications	40,508	45,096	0	40,508	45,096
Temporary Help Services	48,969	54,515	0	48,969	54,515
Transportation	2,339,927	2,604,960	0	2,339,927	2,604,960
Utilities	155,752	173,394	0	155,752	173,394
Warehousing	69,627	77,514	0	69,627	77,514
Non-Core	12,929,181	14,393,608	0	12,929,181	14,393,608
Subtotal	39,729,931	44,229,952	0	39,729,931	44,229,952
HIIPP Development Involvement—Employee					
Agriculture, Forestry, and Fishing	851,195	947,606	0	851,195	947,606
Building Materials and Equipment Suppliers	192,469	214,269	0	192,469	214,269
Commercial Kitchens	1,817,682	2,023,562	0	1,817,682	2,023,562
Construction	9,833,544	10,947,344	0	9,833,544	10,947,344
Drycleaning and Commercial Laundries	158,699	176,674	0	158,699	176,674
Landscaping and Facilities Support	576,337	641,616	0	576,337	641,616
Maintenance and Repair	965,955	1,075,364	0	965,955	1,075,364
Manufacturing	1,450,926	1,615,265	0	1,450,926	1,615,265
Oil and Gas	304,839	339,367	0	304,839	339,367
Postal and Delivery Services	375,365	417,881	0	375,365	417,881
Recreation and Amusement	354,289	394,418	0	354,289	394,418
Sanitation and Waste Removal	28,608	31,849	0	28,608	31,849
Telecommunications	142,022	158,108	0	142,022	158,108
Temporary Help Services	60,166	66,981	0	60,166	66,981
Transportation	1,378,241	1,534,347	0	1,378,241	1,534,347
Utilities	418,672	466,093	0	418,672	466,093
Warehousing	142,480	158,618	0	142,480	158,618
Non-Core	10,068,354	11,208,749	0	10,068,354	11,208,749
Subtotal	29,119,844	32,418,111	0	29,119,844	32,418,111
Review and Update HIIPP					
Agriculture, Forestry, and Fishing	0	0	2,638,013	2,638,013	2,638,013
Building Materials and Equipment Suppliers	0	0	521,118	521,118	521,118
Commercial Kitchens	0	0	4,230,189	4,230,189	4,230,189
Construction	0	0	25,372,668	25,372,668	25,372,668
Drycleaning and Commercial Laundries	0	0	419,603	419,603	419,603
Landscaping and Facilities Support	0	0	1,713,720	1,713,720	1,713,720
Maintenance and Repair	0	0	2,553,994	2,553,994	2,553,994
Manufacturing	0	0	4,612,791	4,612,791	4,612,791
Oil and Gas	0	0	902,716	902,716	902,716
Postal and Delivery Services	0	0	1,139,285	1,139,285	1,139,285
Recreation and Amusement	0	0	1,079,103	1,079,103	1,079,103
Sanitation and Waste Removal	0	0	96,811	96,811	96,811
Telecommunications	0	0	365,212	365,212	365,212
Temporary Help Services	0	0	203,603	203,603	203,603
Transportation	0	0	4,183,154	4,183,154	4,183,154
Utilities	0	0	867,903	867,903	867,903
Warehousing	0	0	432,448	432,448	432,448
Non-Core	0	0	25,384,577	25,384,577	25,384,577
Subtotal	0	0	76,716,909	76,716,909	76,716,909

TABLE VIII.C.22—TOTAL COSTS—HEAT INJURY AND ILLNESS PREVENTION PLAN—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
HIIPP Review and Update Involvement—Employee					
Agriculture, Forestry, and Fishing	0	0	2,837,318	2,837,318	2,837,318
Building Materials and Equipment Suppliers	0	0	641,563	641,563	641,563
Commercial Kitchens	0	0	6,058,940	6,058,940	6,058,940
Construction	0	0	32,778,482	32,778,482	32,778,482
Drycleaning and Commercial Laundries	0	0	528,998	528,998	528,998
Landscaping and Facilities Support	0	0	1,921,123	1,921,123	1,921,123
Maintenance and Repair	0	0	3,219,849	3,219,849	3,219,849
Manufacturing	0	0	4,836,419	4,836,419	4,836,419
Oil and Gas	0	0	1,016,130	1,016,130	1,016,130
Postal and Delivery Services	0	0	1,251,217	1,251,217	1,251,217
Recreation and Amusement	0	0	1,180,963	1,180,963	1,180,963
Sanitation and Waste Removal	0	0	95,362	95,362	95,362
Telecommunications	0	0	473,407	473,407	473,407
Temporary Help Services	0	0	200,554	200,554	200,554
Transportation	0	0	4,594,136	4,594,136	4,594,136
Utilities	0	0	1,395,573	1,395,573	1,395,573
Warehousing	0	0	474,934	474,934	474,934
Non-Core	0	0	33,561,180	33,561,180	33,561,180
Subtotal	0	0	97,066,147	97,066,147	97,066,147
Total					
Agriculture, Forestry, and Fishing	3,438,511	3,827,975	5,475,331	8,913,842	9,303,306
Building Materials and Equipment Suppliers	682,600	759,915	1,162,682	1,845,282	1,922,597
Commercial Kitchens	5,826,193	6,486,098	10,289,129	16,115,322	16,775,228
Construction	30,089,729	33,497,850	58,151,149	88,240,878	91,649,000
Drycleaning and Commercial Laundries	527,352	587,083	948,600	1,475,952	1,535,683
Landscaping and Facilities Support	2,086,886	2,323,258	3,634,843	5,721,729	5,958,101
Maintenance and Repair	3,147,433	3,503,928	5,773,844	8,921,277	9,277,772
Manufacturing	5,087,780	5,664,048	9,449,210	14,536,989	15,113,258
Oil and Gas	1,144,922	1,274,601	1,918,846	3,063,767	3,193,447
Postal and Delivery Services	1,555,149	1,731,294	2,390,502	3,945,651	4,121,796
Recreation and Amusement	1,332,058	1,482,934	2,260,066	3,592,124	3,743,000
Sanitation and Waste Removal	118,748	132,198	192,173	310,921	324,371
Telecommunications	518,204	576,898	838,619	1,356,823	1,415,518
Temporary Help Services	261,372	290,976	404,158	665,530	695,134
Transportation	5,008,925	5,576,262	8,777,289	13,786,214	14,353,551
Utilities	1,297,999	1,445,017	2,263,476	3,561,475	3,708,493
Warehousing	581,002	646,809	907,382	1,488,384	1,554,191
Non-Core	36,968,184	41,155,395	58,945,757	95,913,940	100,101,152
Total	99,673,046	110,962,542	173,783,056	273,456,102	284,745,597

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

C. Identifying Heat Hazards

Establishments would be expected to monitor environmental conditions in and around work areas under the proposed standard for both indoor and outdoor work sites. As outlined in section VIII.C.IV.C., establishments with outdoor work sites could track local forecasts to meet this requirement, while establishments with indoor work sites are assumed to use temperature and data loggers to monitor environmental conditions. For this analysis, OSHA assumes one work area per establishment. OSHA estimates the number of establishments with outdoor and indoor work areas by estimating the percentage of employees in each industry that are estimated as indoor and outdoor employees affected by the proposed standard. OSHA multiplies the total number of affected

establishments by the percentages of indoor and outdoor employees to determine the number of indoor and outdoor establishments and then multiplies these counts of indoor and outdoor establishments by their respective unit costs for indoor and outdoor environmental monitoring (with the unit costs for outdoor establishments being lower than for indoor establishments).

Indoor establishments would also need to identify work areas that pose heat-related risks to employees. OSHA assumes that 20 percent of establishments will need to reevaluate work areas due to changes to work processes that may result in increased heat-related exposure for employees every year. OSHA therefore has estimated that this indoor work area evaluation would be incurred every five years at each establishment. Similar to

the development and review of the HIIPP, the proposed standard would require employee involvement in these work-area evaluations. OSHA again assumes that four employees per establishment would make up a representative sample of employees that could provide input. Since these work-area evaluations are expected to occur every five years, OSHA assumed that the cost for these work-area evaluations would occur in the first and sixth years after the proposed standard's implementation. OSHA determined the present value of these costs using a 2 percent discount rate. Once adjusted for compliance, OSHA annualized the present value of these costs for inclusion in the total annualized costs for this provision.

Table VIII.C.23. shows the annualized costs for each of these requirements by industry category, discounted (2 percent

over a 10-year period) and undiscounted.

TABLE VIII.C.23—TOTAL COSTS—IDENTIFYING HEAT HAZARDS
[2023\$]

Industry category	One-time annualized		Periodic costs annualized		Annual	Total annualized	
	0%	2%	0%	2%		0%	2%
Outdoor Environmental Monitoring							
Agriculture, Forestry, and Fishing	\$0	\$0	\$0	\$0	\$1,375,617	\$1,375,617	\$1,375,617
Building Materials and Equipment Suppliers	0	0	0	0	158,176	158,176	158,176
Commercial Kitchens	0	0	0	0	281,211	281,211	281,211
Construction	0	0	0	0	10,052,936	10,052,936	10,052,936
Drycleaning and Commercial Laundries	0	0	0	0	80,978	80,978	80,978
Landscaping and Facilities Support	0	0	0	0	1,064,766	1,064,766	1,064,766
Maintenance and Repair	0	0	0	0	899,249	899,249	899,249
Manufacturing	0	0	0	0	531,117	531,117	531,117
Oil and Gas	0	0	0	0	496,105	496,105	496,105
Postal and Delivery Services	0	0	0	0	437,122	437,122	437,122
Recreation and Amusement	0	0	0	0	485,898	485,898	485,898
Sanitation and Waste Removal	0	0	0	0	40,070	40,070	40,070
Telecommunications	0	0	0	0	156,702	156,702	156,702
Temporary Help Services	0	0	0	0	53,412	53,412	53,412
Transportation	0	0	0	0	1,701,945	1,701,945	1,701,945
Utilities	0	0	0	0	404,225	404,225	404,225
Warehousing	0	0	0	0	99,663	99,663	99,663
Non-Core	0	0	0	0	8,653,930	8,653,930	8,653,930
Subtotal	0	0	0	0	26,973,121	26,973,121	26,973,121
Indoor Environmental Monitoring							
Agriculture, Forestry, and Fishing	0	0	0	0	5,185,108	5,185,108	5,185,108
Building Materials and Equipment Suppliers	0	0	0	0	2,683,488	2,683,488	2,683,488
Commercial Kitchens	0	0	0	0	30,781,175	30,781,175	30,781,175
Construction	0	0	0	0	22,515,231	22,515,231	22,515,231
Drycleaning and Commercial Laundries	0	0	0	0	2,699,251	2,699,251	2,699,251
Landscaping and Facilities Support	0	0	0	0	4,713,180	4,713,180	4,713,180
Maintenance and Repair	0	0	0	0	11,923,927	11,923,927	11,923,927
Manufacturing	0	0	0	0	10,319,923	10,319,923	10,319,923
Oil and Gas	0	0	0	0	2,870,853	2,870,853	2,870,853
Postal and Delivery Services	0	0	0	0	4,943,180	4,943,180	4,943,180
Recreation and Amusement	0	0	0	0	3,895,764	3,895,764	3,895,764
Sanitation and Waste Removal	0	0	0	0	386,155	386,155	386,155
Telecommunications	0	0	0	0	1,423,714	1,423,714	1,423,714
Temporary Help Services	0	0	0	0	1,134,702	1,134,702	1,134,702
Transportation	0	0	0	0	14,040,680	14,040,680	14,040,680
Utilities	0	0	0	0	3,101,788	3,101,788	3,101,788
Warehousing	0	0	0	0	2,565,146	2,565,146	2,565,146
Non-Core	0	0	0	0	215,676,858	215,676,858	215,676,858
Subtotal	0	0	0	0	340,860,123	340,860,123	340,860,123
Indoor Identification of Heat-Exposed Work Areas							
Agriculture, Forestry, and Fishing	0	0	434,176	451,540	0	434,176	451,540
Building Materials and Equipment Suppliers	0	0	196,825	204,696	0	196,825	204,696
Commercial Kitchens	0	0	2,237,077	2,326,542	0	2,237,077	2,326,542
Construction	0	0	969,517	1,008,290	0	969,517	1,008,290
Drycleaning and Commercial Laundries	0	0	193,662	201,407	0	193,662	201,407
Landscaping and Facilities Support	0	0	339,167	352,731	0	339,167	352,731
Maintenance and Repair	0	0	873,563	908,498	0	873,563	908,498
Manufacturing	0	0	352,835	366,946	0	352,835	366,946
Oil and Gas	0	0	201,310	209,361	0	201,310	209,361
Postal and Delivery Services	0	0	362,718	377,224	0	362,718	377,224
Recreation and Amusement	0	0	288,093	299,614	0	288,093	299,614
Sanitation and Waste Removal	0	0	28,493	29,633	0	28,493	29,633
Telecommunications	0	0	104,314	108,485	0	104,314	108,485
Temporary Help Services	0	0	83,063	86,385	0	83,063	86,385
Transportation	0	0	1,134,479	1,179,850	0	1,134,479	1,179,850
Utilities	0	0	167,121	173,804	0	167,121	173,804
Warehousing	0	0	186,866	194,339	0	186,866	194,339
Non-Core	0	0	15,801,702	16,433,646	0	15,801,702	16,433,646
Subtotal	0	0	23,954,982	24,912,993	0	23,954,982	24,912,993
Work Area Evaluation—Employee							
Agriculture, Forestry, and Fishing	0	0	116,745	121,414	0	116,745	121,414
Building Materials and Equipment Suppliers	0	0	60,542	62,963	0	60,542	62,963
Commercial Kitchens	0	0	834,492	867,865	0	834,492	867,865
Construction	0	0	1,674,440	1,741,404	0	1,674,440	1,741,404
Drycleaning and Commercial Laundries	0	0	61,038	63,479	0	61,038	63,479

TABLE VIII.C.23—TOTAL COSTS—IDENTIFYING HEAT HAZARDS—Continued
[2023\$]

Industry category	One-time annualized		Periodic costs annualized		Annual	Total annualized	
	0%	2%	0%	2%		0%	2%
Landscaping and Facilities Support	0	0	95,514	99,334	0	95,514	99,334
Maintenance and Repair	0	0	275,328	286,338	0	275,328	286,338
Manufacturing	0	0	601,334	625,383	0	601,334	625,383
Oil and Gas	0	0	56,627	58,892	0	56,627	58,892
Postal and Delivery Services	0	0	99,588	103,571	0	99,588	103,571
Recreation and Amusement	0	0	78,775	81,925	0	78,775	81,925
Sanitation and Waste Removal	0	0	7,017	7,297	0	7,017	7,297
Telecommunications	0	0	33,804	35,156	0	33,804	35,156
Temporary Help Services	0	0	20,455	21,273	0	20,455	21,273
Transportation	0	0	311,485	323,942	0	311,485	323,942
Utilities	0	0	90,893	94,528	0	90,893	94,528
Warehousing	0	0	51,306	53,358	0	51,306	53,358
Non-Core	0	0	2,926,926	3,043,980	0	2,926,926	3,043,980
Subtotal	0	0	7,396,309	7,692,103	0	7,396,309	7,692,103
Monitoring Equipment—Indoor							
Agriculture, Forestry, and Fishing	118,862	132,325	0	0	0	118,862	132,325
Building Materials and Equipment Suppliers	57,453	63,961	0	0	0	57,453	63,961
Commercial Kitchens	1,048,813	1,167,608	0	0	0	1,048,813	1,167,608
Construction	362,081	403,092	0	0	0	362,081	403,092
Drycleaning and Commercial Laundries	56,623	63,037	0	0	0	56,623	63,037
Landscaping and Facilities Support	97,542	108,590	0	0	0	97,542	108,590
Maintenance and Repair	250,133	278,465	0	0	0	250,133	278,465
Manufacturing	168,477	187,560	0	0	0	168,477	187,560
Oil and Gas	41,489	46,189	0	0	0	41,489	46,189
Postal and Delivery Services	93,192	103,747	0	0	0	93,192	103,747
Recreation and Amusement	96,716	107,670	0	0	0	96,716	107,670
Sanitation and Waste Removal	7,882	8,774	0	0	0	7,882	8,774
Telecommunications	18,319	20,394	0	0	0	18,319	20,394
Temporary Help Services	23,160	25,783	0	0	0	23,160	25,783
Transportation	264,703	294,685	0	0	0	264,703	294,685
Utilities	37,716	41,988	0	0	0	37,716	41,988
Warehousing	48,360	53,837	0	0	0	48,360	53,837
Non-Core	4,048,215	4,506,737	0	0	0	4,048,215	4,506,737
Subtotal	6,839,737	7,614,442	0	0	0	6,839,737	7,614,442
Review Monitoring Equipment User Manual—Indoor							
Agriculture, Forestry, and Fishing	5,992	6,671	0	0	0	5,992	6,671
Building Materials and Equipment Suppliers	3,096	3,447	0	0	0	3,096	3,447
Commercial Kitchens	36,379	40,499	0	0	0	36,379	40,499
Construction	60,102	66,909	0	0	0	60,102	66,909
Drycleaning and Commercial Laundries	3,115	3,467	0	0	0	3,115	3,467
Landscaping and Facilities Support	5,921	6,592	0	0	0	5,921	6,592
Maintenance and Repair	13,758	15,317	0	0	0	13,758	15,317
Manufacturing	29,769	33,141	0	0	0	29,769	33,141
Oil and Gas	3,383	3,766	0	0	0	3,383	3,766
Postal and Delivery Services	5,704	6,350	0	0	0	5,704	6,350
Recreation and Amusement	4,495	5,004	0	0	0	4,495	5,004
Sanitation and Waste Removal	446	496	0	0	0	446	496
Telecommunications	1,643	1,829	0	0	0	1,643	1,829
Temporary Help Services	1,309	1,458	0	0	0	1,309	1,458
Transportation	16,201	18,036	0	0	0	16,201	18,036
Utilities	3,579	3,984	0	0	0	3,579	3,984
Warehousing	2,960	3,295	0	0	0	2,960	3,295
Non-Core	139,235	155,005	0	0	0	139,235	155,005
Subtotal	337,086	375,266	0	0	0	337,086	375,266
Total							
Agriculture, Forestry, and Fishing	124,854	138,996	550,921	572,954	6,560,724	7,236,500	7,272,674
Building Materials and Equipment Suppliers	60,550	67,408	257,367	267,659	2,841,664	3,159,581	3,176,732
Commercial Kitchens	1,085,192	1,208,107	3,071,569	3,194,407	31,062,385	35,219,146	35,464,900
Construction	422,183	470,002	2,643,957	2,749,695	32,568,167	35,634,308	35,787,864
Drycleaning and Commercial Laundries	59,738	66,504	254,700	264,886	2,780,229	3,094,667	3,111,620
Landscaping and Facilities Support	103,463	115,182	434,682	452,065	5,777,946	6,316,091	6,345,193
Maintenance and Repair	263,892	293,782	1,148,890	1,194,837	12,823,176	14,235,958	14,311,794
Manufacturing	198,246	220,701	954,170	992,329	10,851,040	12,003,456	12,064,070
Oil and Gas	44,873	49,955	257,938	268,253	3,366,958	3,669,768	3,685,166
Postal and Delivery Services	98,895	110,097	462,306	480,795	5,380,302	5,941,504	5,971,194
Recreation and Amusement	101,211	112,674	366,868	381,540	4,381,662	4,849,741	4,875,876
Sanitation and Waste Removal	8,327	9,270	35,510	36,930	426,225	470,062	472,425
Telecommunications	19,962	22,223	138,118	143,641	1,580,416	1,738,495	1,746,280
Temporary Help Services	24,469	27,241	103,518	107,658	1,188,114	1,316,102	1,323,013
Transportation	280,904	312,721	1,445,964	1,503,791	15,742,625	17,469,493	17,559,137

TABLE VIII.C.23—TOTAL COSTS—IDENTIFYING HEAT HAZARDS—Continued
[2023\$]

Industry category	One-time annualized		Periodic costs annualized		Annual	Total annualized	
	0%	2%	0%	2%		0%	2%
Utilities	41,295	45,972	258,014	268,332	3,506,013	3,805,322	3,820,318
Warehousing	51,319	57,132	238,172	247,697	2,664,809	2,954,301	2,969,638
Non-Core	4,187,450	4,661,742	18,728,628	19,477,626	224,330,788	247,246,865	248,470,156
Total	7,176,823	7,989,707	31,351,291	32,605,096	367,833,244	406,361,358	408,428,047

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.**D. Requirements at or Above the Initial Heat Trigger****I. Drinking Water**

All affected establishments would be required to provide sufficiently cool water to their affected employees. In order to meet this requirement, OSHA assumes that establishments would purchase one 40-quart cooler for every 40 employees. These establishments would also purchase reusable water bottles for each affected employee.

II. Break Area(s) at Outdoor Work Sites

All affected establishments would also have to provide break areas for affected employees. At establishments with outdoor work sites, OSHA assumes that each establishment would purchase a twelve-by-twelve-foot tent as a means of providing artificial shade. OSHA assumes that establishments would incur this cost one time.

III. Break Area(s) and Work Area(s) at Indoor Work Sites

Establishments with indoor work sites would purchase one industrial pedestal fan and one dehumidifier that provide sufficient air movement and humidity control in break areas for every 10 employees. Establishments with indoor work sites would also have to purchase these same control measures for work areas for every 10 employees. However, OSHA does not capture a cost for dehumidifiers for establishments with indoor work sites in the four least humid States in the U.S. (Arizona, Nevada, New Mexico, and Utah).

IV. Acclimatization

Both new and returning employees would undergo acclimatization during their first week of work when the initial heat trigger is met or exceeded during that first week. To calculate acclimatization costs, OSHA multiplied the unit costs for acclimatization shown in section VIII.C.IV.D.IV., by the number of new employees and by the number of returning employees. OSHA calculates the number of new employees using BLS' Job Openings and Labor Turnover

Survey (JOLTS) (BLS JOLTS, 2024). OSHA used the JOLTS hire rates from June through August for 2023 by sector to represent the percentage of employees that are new and join their respective employers when the initial heat trigger is met or exceeded. OSHA lacks data that would allow further refinement of this estimate. Calculating the number of new employees based on those hired in June through August may not accurately represent the universe of employees who will need acclimatization. This assumption may underestimate the number of newly hired employees in areas where the heat season is longer but might overestimate the number in areas where the weather is cooler for more of the year. OSHA also heard from Small Entity Representatives during the SBAR Panel process that they purposefully avoid hiring new employees during times when temperatures are high in order to avoid the difficulties and costs of acclimatization. Therefore, again, using the JOLTS data for this timeframe may overstate the number of employees who will need acclimatization. OSHA also applies this assumption to employees working indoors in settings without adequate climate control but, as discussed above in section VIII.C.II.C., acknowledges that this assumption that outdoor heat translates to indoor heat may over- or understate the temperatures indoors. The agency welcomes comment on this estimate as well as data that would allow this parameter to be better estimated.

To calculate the number of returning employees, OSHA assumed that two percent of all employees not newly hired would qualify as returning employees (*i.e.*, those returning to work from an absence of more than 14 days during a time when the initial or high heat trigger are met). OSHA welcomes comment on this estimate and information or data sources that might better allow the agency to identify employees returning from absences of more than 14 days. Next, OSHA multiplied the two percent by one minus the annual hire rate according to

the JOLTS data by sector. OSHA then multiplied this product by the ratio of the summer hire rate to annual hire rate to arrive at the percentage of employees returning to work when the initial heat trigger is met or exceeded during their first week back.

V. Rest Breaks if Needed

To calculate the cost for if-needed rest breaks when the initial heat trigger is met or exceeded, OSHA first calculated the number of rest breaks that affected employees would be expected to take annually. OSHA used the number of work hours in a given State for each work shift type (daytime, evening, and overnight) that met or exceeded the initial heat trigger but did not meet or exceed the high heat trigger. The estimated number of hours was then normalized to 8-hour work shift equivalents by dividing the number of hours meeting or exceeding the initial heat trigger (but not meeting the high heat trigger) by eight.⁷⁸ OSHA then multiplied these 8-hour work shift equivalents, the number of affected employees, and the corresponding unit costs for rest breaks for indoor and outdoor employees as shown in section VIII.C.IV.D.V. to determine total costs for rest breaks at the initial heat trigger.

As discussed in section VIII.C.IV.D.V. and detailed further in appendix A at the end of this section, OSHA estimates that under the proposed standard, the reduction in time spent on pacing (*i.e.*, the increase in worker efficiency) will partially offset the added cost of time

⁷⁸ By assuming full, 8-hour work shifts at or above the heat trigger(s), this methodology may overstate the number of breaks employers need to provide since there may be some days where the heat triggers are met or exceeded but for shorter periods of time. For example, if the high heat trigger is met or exceeded for less than two hours, the requirement to provide a scheduled rest break would not be triggered. Additionally, employees exposed to heat at or above the initial heat trigger for shorter periods of time are likely to need fewer if-needed rest breaks. A scheduled lunch break in the middle of the day may also be sufficient to satisfy the break requirement on days when the high heat trigger is met for only a portion of the day. OSHA welcomes comment on this methodology and recommendations on alternative approaches.

spent on if-needed rest breaks when the initial heat trigger is met or exceeded for employees in Group 1 (*i.e.*, currently noncompliant with if-needed rest breaks as well as scheduled rest breaks), by 20 percent and 23.33 percent for outdoor and indoor employees, respectively. Combining this estimated partial offset of the unit cost of if-needed rest breaks as required by the proposed standard with data on the industry-level and/or State-level number of in-scope employees (discussed in Section VIII.B., Profile of Affected Industries), baseline non-compliance rates (discussed in section VIII.C.II.A.), and State-level exposure to heat at or above the initial heat trigger (discussed in section

VIII.C.II.C.), OSHA estimates that approximately 21.78 percent of the total cost of compliance with if-needed rest breaks when the initial heat trigger is met or exceeded (approximately \$0.0875 billion out of \$0.402 billion) could be offset by avoided labor productivity losses due to pacing (*i.e.*, avoided losses in worker efficiency).

VI. Effective Communication

Employers would also be required to effectively communicate with affected employees when the initial heat trigger is met or exceeded. OSHA first calculated the number of times a designated person would have to perform this duty by estimating the

number of hours annually that meet or exceed the initial heat trigger for each State. OSHA then normalized these estimates to reflect 8-hour work shift equivalents. These 8-hour work shift equivalents are then multiplied by the number of affected employees and the unit costs as shown in Section VIII.C.IV.D.VI., Effective Communication, of 15 seconds every two hours of both a designated person's and at-risk employee's time.

Table VIII.C.24. shows the annualized one-time, annual, and total annualized costs for each of these requirements by industry category and region, discounted (2 percent over a 10-year period) and undiscounted.

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Coolers with Spigot						
Agriculture, Forestry, and Fishing:						
Alaskan	\$15	\$16	\$0	\$0	\$15	\$16
Central	1,822	2,028	0	0	1,822	2,028
Eastern	1,294	1,441	0	0	1,294	1,441
Pacific	13	15	0	0	13	15
Southern	1,941	2,161	0	0	1,941	2,161
Western	447	498	0	0	447	498
Subtotal	5,532	6,158	0	0	5,532	6,158
Building Materials and Equipment Suppliers:						
Alaskan	23	25	0	0	23	25
Central	2,115	2,355	0	0	2,115	2,355
Eastern	2,627	2,925	0	0	2,627	2,925
Pacific	41	45	0	0	41	45
Southern	2,456	2,734	0	0	2,456	2,734
Western	1,497	1,667	0	0	1,497	1,667
Subtotal	8,759	9,751	0	0	8,759	9,751
Commercial Kitchens:						
Alaskan	125	140	0	0	125	140
Central	14,789	16,465	0	0	14,789	16,465
Eastern	22,011	24,504	0	0	22,011	24,504
Pacific	476	530	0	0	476	530
Southern	19,755	21,993	0	0	19,755	21,993
Western	12,343	13,741	0	0	12,343	13,741
Subtotal	0	77,372	0	0	69,500	77,372
Construction:						
Alaskan	235	262	0	0	235	262
Central	17,355	19,321	0	0	17,355	19,321
Eastern	25,296	28,161	0	0	25,296	28,161
Pacific	499	556	0	0	499	556
Southern	65,874	73,335	0	0	65,874	73,335
Western	18,599	20,706	0	0	18,599	20,706
Subtotal	127,859	142,341	0	0	127,859	142,341
Drycleaning and Commercial Laundries:						
Alaskan	2	3	0	0	2	3
Central	277	309	0	0	277	309
Eastern	508	566	0	0	508	566
Pacific	11	12	0	0	11	12
Southern	401	446	0	0	401	446
Western	249	277	0	0	249	277
Subtotal	1,448	1,612	0	0	1,448	1,612
Landscaping and Facilities Support:						
Alaskan	87	96	0	0	87	96
Central	5,475	6,095	0	0	5,475	6,095
Eastern	8,862	9,865	0	0	8,862	9,865
Pacific	171	191	0	0	171	191
Southern	7,341	8,173	0	0	7,341	8,173
Western	20,404	22,716	0	0	20,404	22,716

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	42,340	47,136	0	0	42,340	47,136
Maintenance and Repair:						
Alaskan	26	29	0	0	26	29
Central	2,866	3,190	0	0	2,866	3,190
Eastern	3,702	4,121	0	0	3,702	4,121
Pacific	45	50	0	0	45	50
Southern	3,449	3,839	0	0	3,449	3,839
Western	2,148	2,391	0	0	2,148	2,391
Subtotal	12,235	13,621	0	0	12,235	13,621
Manufacturing:						
Alaskan	70	78	0	0	70	78
Central	22,988	25,592	0	0	22,988	25,592
Eastern	21,278	23,688	0	0	21,278	23,688
Pacific	65	72	0	0	65	72
Southern	17,040	18,970	0	0	17,040	18,970
Western	11,035	12,284	0	0	11,035	12,284
Subtotal	72,475	80,684	0	0	72,475	80,684
Oil and Gas:						
Alaskan	76	85	0	0	76	85
Central	554	617	0	0	554	617
Eastern	362	403	0	0	362	403
Southern	3,468	3,861	0	0	3,468	3,861
Western	725	807	0	0	725	807
Subtotal	5,185	5,772	0	0	5,185	5,772
Postal and Delivery Services:						
Alaskan	5	6	0	0	5	6
Central	974	1,084	0	0	974	1,084
Eastern	1,556	1,732	0	0	1,556	1,732
Pacific	16	17	0	0	16	17
Southern	1,104	1,229	0	0	1,104	1,229
Western	776	864	0	0	776	864
Subtotal	4,431	4,933	0	0	4,431	4,933
Recreation and Amusement:						
Alaskan	23	26	0	0	23	26
Central	2,358	2,625	0	0	2,358	2,625
Eastern	3,928	4,373	0	0	3,928	4,373
Pacific	51	57	0	0	51	57
Southern	3,076	3,425	0	0	3,076	3,425
Western	2,314	2,576	0	0	2,314	2,576
Subtotal	11,750	13,081	0	0	11,750	13,081
Sanitation and Waste Removal:						
Alaskan	14	15	0	0	14	15
Central	427	476	0	0	427	476
Eastern	723	805	0	0	723	805
Pacific	13	14	0	0	13	14
Southern	577	642	0	0	577	642
Western	347	386	0	0	347	386
Subtotal	2,101	2,339	0	0	2,101	2,339
Telecommunications:						
Alaskan	12	14	0	0	12	14
Central	641	713	0	0	641	713
Eastern	973	1,083	0	0	973	1,083
Pacific	12	13	0	0	12	13
Southern	884	984	0	0	884	984
Western	453	505	0	0	453	505
Subtotal	2,975	3,312	0	0	2,975	3,312
Temporary Help Services:						
Alaskan	7	8	0	0	7	8
Central	6,812	7,583	0	0	6,812	7,583
Eastern	8,706	9,692	0	0	8,706	9,692
Pacific	204	228	0	0	204	228
Southern	14,093	15,689	0	0	14,093	15,689
Western	7,054	7,853	0	0	7,054	7,853
Subtotal	36,877	41,053	0	0	36,877	41,053
Transportation:						
Alaskan	99	110	0	0	99	110
Central	4,282	4,768	0	0	4,282	4,768
Eastern	4,364	4,859	0	0	4,364	4,859
Pacific	147	163	0	0	147	163
Southern	5,809	6,467	0	0	5,809	6,467
Western	1,895	2,110	0	0	1,895	2,110

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	16,597	18,477	0	0	16,597	18,477
Utilities:						
Alaskan	16	18	0	0	16	18
Central	1,233	1,373	0	0	1,233	1,373
Eastern	1,725	1,921	0	0	1,725	1,921
Pacific	7	7	0	0	7	7
Southern	1,477	1,644	0	0	1,477	1,644
Western	683	760	0	0	683	760
Subtotal	5,141	5,723	0	0	5,141	5,723
Warehousing:						
Alaskan	3	3	0	0	3	3
Central	1,489	1,658	0	0	1,489	1,658
Eastern	2,181	2,428	0	0	2,181	2,428
Pacific	9	10	0	0	9	10
Southern	1,846	2,055	0	0	1,846	2,055
Western	1,211	1,348	0	0	1,211	1,348
Subtotal	6,738	7,502	0	0	6,738	7,502
Non-Core:						
Alaskan	837	932	0	0	837	932
Central	68,086	75,798	0	0	68,086	75,798
Eastern	112,634	125,392	0	0	112,634	125,392
Pacific	1,673	1,862	0	0	1,673	1,862
Southern	62,705	69,807	0	0	62,705	69,807
Western	61,070	67,987	0	0	61,070	67,987
Subtotal	307,005	341,778	0	0	307,005	341,778
Total Costs for Coolers with Spigot:						
Alaskan	1,676	1,866	0	0	1,676	1,866
Central	154,543	172,047	0	0	154,543	172,047
Eastern	222,731	247,959	0	0	222,731	247,959
Pacific	3,453	3,844	0	0	3,453	3,844
Southern	213,294	237,453	0	0	213,294	237,453
Western	143,251	159,476	0	0	143,251	159,476
Total	738,948	822,646	0	0	738,948	822,646
Reusable Water Bottle						
Agriculture, Forestry, and Fishing:						
Alaskan	4	5	0	0	4	5
Central	537	598	0	0	537	598
Eastern	382	425	0	0	382	425
Pacific	4	4	0	0	4	4
Southern	573	637	0	0	573	637
Western	132	147	0	0	132	147
Subtotal	1,632	1,817	0	0	1,632	1,817
Building Materials and Equipment Suppliers:						
Alaskan	7	7	0	0	7	7
Central	624	695	0	0	624	695
Eastern	775	863	0	0	775	863
Pacific	12	13	0	0	12	13
Southern	725	807	0	0	725	807
Western	442	492	0	0	442	492
Subtotal	2,584	2,877	0	0	2,584	2,877
Commercial Kitchens:						
Alaskan	37	41	0	0	37	41
Central	4,363	4,858	0	0	4,363	4,858
Eastern	6,494	7,229	0	0	6,494	7,229
Pacific	141	156	0	0	141	156
Southern	5,829	6,489	0	0	5,829	6,489
Western	3,642	4,054	0	0	3,642	4,054
Subtotal	20,505	22,828	0	0	20,505	22,828
Construction:						
Alaskan	69	77	0	0	69	77
Central	5,120	5,700	0	0	5,120	5,700
Eastern	7,463	8,309	0	0	7,463	8,309
Pacific	147	164	0	0	147	164
Southern	19,435	21,636	0	0	19,435	21,636
Western	5,487	6,109	0	0	5,487	6,109
Subtotal	37,723	41,996	0	0	37,723	41,996
Drycleaning and Commercial Laundries:						
Alaskan	1	1	0	0	1	1
Central	82	91	0	0	82	91

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Eastern	150	167	0	0	150	167
Pacific	3	4	0	0	3	4
Southern	118	132	0	0	118	132
Western	73	82	0	0	73	82
Subtotal	427	476	0	0	427	476
Landscaping and Facilities Support:						
Alaskan	26	28	0	0	26	28
Central	1,615	1,798	0	0	1,615	1,798
Eastern	2,615	2,911	0	0	2,615	2,911
Pacific	51	56	0	0	51	56
Southern	2,166	2,411	0	0	2,166	2,411
Western	6,020	6,702	0	0	6,020	6,702
Subtotal	12,492	13,907	0	0	12,492	13,907
Maintenance and Repair:						
Alaskan	8	8	0	0	8	8
Central	846	941	0	0	846	941
Eastern	1,092	1,216	0	0	1,092	1,216
Pacific	13	15	0	0	13	15
Southern	1,017	1,133	0	0	1,017	1,133
Western	634	705	0	0	634	705
Subtotal	3,610	4,019	0	0	3,610	4,019
Manufacturing:						
Alaskan	21	23	0	0	21	23
Central	6,782	7,550	0	0	6,782	7,550
Eastern	6,278	6,989	0	0	6,278	6,989
Pacific	19	21	0	0	19	21
Southern	5,027	5,597	0	0	5,027	5,597
Western	3,256	3,624	0	0	3,256	3,624
Subtotal	21,383	23,805	0	0	21,383	23,805
Oil and Gas:						
Alaskan	22	25	0	0	22	25
Central	163	182	0	0	163	182
Eastern	107	119	0	0	107	119
Southern	1,023	1,139	0	0	1,023	1,139
Western	214	238	0	0	214	238
Subtotal	1,530	1,703	0	0	1,530	1,703
Postal and Delivery Services:						
Alaskan	2	2	0	0	2	2
Central	287	320	0	0	287	320
Eastern	459	511	0	0	459	511
Pacific	5	5	0	0	5	5
Southern	326	363	0	0	326	363
Western	229	255	0	0	229	255
Subtotal	1,307	1,455	0	0	1,307	1,455
Recreation and Amusement:						
Alaskan	7	8	0	0	7	8
Central	696	774	0	0	696	774
Eastern	1,159	1,290	0	0	1,159	1,290
Pacific	15	17	0	0	15	17
Southern	908	1,010	0	0	908	1,010
Western	683	760	0	0	683	760
Subtotal	3,467	3,859	0	0	3,467	3,859
Sanitation and Waste Removal:						
Alaskan	4	5	0	0	4	5
Central	126	140	0	0	126	140
Eastern	213	238	0	0	213	238
Pacific	4	4	0	0	4	4
Southern	170	189	0	0	170	189
Western	102	114	0	0	102	114
Subtotal	620	690	0	0	620	690
Telecommunications:						
Alaskan	4	4	0	0	4	4
Central	189	210	0	0	189	210
Eastern	287	320	0	0	287	320
Pacific	3	4	0	0	3	4
Southern	261	290	0	0	261	290
Western	134	149	0	0	134	149
Subtotal	878	977	0	0	878	977
Temporary Help Services:						
Alaskan	2	2	0	0	2	2

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Central	2,010	2,237	0	0	2,010	2,237
Eastern	2,568	2,859	0	0	2,568	2,859
Pacific	60	67	0	0	60	67
Southern	4,158	4,629	0	0	4,158	4,629
Western	2,081	2,317	0	0	2,081	2,317
Subtotal	10,880	12,112	0	0	10,880	12,112
Transportation:						
Alaskan	29	33	0	0	29	33
Central	1,263	1,407	0	0	1,263	1,407
Eastern	1,288	1,434	0	0	1,288	1,434
Pacific	43	48	0	0	43	48
Southern	1,714	1,908	0	0	1,714	1,908
Western	559	622	0	0	559	622
Subtotal	4,897	5,451	0	0	4,897	5,451
Utilities:						
Alaskan	5	5	0	0	5	5
Central	364	405	0	0	364	405
Eastern	509	567	0	0	509	567
Pacific	2	2	0	0	2	2
Southern	436	485	0	0	436	485
Western	202	224	0	0	202	224
Subtotal	1,517	1,689	0	0	1,517	1,689
Warehousing:						
Alaskan	1	1	0	0	1	1
Central	439	489	0	0	439	489
Eastern	643	716	0	0	643	716
Pacific	3	3	0	0	3	3
Southern	545	606	0	0	545	606
Western	357	398	0	0	357	398
Subtotal	1,988	2,213	0	0	1,988	2,213
Non-Core:						
Alaskan	247	275	0	0	247	275
Central	20,088	22,363	0	0	20,088	22,363
Eastern	33,231	36,995	0	0	33,231	36,995
Pacific	494	549	0	0	494	549
Southern	18,500	20,596	0	0	18,500	20,596
Western	18,018	20,059	0	0	18,018	20,059
Subtotal	90,578	100,837	0	0	90,578	100,837
Total Costs for Reusable Water Bottle:						
Alaskan	494	550	0	0	494	550
Central	45,596	50,760	0	0	45,596	50,760
Eastern	65,714	73,157	0	0	65,714	73,157
Pacific	1,019	1,134	0	0	1,019	1,134
Southern	62,930	70,057	0	0	62,930	70,057
Western	42,264	47,051	0	0	42,264	47,051
Total	218,017	242,711	0	0	218,017	242,711
Outdoor Break Area Engineering Control						
Agriculture, Forestry, and Fishing:						
Alaskan	2,139	2,381	0	0	2,139	2,381
Central	148,614	165,447	0	0	148,614	165,447
Eastern	82,148	91,452	0	0	82,148	91,452
Pacific	1,094	1,218	0	0	1,094	1,218
Southern	141,834	157,899	0	0	141,834	157,899
Western	34,464	38,367	0	0	34,464	38,367
Subtotal	410,292	456,764	0	0	410,292	456,764
Building Materials and Equipment Suppliers:						
Alaskan	113	126	0	0	113	126
Central	8,748	9,738	0	0	8,748	9,738
Eastern	12,576	14,001	0	0	12,576	14,001
Pacific	209	233	0	0	209	233
Southern	11,796	13,133	0	0	11,796	13,133
Western	7,958	8,859	0	0	7,958	8,859
Subtotal	41,401	46,090	0	0	41,401	46,090
Commercial Kitchens:						
Alaskan	319	355	0	0	319	355
Central	24,910	27,731	0	0	24,910	27,731
Eastern	39,778	44,284	0	0	39,778	44,284
Pacific	766	853	0	0	766	853
Southern	28,473	31,698	0	0	28,473	31,698

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	22,781	25,361	0	0	22,781	25,361
Subtotal	117,026	130,281	0	0	117,026	130,281
Construction:						
Alaskan	4,131	4,599	0	0	4,131	4,599
Central	265,524	295,599	0	0	265,524	295,599
Eastern	385,284	428,923	0	0	385,284	428,923
Pacific	5,698	6,343	0	0	5,698	6,343
Southern	278,496	310,040	0	0	278,496	310,040
Western	116,376	129,557	0	0	116,376	129,557
Subtotal	1,055,509	1,175,062	0	0	1,055,509	1,175,062
Drycleaning and Commercial Laundries:						
Alaskan	28	31	0	0	28	31
Central	3,440	3,830	0	0	3,440	3,830
Eastern	8,838	9,839	0	0	8,838	9,839
Pacific	70	77	0	0	70	77
Southern	5,216	5,806	0	0	5,216	5,806
Western	3,579	3,984	0	0	3,579	3,984
Subtotal	21,170	23,567	0	0	21,170	23,567
Landscaping and Facilities Support:						
Alaskan	500	556	0	0	500	556
Central	53,460	59,515	0	0	53,460	59,515
Eastern	86,844	96,680	0	0	86,844	96,680
Pacific	1,227	1,366	0	0	1,227	1,366
Southern	60,819	67,707	0	0	60,819	67,707
Western	49,560	55,173	0	0	49,560	55,173
Subtotal	252,409	280,998	0	0	252,409	280,998
Maintenance and Repair:						
Alaskan	553	616	0	0	553	616
Central	56,502	62,902	0	0	56,502	62,902
Eastern	75,259	83,783	0	0	75,259	83,783
Pacific	903	1,005	0	0	903	1,005
Southern	60,866	67,760	0	0	60,866	67,760
Western	44,596	49,647	0	0	44,596	49,647
Subtotal	238,677	265,711	0	0	238,677	265,711
Manufacturing:						
Alaskan	109	121	0	0	109	121
Central	13,706	15,258	0	0	13,706	15,258
Eastern	16,157	17,987	0	0	16,157	17,987
Pacific	138	153	0	0	138	153
Southern	12,473	13,886	0	0	12,473	13,886
Western	10,469	11,655	0	0	10,469	11,655
Subtotal	53,053	59,062	0	0	53,053	59,062
Oil and Gas:						
Alaskan	371	413	0	0	371	413
Central	14,887	16,573	0	0	14,887	16,573
Eastern	7,969	8,871	0	0	7,969	8,871
Southern	54,268	60,415	0	0	54,268	60,415
Western	7,404	8,243	0	0	7,404	8,243
Subtotal	84,899	94,515	0	0	84,899	94,515
Postal and Delivery Services:						
Alaskan	660	735	0	0	660	735
Central	28,109	31,293	0	0	28,109	31,293
Eastern	35,229	39,219	0	0	35,229	39,219
Pacific	367	409	0	0	367	409
Southern	25,444	28,325	0	0	25,444	28,325
Western	14,637	16,294	0	0	14,637	16,294
Subtotal	104,446	116,276	0	0	104,446	116,276
Recreation and Amusement:						
Alaskan	911	1,014	0	0	911	1,014
Central	35,982	40,057	0	0	35,982	40,057
Eastern	53,826	59,922	0	0	53,826	59,922
Pacific	666	741	0	0	666	741
Southern	35,056	39,027	0	0	35,056	39,027
Western	27,649	30,780	0	0	27,649	30,780
Subtotal	154,089	171,542	0	0	154,089	171,542
Sanitation and Waste Removal:						
Alaskan	75	83	0	0	75	83
Central	2,469	2,749	0	0	2,469	2,749
Eastern	3,594	4,001	0	0	3,594	4,001
Pacific	56	62	0	0	56	62

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Southern	2,609	2,905	0	0	2,609	2,905
Western	1,605	1,787	0	0	1,605	1,787
Subtotal	10,408	11,587	0	0	10,408	11,587
Telecommunications:						
Alaskan	96	107	0	0	96	107
Central	5,824	6,483	0	0	5,824	6,483
Eastern	7,971	8,874	0	0	7,971	8,874
Pacific	87	97	0	0	87	97
Southern	7,002	7,795	0	0	7,002	7,795
Western	4,503	5,013	0	0	4,503	5,013
Subtotal	25,482	28,368	0	0	25,482	28,368
Temporary Help Services:						
Alaskan	16	18	0	0	16	18
Central	3,116	3,469	0	0	3,116	3,469
Eastern	4,390	4,888	0	0	4,390	4,888
Pacific	42	47	0	0	42	47
Southern	3,728	4,150	0	0	3,728	4,150
Western	2,499	2,782	0	0	2,499	2,782
Subtotal	13,791	15,353	0	0	13,791	15,353
Transportation:						
Alaskan	2,163	2,408	0	0	2,163	2,408
Central	130,909	145,737	0	0	130,909	145,737
Eastern	116,569	129,772	0	0	116,569	129,772
Pacific	1,448	1,612	0	0	1,448	1,612
Southern	118,579	132,010	0	0	118,579	132,010
Western	40,067	44,605	0	0	40,067	44,605
Subtotal	409,735	456,144	0	0	409,735	456,144
Utilities:						
Alaskan	333	370	0	0	333	370
Central	14,246	15,860	0	0	14,246	15,860
Eastern	17,850	19,872	0	0	17,850	19,872
Pacific	121	135	0	0	121	135
Southern	19,989	22,253	0	0	19,989	22,253
Western	9,235	10,281	0	0	9,235	10,281
Subtotal	61,775	68,772	0	0	61,775	68,772
Warehousing:						
Alaskan	37	41	0	0	37	41
Central	5,364	5,971	0	0	5,364	5,971
Eastern	6,782	7,550	0	0	6,782	7,550
Pacific	86	96	0	0	86	96
Southern	6,658	7,412	0	0	6,658	7,412
Western	4,713	5,247	0	0	4,713	5,247
Subtotal	23,639	26,317	0	0	23,639	26,317
Non-Core:						
Alaskan	10,666	11,875	0	0	10,666	11,875
Central	771,392	858,764	0	0	771,392	858,764
Eastern	1,203,522	1,339,839	0	0	1,203,522	1,339,839
Pacific	19,907	22,161	0	0	19,907	22,161
Southern	938,300	1,044,577	0	0	938,300	1,044,577
Western	697,582	776,594	0	0	697,582	776,594
Subtotal	3,641,370	4,053,811	0	0	3,641,370	4,053,811
Total Costs for Outdoor Break Area Engineering Control:						
Alaskan	23,219	25,849	0	0	23,219	25,849
Central	1,587,201	1,766,975	0	0	1,587,201	1,766,975
Eastern	2,164,586	2,409,758	0	0	2,164,586	2,409,758
Pacific	32,884	36,608	0	0	32,884	36,608
Southern	1,811,607	2,016,799	0	0	1,811,607	2,016,799
Western	1,099,676	1,224,231	0	0	1,099,676	1,224,231
Total	6,719,171	7,480,220	0	0	6,719,171	7,480,220
Air Movement						
Agriculture, Forestry, and Fishing:						
Alaskan	329	366	0	0	329	366
Central	108,158	120,408	0	0	108,158	120,408
Eastern	60,978	67,885	0	0	60,978	67,885
Pacific	639	711	0	0	639	711
Southern	90,405	100,644	0	0	90,405	100,644
Western	154,877	172,419	0	0	154,877	172,419

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	415,385	462,433	0	0	415,385	462,433
Building Materials and Equipment Suppliers:						
Alaskan	1,021	1,137	0	0	1,021	1,137
Central	95,087	105,857	0	0	95,087	105,857
Eastern	117,705	131,037	0	0	117,705	131,037
Pacific	1,817	2,022	0	0	1,817	2,022
Southern	108,302	120,569	0	0	108,302	120,569
Western	76,760	85,455	0	0	76,760	85,455
Subtotal	400,693	446,078	0	0	400,693	446,078
Commercial Kitchens:						
Alaskan	7,767	8,647	0	0	7,767	8,647
Central	920,349	1,024,593	0	0	920,349	1,024,593
Eastern	1,369,741	1,524,885	0	0	1,369,741	1,524,885
Pacific	29,672	33,033	0	0	29,672	33,033
Southern	1,231,959	1,371,497	0	0	1,231,959	1,371,497
Western	855,252	952,122	0	0	855,252	952,122
Subtotal	4,414,740	4,914,777	0	0	4,414,740	4,914,777
Construction:						
Alaskan	6,033	6,716	0	0	6,033	6,716
Central	434,847	484,100	0	0	434,847	484,100
Eastern	636,158	708,213	0	0	636,158	708,213
Pacific	12,280	13,670	0	0	12,280	13,670
Southern	613,504	682,993	0	0	613,504	682,993
Western	440,836	490,768	0	0	440,836	490,768
Subtotal	2,143,659	2,386,461	0	0	2,143,659	2,386,461
Drycleaning and Commercial Laundries:						
Alaskan	120	133	0	0	120	133
Central	14,557	16,206	0	0	14,557	16,206
Eastern	26,699	29,723	0	0	26,699	29,723
Pacific	581	647	0	0	581	647
Southern	21,042	23,425	0	0	21,042	23,425
Western	14,307	15,927	0	0	14,307	15,927
Subtotal	77,306	86,062	0	0	77,306	86,062
Landscaping and Facilities Support:						
Alaskan	2,383	2,653	0	0	2,383	2,653
Central	125,165	139,342	0	0	125,165	139,342
Eastern	202,660	225,615	0	0	202,660	225,615
Pacific	3,766	4,193	0	0	3,766	4,193
Southern	168,079	187,117	0	0	168,079	187,117
Western	113,917	126,820	0	0	113,917	126,820
Subtotal	615,970	685,738	0	0	615,970	685,738
Maintenance and Repair:						
Alaskan	1,009	1,124	0	0	1,009	1,124
Central	112,682	125,445	0	0	112,682	125,445
Eastern	145,140	161,579	0	0	145,140	161,579
Pacific	1,762	1,961	0	0	1,762	1,961
Southern	136,568	152,036	0	0	136,568	152,036
Western	94,222	104,894	0	0	94,222	104,894
Subtotal	491,382	547,039	0	0	491,382	547,039
Manufacturing:						
Alaskan	3,604	4,012	0	0	3,604	4,012
Central	1,299,063	1,446,201	0	0	1,299,063	1,446,201
Eastern	1,193,136	1,328,277	0	0	1,193,136	1,328,277
Pacific	3,459	3,851	0	0	3,459	3,851
Southern	941,420	1,048,050	0	0	941,420	1,048,050
Western	556,173	619,168	0	0	556,173	619,168
Subtotal	3,996,855	4,449,560	0	0	3,996,855	4,449,560
Oil and Gas:						
Alaskan	1,954	2,175	0	0	1,954	2,175
Central	14,641	16,299	0	0	14,641	16,299
Eastern	9,558	10,641	0	0	9,558	10,641
Southern	90,159	100,371	0	0	90,159	100,371
Western	9,362	10,422	0	0	9,362	10,422
Subtotal	125,674	139,908	0	0	125,674	139,908
Postal and Delivery Services:						
Alaskan	195	217	0	0	195	217
Central	38,356	42,701	0	0	38,356	42,701
Eastern	61,466	68,428	0	0	61,466	68,428
Pacific	601	670	0	0	601	670
Southern	43,628	48,570	0	0	43,628	48,570
Western	34,742	38,677	0	0	34,742	38,677

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	178,989	199,262	0	0	178,989	199,262
Recreation and Amusement:						
Alaskan	711	792	0	0	711	792
Central	72,605	80,828	0	0	72,605	80,828
Eastern	120,964	134,665	0	0	120,964	134,665
Pacific	1,579	1,757	0	0	1,579	1,757
Southern	94,989	105,748	0	0	94,989	105,748
Western	80,440	89,551	0	0	80,440	89,551
Subtotal	371,287	413,341	0	0	371,287	413,341
Sanitation and Waste Removal:						
Alaskan	402	448	0	0	402	448
Central	14,210	15,819	0	0	14,210	15,819
Eastern	23,287	25,925	0	0	23,287	25,925
Pacific	405	451	0	0	405	451
Southern	18,720	20,840	0	0	18,720	20,840
Western	13,505	15,035	0	0	13,505	15,035
Subtotal	70,529	78,518	0	0	70,529	78,518
Telecommunications:						
Alaskan	484	539	0	0	484	539
Central	25,066	27,905	0	0	25,066	27,905
Eastern	38,069	42,381	0	0	38,069	42,381
Pacific	454	505	0	0	454	505
Southern	34,579	38,496	0	0	34,579	38,496
Western	21,013	23,393	0	0	21,013	23,393
Subtotal	119,665	133,218	0	0	119,665	133,218
Temporary Help Services:						
Alaskan	339	377	0	0	339	377
Central	318,045	354,068	0	0	318,045	354,068
Eastern	406,486	452,527	0	0	406,486	452,527
Pacific	9,548	10,629	0	0	9,548	10,629
Southern	658,041	732,574	0	0	658,041	732,574
Western	343,674	382,600	0	0	343,674	382,600
Subtotal	1,736,132	1,932,776	0	0	1,736,132	1,932,776
Transportation:						
Alaskan	2,987	3,325	0	0	2,987	3,325
Central	134,943	150,227	0	0	134,943	150,227
Eastern	138,796	154,516	0	0	138,796	154,516
Pacific	4,572	5,089	0	0	4,572	5,089
Southern	183,350	204,117	0	0	183,350	204,117
Western	101,601	113,109	0	0	101,601	113,109
Subtotal	566,248	630,384	0	0	566,248	630,384
Utilities:						
Alaskan	499	556	0	0	499	556
Central	37,661	41,927	0	0	37,661	41,927
Eastern	52,688	58,655	0	0	52,688	58,655
Pacific	206	229	0	0	206	229
Southern	45,122	50,233	0	0	45,122	50,233
Western	22,843	25,430	0	0	22,843	25,430
Subtotal	159,019	177,031	0	0	159,019	177,031
Warehousing:						
Alaskan	125	139	0	0	125	139
Central	73,616	81,954	0	0	73,616	81,954
Eastern	107,817	120,029	0	0	107,817	120,029
Pacific	446	497	0	0	446	497
Southern	91,232	101,565	0	0	91,232	101,565
Western	65,675	73,114	0	0	65,675	73,114
Subtotal	338,911	377,297	0	0	338,911	377,297
Non-Core:						
Alaskan	53,752	59,840	0	0	53,752	59,840
Central	4,747,729	5,285,482	0	0	4,747,729	5,285,482
Eastern	7,725,828	8,600,896	0	0	7,725,828	8,600,896
Pacific	112,841	125,622	0	0	112,841	125,622
Southern	4,614,342	5,136,987	0	0	4,614,342	5,136,987
Western	4,639,061	5,164,506	0	0	4,639,061	5,164,506
Subtotal	21,893,554	24,373,334	0	0	21,893,554	24,373,334
Total Costs for Air Movement:						
Alaskan	83,713	93,195	0	0	83,713	93,195
Central	8,586,779	9,559,363	0	0	8,586,779	9,559,363
Eastern	12,437,176	13,845,877	0	0	12,437,176	13,845,877
Pacific	184,628	205,540	0	0	184,628	205,540
Southern	9,185,441	10,225,833	0	0	9,185,441	10,225,833

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	7,638,260	8,503,410	0	0	7,638,260	8,503,410
Total	38,115,998	42,433,217	0	0	38,115,998	42,433,217
Humidity Control						
Agriculture, Forestry, and Fishing:						
Alaskan	95	106	0	0	95	106
Central	31,400	34,957	0	0	31,400	34,957
Eastern	17,703	19,708	0	0	17,703	19,708
Pacific	185	206	0	0	185	206
Southern	25,671	28,578	0	0	25,671	28,578
Western	42,556	47,376	0	0	42,556	47,376
Subtotal	117,611	130,932	0	0	117,611	130,932
Building Materials and Equipment Suppliers:						
Alaskan	297	330	0	0	297	330
Central	27,606	30,732	0	0	27,606	30,732
Eastern	34,172	38,042	0	0	34,172	38,042
Pacific	527	587	0	0	527	587
Southern	30,778	34,264	0	0	30,778	34,264
Western	18,585	20,690	0	0	18,585	20,690
Subtotal	111,964	124,646	0	0	111,964	124,646
Commercial Kitchens:						
Alaskan	2,255	2,510	0	0	2,255	2,510
Central	267,194	297,458	0	0	267,194	297,458
Eastern	397,660	442,701	0	0	397,660	442,701
Pacific	8,614	9,590	0	0	8,614	9,590
Southern	349,840	389,465	0	0	349,840	389,465
Western	198,024	220,453	0	0	198,024	220,453
Subtotal	1,223,587	1,362,177	0	0	1,223,587	1,362,177
Construction:						
Alaskan	1,751	1,950	0	0	1,751	1,950
Central	126,244	140,543	0	0	126,244	140,543
Eastern	184,688	205,607	0	0	184,688	205,607
Pacific	3,565	3,969	0	0	3,565	3,969
Southern	174,434	194,191	0	0	174,434	194,191
Western	99,311	110,559	0	0	99,311	110,559
Subtotal	589,993	656,819	0	0	589,993	656,819
Drycleaning and Commercial Laundries:						
Alaskan	35	39	0	0	35	39
Central	4,226	4,705	0	0	4,226	4,705
Eastern	7,751	8,629	0	0	7,751	8,629
Pacific	169	188	0	0	169	188
Southern	5,975	6,651	0	0	5,975	6,651
Western	3,210	3,573	0	0	3,210	3,573
Subtotal	21,365	23,785	0	0	21,365	23,785
Landscaping and Facilities Support:						
Alaskan	692	770	0	0	692	770
Central	36,338	40,453	0	0	36,338	40,453
Eastern	58,836	65,500	0	0	58,836	65,500
Pacific	1,093	1,217	0	0	1,093	1,217
Southern	48,013	53,451	0	0	48,013	53,451
Western	25,082	27,923	0	0	25,082	27,923
Subtotal	170,054	189,315	0	0	170,054	189,315
Maintenance and Repair:						
Alaskan	293	326	0	0	293	326
Central	32,714	36,419	0	0	32,714	36,419
Eastern	42,137	46,909	0	0	42,137	46,909
Pacific	511	569	0	0	511	569
Southern	38,727	43,113	0	0	38,727	43,113
Western	21,788	24,255	0	0	21,788	24,255
Subtotal	136,169	151,592	0	0	136,169	151,592
Manufacturing:						
Alaskan	1,046	1,165	0	0	1,046	1,165
Central	377,141	419,858	0	0	377,141	419,858
Eastern	346,389	385,622	0	0	346,389	385,622
Pacific	1,004	1,118	0	0	1,004	1,118
Southern	271,764	302,545	0	0	271,764	302,545
Western	136,507	151,968	0	0	136,507	151,968
Subtotal	1,133,851	1,262,277	0	0	1,133,851	1,262,

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Alaskan	567	631	0	0	567	631
Central	4,250	4,732	0	0	4,250	4,732
Eastern	2,775	3,089	0	0	2,775	3,089
Southern	24,984	27,813	0	0	24,984	27,813
Western	2,148	2,392	0	0	2,148	2,392
Subtotal	34,724	38,657	0	0	34,724	38,657
Postal and Delivery Services:						
Alaskan	56	63	0	0	56	63
Central	11,136	12,397	0	0	11,136	12,397
Eastern	17,845	19,866	0	0	17,845	19,866
Pacific	175	194	0	0	175	194
Southern	12,429	13,836	0	0	12,429	13,836
Western	8,172	9,097	0	0	8,172	9,097
Subtotal	49,812	55,453	0	0	49,812	55,453
Recreation and Amusement:						
Alaskan	207	230	0	0	207	230
Central	21,078	23,466	0	0	21,078	23,466
Eastern	35,118	39,096	0	0	35,118	39,096
Pacific	458	510	0	0	458	510
Southern	27,043	30,106	0	0	27,043	30,106
Western	19,011	21,164	0	0	19,011	21,164
Subtotal	102,915	114,572	0	0	102,915	114,572
Sanitation and Waste Removal:						
Alaskan	117	130	0	0	117	130
Central	4,125	4,593	0	0	4,125	4,593
Eastern	6,761	7,527	0	0	6,761	7,527
Pacific	118	131	0	0	118	131
Southern	5,329	5,933	0	0	5,329	5,933
Western	3,191	3,553	0	0	3,191	3,553
Subtotal	19,641	21,866	0	0	19,641	21,866
Telecommunications:						
Alaskan	141	157	0	0	141	157
Central	7,277	8,101	0	0	7,277	8,101
Eastern	11,052	12,304	0	0	11,052	12,304
Pacific	132	147	0	0	132	147
Southern	9,825	10,938	0	0	9,825	10,938
Western	4,802	5,346	0	0	4,802	5,346
Subtotal	33,228	36,991	0	0	33,228	36,991
Temporary Help Services:						
Alaskan	98	110	0	0	98	110
Central	92,334	102,792	0	0	92,334	102,792
Eastern	118,010	131,377	0	0	118,010	131,377
Pacific	2,772	3,086	0	0	2,772	3,086
Southern	190,450	212,021	0	0	190,450	212,021
Western	78,264	87,129	0	0	78,264	87,129
Subtotal	481,928	536,514	0	0	481,928	536,514
Transportation:						
Alaskan	867	965	0	0	867	965
Central	39,176	43,614	0	0	39,176	43,614
Eastern	40,295	44,859	0	0	40,295	44,859
Pacific	1,327	1,478	0	0	1,327	1,478
Southern	52,599	58,556	0	0	52,599	58,556
Western	22,771	25,350	0	0	22,771	25,350
Subtotal	157,035	174,822	0	0	157,035	174,822
Utilities:						
Alaskan	145	161	0	0	145	161
Central	10,934	12,172	0	0	10,934	12,172
Eastern	15,296	17,029	0	0	15,296	17,029
Pacific	60	67	0	0	60	67
Southern	12,788	14,236	0	0	12,788	14,236
Western	5,328	5,931	0	0	5,328	5,931
Subtotal	44,550	49,596	0	0	44,550	49,596
Warehousing:						
Alaskan	36	40	0	0	36	40
Central	21,372	23,793	0	0	21,372	23,793
Eastern	31,301	34,846	0	0	31,301	34,846
Pacific	130	144	0	0	130	144
Southern	26,358	29,343	0	0	26,358	29,343
Western	15,033	16,735	0	0	15,033	16,735
Subtotal	94,230	104,902	0	0	94,230	104,902

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Non-Core:						
Alaskan	15,605	17,373	0	0	15,605	17,373
Central	1,378,350	1,534,470	0	0	1,378,350	1,534,470
Eastern	2,242,945	2,496,993	0	0	2,242,945	2,496,993
Pacific	32,760	36,470	0	0	32,760	36,470
Southern	1,298,373	1,445,433	0	0	1,298,373	1,445,433
Western	1,074,393	1,196,084	0	0	1,074,393	1,196,084
Subtotal	6,042,426	6,726,823	0	0	6,042,426	6,726,823
Total Costs for Humidity Control:						
Alaskan	24,304	27,056	0	0	24,304	27,056
Central	2,492,895	2,775,253	0	0	2,492,895	2,775,253
Eastern	3,610,734	4,019,704	0	0	3,610,734	4,019,704
Pacific	53,601	59,672	0	0	53,601	59,672
Southern	2,605,377	2,900,476	0	0	2,605,377	2,900,476
Western	1,778,174	1,979,579	0	0	1,778,174	1,979,579
Total	10,565,084	11,761,741	0	0	10,565,084	11,761,741
New Employee Acclimatization—Designated Person						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	0	0	0	0
Central	0	0	22,683	0	22,683	22,683
Eastern	0	0	14,046	0	14,046	14,046
Pacific	0	0	658	0	658	658
Southern	0	0	34,594	0	34,594	34,594
Western	0	0	10,637	0	10,637	10,637
Subtotal	0	0	82,618	0	82,618	82,618
Building Materials and Equipment Suppliers:						
Alaskan	0	0	0	0	0	0
Central	0	0	8,839	0	8,839	8,839
Eastern	0	0	10,086	0	10,086	10,086
Pacific	0	0	756	0	756	756
Southern	0	0	17,336	0	17,336	17,336
Western	0	0	7,440	0	7,440	7,440
Subtotal	0	0	44,458	0	44,458	44,458
Commercial Kitchens:						
Alaskan	0	0	0	0	0	0
Central	0	0	66,528	0	66,528	66,528
Eastern	0	0	93,907	0	93,907	93,907
Pacific	0	0	9,308	0	9,308	9,308
Southern	0	0	159,557	0	159,557	159,557
Western	0	0	66,267	0	66,267	66,267
Subtotal	0	0	395,566	0	395,566	395,566
Construction:						
Alaskan	0	0	0	0	0	0
Central	0	0	129,541	0	129,541	129,541
Eastern	0	0	177,518	0	177,518	177,518
Pacific	0	0	16,312	0	16,312	16,312
Southern	0	0	294,027	0	294,027	294,027
Western	0	0	66,918	0	66,918	66,918
Subtotal	0	0	684,317	0	684,317	684,317
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,288	0	1,288	1,288
Eastern	0	0	2,184	0	2,184	2,184
Pacific	0	0	228	0	228	228
Southern	0	0	3,057	0	3,057	3,057
Western	0	0	1,351	0	1,351	1,351
Subtotal	0	0	8,108	0	8,108	8,108
Landscaping and Facilities Support:						
Alaskan	0	0	0	0	0	0
Central	0	0	23,521	0	23,521	23,521
Eastern	0	0	35,839	0	35,839	35,839
Pacific	0	0	3,250	0	3,250	3,250
Southern	0	0	52,232	0	52,232	52,232
Western	0	0	28,306	0	28,306	28,306
Subtotal	0	0	143,148	0	143,148	143,148
Maintenance and Repair:						
Alaskan	0	0	0	0	0	0
Central	0	0	13,304	0	13,304	13,304
Eastern	0	0	16,305	0	16,305	16,305

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	931	0	931	931
Southern	0	0	26,401	0	26,401	26,401
Western	0	0	11,705	0	11,705	11,705
Subtotal	0	0	68,645	0	68,645	68,645
Manufacturing:						
Alaskan	0	0	0	0	0	0
Central	0	0	96,792	0	96,792	96,792
Eastern	0	0	91,190	0	91,190	91,190
Pacific	0	0	1,258	0	1,258	1,258
Southern	0	0	117,159	0	117,159	117,159
Western	0	0	44,603	0	44,603	44,603
Subtotal	0	0	351,003	0	351,003	351,003
Oil and Gas:						
Alaskan	0	0	0	0	0	0
Central	0	0	4,390	0	4,390	4,390
Eastern	0	0	2,615	0	2,615	2,615
Southern	0	0	40,324	0	40,324	40,324
Western	0	0	2,640	0	2,640	2,640
Subtotal	0	0	49,968	0	49,968	49,968
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	5,530	0	5,530	5,530
Eastern	0	0	8,245	0	8,245	8,245
Pacific	0	0	390	0	390	390
Southern	0	0	10,789	0	10,789	10,789
Western	0	0	5,187	0	5,187	5,187
Subtotal	0	0	30,140	0	30,140	30,140
Recreation and Amusement:						
Alaskan	0	0	0	0	0	0
Central	0	0	15,389	0	15,389	15,389
Eastern	0	0	24,238	0	24,238	24,238
Pacific	0	0	1,474	0	1,474	1,474
Southern	0	0	39,175	0	39,175	39,175
Western	0	0	18,246	0	18,246	18,246
Subtotal	0	0	98,522	0	98,522	98,522
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,782	0	1,782	1,782
Eastern	0	0	2,781	0	2,781	2,781
Pacific	0	0	237	0	237	237
Southern	0	0	3,921	0	3,921	3,921
Western	0	0	1,742	0	1,742	1,742
Subtotal	0	0	10,462	0	10,462	10,462
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	3,528	0	3,528	3,528
Eastern	0	0	4,889	0	4,889	4,889
Pacific	0	0	274	0	274	274
Southern	0	0	7,485	0	7,485	7,485
Western	0	0	2,908	0	2,908	2,908
Subtotal	0	0	19,083	0	19,083	19,083
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	28,772	0	28,772	28,772
Eastern	0	0	35,627	0	35,627	35,627
Pacific	0	0	3,810	0	3,810	3,810
Southern	0	0	107,950	0	107,950	107,950
Western	0	0	33,490	0	33,490	33,490
Subtotal	0	0	209,649	0	209,649	209,649
Transportation:						
Alaskan	0	0	0	0	0	0
Central	0	0	24,480	0	24,480	24,480
Eastern	0	0	23,617	0	23,617	23,617
Pacific	0	0	3,687	0	3,687	3,687
Southern	0	0	55,722	0	55,722	55,722
Western	0	0	13,832	0	13,832	13,832
Subtotal	0	0	121,339	0	121,339	121,339
Utilities:						
Alaskan	0	0	0	0	0	0
Central	0	0	9,201	0	9,201	9,201

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Eastern	0	0	12,379	0	12,379	12,379
Pacific	0	0	229	0	229	229
Southern	0	0	18,581	0	18,581	18,581
Western	0	0	6,092	0	6,092	6,092
Subtotal	0	0	46,483	0	46,483	46,483
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	8,709	0	8,709	8,709
Eastern	0	0	12,191	0	12,191	12,191
Pacific	0	0	227	0	227	227
Southern	0	0	16,982	0	16,982	16,982
Western	0	0	8,107	0	8,107	8,107
Subtotal	0	0	46,217	0	46,217	46,217
Non-Core:						
Alaskan	0	0	2	0	2	2
Central	0	0	525,443	0	525,443	525,443
Eastern	0	0	818,290	0	818,290	818,290
Pacific	0	0	56,311	0	56,311	56,311
Southern	0	0	902,582	0	902,582	902,582
Western	0	0	549,837	0	549,837	549,837
Subtotal	0	0	2,852,465	0	2,852,465	2,852,465
Total Costs for New Employee Acclimatization—Designated Person:						
Alaskan	0	0	3	0	3	3
Central	0	0	989,721	0	989,721	989,721
Eastern	0	0	1,385,945	0	1,385,945	1,385,945
Pacific	0	0	99,338	0	99,338	99,338
Southern	0	0	1,907,875	0	1,907,875	1,907,875
Western	0	0	879,308	0	879,308	879,308
Total	0	0	5,262,190	0	5,262,190	5,262,190
Returning Employee Acclimatization—Designated Person						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	0	0	0	0
Central	0	0	550	0	550	550
Eastern	0	0	341	0	341	341
Pacific	0	0	16	0	16	16
Southern	0	0	839	0	839	839
Western	0	0	258	0	258	258
Subtotal	0	0	2,003	0	2,003	2,003
Building Materials and Equipment Suppliers:						
Alaskan	0	0	0	0	0	0
Central	0	0	252	0	252	252
Eastern	0	0	308	0	308	308
Pacific	0	0	21	0	21	21
Southern	0	0	523	0	523	523
Western	0	0	226	0	226	226
Subtotal	0	0	1,329	0	1,329	1,329
Commercial Kitchens:						
Alaskan	0	0	0	0	0	0
Central	0	0	429	0	429	429
Eastern	0	0	606	0	606	606
Pacific	0	0	63	0	63	63
Southern	0	0	996	0	996	996
Western	0	0	429	0	429	429
Subtotal	0	0	2,524	0	2,524	2,524
Construction:						
Alaskan	0	0	0	0	0	0
Central	0	0	2,049	0	2,049	2,049
Eastern	0	0	2,806	0	2,806	2,806
Pacific	0	0	258	0	258	258
Southern	0	0	4,652	0	4,652	4,652
Western	0	0	1,053	0	1,053	1,053
Subtotal	0	0	10,819	0	10,819	10,819
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	33	0	33	33
Eastern	0	0	56	0	56	56
Pacific	0	0	6	0	6	6
Southern	0	0	79	0	79	79

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	0	0	35	0	35	35
Subtotal	0	0	209	0	209	209
Landscaping and Facilities Support:						
Alaskan	0	0	0	0	0	0
Central	0	0	779	0	779	779
Eastern	0	0	1,186	0	1,186	1,186
Pacific	0	0	107	0	107	107
Southern	0	0	1,731	0	1,731	1,731
Western	0	0	946	0	946	946
Subtotal	0	0	4,748	0	4,748	4,748
Maintenance and Repair:						
Alaskan	0	0	0	0	0	0
Central	0	0	343	0	343	343
Eastern	0	0	420	0	420	420
Pacific	0	0	24	0	24	24
Southern	0	0	680	0	680	680
Western	0	0	302	0	302	302
Subtotal	0	0	1,769	0	1,769	1,769
Manufacturing:						
Alaskan	0	0	0	0	0	0
Central	0	0	3,339	0	3,339	3,339
Eastern	0	0	3,146	0	3,146	3,146
Pacific	0	0	43	0	43	43
Southern	0	0	4,042	0	4,042	4,042
Western	0	0	1,539	0	1,539	1,539
Subtotal	0	0	12,108	0	12,108	12,108
Oil and Gas:						
Alaskan	0	0	0	0	0	0
Central	0	0	103	0	103	103
Eastern	0	0	61	0	61	61
Southern	0	0	958	0	958	958
Western	0	0	62	0	62	62
Subtotal	0	0	1,184	0	1,184	1,184
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	102	0	102	102
Eastern	0	0	152	0	152	152
Pacific	0	0	7	0	7	7
Southern	0	0	199	0	199	199
Western	0	0	96	0	96	96
Subtotal	0	0	556	0	556	556
Recreation and Amusement:						
Alaskan	0	0	0	0	0	0
Central	0	0	68	0	68	68
Eastern	0	0	108	0	108	108
Pacific	0	0	7	0	7	7
Southern	0	0	174	0	174	174
Western	0	0	81	0	81	81
Subtotal	0	0	437	0	437	437
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	61	0	61	61
Eastern	0	0	96	0	96	96
Pacific	0	0	8	0	8	8
Southern	0	0	135	0	135	135
Western	0	0	60	0	60	60
Subtotal	0	0	359	0	359	359
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	167	0	167	167
Eastern	0	0	231	0	231	231
Pacific	0	0	13	0	13	13
Southern	0	0	354	0	354	354
Western	0	0	138	0	138	138
Subtotal	0	0	903	0	903	903
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	988	0	988	988
Eastern	0	0	1,224	0	1,224	1,224
Pacific	0	0	131	0	131	131

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Southern	0	0	3,708	0	3,708	3,708
Western	0	0	1,150	0	1,150	1,150
Subtotal	0	0	7,201	0	7,201	7,201
Transportation:						
Alaskan	0	0	0	0	0	0
Central	0	0	452	0	452	452
Eastern	0	0	436	0	436	436
Pacific	0	0	68	0	68	68
Southern	0	0	1,029	0	1,029	1,029
Western	0	0	255	0	255	255
Subtotal	0	0	2,240	0	2,240	2,240
Utilities:						
Alaskan	0	0	0	0	0	0
Central	0	0	221	0	221	221
Eastern	0	0	298	0	298	298
Pacific	0	0	6	0	6	6
Southern	0	0	447	0	447	447
Western	0	0	147	0	147	147
Subtotal	0	0	1,118	0	1,118	1,118
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	161	0	161	161
Eastern	0	0	225	0	225	225
Pacific	0	0	4	0	4	4
Southern	0	0	314	0	314	314
Western	0	0	150	0	150	150
Subtotal	0	0	853	0	853	853
Non-Core:						
Alaskan	0	0	0	0	0	0
Central	0	0	18,283	0	18,283	18,283
Eastern	0	0	28,957	0	28,957	28,957
Pacific	0	0	1,869	0	1,869	1,869
Southern	0	0	25,241	0	25,241	25,241
Western	0	0	20,730	0	20,730	20,730
Subtotal	0	0	95,080	0	95,080	95,080
Total Costs for Returning Employee Acclimatization—						
Designated Person:						
Alaskan	0	0	0	0	0	0
Central	0	0	28,381	0	28,381	28,381
Eastern	0	0	40,657	0	40,657	40,657
Pacific	0	0	2,651	0	2,651	2,651
Southern	0	0	46,100	0	46,100	46,100
Western	0	0	27,656	0	27,656	27,656
Total	0	0	145,444	0	145,444	145,444
New Indoor Employee Acclimatization						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	0	0	0	0
Central	0	0	193,345	0	193,345	193,345
Eastern	0	0	118,157	0	118,157	118,157
Pacific	0	0	5,594	0	5,594	5,594
Southern	0	0	292,499	0	292,499	292,499
Western	0	0	90,313	0	90,313	90,313
Subtotal	0	0	699,909	0	699,909	699,909
Building Materials and Equipment Suppliers:						
Alaskan	0	0	1	0	1	1
Central	0	0	200,995	0	200,995	200,995
Eastern	0	0	228,631	0	228,631	228,631
Pacific	0	0	17,117	0	17,117	17,117
Southern	0	0	387,695	0	387,695	387,695
Western	0	0	167,006	0	167,006	167,006
Subtotal	0	0	1,001,445	0	1,001,445	1,001,445
Commercial Kitchens:						
Alaskan	0	0	6	0	6	6
Central	0	0	2,459,217	0	2,459,217	2,459,217
Eastern	0	0	3,471,889	0	3,471,889	3,471,889
Pacific	0	0	343,188	0	343,188	343,188
Southern	0	0	5,921,221	0	5,921,221	5,921,221
Western	0	0	2,451,199	0	2,451,199	2,451,199

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	0	0	14,646,720	0	14,646,720	14,646,720
Construction:						
Alaskan	0	0	7	0	7	7
Central	0	0	1,828,198	0	1,828,198	1,828,198
Eastern	0	0	2,533,833	0	2,533,833	2,533,833
Pacific	0	0	222,954	0	222,954	222,954
Southern	0	0	4,123,445	0	4,123,445	4,123,445
Western	0	0	1,027,254	0	1,027,254	1,027,254
Subtotal	0	0	9,735,691	0	9,735,691	9,735,691
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	35,160	0	35,160	35,160
Eastern	0	0	59,609	0	59,609	59,609
Pacific	0	0	6,222	0	6,222	6,222
Southern	0	0	83,456	0	83,456	83,456
Western	0	0	36,894	0	36,894	36,894
Subtotal	0	0	221,342	0	221,342	221,342
Landscaping and Facilities Support:						
Alaskan	0	0	1	0	1	1
Central	0	0	227,016	0	227,016	227,016
Eastern	0	0	346,329	0	346,329	346,329
Pacific	0	0	30,706	0	30,706	30,706
Southern	0	0	504,064	0	504,064	504,064
Western	0	0	266,057	0	266,057	266,057
Subtotal	0	0	1,374,173	0	1,374,173	1,374,173
Maintenance and Repair:						
Alaskan	0	0	1	0	1	1
Central	0	0	271,890	0	271,890	271,890
Eastern	0	0	332,610	0	332,610	332,610
Pacific	0	0	18,859	0	18,859	18,859
Southern	0	0	542,961	0	542,961	542,961
Western	0	0	237,715	0	237,715	237,715
Subtotal	0	0	1,404,036	0	1,404,036	1,404,036
Manufacturing:						
Alaskan	0	0	2	0	2	2
Central	0	0	2,361,334	0	2,361,334	2,361,334
Eastern	0	0	2,209,292	0	2,209,292	2,209,292
Pacific	0	0	29,010	0	29,010	29,010
Southern	0	0	2,797,246	0	2,797,246	2,797,246
Western	0	0	1,073,345	0	1,073,345	1,073,345
Subtotal	0	0	8,470,228	0	8,470,228	8,470,228
Oil and Gas:						
Alaskan	0	0	2	0	2	2
Central	0	0	53,570	0	53,570	53,570
Eastern	0	0	31,858	0	31,858	31,858
Southern	0	0	486,559	0	486,559	486,559
Western	0	0	31,794	0	31,794	31,794
Subtotal	0	0	603,784	0	603,784	603,784
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	98,673	0	98,673	98,673
Eastern	0	0	147,574	0	147,574	147,574
Pacific	0	0	6,848	0	6,848	6,848
Southern	0	0	193,367	0	193,367	193,367
Western	0	0	94,004	0	94,004	94,004
Subtotal	0	0	540,465	0	540,465	540,465
Recreation and Amusement:						
Alaskan	0	0	1	0	1	1
Central	0	0	211,899	0	211,899	211,899
Eastern	0	0	333,853	0	333,853	333,853
Pacific	0	0	20,233	0	20,233	20,233
Southern	0	0	540,964	0	540,964	540,964
Western	0	0	252,184	0	252,184	252,184
Subtotal	0	0	1,359,134	0	1,359,134	1,359,134
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	24,083	0	24,083	24,083
Eastern	0	0	36,457	0	36,457	36,457
Pacific	0	0	3,068	0	3,068	3,068
Southern	0	0	51,809	0	51,809	51,809
Western	0	0	23,188	0	23,188	23,188

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	0	0	138,605	0	138,605	138,605
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	73,774	0	73,774	73,774
Eastern	0	0	102,236	0	102,236	102,236
Pacific	0	0	5,728	0	5,728	5,728
Southern	0	0	156,530	0	156,530	156,530
Western	0	0	60,813	0	60,813	60,813
Subtotal	0	0	399,081	0	399,081	399,081
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	545,638	0	545,638	545,638
Eastern	0	0	675,623	0	675,623	675,623
Pacific	0	0	72,247	0	72,247	72,247
Southern	0	0	2,047,160	0	2,047,160	2,047,160
Western	0	0	635,109	0	635,109	635,109
Subtotal	0	0	3,975,776	0	3,975,776	3,975,776
Transportation:						
Alaskan	0	0	2	0	2	2
Central	0	0	349,275	0	349,275	349,275
Eastern	0	0	340,221	0	340,221	340,221
Pacific	0	0	52,048	0	52,048	52,048
Southern	0	0	797,648	0	797,648	797,648
Western	0	0	198,447	0	198,447	198,447
Subtotal	0	0	1,737,639	0	1,737,639	1,737,639
Utilities:						
Alaskan	0	0	1	0	1	1
Central	0	0	186,352	0	186,352	186,352
Eastern	0	0	250,671	0	250,671	250,671
Pacific	0	0	4,646	0	4,646	4,646
Southern	0	0	376,360	0	376,360	376,360
Western	0	0	123,487	0	123,487	123,487
Subtotal	0	0	941,515	0	941,515	941,515
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	194,963	0	194,963	194,963
Eastern	0	0	272,889	0	272,889	272,889
Pacific	0	0	5,083	0	5,083	5,083
Southern	0	0	380,156	0	380,156	380,156
Western	0	0	181,486	0	181,486	181,486
Subtotal	0	0	1,034,577	0	1,034,577	1,034,577
Non-Core:						
Alaskan	0	0	32	0	32	32
Central	0	0	11,211,606	0	11,211,606	11,211,606
Eastern	0	0	17,218,995	0	17,218,995	17,218,995
Pacific	0	0	1,136,938	0	1,136,938	1,136,938
Southern	0	0	19,641,718	0	19,641,718	19,641,718
Western	0	0	11,524,405	0	11,524,405	11,524,405
Subtotal	0	0	60,733,695	0	60,733,695	60,733,695
Total Costs for New Indoor Employee Acclimatization:						
Alaskan	0	0	56	0	56	56
Central	0	0	20,526,989	0	20,526,989	20,526,989
Eastern	0	0	28,710,726	0	28,710,726	28,710,726
Pacific	0	0	1,980,487	0	1,980,487	1,980,487
Southern	0	0	39,324,858	0	39,324,858	39,324,858
Western	0	0	18,474,699	0	18,474,699	18,474,699
Total	0	0	109,017,815	0	109,017,815	109,017,815
New Outdoor Employee Acclimatization						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	1	0	1	1
Central	0	0	555,498	0	555,498	555,498
Eastern	0	0	345,783	0	345,783	345,783
Pacific	0	0	16,128	0	16,128	16,128
Southern	0	0	849,910	0	849,910	849,910
Western	0	0	260,886	0	260,886	260,886
Subtotal	0	0	2,028,206	0	2,028,206	2,028,206
Building Materials and Equipment Suppliers:						
Alaskan	0	0	0	0	0	0
Central	0	0	116,270	0	116,270	116,270

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Eastern	0	0	133,667	0	133,667	133,667
Pacific	0	0	10,037	0	10,037	10,037
Southern	0	0	236,477	0	236,477	236,477
Western	0	0	100,700	0	100,700	100,700
Subtotal	0	0	597,153	0	597,153	597,153
Commercial Kitchens:						
Alaskan	0	0	1	0	1	1
Central	0	0	237,085	0	237,085	237,085
Eastern	0	0	333,855	0	333,855	333,855
Pacific	0	0	32,738	0	32,738	32,738
Southern	0	0	556,756	0	556,756	556,756
Western	0	0	233,410	0	233,410	233,410
Subtotal	0	0	1,393,844	0	1,393,844	1,393,844
Construction:						
Alaskan	0	0	12	0	12	12
Central	0	0	3,377,743	0	3,377,743	3,377,743
Eastern	0	0	4,623,309	0	4,623,309	4,623,309
Pacific	0	0	427,668	0	427,668	427,668
Southern	0	0	7,682,911	0	7,682,911	7,682,911
Western	0	0	1,736,798	0	1,736,798	1,736,798
Subtotal	0	0	17,848,441	0	17,848,441	17,848,441
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	11,476	0	11,476	11,476
Eastern	0	0	19,456	0	19,456	19,456
Pacific	0	0	2,031	0	2,031	2,031
Southern	0	0	27,240	0	27,240	27,240
Western	0	0	12,042	0	12,042	12,042
Subtotal	0	0	72,246	0	72,246	72,246
Landscaping and Facilities Support:						
Alaskan	0	0	2	0	2	2
Central	0	0	507,726	0	507,726	507,726
Eastern	0	0	773,553	0	773,553	773,553
Pacific	0	0	71,873	0	71,873	71,873
Southern	0	0	1,125,493	0	1,125,493	1,125,493
Western	0	0	610,538	0	610,538	610,538
Subtotal	0	0	3,089,185	0	3,089,185	3,089,185
Maintenance and Repair:						
Alaskan	0	0	1	0	1	1
Central	0	0	222,942	0	222,942	222,942
Eastern	0	0	273,945	0	273,945	273,945
Pacific	0	0	15,795	0	15,795	15,795
Southern	0	0	438,537	0	438,537	438,537
Western	0	0	197,862	0	197,862	197,862
Subtotal	0	0	1,149,081	0	1,149,081	1,149,081
Manufacturing:						
Alaskan	0	0	1	0	1	1
Central	0	0	529,914	0	529,914	529,914
Eastern	0	0	516,810	0	516,810	516,810
Pacific	0	0	8,812	0	8,812	8,812
Southern	0	0	711,140	0	711,140	711,140
Western	0	0	261,112	0	261,112	261,112
Subtotal	0	0	2,027,789	0	2,027,789	2,027,789
Oil and Gas:						
Alaskan	0	0	4	0	4	4
Central	0	0	95,998	0	95,998	95,998
Eastern	0	0	57,257	0	57,257	57,257
Southern	0	0	890,293	0	890,293	890,293
Western	0	0	58,298	0	58,298	58,298
Subtotal	0	0	1,101,849	0	1,101,849	1,101,849
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	80,470	0	80,470	80,470
Eastern	0	0	119,456	0	119,456	119,456
Pacific	0	0	5,817	0	5,817	5,817
Southern	0	0	156,028	0	156,028	156,028
Western	0	0	73,827	0	73,827	73,827
Subtotal	0	0	435,598	0	435,598	435,598
Recreation and Amusement:						
Alaskan	0	0	1	0	1	1

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Central	0	0	288,790	0	288,790	288,790
Eastern	0	0	455,142	0	455,142	455,142
Pacific	0	0	27,480	0	27,480	27,480
Southern	0	0	733,313	0	733,313	733,313
Western	0	0	342,375	0	342,375	342,375
Subtotal	0	0	1,847,101	0	1,847,101	1,847,101
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	28,326	0	28,326	28,326
Eastern	0	0	45,492	0	45,492	45,492
Pacific	0	0	3,910	0	3,910	3,910
Southern	0	0	63,700	0	63,700	63,700
Western	0	0	28,103	0	28,103	28,103
Subtotal	0	0	169,531	0	169,531	169,531
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	61,192	0	61,192	61,192
Eastern	0	0	84,800	0	84,800	84,800
Pacific	0	0	4,751	0	4,751	4,751
Southern	0	0	129,833	0	129,833	129,833
Western	0	0	50,442	0	50,442	50,442
Subtotal	0	0	331,018	0	331,018	331,018
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	278,149	0	278,149	278,149
Eastern	0	0	344,411	0	344,411	344,411
Pacific	0	0	36,829	0	36,829	36,829
Southern	0	0	1,043,577	0	1,043,577	1,043,577
Western	0	0	323,758	0	323,758	323,758
Subtotal	0	0	2,026,725	0	2,026,725	2,026,725
Transportation:						
Alaskan	0	0	3	0	3	3
Central	0	0	456,381	0	456,381	456,381
Eastern	0	0	436,573	0	436,573	436,573
Pacific	0	0	69,357	0	69,357	69,357
Southern	0	0	1,035,820	0	1,035,820	1,035,820
Western	0	0	256,606	0	256,606	256,606
Subtotal	0	0	2,254,740	0	2,254,740	2,254,740
Utilities:						
Alaskan	0	0	1	0	1	1
Central	0	0	257,850	0	257,850	257,850
Eastern	0	0	346,941	0	346,941	346,941
Pacific	0	0	6,406	0	6,406	6,406
Southern	0	0	520,692	0	520,692	520,692
Western	0	0	170,610	0	170,610	170,610
Subtotal	0	0	1,302,500	0	1,302,500	1,302,500
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	81,507	0	81,507	81,507
Eastern	0	0	114,085	0	114,085	114,085
Pacific	0	0	2,125	0	2,125	2,125
Southern	0	0	158,929	0	158,929	158,929
Western	0	0	75,873	0	75,873	75,873
Subtotal	0	0	432,519	0	432,519	432,519
Non-Core:						
Alaskan	0	0	30	0	30	30
Central	0	0	8,624,746	0	8,624,746	8,624,746
Eastern	0	0	13,666,774	0	13,666,774	13,666,774
Pacific	0	0	981,519	0	981,519	981,519
Southern	0	0	13,733,045	0	13,733,045	13,733,045
Western	0	0	9,513,647	0	9,513,647	9,513,647
Subtotal	0	0	46,519,760	0	46,519,760	46,519,760
Total Costs for New Outdoor Employee Acclimatization:						
Alaskan	0	0	56	0	56	56
Central	0	0	15,812,062	0	15,812,062	15,812,062
Eastern	0	0	22,691,309	0	22,691,309	22,691,309
Pacific	0	0	1,723,276	0	1,723,276	1,723,276
Southern	0	0	30,093,696	0	30,093,696	30,093,696
Western	0	0	14,306,888	0	14,306,888	14,306,888

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Total	0	0	84,627,286	0	84,627,286	84,627,286
Returning Indoor Employee Acclimatization						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	0	0	0	0
Central	0	0	4,688	0	4,688	4,688
Eastern	0	0	2,865	0	2,865	2,865
Pacific	0	0	136	0	136	136
Southern	0	0	7,092	0	7,092	7,092
Western	0	0	6,503	0	6,503	6,503
Subtotal	0	0	21,284	0	21,284	21,284
Building Materials and Equipment Suppliers:						
Alaskan	0	0	0	0	0	0
Central	0	0	5,665	0	5,665	5,665
Eastern	0	0	6,911	0	6,911	6,911
Pacific	0	0	461	0	461	461
Southern	0	0	11,569	0	11,569	11,569
Western	0	0	5,026	0	5,026	5,026
Subtotal	0	0	29,632	0	29,632	29,632
Commercial Kitchens:						
Alaskan	0	0	0	0	0	0
Central	0	0	16,124	0	16,124	16,124
Eastern	0	0	22,774	0	22,774	22,774
Pacific	0	0	2,386	0	2,386	2,386
Southern	0	0	37,431	0	37,431	37,431
Western	0	0	16,151	0	16,151	16,151
Subtotal	0	0	94,866	0	94,866	94,866
Construction:						
Alaskan	0	0	0	0	0	0
Central	0	0	40,091	0	40,091	40,091
Eastern	0	0	55,085	0	55,085	55,085
Pacific	0	0	4,992	0	4,992	4,992
Southern	0	0	90,641	0	90,641	90,641
Western	0	0	41,364	0	41,364	41,364
Subtotal	0	0	232,173	0	232,173	232,173
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	906	0	906	906
Eastern	0	0	1,536	0	1,536	1,536
Pacific	0	0	160	0	160	160
Southern	0	0	2,150	0	2,150	2,150
Western	0	0	951	0	951	951
Subtotal	0	0	5,703	0	5,703	5,703
Landscaping and Facilities Support:						
Alaskan	0	0	0	0	0	0
Central	0	0	7,457	0	7,457	7,457
Eastern	0	0	11,364	0	11,364	11,364
Pacific	0	0	990	0	990	990
Southern	0	0	16,560	0	16,560	16,560
Western	0	0	7,104	0	7,104	7,104
Subtotal	0	0	43,475	0	43,475	43,475
Maintenance and Repair:						
Alaskan	0	0	0	0	0	0
Central	0	0	7,006	0	7,006	7,006
Eastern	0	0	8,570	0	8,570	8,570
Pacific	0	0	486	0	486	486
Southern	0	0	13,990	0	13,990	13,990
Western	0	0	6,125	0	6,125	6,125
Subtotal	0	0	36,177	0	36,177	36,177
Manufacturing:						
Alaskan	0	0	0	0	0	0
Central	0	0	122,175	0	122,175	122,175
Eastern	0	0	114,309	0	114,309	114,309
Pacific	0	0	1,501	0	1,501	1,501
Southern	0	0	144,730	0	144,730	144,730
Western	0	0	55,535	0	55,535	55,535
Subtotal	0	0	438,250	0	438,250	438,250
Oil and Gas:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,123	0	1,123	1,123

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Eastern	0	0	674	0	674	674
Southern	0	0	10,578	0	10,578	10,578
Western	0	0	781	0	781	781
Subtotal	0	0	13,157	0	13,157	13,157
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,822	0	1,822	1,822
Eastern	0	0	2,724	0	2,724	2,724
Pacific	0	0	126	0	126	126
Southern	0	0	3,570	0	3,570	3,570
Western	0	0	1,735	0	1,735	1,735
Subtotal	0	0	9,978	0	9,978	9,978
Recreation and Amusement:						
Alaskan	0	0	0	0	0	0
Central	0	0	942	0	942	942
Eastern	0	0	1,484	0	1,484	1,484
Pacific	0	0	89	0	89	89
Southern	0	0	2,404	0	2,404	2,404
Western	0	0	1,122	0	1,122	1,122
Subtotal	0	0	6,041	0	6,041	6,041
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	827	0	827	827
Eastern	0	0	1,252	0	1,252	1,252
Pacific	0	0	105	0	105	105
Southern	0	0	1,780	0	1,780	1,780
Western	0	0	796	0	796	796
Subtotal	0	0	4,761	0	4,761	4,761
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	3,492	0	3,492	3,492
Eastern	0	0	4,840	0	4,840	4,840
Pacific	0	0	271	0	271	271
Southern	0	0	7,410	0	7,410	7,410
Western	0	0	2,879	0	2,879	2,879
Subtotal	0	0	18,893	0	18,893	18,893
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	18,741	0	18,741	18,741
Eastern	0	0	23,206	0	23,206	23,206
Pacific	0	0	2,482	0	2,482	2,482
Southern	0	0	70,315	0	70,315	70,315
Western	0	0	21,815	0	21,815	21,815
Subtotal	0	0	136,559	0	136,559	136,559
Transportation:						
Alaskan	0	0	0	0	0	0
Central	0	0	6,448	0	6,448	6,448
Eastern	0	0	6,281	0	6,281	6,281
Pacific	0	0	961	0	961	961
Southern	0	0	14,726	0	14,726	14,726
Western	0	0	5,045	0	5,045	5,045
Subtotal	0	0	33,461	0	33,461	33,461
Utilities:						
Alaskan	0	0	0	0	0	0
Central	0	0	4,482	0	4,482	4,482
Eastern	0	0	6,029	0	6,029	6,029
Pacific	0	0	112	0	112	112
Southern	0	0	9,053	0	9,053	9,053
Western	0	0	2,970	0	2,970	2,970
Subtotal	0	0	22,646	0	22,646	22,646
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	3,599	0	3,599	3,599
Eastern	0	0	5,038	0	5,038	5,038
Pacific	0	0	94	0	94	94
Southern	0	0	7,018	0	7,018	7,018
Western	0	0	3,351	0	3,351	3,351
Subtotal	0	0	19,100	0	19,100	19,100
Non-Core:						
Alaskan	0	0	1	0	1	1

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Central	0	0	374,077	0	374,077	374,077
Eastern	0	0	578,128	0	578,128	578,128
Pacific	0	0	35,713	0	35,713	35,713
Southern	0	0	545,004	0	545,004	545,004
Western	0	0	407,593	0	407,593	407,593
Subtotal	0	0	1,940,516	0	1,940,516	1,940,516
Total Costs for Returning Indoor Employee Acclimatization:						
Alaskan	0	0	2	0	2	2
Central	0	0	619,667	0	619,667	619,667
Eastern	0	0	853,071	0	853,071	853,071
Pacific	0	0	51,065	0	51,065	51,065
Southern	0	0	996,021	0	996,021	996,021
Western	0	0	586,847	0	586,847	586,847
Total	0	0	3,106,673	0	3,106,673	3,106,673
Returning Outdoor Employee Acclimatization						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	0	0	0	0
Central	0	0	13,470	0	13,470	13,470
Eastern	0	0	8,384	0	8,384	8,384
Pacific	0	0	391	0	391	391
Southern	0	0	20,608	0	20,608	20,608
Western	0	0	18,563	0	18,563	18,563
Subtotal	0	0	61,417	0	61,417	61,417
Building Materials and Equipment Suppliers:						
Alaskan	0	0	0	0	0	0
Central	0	0	3,401	0	3,401	3,401
Eastern	0	0	4,165	0	4,165	4,165
Pacific	0	0	282	0	282	282
Southern	0	0	7,291	0	7,291	7,291
Western	0	0	3,127	0	3,127	3,127
Subtotal	0	0	18,266	0	18,266	18,266
Commercial Kitchens:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,652	0	1,652	1,652
Eastern	0	0	2,329	0	2,329	2,329
Pacific	0	0	247	0	247	247
Southern	0	0	3,706	0	3,706	3,706
Western	0	0	1,641	0	1,641	1,641
Subtotal	0	0	9,576	0	9,576	9,576
Construction:						
Alaskan	0	0	0	0	0	0
Central	0	0	76,776	0	76,776	76,776
Eastern	0	0	104,503	0	104,503	104,503
Pacific	0	0	9,850	0	9,850	9,850
Southern	0	0	174,940	0	174,940	174,940
Western	0	0	80,015	0	80,015	80,015
Subtotal	0	0	446,085	0	446,085	446,085
Drycleaning and Commercial Laundries:						
Alaskan	0	0	0	0	0	0
Central	0	0	296	0	296	296
Eastern	0	0	501	0	501	501
Pacific	0	0	52	0	52	52
Southern	0	0	702	0	702	702
Western	0	0	310	0	310	310
Subtotal	0	0	1,862	0	1,862	1,862
Landscaping and Facilities Support:						
Alaskan	0	0	0	0	0	0
Central	0	0	16,658	0	16,658	16,658
Eastern	0	0	25,377	0	25,377	25,377
Pacific	0	0	2,343	0	2,343	2,343
Southern	0	0	37,002	0	37,002	37,002
Western	0	0	15,747	0	15,747	15,747
Subtotal	0	0	97,128	0	97,128	97,128
Maintenance and Repair:						
Alaskan	0	0	0	0	0	0
Central	0	0	5,744	0	5,744	5,744
Eastern	0	0	7,059	0	7,059	7,059
Pacific	0	0	407	0	407	407

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Southern	0	0	11,300	0	11,300	11,300
Western	0	0	5,098	0	5,098	5,098
Subtotal	0	0	29,608	0	29,608	29,608
Manufacturing:						
Alaskan	0	0	0	0	0	0
Central	0	0	27,418	0	27,418	27,418
Eastern	0	0	26,740	0	26,740	26,740
Pacific	0	0	456	0	456	456
Southern	0	0	36,794	0	36,794	36,794
Western	0	0	13,510	0	13,510	13,510
Subtotal	0	0	104,918	0	104,918	104,918
Oil and Gas:						
Alaskan	0	0	0	0	0	0
Central	0	0	2,029	0	2,029	2,029
Eastern	0	0	1,221	0	1,221	1,221
Southern	0	0	19,469	0	19,469	19,469
Western	0	0	1,434	0	1,434	1,434
Subtotal	0	0	24,153	0	24,153	24,153
Postal and Delivery Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,486	0	1,486	1,486
Eastern	0	0	2,205	0	2,205	2,205
Pacific	0	0	107	0	107	107
Southern	0	0	2,881	0	2,881	2,881
Western	0	0	1,363	0	1,363	1,363
Subtotal	0	0	8,042	0	8,042	8,042
Recreation and Amusement:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,284	0	1,284	1,284
Eastern	0	0	2,024	0	2,024	2,024
Pacific	0	0	121	0	121	121
Southern	0	0	3,259	0	3,259	3,259
Western	0	0	1,524	0	1,524	1,524
Subtotal	0	0	8,213	0	8,213	8,213
Sanitation and Waste Removal:						
Alaskan	0	0	0	0	0	0
Central	0	0	973	0	973	973
Eastern	0	0	1,563	0	1,563	1,563
Pacific	0	0	134	0	134	134
Southern	0	0	2,188	0	2,188	2,188
Western	0	0	965	0	965	965
Subtotal	0	0	5,823	0	5,823	5,823
Telecommunications:						
Alaskan	0	0	0	0	0	0
Central	0	0	2,897	0	2,897	2,897
Eastern	0	0	4,014	0	4,014	4,014
Pacific	0	0	225	0	225	225
Southern	0	0	6,146	0	6,146	6,146
Western	0	0	2,388	0	2,388	2,388
Subtotal	0	0	15,670	0	15,670	15,670
Temporary Help Services:						
Alaskan	0	0	0	0	0	0
Central	0	0	9,554	0	9,554	9,554
Eastern	0	0	11,830	0	11,830	11,830
Pacific	0	0	1,265	0	1,265	1,265
Southern	0	0	35,845	0	35,845	35,845
Western	0	0	11,120	0	11,120	11,120
Subtotal	0	0	69,614	0	69,614	69,614
Transportation:						
Alaskan	0	0	0	0	0	0
Central	0	0	8,425	0	8,425	8,425
Eastern	0	0	8,060	0	8,060	8,060
Pacific	0	0	1,280	0	1,280	1,280
Southern	0	0	19,123	0	19,123	19,123
Western	0	0	6,496	0	6,496	6,496
Subtotal	0	0	43,384	0	43,384	43,384
Utilities:						
Alaskan	0	0	0	0	0	0
Central	0	0	6,202	0	6,202	6,202
Eastern	0	0	8,345	0	8,345	8,345

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	154	0	154	154
Southern	0	0	12,524	0	12,524	12,524
Western	0	0	4,104	0	4,104	4,104
Subtotal	0	0	31,329	0	31,329	31,329
Warehousing:						
Alaskan	0	0	0	0	0	0
Central	0	0	1,505	0	1,505	1,505
Eastern	0	0	2,106	0	2,106	2,106
Pacific	0	0	39	0	39	39
Southern	0	0	2,934	0	2,934	2,934
Western	0	0	1,401	0	1,401	1,401
Subtotal	0	0	7,985	0	7,985	7,985
Non-Core:						
Alaskan	0	0	1	0	1	1
Central	0	0	333,854	0	333,854	333,854
Eastern	0	0	542,408	0	542,408	542,408
Pacific	0	0	35,984	0	35,984	35,984
Southern	0	0	394,771	0	394,771	394,771
Western	0	0	406,653	0	406,653	406,653
Subtotal	0	0	1,713,672	0	1,713,672	1,713,672
Total Costs for Returning Outdoor Employee Acclimatization:						
Alaskan	0	0	2	0	2	2
Central	0	0	513,623	0	513,623	513,623
Eastern	0	0	762,835	0	762,835	762,835
Pacific	0	0	53,340	0	53,340	53,340
Southern	0	0	791,484	0	791,484	791,484
Western	0	0	575,460	0	575,460	575,460
Total	0	0	2,696,744	0	2,696,744	2,696,744

Rest Breaks at Initial Heat Trigger—Indoor

Agriculture, Forestry, and Fishing:						
Alaskan	0	0	8	2	6	6
Central	0	0	494,281	115,332	378,949	378,949
Eastern	0	0	285,957	66,723	219,234	219,234
Pacific	0	0	15,605	3,641	11,964	11,964
Southern	0	0	795,586	185,637	609,949	609,949
Western	0	0	661,911	154,446	507,465	507,465
Subtotal	0	0	2,253,348	525,781	1,727,567	1,727,567
Building Materials and Equipment Suppliers:						
Alaskan	0	0	30	7	23	23
Central	0	0	542,090	126,488	415,602	415,602
Eastern	0	0	654,987	152,830	502,157	502,157
Pacific	0	0	48,716	11,367	37,349	37,349
Southern	0	0	1,259,531	293,891	965,641	965,641
Western	0	0	489,137	114,132	375,005	375,005
Subtotal	0	0	2,994,491	698,714	2,295,776	2,295,776
Commercial Kitchens:						
Alaskan	0	0	73	17	56	56
Central	0	0	1,857,283	433,366	1,423,917	1,423,917
Eastern	0	0	2,613,642	609,850	2,003,792	2,003,792
Pacific	0	0	436,216	101,784	334,433	334,433
Southern	0	0	5,793,449	1,351,805	4,441,644	4,441,644
Western	0	0	1,917,574	447,434	1,470,140	1,470,140
Subtotal	0	0	12,618,237	2,944,255	9,673,982	9,673,982
Construction:						
Alaskan	0	0	246	57	189	189
Central	0	0	3,219,194	751,145	2,468,049	2,468,049
Eastern	0	0	4,443,035	1,036,708	3,406,327	3,406,327
Pacific	0	0	502,541	117,260	385,282	385,282
Southern	0	0	8,615,101	2,010,190	6,604,911	6,604,911
Western	0	0	3,402,628	793,947	2,608,682	2,608,682
Subtotal	0	0	20,182,745	4,709,307	15,473,438	15,473,438
Drycleaning and Commercial Laundries:						
Alaskan	0	0	4	1	3	3
Central	0	0	87,222	20,352	66,870	66,870
Eastern	0	0	147,275	34,364	112,911	112,911
Pacific	0	0	17,020	3,971	13,048	13,048
Southern	0	0	239,057	55,780	183,277	183,277
Western	0	0	92,951	21,689	71,263	71,263

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	0	0	583,529	136,157	447,372	447,372
Landscaping and Facilities Support:						
Alaskan	0	0	75	17	57	57
Central	0	0	705,904	164,711	541,193	541,193
Eastern	0	0	1,087,767	253,812	833,955	833,955
Pacific	0	0	99,076	23,118	75,959	75,959
Southern	0	0	1,798,521	419,655	1,378,866	1,378,866
Western	0	0	685,161	159,871	525,290	525,290
Subtotal	0	0	4,376,505	1,021,184	3,355,320	3,355,320
Maintenance and Repair:						
Alaskan	0	0	34	8	26	26
Central	0	0	675,747	157,674	518,072	518,072
Eastern	0	0	834,797	194,786	640,011	640,011
Pacific	0	0	52,772	12,313	40,458	40,458
Southern	0	0	1,556,716	363,234	1,193,482	1,193,482
Western	0	0	608,916	142,080	466,836	466,836
Subtotal	0	0	3,728,982	870,096	2,858,886	2,858,886
Manufacturing:						
Alaskan	0	0	143	33	110	110
Central	0	0	8,513,706	1,986,531	6,527,175	6,527,175
Eastern	0	0	8,181,403	1,908,994	6,272,409	6,272,409
Pacific	0	0	107,956	25,190	82,766	82,766
Southern	0	0	11,413,732	2,663,204	8,750,528	8,750,528
Western	0	0	4,062,091	947,821	3,114,270	3,114,270
Subtotal	0	0	32,279,030	7,531,774	24,747,257	24,747,257
Oil and Gas:						
Alaskan	0	0	86	20	66	66
Central	0	0	113,630	26,514	87,116	87,116
Eastern	0	0	64,273	14,997	49,276	49,276
Southern	0	0	1,170,506	273,118	897,388	897,388
Western	0	0	77,990	18,198	59,792	59,792
Subtotal	0	0	1,426,485	332,846	1,093,638	1,093,638
Postal and Delivery Services:						
Alaskan	0	0	5	1	4	4
Central	0	0	181,573	42,367	139,206	139,206
Eastern	0	0	269,273	62,830	206,442	206,442
Pacific	0	0	14,502	3,384	11,118	11,118
Southern	0	0	418,102	97,557	320,545	320,545
Western	0	0	177,024	41,306	135,719	135,719
Subtotal	0	0	1,060,480	247,445	813,034	813,034
Recreation and Amusement:						
Alaskan	0	0	6	1	4	4
Central	0	0	125,999	29,400	96,599	96,599
Eastern	0	0	194,885	45,473	149,412	149,412
Pacific	0	0	22,307	5,205	17,102	17,102
Southern	0	0	456,939	106,619	350,320	350,320
Western	0	0	153,737	35,872	117,865	117,865
Subtotal	0	0	953,872	222,570	731,302	731,302
Sanitation and Waste Removal:						
Alaskan	0	0	13	3	10	10
Central	0	0	78,193	18,245	59,948	59,948
Eastern	0	0	117,476	27,411	90,065	90,065
Pacific	0	0	10,513	2,453	8,060	8,060
Southern	0	0	191,472	44,677	146,795	146,795
Western	0	0	77,662	18,121	59,541	59,541
Subtotal	0	0	475,329	110,910	364,419	364,419
Telecommunications:						
Alaskan	0	0	35	8	27	27
Central	0	0	326,875	76,271	250,604	250,604
Eastern	0	0	451,879	105,439	346,441	346,441
Pacific	0	0	24,069	5,616	18,453	18,453
Southern	0	0	773,027	180,373	592,654	592,654
Western	0	0	274,288	64,001	210,288	210,288
Subtotal	0	0	1,850,175	431,707	1,418,467	1,418,467
Temporary Help Services:						
Alaskan	0	0	11	2	8	8
Central	0	0	1,764,509	411,719	1,352,790	1,352,790
Eastern	0	0	2,223,951	518,922	1,705,029	1,705,029
Pacific	0	0	237,694	55,462	182,232	182,232
Southern	0	0	7,717,829	1,800,827	5,917,003	5,917,003
Western	0	0	2,078,922	485,082	1,593,840	1,593,840

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	0	0	14,022,916	3,272,014	10,750,903	10,750,903
Transportation:						
Alaskan	0	0	78	18	60	60
Central	0	0	644,184	150,310	493,874	493,874
Eastern	0	0	626,041	146,076	479,965	479,965
Pacific	0	0	114,259	26,660	87,598	87,598
Southern	0	0	1,718,290	400,934	1,317,356	1,317,356
Western	0	0	519,628	121,246	398,381	398,381
Subtotal	0	0	3,622,479	845,245	2,777,234	2,777,234
Utilities:						
Alaskan	0	0	34	8	26	26
Central	0	0	433,621	101,178	332,443	332,443
Eastern	0	0	581,993	135,798	446,195	446,195
Pacific	0	0	13,832	3,228	10,605	10,605
Southern	0	0	1,004,639	234,416	770,223	770,223
Western	0	0	303,370	70,786	232,584	232,584
Subtotal	0	0	2,337,489	545,414	1,792,075	1,792,075
Warehousing:						
Alaskan	0	0	3	1	2	2
Central	0	0	359,090	83,788	275,302	275,302
Eastern	0	0	508,162	118,571	389,591	389,591
Pacific	0	0	11,186	2,610	8,576	8,576
Southern	0	0	810,689	189,161	621,528	621,528
Western	0	0	338,273	78,930	259,343	259,343
Subtotal	0	0	2,027,404	473,061	1,554,343	1,554,343
Non-Core:						
Alaskan	0	0	1,385	323	1,062	1,062
Central	0	0	19,589,073	4,570,784	15,018,289	15,018,289
Eastern	0	0	30,377,960	7,088,191	23,289,770	23,289,770
Pacific	0	0	1,959,466	457,209	1,502,257	1,502,257
Southern	0	0	33,508,390	7,818,624	25,689,765	25,689,765
Western	0	0	21,969,623	5,126,245	16,843,378	16,843,378
Subtotal	0	0	107,405,896	25,061,376	82,344,521	82,344,521
Total Costs for Rest Breaks at Initial Heat Trigger—Indoor:						
Alaskan	0	0	2,268	529	1,739	1,739
Central	0	0	39,712,173	9,266,174	30,445,999	30,445,999
Eastern	0	0	53,664,756	12,521,777	41,142,980	41,142,980
Pacific	0	0	3,687,730	860,470	2,827,260	2,827,260
Southern	0	0	79,241,576	18,489,701	60,751,875	60,751,875
Western	0	0	37,890,887	8,841,207	29,049,680	29,049,680
Total	0	0	214,199,392	49,979,858	164,219,534	164,219,534
Rest Breaks at Initial Heat Trigger—Outdoor						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	26	5	21	21
Central	0	0	1,447,844	289,569	1,158,275	1,158,275
Eastern	0	0	854,788	170,958	683,830	683,830
Pacific	0	0	45,903	9,181	36,722	36,722
Southern	0	0	2,356,557	471,311	1,885,246	1,885,246
Western	0	0	1,932,124	386,425	1,545,700	1,545,700
Subtotal	0	0	6,637,243	1,327,449	5,309,794	5,309,794
Building Materials and Equipment Suppliers:						
Alaskan	0	0	19	4	15	15
Central	0	0	331,125	66,225	264,900	264,900
Eastern	0	0	402,033	80,407	321,626	321,626
Pacific	0	0	30,235	6,047	24,188	24,188
Southern	0	0	807,047	161,409	645,638	645,638
Western	0	0	309,009	61,802	247,207	247,207
Subtotal	0	0	1,879,467	375,893	1,503,574	1,503,574
Commercial Kitchens:						
Alaskan	0	0	8	2	6	6
Central	0	0	188,883	37,777	151,106	151,106
Eastern	0	0	264,517	52,903	211,613	211,613
Pacific	0	0	43,628	8,726	34,903	34,903
Southern	0	0	568,982	113,796	455,186	455,186
Western	0	0	193,195	38,639	154,556	154,556
Subtotal	0	0	1,259,213	251,843	1,007,371	1,007,371
Construction:						
Alaskan	0	0	441	88	353	353

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Central	0	0	6,152,988	1,230,598	4,922,390	4,922,390
Eastern	0	0	8,382,560	1,676,512	6,706,048	6,706,048
Pacific	0	0	995,358	199,072	796,286	796,286
Southern	0	0	16,580,548	3,316,110	13,264,438	13,264,438
Western	0	0	6,576,720	1,315,344	5,261,376	5,261,376
Subtotal	0	0	38,688,614	7,737,723	30,950,891	30,950,891
Drycleaning and Commercial Laundries:						
Alaskan	0	0	1	0	1	1
Central	0	0	29,041	5,808	23,232	23,232
Eastern	0	0	49,035	9,807	39,228	39,228
Pacific	0	0	5,667	1,133	4,533	4,533
Southern	0	0	79,594	15,919	63,675	63,675
Western	0	0	30,948	6,190	24,759	24,759
Subtotal	0	0	194,286	38,857	155,429	155,429
Landscaping and Facilities Support:						
Alaskan	0	0	127	25	102	102
Central	0	0	1,609,058	321,812	1,287,246	1,287,246
Eastern	0	0	2,479,858	495,972	1,983,886	1,983,886
Pacific	0	0	239,411	47,882	191,529	191,529
Southern	0	0	4,100,068	820,014	3,280,054	3,280,054
Western	0	0	1,553,009	310,602	1,242,407	1,242,407
Subtotal	0	0	9,981,530	1,996,306	7,985,224	7,985,224
Maintenance and Repair:						
Alaskan	0	0	29	6	23	23
Central	0	0	565,344	113,069	452,275	452,275
Eastern	0	0	700,860	140,172	560,688	560,688
Pacific	0	0	45,008	9,002	36,006	36,006
Southern	0	0	1,283,101	256,620	1,026,481	1,026,481
Western	0	0	516,573	103,315	413,258	413,258
Subtotal	0	0	3,110,915	622,183	2,488,732	2,488,732
Manufacturing:						
Alaskan	0	0	51	10	41	41
Central	0	0	1,954,406	390,881	1,563,525	1,563,525
Eastern	0	0	1,956,554	391,311	1,565,244	1,565,244
Pacific	0	0	33,381	6,676	26,705	26,705
Southern	0	0	2,961,164	592,233	2,368,931	2,368,931
Western	0	0	1,008,707	201,741	806,965	806,965
Subtotal	0	0	7,914,264	1,582,853	6,331,411	6,331,411
Oil and Gas:						
Alaskan	0	0	164	33	131	131
Central	0	0	209,271	41,854	167,417	167,417
Eastern	0	0	118,661	23,732	94,929	94,929
Southern	0	0	2,196,724	439,345	1,757,379	1,757,379
Western	0	0	145,839	29,168	116,671	116,671
Subtotal	0	0	2,670,659	534,132	2,136,527	2,136,527
Postal and Delivery Services:						
Alaskan	0	0	5	1	4	4
Central	0	0	150,995	30,199	120,796	120,796
Eastern	0	0	222,509	44,502	178,007	178,007
Pacific	0	0	12,567	2,513	10,053	10,053
Southern	0	0	343,861	68,772	275,089	275,089
Western	0	0	141,847	28,369	113,478	113,478
Subtotal	0	0	871,785	174,357	697,428	697,428
Recreation and Amusement:						
Alaskan	0	0	8	2	6	6
Central	0	0	175,190	35,038	140,152	140,152
Eastern	0	0	271,067	54,213	216,853	216,853
Pacific	0	0	30,901	6,180	24,721	24,721
Southern	0	0	631,736	126,347	505,389	505,389
Western	0	0	213,035	42,607	170,428	170,428
Subtotal	0	0	1,321,937	264,387	1,057,550	1,057,550
Sanitation and Waste Removal:						
Alaskan	0	0	19	4	15	15
Central	0	0	93,862	18,772	75,090	75,090
Eastern	0	0	149,142	29,828	119,314	119,314
Pacific	0	0	13,534	2,707	10,827	10,827
Southern	0	0	239,950	47,990	191,960	191,960
Western	0	0	95,962	19,192	76,770	76,770
Subtotal	0	0	592,470	118,494	473,976	473,976
Telecommunications:						

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Alaskan	0	0	30	6	24	24
Central	0	0	276,569	55,314	221,255	221,255
Eastern	0	0	382,333	76,467	305,867	305,867
Pacific	0	0	20,365	4,073	16,292	16,292
Southern	0	0	654,055	130,811	523,244	523,244
Western	0	0	232,075	46,415	185,660	185,660
Subtotal	0	0	1,565,427	313,085	1,252,342	1,252,342
Temporary Help Services:						
Alaskan	0	0	6	1	4	4
Central	0	0	917,544	183,509	734,035	734,035
Eastern	0	0	1,156,453	231,291	925,162	925,162
Pacific	0	0	123,601	24,720	98,881	98,881
Southern	0	0	4,013,267	802,653	3,210,613	3,210,613
Western	0	0	1,081,038	216,208	864,831	864,831
Subtotal	0	0	7,291,908	1,458,382	5,833,527	5,833,527
Transportation:						
Alaskan	0	0	112	22	90	90
Central	0	0	858,719	171,744	686,975	686,975
Eastern	0	0	818,869	163,774	655,096	655,096
Pacific	0	0	154,829	30,966	123,863	123,863
Southern	0	0	2,274,433	454,887	1,819,546	1,819,546
Western	0	0	683,172	136,634	546,538	546,538
Subtotal	0	0	4,790,135	958,027	3,832,108	3,832,108
Utilities:						
Alaskan	0	0	47	9	38	38
Central	0	0	612,027	122,405	489,621	489,621
Eastern	0	0	821,643	164,329	657,315	657,315
Pacific	0	0	19,465	3,893	15,572	15,572
Southern	0	0	1,417,789	283,558	1,134,231	1,134,231
Western	0	0	427,591	85,518	342,073	342,073
Subtotal	0	0	3,298,562	659,712	2,638,849	2,638,849
Warehousing:						
Alaskan	0	0	1	0	1	1
Central	0	0	153,135	30,627	122,508	122,508
Eastern	0	0	216,708	43,342	173,366	173,366
Pacific	0	0	4,770	954	3,816	3,816
Southern	0	0	345,721	69,144	276,577	276,577
Western	0	0	144,258	28,852	115,406	115,406
Subtotal	0	0	864,594	172,919	691,675	691,675
Non-Core:						
Alaskan	0	0	1,602	320	1,282	1,282
Central	0	0	17,577,924	3,515,585	14,062,339	14,062,339
Eastern	0	0	28,801,093	5,760,219	23,040,875	23,040,875
Pacific	0	0	1,933,219	386,644	1,546,575	1,546,575
Southern	0	0	24,553,870	4,910,774	19,643,096	19,643,096
Western	0	0	22,012,012	4,402,402	17,609,610	17,609,610
Subtotal	0	0	94,879,721	18,975,944	75,903,777	75,903,777
Total Costs for Rest Breaks at Initial Heat Trigger—						
Outdoor:						
Alaskan	0	0	2,698	540	2,158	2,158
Central	0	0	33,303,923	6,660,785	26,643,138	26,643,138
Eastern	0	0	48,048,684	9,609,737	38,438,947	38,438,947
Pacific	0	0	3,751,841	750,368	3,001,473	3,001,473
Southern	0	0	65,408,469	13,081,694	52,326,776	52,326,776
Western	0	0	37,297,115	7,459,423	29,837,692	29,837,692
Total	0	0	187,812,730	37,562,546	150,250,184	150,250,184
Effective Communication—Supervisor						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	28	0	28	28
Central	0	0	1,964,364	0	1,964,364	1,964,364
Eastern	0	0	1,215,238	0	1,215,238	1,215,238
Pacific	0	0	44,631	0	44,631	44,631
Southern	0	0	4,074,345	0	4,074,345	4,074,345
Western	0	0	2,888,709	0	2,888,709	2,888,709
Subtotal	0	0	10,187,315	0	10,187,315	10,187,315
Building Materials and Equipment Suppliers:						
Alaskan	0	0	36	0	36	36
Central	0	0	765,503	0	765,503	765,503
Eastern	0	0	961,428	0	961,428	961,428

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	54,471	0	54,471	54,471
Southern	0	0	2,264,317	0	2,264,317	2,264,317
Western	0	0	764,695	0	764,695	764,695
Subtotal	0	0	4,810,451	0	4,810,451	4,810,451
Commercial Kitchens:						
Alaskan	0	0	131	0	131	131
Central	0	0	3,143,911	0	3,143,911	3,143,911
Eastern	0	0	4,732,451	0	4,732,451	4,732,451
Pacific	0	0	380,104	0	380,104	380,104
Southern	0	0	10,585,830	0	10,585,830	10,585,830
Western	0	0	3,623,278	0	3,623,278	3,623,278
Subtotal	0	0	22,465,706	0	22,465,706	22,465,706
Construction:						
Alaskan	0	0	559	0	559	559
Central	0	0	9,137,347	0	9,137,347	9,137,347
Eastern	0	0	13,712,035	0	13,712,035	13,712,035
Pacific	0	0	992,545	0	992,545	992,545
Southern	0	0	31,427,215	0	31,427,215	31,427,215
Western	0	0	10,961,509	0	10,961,509	10,961,509
Subtotal	0	0	66,231,210	0	66,231,210	66,231,210
Drycleaning and Commercial Laundries:						
Alaskan	0	0	4	0	4	4
Central	0	0	105,390	0	105,390	105,390
Eastern	0	0	192,692	0	192,692	192,692
Pacific	0	0	15,964	0	15,964	15,964
Southern	0	0	369,774	0	369,774	369,774
Western	0	0	127,300	0	127,300	127,300
Subtotal	0	0	811,123	0	811,123	811,123
Landscaping and Facilities Support:						
Alaskan	0	0	156	0	156	156
Central	0	0	2,235,263	0	2,235,263	2,235,263
Eastern	0	0	3,759,687	0	3,759,687	3,759,687
Pacific	0	0	263,459	0	263,459	263,459
Southern	0	0	7,391,500	0	7,391,500	7,391,500
Western	0	0	2,457,942	0	2,457,942	2,457,942
Subtotal	0	0	16,108,008	0	16,108,008	16,108,008
Maintenance and Repair:						
Alaskan	0	0	45	0	45	45
Central	0	0	1,088,876	0	1,088,876	1,088,876
Eastern	0	0	1,448,306	0	1,448,306	1,448,306
Pacific	0	0	65,204	0	65,204	65,204
Southern	0	0	3,198,265	0	3,198,265	3,198,265
Western	0	0	1,106,431	0	1,106,431	1,106,431
Subtotal	0	0	6,907,125	0	6,907,125	6,907,125
Manufacturing:						
Alaskan	0	0	151	0	151	151
Central	0	0	10,477,364	0	10,477,364	10,477,364
Eastern	0	0	10,527,247	0	10,527,247	10,527,247
Pacific	0	0	116,915	0	116,915	116,915
Southern	0	0	18,442,859	0	18,442,859	18,442,859
Western	0	0	5,656,280	0	5,656,280	5,656,280
Subtotal	0	0	45,220,816	0	45,220,816	45,220,816
Oil and Gas:						
Alaskan	0	0	197	0	197	197
Central	0	0	294,598	0	294,598	294,598
Eastern	0	0	178,004	0	178,004	178,004
Southern	0	0	4,394,986	0	4,394,986	4,394,986
Western	0	0	213,864	0	213,864	213,864
Subtotal	0	0	5,081,648	0	5,081,648	5,081,648
Postal and Delivery Services:						
Alaskan	0	0	10	0	10	10
Central	0	0	380,967	0	380,967	380,967
Eastern	0	0	605,787	0	605,787	605,787
Pacific	0	0	22,894	0	22,894	22,894
Southern	0	0	1,074,645	0	1,074,645	1,074,645
Western	0	0	409,080	0	409,080	409,080
Subtotal	0	0	2,493,383	0	2,493,383	2,493,383
Recreation and Amusement:						
Alaskan	0	0	33	0	33	33
Central	0	0	660,935	0	660,935	660,935

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Eastern	0	0	1,121,133	0	1,121,133	1,121,133
Pacific	0	0	54,251	0	54,251	54,251
Southern	0	0	2,414,130	0	2,414,130	2,414,130
Western	0	0	906,381	0	906,381	906,381
Subtotal	0	0	5,156,864	0	5,156,864	5,156,864
Sanitation and Waste Removal:						
Alaskan	0	0	25	0	25	25
Central	0	0	171,785	0	171,785	171,785
Eastern	0	0	288,897	0	288,897	288,897
Pacific	0	0	19,746	0	19,746	19,746
Southern	0	0	573,019	0	573,019	573,019
Western	0	0	196,550	0	196,550	196,550
Subtotal	0	0	1,250,023	0	1,250,023	1,250,023
Telecommunications:						
Alaskan	0	0	36	0	36	36
Central	0	0	425,813	0	425,813	425,813
Eastern	0	0	643,399	0	643,399	643,399
Pacific	0	0	28,284	0	28,284	28,284
Southern	0	0	1,330,181	0	1,330,181	1,330,181
Western	0	0	403,641	0	403,641	403,641
Subtotal	0	0	2,831,354	0	2,831,354	2,831,354
Temporary Help Services:						
Alaskan	0	0	13	0	13	13
Central	0	0	2,758,017	0	2,758,017	2,758,017
Eastern	0	0	3,814,255	0	3,814,255	3,814,255
Pacific	0	0	317,980	0	317,980	317,980
Southern	0	0	15,855,219	0	15,855,219	15,855,219
Western	0	0	3,754,041	0	3,754,041	3,754,041
Subtotal	0	0	26,499,525	0	26,499,525	26,499,525
Transportation:						
Alaskan	0	0	176	0	176	176
Central	0	0	1,693,569	0	1,693,569	1,693,569
Eastern	0	0	1,739,047	0	1,739,047	1,739,047
Pacific	0	0	216,193	0	216,193	216,193
Southern	0	0	5,538,578	0	5,538,578	5,538,578
Western	0	0	1,501,275	0	1,501,275	1,501,275
Subtotal	0	0	10,688,839	0	10,688,839	10,688,839
Utilities:						
Alaskan	0	0	45	0	45	45
Central	0	0	721,516	0	721,516	721,516
Eastern	0	0	1,032,539	0	1,032,539	1,032,539
Pacific	0	0	15,379	0	15,379	15,379
Southern	0	0	2,119,922	0	2,119,922	2,119,922
Western	0	0	557,975	0	557,975	557,975
Subtotal	0	0	4,447,375	0	4,447,375	4,447,375
Warehousing:						
Alaskan	0	0	4	0	4	4
Central	0	0	611,486	0	611,486	611,486
Eastern	0	0	901,301	0	901,301	901,301
Pacific	0	0	13,316	0	13,316	13,316
Southern	0	0	1,668,522	0	1,668,522	1,668,522
Western	0	0	636,547	0	636,547	636,547
Subtotal	0	0	3,831,178	0	3,831,178	3,831,178
Non-Core:						
Alaskan	0	0	1,664	0	1,664	1,664
Central	0	0	28,533,033	0	28,533,033	28,533,033
Eastern	0	0	49,053,020	0	49,053,020	49,053,020
Pacific	0	0	2,542,930	0	2,542,930	2,542,930
Southern	0	0	62,702,524	0	62,702,524	62,702,524
Western	0	0	36,703,176	0	36,703,176	36,703,176
Subtotal	0	0	179,536,346	0	179,536,346	179,536,346
Total Costs for Effective Communication—Supervisor:						
Alaskan	0	0	3,312	0	3,312	3,312
Central	0	0	65,169,736	0	65,169,736	65,169,736
Eastern	0	0	95,926,466	0	95,926,466	95,926,466
Pacific	0	0	5,164,266	0	5,164,266	5,164,266
Southern	0	0	175,425,832	0	175,425,832	175,425,832
Western	0	0	72,868,675	0	72,868,675	72,868,675
Total	0	0	414,558,288	0	414,558,288	414,558,288

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Effective Communication—Employee						
Agriculture, Forestry, and Fishing:						
Alaskan	0	0	30	0	30	30
Central	0	0	2,112,774	0	2,112,774	2,112,774
Eastern	0	0	1,307,050	0	1,307,050	1,307,050
Pacific	0	0	48,003	0	48,003	48,003
Southern	0	0	4,382,165	0	4,382,165	4,382,165
Western	0	0	3,106,954	0	3,106,954	3,106,954
Subtotal	0	0	10,956,976	0	10,956,976	10,956,976
Building Materials and Equipment Suppliers:						
Alaskan	0	0	44	0	44	44
Central	0	0	942,412	0	942,412	942,412
Eastern	0	0	1,184,054	0	1,184,054	1,184,054
Pacific	0	0	67,085	0	67,085	67,085
Southern	0	0	2,791,746	0	2,791,746	2,791,746
Western	0	0	942,394	0	942,394	942,394
Subtotal	0	0	5,927,736	0	5,927,736	5,927,736
Commercial Kitchens:						
Alaskan	0	0	189	0	189	189
Central	0	0	4,479,892	0	4,479,892	4,479,892
Eastern	0	0	6,743,062	0	6,743,062	6,743,062
Pacific	0	0	537,452	0	537,452	537,452
Southern	0	0	15,142,940	0	15,142,940	15,142,940
Western	0	0	5,158,261	0	5,158,261	5,158,261
Subtotal	0	0	32,061,796	0	32,061,796	32,061,796
Construction:						
Alaskan	0	0	757	0	757	757
Central	0	0	12,067,609	0	12,067,609	12,067,609
Eastern	0	0	18,192,171	0	18,192,171	18,192,171
Pacific	0	0	1,301,390	0	1,301,390	1,301,390
Southern	0	0	41,487,043	0	41,487,043	41,487,043
Western	0	0	14,467,580	0	14,467,580	14,467,580
Subtotal	0	0	87,516,549	0	87,516,549	87,516,549
Drycleaning and Commercial Laundries:						
Alaskan	0	0	5	0	5	5
Central	0	0	132,867	0	132,867	132,867
Eastern	0	0	242,929	0	242,929	242,929
Pacific	0	0	20,126	0	20,126	20,126
Southern	0	0	466,178	0	466,178	466,178
Western	0	0	160,489	0	160,489	160,489
Subtotal	0	0	1,022,592	0	1,022,592	1,022,592
Landscaping and Facilities Support:						
Alaskan	0	0	156	0	156	156
Central	0	0	2,278,317	0	2,278,317	2,278,317
Eastern	0	0	3,829,915	0	3,829,915	3,829,915
Pacific	0	0	270,710	0	270,710	270,710
Southern	0	0	7,523,810	0	7,523,810	7,523,810
Western	0	0	2,501,833	0	2,501,833	2,501,833
Subtotal	0	0	16,404,742	0	16,404,742	16,404,742
Maintenance and Repair:						
Alaskan	0	0	56	0	56	56
Central	0	0	1,372,758	0	1,372,758	1,372,758
Eastern	0	0	1,825,895	0	1,825,895	1,825,895
Pacific	0	0	82,203	0	82,203	82,203
Southern	0	0	4,032,088	0	4,032,088	4,032,088
Western	0	0	1,394,890	0	1,394,890	1,394,890
Subtotal	0	0	8,707,890	0	8,707,890	8,707,890
Manufacturing:						
Alaskan	0	0	158	0	158	158
Central	0	0	10,985,306	0	10,985,306	10,985,306
Eastern	0	0	11,037,608	0	11,037,608	11,037,608
Pacific	0	0	122,583	0	122,583	122,583
Southern	0	0	19,336,968	0	19,336,968	19,336,968
Western	0	0	5,930,496	0	5,930,496	5,930,496
Subtotal	0	0	47,413,118	0	47,413,118	47,413,118
Oil and Gas:						
Alaskan	0	0	222	0	222	222
Central	0	0	331,463	0	331,463	331,463
Eastern	0	0	200,341	0	200,341	200,341
Southern	0	0	4,954,004	0	4,954,004	4,954,004

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	0	0	240,985	0	240,985	240,985
Subtotal	0	0	5,727,015	0	5,727,015	5,727,015
Postal and Delivery Services:						
Alaskan	0	0	11	0	11	11
Central	0	0	418,395	0	418,395	418,395
Eastern	0	0	665,304	0	665,304	665,304
Pacific	0	0	25,144	0	25,144	25,144
Southern	0	0	1,180,225	0	1,180,225	1,180,225
Western	0	0	449,271	0	449,271	449,271
Subtotal	0	0	2,738,350	0	2,738,350	2,738,350
Recreation and Amusement:						
Alaskan	0	0	36	0	36	36
Central	0	0	716,707	0	716,707	716,707
Eastern	0	0	1,216,575	0	1,216,575	1,216,575
Pacific	0	0	58,528	0	58,528	58,528
Southern	0	0	2,617,835	0	2,617,835	2,617,835
Western	0	0	984,819	0	984,819	984,819
Subtotal	0	0	5,594,500	0	5,594,500	5,594,500
Sanitation and Waste Removal:						
Alaskan	0	0	25	0	25	25
Central	0	0	169,213	0	169,213	169,213
Eastern	0	0	284,571	0	284,571	284,571
Pacific	0	0	19,451	0	19,451	19,451
Southern	0	0	564,437	0	564,437	564,437
Western	0	0	193,607	0	193,607	193,607
Subtotal	0	0	1,231,303	0	1,231,303	1,231,303
Telecommunications:						
Alaskan	0	0	46	0	46	46
Central	0	0	551,961	0	551,961	551,961
Eastern	0	0	834,009	0	834,009	834,009
Pacific	0	0	36,663	0	36,663	36,663
Southern	0	0	1,724,252	0	1,724,252	1,724,252
Western	0	0	523,221	0	523,221	523,221
Subtotal	0	0	3,670,153	0	3,670,153	3,670,153
Temporary Help Services:						
Alaskan	0	0	13	0	13	13
Central	0	0	2,716,714	0	2,716,714	2,716,714
Eastern	0	0	3,757,134	0	3,757,134	3,757,134
Pacific	0	0	313,218	0	313,218	313,218
Southern	0	0	15,617,778	0	15,617,778	15,617,778
Western	0	0	3,697,822	0	3,697,822	3,697,822
Subtotal	0	0	26,102,678	0	26,102,678	26,102,678
Transportation:						
Alaskan	0	0	194	0	194	194
Central	0	0	1,859,957	0	1,859,957	1,859,957
Eastern	0	0	1,909,903	0	1,909,903	1,909,903
Pacific	0	0	237,434	0	237,434	237,434
Southern	0	0	6,082,726	0	6,082,726	6,082,726
Western	0	0	1,648,771	0	1,648,771	1,648,771
Subtotal	0	0	11,738,984	0	11,738,984	11,738,984
Utilities:						
Alaskan	0	0	73	0	73	73
Central	0	0	1,160,185	0	1,160,185	1,160,185
Eastern	0	0	1,660,306	0	1,660,306	1,660,306
Pacific	0	0	24,729	0	24,729	24,729
Southern	0	0	3,408,801	0	3,408,801	3,408,801
Western	0	0	897,215	0	897,215	897,215
Subtotal	0	0	7,151,308	0	7,151,308	7,151,308
Warehousing:						
Alaskan	0	0	5	0	5	5
Central	0	0	671,562	0	671,562	671,562
Eastern	0	0	989,851	0	989,851	989,851
Pacific	0	0	14,625	0	14,625	14,625
Southern	0	0	1,832,450	0	1,832,450	1,832,450
Western	0	0	699,086	0	699,086	699,086
Subtotal	0	0	4,207,579	0	4,207,579	4,207,579
Non-Core:						
Alaskan	0	0	2,181	0	2,181	2,181
Central	0	0	36,970,389	0	36,970,389	36,970,389
Eastern	0	0	63,618,726	0	63,618,726	63,618,726

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	3,266,173	0	3,266,173	3,266,173
Southern	0	0	78,991,981	0	78,991,981	78,991,981
Western	0	0	48,034,871	0	48,034,871	48,034,871
Subtotal	0	0	230,884,322	0	230,884,322	230,884,322
Total Costs for Effective Communication—Employee:						
Alaskan	0	0	4,201	0	4,201	4,201
Central	0	0	79,938,482	0	79,938,482	79,938,482
Eastern	0	0	119,499,404	0	119,499,404	119,499,404
Pacific	0	0	6,445,514	0	6,445,514	6,445,514
Southern	0	0	212,137,427	0	212,137,427	212,137,427
Western	0	0	91,032,564	0	91,032,564	91,032,564
Total	0	0	509,057,592	0	509,057,592	509,057,592
Total Costs for Requirements at or Above the Initial Heat Trigger						
Agriculture, Forestry, and Fishing:						
Alaskan	2,582	2,874	94	7	2,668	2,961
Central	290,531	323,438	6,809,497	404,901	6,695,127	6,728,034
Eastern	162,505	180,911	4,152,610	237,681	4,077,434	4,095,840
Pacific	1,935	2,155	177,064	12,822	166,177	166,397
Southern	260,422	289,919	12,814,196	656,948	12,417,670	12,447,167
Western	232,476	258,807	8,976,858	540,871	8,668,463	8,694,794
Subtotal	950,451	1,058,104	32,930,319	1,853,230	32,027,540	32,135,193
Building Materials and Equipment Suppliers:						
Alaskan	1,461	1,626	130	11	1,580	1,745
Central	134,180	149,378	2,916,552	192,713	2,858,020	2,873,218
Eastern	167,855	186,868	3,586,270	233,237	3,520,888	3,539,901
Pacific	2,606	2,901	229,181	17,414	214,373	214,668
Southern	154,057	171,507	7,783,534	455,300	7,482,291	7,499,741
Western	105,242	117,162	2,788,761	175,934	2,718,069	2,729,990
Subtotal	565,401	629,442	17,304,428	1,074,608	16,795,222	16,859,262
Commercial Kitchens:						
Alaskan	10,503	11,693	408	19	10,892	12,082
Central	1,231,606	1,371,104	12,451,003	471,143	13,211,467	13,350,965
Eastern	1,835,684	2,043,603	18,279,032	662,753	19,451,963	19,659,882
Pacific	39,669	44,162	1,785,332	110,509	1,714,492	1,718,985
Southern	1,635,856	1,821,141	38,770,869	1,465,601	38,941,123	39,126,409
Western	1,092,042	1,215,732	13,661,407	486,073	14,267,375	14,391,066
Subtotal	5,845,359	6,507,436	84,948,051	3,196,098	87,597,312	88,259,388
Construction:						
Alaskan	12,220	13,604	2,022	146	14,097	15,481
Central	849,091	945,263	36,031,537	1,981,743	34,898,885	34,995,057
Eastern	1,238,890	1,379,213	52,226,855	2,713,220	50,752,525	50,892,848
Pacific	22,189	24,702	4,473,869	316,331	4,179,726	4,182,239
Southern	1,151,743	1,282,196	110,480,523	5,326,300	106,305,966	106,436,419
Western	680,610	757,700	38,361,839	2,109,291	36,933,159	37,010,248
Subtotal	3,954,742	4,402,677	241,576,645	12,447,030	233,084,357	233,532,292
Drycleaning and Commercial Laundries:						
Alaskan	185	206	14	1	198	219
Central	22,582	25,140	403,678	26,160	400,100	402,658
Eastern	43,947	48,924	715,273	44,171	715,048	720,026
Pacific	834	928	67,476	5,105	63,205	63,299
Southern	32,751	36,461	1,271,287	71,699	1,232,339	1,236,049
Western	21,418	23,843	463,272	27,878	456,811	459,237
Subtotal	121,717	135,503	2,921,000	175,014	2,867,703	2,881,489
Landscaping and Facilities Support:						
Alaskan	3,686	4,104	517	43	4,161	4,578
Central	222,053	247,204	7,611,700	486,523	7,347,230	7,372,381
Eastern	359,816	400,571	12,350,876	749,784	11,960,908	12,001,663
Pacific	6,309	7,023	981,924	71,000	917,233	917,948
Southern	286,418	318,859	22,550,982	1,239,668	21,597,731	21,630,172
Western	214,983	239,333	8,126,642	470,473	7,871,153	7,895,503
Subtotal	1,093,265	1,217,094	51,622,642	3,017,490	49,698,416	49,822,245
Maintenance and Repair:						
Alaskan	1,889	2,103	166	14	2,041	2,255
Central	205,609	228,897	4,223,953	270,743	4,158,818	4,182,107
Eastern	267,329	297,609	5,448,766	334,958	5,381,138	5,411,417
Pacific	3,235	3,601	281,687	21,315	263,607	263,973
Southern	240,626	267,880	11,104,039	619,854	10,724,811	10,752,066
Western	163,386	181,892	4,085,617	245,395	4,003,608	4,022,114

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	882,074	981,982	25,144,229	1,492,279	24,534,023	24,633,932
Manufacturing:						
Alaskan	4,850	5,399	505	44	5,311	5,861
Central	1,719,680	1,914,460	35,071,755	2,377,413	34,414,022	34,608,802
Eastern	1,583,237	1,762,563	34,664,298	2,300,305	33,947,231	34,126,557
Pacific	4,686	5,216	421,914	31,866	394,734	395,264
Southern	1,247,724	1,389,048	55,965,834	3,255,437	53,958,122	54,099,446
Western	717,440	798,701	18,107,217	1,149,563	17,675,095	17,756,356
Subtotal	5,277,616	5,875,387	144,231,525	9,114,627	140,394,515	140,992,285
Oil and Gas:						
Alaskan	2,991	3,329	675	53	3,612	3,951
Central	34,495	38,402	1,106,175	68,368	1,072,303	1,076,210
Eastern	20,770	23,123	654,966	38,729	637,008	639,360
Southern	173,902	193,599	14,164,399	712,463	13,625,838	13,645,535
Western	19,853	22,102	773,687	47,365	746,174	748,423
Subtotal	252,011	280,555	16,699,902	866,978	16,084,935	16,113,480
Postal and Delivery Services:						
Alaskan	918	1,022	31	2	947	1,051
Central	78,862	87,795	1,320,012	72,566	1,326,308	1,335,240
Eastern	116,555	129,757	2,043,229	107,332	2,052,452	2,065,653
Pacific	1,164	1,295	88,403	5,897	83,669	83,801
Southern	82,930	92,323	3,383,667	166,330	3,300,268	3,309,661
Western	58,555	65,188	1,353,434	69,675	1,342,314	1,348,946
Subtotal	338,985	377,380	8,188,776	421,802	8,105,958	8,144,354
Recreation and Amusement:						
Alaskan	1,859	2,069	84	3	1,940	2,150
Central	132,718	147,751	2,197,203	64,438	2,265,483	2,280,515
Eastern	214,995	239,347	3,620,509	99,687	3,735,818	3,760,169
Pacific	2,769	3,082	215,391	11,385	206,774	207,088
Southern	161,072	179,315	7,439,929	232,966	7,368,035	7,386,279
Western	130,096	144,831	2,873,505	78,479	2,925,122	2,939,857
Subtotal	643,508	716,396	16,346,621	486,958	16,503,172	16,576,059
Sanitation and Waste Removal:						
Alaskan	611	680	82	7	686	756
Central	21,357	23,776	569,105	37,017	553,445	555,864
Eastern	34,579	38,496	927,727	57,240	905,066	908,983
Pacific	595	663	70,706	5,160	66,142	66,209
Southern	27,406	30,510	1,692,411	92,667	1,627,150	1,630,254
Western	18,751	20,874	618,635	37,314	600,072	602,196
Subtotal	103,299	115,000	3,878,665	229,404	3,752,560	3,764,261
Telecommunications:						
Alaskan	737	820	148	14	871	954
Central	38,996	43,413	1,726,267	131,585	1,633,679	1,638,096
Eastern	58,352	64,961	2,512,631	181,905	2,389,078	2,395,687
Pacific	687	765	120,644	9,689	111,641	111,719
Southern	52,550	58,502	4,789,275	311,184	4,530,641	4,536,593
Western	30,905	34,405	1,552,793	110,416	1,473,282	1,476,783
Subtotal	182,227	202,867	10,701,758	744,793	10,139,192	10,159,832
Temporary Help Services:						
Alaskan	463	516	42	4	502	555
Central	422,316	470,150	9,038,626	595,228	8,865,714	8,913,548
Eastern	540,161	601,342	12,043,713	750,212	11,833,661	11,894,842
Pacific	12,627	14,057	1,109,256	80,182	1,041,701	1,043,131
Southern	870,470	969,064	46,512,648	2,603,480	44,779,638	44,878,232
Western	433,572	482,681	11,638,266	701,290	11,370,549	11,419,658
Subtotal	2,279,609	2,537,809	80,342,552	4,730,396	77,891,765	78,149,965
Transportation:						
Alaskan	6,145	6,841	566	41	6,670	7,366
Central	310,575	345,752	5,901,892	322,053	5,890,413	5,925,590
Eastern	301,312	335,440	5,909,047	309,850	5,900,509	5,934,637
Pacific	7,536	8,390	850,115	57,626	800,025	800,879
Southern	362,051	403,059	17,538,094	855,821	17,044,323	17,085,331
Western	166,893	185,797	4,833,527	257,881	4,742,540	4,761,443
Subtotal	1,154,512	1,285,278	35,033,240	1,803,272	34,384,480	34,515,247
Utilities:						
Alaskan	998	1,111	200	17	1,181	1,294
Central	64,438	71,736	3,391,657	223,584	3,232,511	3,239,809
Eastern	88,068	98,044	4,721,144	300,127	4,509,085	4,519,060
Pacific	396	441	84,957	7,120	78,232	78,277
Southern	79,812	88,852	8,888,807	517,973	8,450,646	8,459,686
Western	38,290	42,627	2,493,560	156,305	2,375,546	2,379,883

TABLE VIII.C.24—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE INITIAL HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	272,003	302,811	19,580,325	1,205,126	18,647,201	18,678,009
Warehousing:						
Alaskan	201	224	14	1	214	237
Central	102,280	113,864	2,085,718	114,415	2,073,583	2,085,167
Eastern	148,725	165,570	3,022,555	161,913	3,009,367	3,026,212
Pacific	674	750	51,470	3,564	48,580	48,656
Southern	126,638	140,981	5,223,716	258,305	5,092,049	5,106,393
Western	86,989	96,842	2,088,531	107,782	2,067,739	2,077,591
Subtotal	465,506	518,232	12,472,005	645,980	12,291,531	12,344,257
Non-Core:						
Alaskan	81,107	90,294	6,898	644	87,362	96,548
Central	6,985,646	7,776,877	123,758,429	8,086,368	122,657,706	123,448,937
Eastern	11,318,161	12,600,116	204,704,352	12,848,409	203,174,104	204,456,059
Pacific	167,674	186,666	11,950,120	843,852	11,273,942	11,292,933
Southern	6,932,221	7,717,400	234,999,127	12,729,398	229,201,949	229,987,129
Western	6,490,124	7,225,230	151,142,547	9,528,648	148,104,024	148,839,129
Subtotal	31,974,933	35,596,583	726,561,474	44,037,320	714,499,087	718,120,736
Total:						
Alaskan	133,406	148,516	12,598	1,069	144,935	160,045
Central	12,867,014	14,324,399	256,614,758	15,926,958	253,554,813	255,012,199
Eastern	18,500,941	20,596,455	371,583,854	22,131,513	367,953,282	370,048,796
Pacific	275,584	306,798	22,959,508	1,610,839	21,624,253	21,655,467
Southern	13,878,649	15,450,618	605,373,338	31,571,395	587,680,592	589,252,561
Western	10,701,625	11,913,748	273,940,099	16,300,630	268,341,094	269,553,217
Total	56,357,219	62,740,535	1,530,484,155	87,542,404	1,499,298,970	1,505,682,286

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

E. Requirements at or Above the High Heat Trigger

I. Rest Breaks

All affected establishments would need to provide affected employees with rest breaks when the high heat trigger is met or exceeded. These rest breaks are different from those at the initial heat trigger in that they are scheduled, reoccurring at least every two hours. Employees would still be allowed rest breaks if needed as outlined under the initial heat trigger requirements, although OSHA estimates that these if-needed rest breaks would be shorter when the high heat trigger is met or exceeded because affected employees would also receive scheduled rest breaks (refer to section VIII.C.IV.E.I. for more details on the time estimated for high heat trigger rest breaks).

Similar to the initial heat trigger rest breaks, OSHA calculated total high heat trigger rest break costs by estimating the number of hours by work shift type (daytime, evening, and overnight) in a given State that meets or exceeds the high heat trigger and normalizing these estimates to 8-hour work shift equivalents. These 8-hour work shift equivalents are then multiplied by the number of affected employees and the unit costs for both indoor and outdoor work conditions.

As discussed in section VIII.C.IV.E.I., and detailed further in appendix A at

the end of this section, OSHA estimates that under the proposed standard, the reduction in time spent on pacing (*i.e.*, the increase in worker efficiency) will partially offset the added cost of time spent on if-needed rest breaks as well as scheduled rest breaks when the high heat trigger is met or exceeded for employees in Group 1 (*i.e.*, currently noncompliant with if-needed rest breaks as well as scheduled rest breaks). OSHA also estimates that reduced pacing (*i.e.*, increase in worker efficiency) will partially offset the added cost of scheduled rest breaks when the high heat trigger is met or exceeded for employees in Group 2 (*i.e.*, that are currently noncompliant with only scheduled rest breaks and currently compliant with if-needed rest breaks). Combining this estimated partial offset of the unit costs of rest breaks required when the high heat trigger is met or exceeded with data on the industry-level and/or State-level number of in-scope employees (discussed in section VIII.B.), baseline non-compliance rates (discussed in section VIII.C.II.A.), and State-level exposure to temperatures at or above the high heat trigger (discussed in section VIII.C.II.C.), OSHA estimates that approximately 71.72 percent of the total cost of compliance with rest breaks when the high heat trigger is met or exceeded (approximately \$9.92 billion out of \$13.83 billion) could be offset by

avoided labor productivity losses due to pacing (*i.e.*, avoided losses in worker efficiency).

II. Observation for Signs and Symptoms

OSHA calculates the total costs for observing signs and symptoms when the high heat trigger is met or exceeded by multiplying the unit costs for both the designated person and at-risk worker by the number of affected employees and the number of 8-hour work shift equivalents. The method to calculate the number of work-shift equivalents is the same approach used in the calculation of total costs for rest breaks.

III. Hazard Alert

OSHA also calculates the total costs for notifying employees of high heat conditions using 8-hour work shift equivalents. OSHA multiplies these 8-hour work shift equivalents by the number of affected establishments and the corresponding unit cost for a designated person to perform this requirement.

IV. Warning Signs for Excessively High Heat Areas

OSHA assumed that the cost of placing warning signs for excessively high heat areas is only applicable to industries assumed to have radiant heat sources (as outlined in OSHA, 2024c and discussed in section VIII.C.IV.E.IV.). To calculate total costs of this provision,

OSHA multiplies the number of affected establishments with radiant heat sources by the unit cost for a warning sign. Similarly, OSHA multiplies the number of affected establishments by the unit cost for a designated person to place that warning sign in an excessively high heat area.

Table VIII.C.25. shows the annualized one-time, annual, and total annualized

costs for each of these requirements by industry category and region, discounted (2 percent over a 10-year period) and undiscounted. Note that the best available evidence OSHA employed in this analysis showed no days exceeding the high heat trigger in Alaska and therefore, the agency estimated that most industries in Alaska

will not have costs of compliance for requirements at or above the high heat trigger. This may understate the effects in establishments where employees are exposed to process heat. However, OSHA identified no data that would allow an adjustment for this consideration but welcomes comment on the issue.

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Rest Breaks at High Heat Trigger—Indoor						
Agriculture, Forestry, and Fishing:						
Central	\$0	\$0	\$10,576,482	\$8,053,295	\$2,523,187	\$2,523,187
Eastern	0	0	8,784,224	6,685,916	2,098,307	2,098,307
Pacific	0	0	138,806	105,610	33,196	33,196
Southern	0	0	47,848,109	36,415,246	11,432,863	11,432,863
Western	0	0	6,577,885	5,037,349	1,540,536	1,540,536
Subtotal	0	0	73,925,505	56,297,416	17,628,090	17,628,090
Building Materials and Equipment Suppliers:						
Central	0	0	9,303,121	7,086,386	2,216,735	2,216,735
Eastern	0	0	16,643,764	12,668,300	3,975,464	3,975,464
Pacific	0	0	420,880	320,205	100,675	100,675
Southern	0	0	68,319,209	51,995,293	16,323,916	16,323,916
Western	0	0	6,134,338	4,688,454	1,445,885	1,445,885
Subtotal	0	0	100,821,312	76,758,637	24,062,675	24,062,675
Commercial Kitchens:						
Central	0	0	60,520,663	46,100,638	14,420,026	14,420,026
Eastern	0	0	134,221,171	102,165,211	32,055,959	32,055,959
Pacific	0	0	4,437,895	3,376,261	1,061,634	1,061,634
Southern	0	0	511,271,461	389,110,577	122,160,884	122,160,884
Western	0	0	52,350,165	39,989,637	12,360,528	12,360,528
Subtotal	0	0	762,801,355	580,742,324	182,059,030	182,059,030
Construction:						
Central	0	0	70,052,483	53,357,614	16,694,869	16,694,869
Eastern	0	0	159,083,213	121,101,655	37,981,559	37,981,559
Pacific	0	0	4,895,384	3,724,409	1,170,975	1,170,975
Southern	0	0	618,272,678	470,546,413	147,726,264	147,726,264
Western	0	0	63,400,197	48,418,585	14,981,612	14,981,612
Subtotal	0	0	915,703,956	697,148,676	218,555,280	218,555,280
Drycleaning and Commercial Laundries:						
Central	0	0	1,543,453	1,175,718	367,735	367,735
Eastern	0	0	4,226,300	3,216,917	1,009,383	1,009,383
Pacific	0	0	152,778	116,231	36,547	36,547
Southern	0	0	13,967,752	10,630,371	3,337,381	3,337,381
Western	0	0	1,365,680	1,043,429	322,251	322,251
Subtotal	0	0	21,255,963	16,182,666	5,073,297	5,073,297
Landscaping and Facilities Support:						
Central	0	0	11,258,311	8,576,633	2,681,678	2,681,678
Eastern	0	0	29,789,561	22,677,209	7,112,351	7,112,351
Pacific	0	0	877,456	667,554	209,902	209,902
Southern	0	0	98,622,223	75,057,866	23,564,358	23,564,358
Western	0	0	9,857,882	7,529,435	2,328,447	2,328,447
Subtotal	0	0	150,405,433	114,508,696	35,896,737	35,896,737
Maintenance and Repair:						
Central	0	0	12,180,429	9,277,696	2,902,733	2,902,733
Eastern	0	0	24,027,523	18,289,697	5,737,826	5,737,826
Pacific	0	0	468,728	356,611	112,117	112,117
Southern	0	0	91,248,519	69,446,128	21,802,391	21,802,391
Western	0	0	9,080,801	6,936,248	2,144,553	2,144,553
Subtotal	0	0	137,006,001	104,306,380	32,699,620	32,699,620
Manufacturing:						
Central	0	0	144,486,598	110,031,414	34,455,184	34,455,184
Eastern	0	0	208,190,782	158,448,947	49,741,835	49,741,835
Pacific	0	0	935,094	711,392	223,702	223,702
Southern	0	0	593,557,344	451,731,773	141,825,572	141,825,572
Western	0	0	47,373,376	36,217,813	11,155,562	11,155,562
Subtotal	0	0	994,543,195	757,141,340	237,401,855	237,401,855

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Oil and Gas:						
Central	0	0	1,667,275	1,270,325	396,950	396,950
Eastern	0	0	1,374,956	1,046,323	328,634	328,634
Southern	0	0	75,216,238	57,244,908	17,971,330	17,971,330
Western	0	0	939,050	716,692	222,358	222,358
Subtotal	0	0	79,197,520	60,278,247	18,919,272	18,919,272
Postal and Delivery Services:						
Central	0	0	3,723,031	2,835,752	887,279	887,279
Eastern	0	0	8,437,591	6,422,458	2,015,134	2,015,134
Pacific	0	0	135,720	103,249	32,471	32,471
Southern	0	0	26,176,215	19,921,838	6,254,377	6,254,377
Western	0	0	2,784,618	2,127,847	656,770	656,770
Subtotal	0	0	41,257,175	31,411,144	9,846,030	9,846,030
Recreation and Amusement:						
Central	0	0	4,665,130	3,553,632	1,111,498	1,111,498
Eastern	0	0	11,919,186	9,072,587	2,846,599	2,846,599
Pacific	0	0	237,458	180,652	56,806	56,806
Southern	0	0	44,104,195	33,566,359	10,537,836	10,537,836
Western	0	0	4,864,366	3,716,150	1,148,216	1,148,216
Subtotal	0	0	65,790,335	50,089,379	15,700,955	15,700,955
Sanitation and Waste Removal:						
Central	0	0	1,230,874	937,606	293,268	293,268
Eastern	0	0	2,949,063	2,244,815	704,248	704,248
Pacific	0	0	92,266	70,195	22,070	22,070
Southern	0	0	10,641,076	8,098,531	2,542,545	2,542,545
Western	0	0	997,007	761,835	235,171	235,171
Subtotal	0	0	15,910,286	12,112,982	3,797,303	3,797,303
Telecommunications:						
Central	0	0	4,853,408	3,697,024	1,156,384	1,156,384
Eastern	0	0	11,279,180	8,585,138	2,694,041	2,694,041
Pacific	0	0	206,445	157,053	49,392	49,392
Southern	0	0	38,488,372	29,292,248	9,196,124	9,196,124
Western	0	0	3,629,760	2,771,557	858,203	858,203
Subtotal	0	0	58,457,165	44,503,020	13,954,145	13,954,145
Temporary Help Services:						
Central	0	0	25,313,302	19,287,681	6,025,621	6,025,621
Eastern	0	0	62,178,214	47,326,395	14,851,819	14,851,819
Pacific	0	0	2,126,287	1,617,581	508,707	508,707
Southern	0	0	426,178,792	324,351,948	101,826,844	101,826,844
Western	0	0	29,005,005	22,159,171	6,845,833	6,845,833
Subtotal	0	0	544,801,600	414,742,776	130,058,824	130,058,824
Transportation:						
Central	0	0	13,351,018	10,169,447	3,181,571	3,181,571
Eastern	0	0	20,126,557	15,318,830	4,807,727	4,807,727
Pacific	0	0	1,051,426	799,912	251,514	251,514
Southern	0	0	107,284,179	81,650,279	25,633,900	25,633,900
Western	0	0	9,283,022	7,087,575	2,195,447	2,195,447
Subtotal	0	0	151,096,202	115,026,042	36,070,160	36,070,160
Utilities:						
Central	0	0	7,982,072	6,079,447	1,902,625	1,902,625
Eastern	0	0	16,193,659	12,325,758	3,867,901	3,867,901
Pacific	0	0	115,621	87,979	27,642	27,642
Southern	0	0	58,183,741	44,281,543	13,902,198	13,902,198
Western	0	0	4,643,754	3,546,260	1,097,494	1,097,494
Subtotal	0	0	87,118,847	66,320,986	20,797,860	20,797,860
Warehousing:						
Central	0	0	7,749,473	5,903,019	1,846,455	1,846,455
Eastern	0	0	16,298,484	12,405,449	3,893,035	3,893,035
Pacific	0	0	102,820	78,225	24,596	24,596
Southern	0	0	49,918,912	37,991,496	11,927,417	11,927,417
Western	0	0	5,276,312	4,032,474	1,243,838	1,243,838
Subtotal	0	0	79,346,001	60,410,661	18,935,340	18,935,340
Non-Core:						
Central	0	0	303,342,032	231,097,706	72,244,327	72,244,327
Eastern	0	0	803,385,621	611,525,275	191,860,345	191,860,345
Pacific	0	0	17,129,327	13,031,481	4,097,846	4,097,846
Southern	0	0	1,850,916,061	1,408,664,889	442,251,172	442,251,172
Western	0	0	283,757,707	216,816,012	66,941,695	66,941,695
Subtotal	0	0	3,258,530,748	2,481,135,363	777,395,385	777,395,385

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Total Costs for Rest Breaks at High Heat Trigger—Indoor:						
Central	0	0	693,799,156	528,491,032	165,308,125	165,308,125
Eastern	0	0	1,539,109,050	1,171,526,881	367,582,169	367,582,169
Pacific	0	0	33,524,391	25,504,598	8,019,793	8,019,793
Southern	0	0	4,730,215,075	3,599,997,704	1,130,217,372	1,130,217,372
Western	0	0	541,320,924	413,596,523	127,724,401	127,724,401
Total	0	0	7,537,968,597	5,739,116,737	1,798,851,859	1,798,851,859
Rest Breaks at High Heat Trigger—Outdoor						
Agriculture, Forestry, and Fishing:						
Central	0	0	30,421,837	20,207,084	10,214,753	10,214,753
Eastern	0	0	25,905,352	17,200,149	8,705,204	8,705,204
Pacific	0	0	401,164	266,259	134,906	134,906
Southern	0	0	139,227,176	92,433,271	46,793,905	46,793,905
Western	0	0	18,824,524	12,575,462	6,249,063	6,249,063
Subtotal	0	0	214,780,053	142,682,223	72,097,830	72,097,830
Building Materials and Equipment Suppliers:						
Central	0	0	5,468,916	3,634,104	1,834,811	1,834,811
Eastern	0	0	10,027,967	6,658,390	3,369,577	3,369,577
Pacific	0	0	255,772	169,751	86,021	86,021
Southern	0	0	43,109,868	28,620,964	14,488,903	14,488,903
Western	0	0	3,801,057	2,534,221	1,266,836	1,266,836
Subtotal	0	0	62,663,579	41,617,431	21,046,149	21,046,149
Commercial Kitchens:						
Central	0	0	5,882,754	3,909,101	1,973,653	1,973,653
Eastern	0	0	13,027,811	8,650,431	4,377,380	4,377,380
Pacific	0	0	433,257	287,536	145,722	145,722
Southern	0	0	48,771,686	32,379,881	16,391,805	16,391,805
Western	0	0	5,042,717	3,360,397	1,682,319	1,682,319
Subtotal	0	0	73,158,225	48,587,346	24,570,879	24,570,879
Construction:						
Central	0	0	132,944,386	88,332,828	44,611,559	44,611,559
Eastern	0	0	293,649,877	195,001,930	98,647,947	98,647,947
Pacific	0	0	9,517,395	6,316,496	3,200,899	3,200,899
Southern	0	0	1,169,092,863	776,171,055	392,921,808	392,921,808
Western	0	0	121,291,239	80,799,556	40,491,683	40,491,683
Subtotal	0	0	1,726,495,760	1,146,621,865	579,873,896	579,873,896
Drycleaning and Commercial Laundries:						
Central	0	0	504,941	335,534	169,407	169,407
Eastern	0	0	1,382,635	918,064	464,571	464,571
Pacific	0	0	49,982	33,171	16,811	16,811
Southern	0	0	4,569,552	3,033,762	1,535,790	1,535,790
Western	0	0	446,782	297,780	149,002	149,002
Subtotal	0	0	6,953,891	4,618,311	2,335,580	2,335,580
Landscaping and Facilities Support:						
Central	0	0	25,722,284	17,093,146	8,629,138	8,629,138
Eastern	0	0	66,910,496	44,432,777	22,477,719	22,477,719
Pacific	0	0	2,078,513	1,379,437	699,076	699,076
Southern	0	0	221,198,874	146,855,494	74,343,380	74,343,380
Western	0	0	22,088,210	14,716,664	7,371,546	7,371,546
Subtotal	0	0	337,998,378	224,477,518	113,520,859	113,520,859
Maintenance and Repair:						
Central	0	0	10,028,628	6,663,497	3,365,131	3,365,131
Eastern	0	0	19,822,596	13,162,703	6,659,893	6,659,893
Pacific	0	0	393,120	260,906	132,214	132,214
Southern	0	0	73,735,754	48,953,791	24,781,963	24,781,963
Western	0	0	7,565,618	5,041,201	2,524,416	2,524,416
Subtotal	0	0	111,545,715	74,082,098	37,463,618	37,463,618
Manufacturing:						
Central	0	0	33,375,481	22,171,602	11,203,879	11,203,879
Eastern	0	0	50,014,418	33,205,559	16,808,859	16,808,859
Pacific	0	0	284,377	188,727	95,651	95,651
Southern	0	0	152,996,536	101,574,747	51,421,789	51,421,789
Western	0	0	11,220,859	7,484,528	3,736,331	3,736,331
Subtotal	0	0	247,891,671	164,625,163	83,266,508	83,266,508
Oil and Gas:						
Central	0	0	2,987,040	1,985,344	1,001,697	1,001,697
Eastern	0	0	2,472,347	1,641,236	831,110	831,110
Southern	0	0	138,600,039	92,018,389	46,581,650	46,581,650

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	0	0	1,710,867	1,139,088	571,779	571,779
Subtotal	0	0	145,770,293	96,784,057	48,986,237	48,986,237
Postal and Delivery Services:						
Central	0	0	3,054,541	2,029,561	1,024,980	1,024,980
Eastern	0	0	6,863,635	4,557,461	2,306,173	2,306,173
Pacific	0	0	115,557	76,687	38,870	38,870
Southern	0	0	21,099,271	14,007,996	7,091,276	7,091,276
Western	0	0	2,207,011	1,471,109	735,902	735,902
Subtotal	0	0	33,340,014	22,142,814	11,197,200	11,197,200
Recreation and Amusement:						
Central	0	0	6,372,352	4,234,424	2,137,928	2,137,928
Eastern	0	0	16,280,661	10,810,418	5,470,244	5,470,244
Pacific	0	0	323,230	214,513	108,717	108,717
Southern	0	0	59,913,596	39,777,337	20,136,259	20,136,259
Western	0	0	6,637,770	4,423,522	2,214,248	2,214,248
Subtotal	0	0	89,527,609	59,460,214	30,067,395	30,067,395
Sanitation and Waste Removal:						
Central	0	0	1,445,654	960,612	485,042	485,042
Eastern	0	0	3,664,148	2,433,075	1,231,073	1,231,073
Pacific	0	0	117,244	77,811	39,433	39,433
Southern	0	0	13,100,478	8,697,486	4,402,992	4,402,992
Western	0	0	1,172,994	781,984	391,010	391,010
Subtotal	0	0	19,500,518	12,950,968	6,549,550	6,549,550
Telecommunications:						
Central	0	0	4,034,928	2,681,188	1,353,740	1,353,740
Eastern	0	0	9,377,005	6,226,155	3,150,850	3,150,850
Pacific	0	0	171,635	113,903	57,732	57,732
Southern	0	0	31,997,519	21,243,470	10,754,049	10,754,049
Western	0	0	3,017,642	2,010,016	1,007,626	1,007,626
Subtotal	0	0	48,598,728	32,274,732	16,323,997	16,323,997
Temporary Help Services:						
Central	0	0	12,933,584	8,596,785	4,336,798	4,336,798
Eastern	0	0	31,769,349	21,094,027	10,675,322	10,675,322
Pacific	0	0	1,086,406	720,978	365,428	365,428
Southern	0	0	217,751,879	144,568,138	73,183,741	73,183,741
Western	0	0	14,819,823	9,876,648	4,943,175	4,943,175
Subtotal	0	0	278,361,040	184,856,576	93,504,464	93,504,464
Transportation:						
Central	0	0	17,389,771	11,555,006	5,834,765	5,834,765
Eastern	0	0	25,857,112	17,168,009	8,689,103	8,689,103
Pacific	0	0	1,401,978	930,441	471,537	471,537
Southern	0	0	139,702,133	92,749,396	46,952,737	46,952,737
Western	0	0	12,071,618	8,039,763	4,031,855	4,031,855
Subtotal	0	0	196,422,612	130,442,615	65,979,997	65,979,997
Utilities:						
Central	0	0	11,068,721	7,354,144	3,714,577	3,714,577
Eastern	0	0	22,460,044	14,913,008	7,547,036	7,547,036
Pacific	0	0	159,839	106,099	53,740	53,740
Southern	0	0	80,684,859	53,567,225	27,117,634	27,117,634
Western	0	0	6,429,129	4,282,922	2,146,208	2,146,208
Subtotal	0	0	120,802,593	80,223,398	40,579,195	40,579,195
Warehousing:						
Central	0	0	3,247,215	2,157,740	1,089,476	1,089,476
Eastern	0	0	6,829,456	4,534,583	2,294,873	2,294,873
Pacific	0	0	43,084	28,594	14,491	14,491
Southern	0	0	20,917,223	13,887,092	7,030,131	7,030,131
Western	0	0	2,210,901	1,473,997	736,905	736,905
Subtotal	0	0	33,247,880	22,082,005	11,165,875	11,165,875
Non-Core:						
Central	0	0	246,952,116	164,137,970	82,814,146	82,814,146
Eastern	0	0	727,561,870	483,115,960	244,445,911	244,445,911
Pacific	0	0	16,378,766	10,869,733	5,509,033	5,509,033
Southern	0	0	1,291,042,547	857,129,196	433,913,351	433,913,351
Western	0	0	262,677,028	175,094,081	87,582,947	87,582,947
Subtotal	0	0	2,544,612,328	1,690,346,939	854,265,389	854,265,389
Total Costs for Rest Breaks at High Heat Trigger—						
Outdoor:						
Central	0	0	553,835,149	368,039,670	185,795,480	185,795,480
Eastern	0	0	1,333,876,779	885,723,935	448,152,844	448,152,844

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	33,211,320	22,041,040	11,170,280	11,170,280
Southern	0	0	3,867,511,852	2,567,668,689	1,299,843,163	1,299,843,163
Western	0	0	503,235,789	335,402,938	167,832,851	167,832,851
Total	0	0	6,291,670,889	4,178,876,272	2,112,794,617	2,112,794,617
Observation for Signs and Symptoms—Designated Person						
Agriculture, Forestry, and Fishing:						
Central	0	0	559,511	0	559,511	559,511
Eastern	0	0	406,548	0	406,548	406,548
Pacific	0	0	6,788	0	6,788	6,788
Southern	0	0	2,084,391	0	2,084,391	2,084,391
Western	0	0	909,503	0	909,503	909,503
Subtotal	0	0	3,966,740	0	3,966,740	3,966,740
Building Materials and Equipment Suppliers:						
Central	0	0	207,109	0	207,109	207,109
Eastern	0	0	297,661	0	297,661	297,661
Pacific	0	0	7,987	0	7,987	7,987
Southern	0	0	1,133,972	0	1,133,972	1,133,972
Western	0	0	255,007	0	255,007	255,007
Subtotal	0	0	1,901,736	0	1,901,736	1,901,736
Commercial Kitchens:						
Central	0	0	836,294	0	836,294	836,294
Eastern	0	0	1,474,289	0	1,474,289	1,474,289
Pacific	0	0	52,685	0	52,685	52,685
Southern	0	0	5,113,140	0	5,113,140	5,113,140
Western	0	0	1,225,216	0	1,225,216	1,225,216
Subtotal	0	0	8,701,625	0	8,701,625	8,701,625
Construction:						
Central	0	0	2,502,225	0	2,502,225	2,502,225
Eastern	0	0	4,636,411	0	4,636,411	4,636,411
Pacific	0	0	153,665	0	153,665	153,665
Southern	0	0	16,364,447	0	16,364,447	16,364,447
Western	0	0	3,765,603	0	3,765,603	3,765,603
Subtotal	0	0	27,422,352	0	27,422,352	27,422,352
Drycleaning and Commercial Laundries:						
Central	0	0	28,691	0	28,691	28,691
Eastern	0	0	62,646	0	62,646	62,646
Pacific	0	0	2,402	0	2,402	2,402
Southern	0	0	187,883	0	187,883	187,883
Western	0	0	44,171	0	44,171	44,171
Subtotal	0	0	325,794	0	325,794	325,794
Landscaping and Facilities Support:						
Central	0	0	610,504	0	610,504	610,504
Eastern	0	0	1,284,623	0	1,284,623	1,284,623
Pacific	0	0	40,324	0	40,324	40,324
Southern	0	0	3,782,727	0	3,782,727	3,782,727
Western	0	0	861,380	0	861,380	861,380
Subtotal	0	0	6,579,558	0	6,579,558	6,579,558
Maintenance and Repair:						
Central	0	0	296,626	0	296,626	296,626
Eastern	0	0	477,300	0	477,300	477,300
Pacific	0	0	9,812	0	9,812	9,812
Southern	0	0	1,627,494	0	1,627,494	1,627,494
Western	0	0	378,264	0	378,264	378,264
Subtotal	0	0	2,789,495	0	2,789,495	2,789,495
Manufacturing:						
Central	0	0	2,815,756	0	2,815,756	2,815,756
Eastern	0	0	3,309,944	0	3,309,944	3,309,944
Pacific	0	0	17,507	0	17,507	17,507
Southern	0	0	9,185,471	0	9,185,471	9,185,471
Western	0	0	1,892,238	0	1,892,238	1,892,238
Subtotal	0	0	17,220,917	0	17,220,917	17,220,917
Oil and Gas:						
Central	0	0	71,167	0	71,167	71,167
Eastern	0	0	43,763	0	43,763	43,763
Southern	0	0	2,287,363	0	2,287,363	2,287,363
Western	0	0	57,779	0	57,779	57,779
Subtotal	0	0	2,460,073	0	2,460,073	2,460,073

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Postal and Delivery Services:						
Central	0	0	103,744	0	103,744	103,744
Eastern	0	0	192,372	0	192,372	192,372
Pacific	0	0	3,375	0	3,375	3,375
Southern	0	0	535,190	0	535,190	535,190
Western	0	0	138,225	0	138,225	138,225
Subtotal	0	0	972,907	0	972,907	972,907
Recreation and Amusement:						
Central	0	0	171,128	0	171,128	171,128
Eastern	0	0	349,544	0	349,544	349,544
Pacific	0	0	7,457	0	7,457	7,457
Southern	0	0	1,169,540	0	1,169,540	1,169,540
Western	0	0	304,739	0	304,739	304,739
Subtotal	0	0	2,002,408	0	2,002,408	2,002,408
Sanitation and Waste Removal:						
Central	0	0	45,838	0	45,838	45,838
Eastern	0	0	92,339	0	92,339	92,339
Pacific	0	0	3,032	0	3,032	3,032
Southern	0	0	295,978	0	295,978	295,978
Western	0	0	66,648	0	66,648	66,648
Subtotal	0	0	503,834	0	503,834	503,834
Telecommunications:						
Central	0	0	116,889	0	116,889	116,889
Eastern	0	0	215,275	0	215,275	215,275
Pacific	0	0	4,305	0	4,305	4,305
Southern	0	0	674,933	0	674,933	674,933
Western	0	0	138,645	0	138,645	138,645
Subtotal	0	0	1,150,047	0	1,150,047	1,150,047
Temporary Help Services:						
Central	0	0	724,251	0	724,251	724,251
Eastern	0	0	1,296,067	0	1,296,067	1,296,067
Pacific	0	0	48,819	0	48,819	48,819
Southern	0	0	8,228,325	0	8,228,325	8,228,325
Western	0	0	1,330,859	0	1,330,859	1,330,859
Subtotal	0	0	11,628,319	0	11,628,319	11,628,319
Transportation:						
Central	0	0	466,232	0	466,232	466,232
Eastern	0	0	554,960	0	554,960	554,960
Pacific	0	0	31,866	0	31,866	31,866
Southern	0	0	2,752,408	0	2,752,408	2,752,408
Western	0	0	508,720	0	508,720	508,720
Subtotal	0	0	4,314,186	0	4,314,186	4,314,186
Utilities:						
Central	0	0	193,162	0	193,162	193,162
Eastern	0	0	321,518	0	321,518	321,518
Pacific	0	0	2,267	0	2,267	2,267
Southern	0	0	1,055,740	0	1,055,740	1,055,740
Western	0	0	186,661	0	186,661	186,661
Subtotal	0	0	1,759,348	0	1,759,348	1,759,348
Warehousing:						
Central	0	0	174,882	0	174,882	174,882
Eastern	0	0	290,194	0	290,194	290,194
Pacific	0	0	1,963	0	1,963	1,963
Southern	0	0	819,396	0	819,396	819,396
Western	0	0	217,114	0	217,114	217,114
Subtotal	0	0	1,503,548	0	1,503,548	1,503,548
Non-Core:						
Central	0	0	7,619,024	0	7,619,024	7,619,024
Eastern	0	0	16,120,110	0	16,120,110	16,120,110
Pacific	0	0	379,699	0	379,699	379,699
Southern	0	0	31,249,924	0	31,249,924	31,249,924
Western	0	0	12,562,661	0	12,562,661	12,562,661
Subtotal	0	0	67,931,418	0	67,931,418	67,931,418
Total Costs for Observation for Signs and Symptoms—Designated Person:						
Central	0	0	17,543,033	0	17,543,033	17,543,033
Eastern	0	0	31,425,564	0	31,425,564	31,425,564
Pacific	0	0	773,951	0	773,951	773,951
Southern	0	0	88,548,322	0	88,548,322	88,548,322
Western	0	0	24,843,433	0	24,843,433	24,843,433

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Total	0	0	163,134,305	0	163,134,305	163,134,305
Observation for Signs and Symptoms—At-Risk Worker						
Agriculture, Forestry, and Fishing:						
Central	0	0	601,783	0	601,783	601,783
Eastern	0	0	437,263	0	437,263	437,263
Pacific	0	0	7,300	0	7,300	7,300
Southern	0	0	2,241,869	0	2,241,869	2,241,869
Western	0	0	978,217	0	978,217	978,217
Subtotal	0	0	4,266,431	0	4,266,431	4,266,431
Building Materials and Equipment Suppliers:						
Central	0	0	254,972	0	254,972	254,972
Eastern	0	0	366,669	0	366,669	366,669
Pacific	0	0	9,837	0	9,837	9,837
Southern	0	0	1,398,311	0	1,398,311	1,398,311
Western	0	0	314,304	0	314,304	314,304
Subtotal	0	0	2,344,092	0	2,344,092	2,344,092
Commercial Kitchens:						
Central	0	0	1,191,647	0	1,191,647	1,191,647
Eastern	0	0	2,100,615	0	2,100,615	2,100,615
Pacific	0	0	74,334	0	74,334	74,334
Southern	0	0	7,309,702	0	7,309,702	7,309,702
Western	0	0	1,744,049	0	1,744,049	1,744,049
Subtotal	0	0	12,420,346	0	12,420,346	12,420,346
Construction:						
Central	0	0	3,298,568	0	3,298,568	3,298,568
Eastern	0	0	6,157,847	0	6,157,847	6,157,847
Pacific	0	0	201,444	0	201,444	201,444
Southern	0	0	21,599,905	0	21,599,905	21,599,905
Western	0	0	4,969,725	0	4,969,725	4,969,725
Subtotal	0	0	36,227,490	0	36,227,490	36,227,490
Drycleaning and Commercial Laundries:						
Central	0	0	36,171	0	36,171	36,171
Eastern	0	0	78,978	0	78,978	78,978
Pacific	0	0	3,028	0	3,028	3,028
Southern	0	0	236,867	0	236,867	236,867
Western	0	0	55,687	0	55,687	55,687
Subtotal	0	0	410,732	0	410,732	410,732
Landscaping and Facilities Support:						
Central	0	0	622,110	0	622,110	622,110
Eastern	0	0	1,306,100	0	1,306,100	1,306,100
Pacific	0	0	41,405	0	41,405	41,405
Southern	0	0	3,849,145	0	3,849,145	3,849,145
Western	0	0	876,430	0	876,430	876,430
Subtotal	0	0	6,695,191	0	6,695,191	6,695,191
Maintenance and Repair:						
Central	0	0	373,959	0	373,959	373,959
Eastern	0	0	601,737	0	601,737	601,737
Pacific	0	0	12,370	0	12,370	12,370
Southern	0	0	2,051,800	0	2,051,800	2,051,800
Western	0	0	476,882	0	476,882	476,882
Subtotal	0	0	3,516,748	0	3,516,748	3,516,748
Manufacturing:						
Central	0	0	2,952,264	0	2,952,264	2,952,264
Eastern	0	0	3,470,410	0	3,470,410	3,470,410
Pacific	0	0	18,356	0	18,356	18,356
Southern	0	0	9,630,782	0	9,630,782	9,630,782
Western	0	0	1,983,974	0	1,983,974	1,983,974
Subtotal	0	0	18,055,786	0	18,055,786	18,055,786
Oil and Gas:						
Central	0	0	80,025	0	80,025	80,025
Eastern	0	0	49,232	0	49,232	49,232
Southern	0	0	2,578,365	0	2,578,365	2,578,365
Western	0	0	65,098	0	65,098	65,098
Subtotal	0	0	2,772,721	0	2,772,721	2,772,721
Postal and Delivery Services:						
Central	0	0	113,937	0	113,937	113,937
Eastern	0	0	211,272	0	211,272	211,272
Pacific	0	0	3,706	0	3,706	3,706

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Southern	0	0	587,771	0	587,771	587,771
Western	0	0	151,805	0	151,805	151,805
Subtotal	0	0	1,068,492	0	1,068,492	1,068,492
Recreation and Amusement:						
Central	0	0	185,509	0	185,509	185,509
Eastern	0	0	379,348	0	379,348	379,348
Pacific	0	0	8,045	0	8,045	8,045
Southern	0	0	1,268,180	0	1,268,180	1,268,180
Western	0	0	331,134	0	331,134	331,134
Subtotal	0	0	2,172,216	0	2,172,216	2,172,216
Sanitation and Waste Removal:						
Central	0	0	45,151	0	45,151	45,151
Eastern	0	0	90,957	0	90,957	90,957
Pacific	0	0	2,986	0	2,986	2,986
Southern	0	0	291,545	0	291,545	291,545
Western	0	0	65,650	0	65,650	65,650
Subtotal	0	0	496,289	0	496,289	496,289
Telecommunications:						
Central	0	0	151,517	0	151,517	151,517
Eastern	0	0	279,051	0	279,051	279,051
Pacific	0	0	5,581	0	5,581	5,581
Southern	0	0	874,884	0	874,884	874,884
Western	0	0	179,719	0	179,719	179,719
Subtotal	0	0	1,490,753	0	1,490,753	1,490,753
Temporary Help Services:						
Central	0	0	713,404	0	713,404	713,404
Eastern	0	0	1,276,657	0	1,276,657	1,276,657
Pacific	0	0	48,088	0	48,088	48,088
Southern	0	0	8,105,101	0	8,105,101	8,105,101
Western	0	0	1,310,928	0	1,310,928	1,310,928
Subtotal	0	0	11,454,178	0	11,454,178	11,454,178
Transportation:						
Central	0	0	512,038	0	512,038	512,038
Eastern	0	0	609,483	0	609,483	609,483
Pacific	0	0	34,996	0	34,996	34,996
Southern	0	0	3,022,823	0	3,022,823	3,022,823
Western	0	0	558,700	0	558,700	558,700
Subtotal	0	0	4,738,041	0	4,738,041	4,738,041
Utilities:						
Central	0	0	310,601	0	310,601	310,601
Eastern	0	0	516,996	0	516,996	516,996
Pacific	0	0	3,645	0	3,645	3,645
Southern	0	0	1,697,613	0	1,697,613	1,697,613
Western	0	0	300,148	0	300,148	300,148
Subtotal	0	0	2,829,003	0	2,829,003	2,829,003
Warehousing:						
Central	0	0	192,063	0	192,063	192,063
Eastern	0	0	318,704	0	318,704	318,704
Pacific	0	0	2,156	0	2,156	2,156
Southern	0	0	899,899	0	899,899	899,899
Western	0	0	238,445	0	238,445	238,445
Subtotal	0	0	1,651,267	0	1,651,267	1,651,267
Non-Core:						
Central	0	0	9,855,541	0	9,855,541	9,855,541
Eastern	0	0	21,006,382	0	21,006,382	21,006,382
Pacific	0	0	487,706	0	487,706	487,706
Southern	0	0	39,335,004	0	39,335,004	39,335,004
Western	0	0	16,443,906	0	16,443,906	16,443,906
Subtotal	0	0	87,128,538	0	87,128,538	87,128,538
Total Costs for Observation for Signs and Symptoms—At-Risk Worker:						
Central	0	0	21,491,261	0	21,491,261	21,491,261
Eastern	0	0	39,257,702	0	39,257,702	39,257,702
Pacific	0	0	964,984	0	964,984	964,984
Southern	0	0	106,979,565	0	106,979,565	106,979,565
Western	0	0	31,044,802	0	31,044,802	31,044,802
Total	0	0	199,738,313	0	199,738,313	199,738,313

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Initial Hazard Alert—Supervisor						
Agriculture, Forestry, and Fishing:						
Central	0	0	71,187	0	71,187	71,187
Eastern	0	0	38,887	0	38,887	38,887
Pacific	0	0	525	0	525	525
Southern	0	0	67,550	0	67,550	67,550
Western	0	0	23,579	0	23,579	23,579
Subtotal	0	0	201,728	0	201,728	201,728
Building Materials and Equipment Suppliers:						
Central	0	0	8,975	0	8,975	8,975
Eastern	0	0	13,148	0	13,148	13,148
Pacific	0	0	215	0	215	215
Southern	0	0	12,095	0	12,095	12,095
Western	0	0	8,884	0	8,884	8,884
Subtotal	0	0	43,316	0	43,316	43,316
Commercial Kitchens:						
Central	0	0	67,932	0	67,932	67,932
Eastern	0	0	113,247	0	113,247	113,247
Pacific	0	0	2,165	0	2,165	2,165
Southern	0	0	83,089	0	83,089	83,089
Western	0	0	71,282	0	71,282	71,282
Subtotal	0	0	337,715	0	337,715	337,715
Construction:						
Central	0	0	94,901	0	94,901	94,901
Eastern	0	0	139,158	0	139,158	139,158
Pacific	0	0	2,136	0	2,136	2,136
Southern	0	0	103,318	0	103,318	103,318
Western	0	0	55,542	0	55,542	55,542
Subtotal	0	0	395,055	0	395,055	395,055
Drycleaning and Commercial Laundries:						
Central	0	0	5,638	0	5,638	5,638
Eastern	0	0	14,483	0	14,483	14,483
Pacific	0	0	114	0	114	114
Southern	0	0	8,547	0	8,547	8,547
Western	0	0	6,139	0	6,139	6,139
Subtotal	0	0	34,922	0	34,922	34,922
Landscaping and Facilities Support:						
Central	0	0	30,364	0	30,364	30,364
Eastern	0	0	49,428	0	49,428	49,428
Pacific	0	0	719	0	719	719
Southern	0	0	34,796	0	34,796	34,796
Western	0	0	30,665	0	30,665	30,665
Subtotal	0	0	145,973	0	145,973	145,973
Maintenance and Repair:						
Central	0	0	49,834	0	49,834	49,834
Eastern	0	0	66,053	0	66,053	66,053
Pacific	0	0	794	0	794	794
Southern	0	0	53,651	0	53,651	53,651
Western	0	0	42,009	0	42,009	42,009
Subtotal	0	0	212,341	0	212,341	212,341
Manufacturing:						
Central	0	0	18,064	0	18,064	18,064
Eastern	0	0	20,957	0	20,957	20,957
Pacific	0	0	167	0	167	167
Southern	0	0	15,718	0	15,718	15,718
Western	0	0	14,869	0	14,869	14,869
Subtotal	0	0	69,774	0	69,774	69,774
Oil and Gas:						
Central	0	0	12,981	0	12,981	12,981
Eastern	0	0	6,913	0	6,913	6,913
Southern	0	0	0	0	0	0
Western	0	0	47,995	0	47,995	47,995
Subtotal	0	0	6,619	0	6,619	6,619
Postal and Delivery Services:						
Central	0	0	24,791	0	24,791	24,791
Eastern	0	0	31,359	0	31,359	31,359
Pacific	0	0	331	0	331	331
Southern	0	0	23,087	0	23,087	23,087
Western	0	0	14,795	0	14,795	14,795

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Subtotal	0	0	94,363	0	94,363	94,363
Recreation and Amusement:						
Central	0	0	20,673	0	20,673	20,673
Eastern	0	0	31,001	0	31,001	31,001
Pacific	0	0	389	0	389	389
Southern	0	0	20,185	0	20,185	20,185
Western	0	0	17,180	0	17,180	17,180
Subtotal	0	0	89,428	0	89,428	89,428
Sanitation and Waste Removal:						
Central	0	0	1,900	0	1,900	1,900
Eastern	0	0	2,742	0	2,742	2,742
Pacific	0	0	42	0	42	42
Southern	0	0	1,990	0	1,990	1,990
Western	0	0	1,343	0	1,343	1,343
Subtotal	0	0	8,016	0	8,016	8,016
Telecommunications:						
Central	0	0	6,853	0	6,853	6,853
Eastern	0	0	9,379	0	9,379	9,379
Pacific	0	0	102	0	102	102
Southern	0	0	8,239	0	8,239	8,239
Western	0	0	5,748	0	5,748	5,748
Subtotal	0	0	30,322	0	30,322	30,322
Temporary Help Services:						
Central	0	0	3,784	0	3,784	3,784
Eastern	0	0	5,332	0	5,332	5,332
Pacific	0	0	51	0	51	51
Southern	0	0	4,527	0	4,527	4,527
Western	0	0	3,253	0	3,253	3,253
Subtotal	0	0	16,947	0	16,947	16,947
Transportation:						
Central	0	0	99,748	0	99,748	99,748
Eastern	0	0	89,795	0	89,795	89,795
Pacific	0	0	1,119	0	1,119	1,119
Southern	0	0	91,342	0	91,342	91,342
Western	0	0	35,838	0	35,838	35,838
Subtotal	0	0	317,842	0	317,842	317,842
Utilities:						
Central	0	0	16,409	0	16,409	16,409
Eastern	0	0	20,570	0	20,570	20,570
Pacific	0	0	141	0	141	141
Southern	0	0	23,071	0	23,071	23,071
Western	0	0	11,751	0	11,751	11,751
Subtotal	0	0	71,942	0	71,942	71,942
Warehousing:						
Central	0	0	8,066	0	8,066	8,066
Eastern	0	0	10,200	0	10,200	10,200
Pacific	0	0	129	0	129	129
Southern	0	0	10,013	0	10,013	10,013
Western	0	0	7,574	0	7,574	7,574
Subtotal	0	0	35,982	0	35,982	35,982
Non-Core:						
Central	0	0	781,190	0	781,190	781,190
Eastern	0	0	1,221,415	0	1,221,415	1,221,415
Pacific	0	0	18,719	0	18,719	18,719
Southern	0	0	969,956	0	969,956	969,956
Western	0	0	778,728	0	778,728	778,728
Subtotal	0	0	3,770,009	0	3,770,009	3,770,009
Total Costs for Initial Hazard Alert—Supervisor:						
Central	0	0	1,323,291	0	1,323,291	1,323,291
Eastern	0	0	1,884,066	0	1,884,066	1,884,066
Pacific	0	0	27,858	0	27,858	27,858
Southern	0	0	1,579,170	0	1,579,170	1,579,170
Western	0	0	1,135,797	0	1,135,797	1,135,797
Total	0	0	5,950,182	0	5,950,182	5,950,182
Subsequent Hazard Alert—Supervisor						
Agriculture, Forestry, and Fishing:						
Central	0	0	149,209	0	149,209	149,209
Eastern	0	0	88,960	0	88,960	88,960

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	1,530	0	1,530	1,530
Southern	0	0	568,001	0	568,001	568,001
Western	0	0	38,555	0	38,555	38,555
Subtotal	0	0	846,254	0	846,254	846,254
Building Materials and Equipment Suppliers:						
Central	0	0	16,253	0	16,253	16,253
Eastern	0	0	25,292	0	25,292	25,292
Pacific	0	0	626	0	626	626
Southern	0	0	115,252	0	115,252	115,252
Western	0	0	24,002	0	24,002	24,002
Subtotal	0	0	181,424	0	181,424	181,424
Commercial Kitchens:						
Central	0	0	120,142	0	120,142	120,142
Eastern	0	0	218,769	0	218,769	218,769
Pacific	0	0	6,307	0	6,307	6,307
Southern	0	0	781,907	0	781,907	781,907
Western	0	0	195,280	0	195,280	195,280
Subtotal	0	0	1,322,405	0	1,322,405	1,322,405
Construction:						
Central	0	0	164,418	0	164,418	164,418
Eastern	0	0	279,925	0	279,925	279,925
Pacific	0	0	6,223	0	6,223	6,223
Southern	0	0	990,737	0	990,737	990,737
Western	0	0	131,620	0	131,620	131,620
Subtotal	0	0	1,572,922	0	1,572,922	1,572,922
Drycleaning and Commercial Laundries:						
Central	0	0	10,046	0	10,046	10,046
Eastern	0	0	26,309	0	26,309	26,309
Pacific	0	0	332	0	332	332
Southern	0	0	80,016	0	80,016	80,016
Western	0	0	17,282	0	17,282	17,282
Subtotal	0	0	133,985	0	133,985	133,985
Landscaping and Facilities Support:						
Central	0	0	54,037	0	54,037	54,037
Eastern	0	0	98,530	0	98,530	98,530
Pacific	0	0	2,096	0	2,096	2,096
Southern	0	0	336,231	0	336,231	336,231
Western	0	0	84,009	0	84,009	84,009
Subtotal	0	0	574,904	0	574,904	574,904
Maintenance and Repair:						
Central	0	0	88,347	0	88,347	88,347
Eastern	0	0	132,539	0	132,539	132,539
Pacific	0	0	2,313	0	2,313	2,313
Southern	0	0	506,615	0	506,615	506,615
Western	0	0	115,861	0	115,861	115,861
Subtotal	0	0	845,675	0	845,675	845,675
Manufacturing:						
Central	0	0	30,252	0	30,252	30,252
Eastern	0	0	39,098	0	39,098	39,098
Pacific	0	0	487	0	487	487
Southern	0	0	141,837	0	141,837	141,837
Western	0	0	39,037	0	39,037	39,037
Subtotal	0	0	250,711	0	250,711	250,711
Oil and Gas:						
Central	0	0	26,387	0	26,387	26,387
Eastern	0	0	10,013	0	10,013	10,013
Southern	0	0	420,050	0	420,050	420,050
Western	0	0	11,239	0	11,239	11,239
Subtotal	0	0	467,689	0	467,689	467,689
Postal and Delivery Services:						
Central	0	0	47,695	0	47,695	47,695
Eastern	0	0	58,857	0	58,857	58,857
Pacific	0	0	965	0	965	965
Southern	0	0	194,296	0	194,296	194,296
Western	0	0	37,304	0	37,304	37,304
Subtotal	0	0	339,116	0	339,116	339,116
Recreation and Amusement:						
Central	0	0	35,170	0	35,170	35,170
Eastern	0	0	60,614	0	60,614	60,614

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	0	0	1,133	0	1,133	1,133
Southern	0	0	188,542	0	188,542	188,542
Western	0	0	44,903	0	44,903	44,903
Subtotal	0	0	330,363	0	330,363	330,363
Sanitation and Waste Removal:						
Central	0	0	3,271	0	3,271	3,271
Eastern	0	0	5,309	0	5,309	5,309
Pacific	0	0	121	0	121	121
Southern	0	0	18,021	0	18,021	18,021
Western	0	0	3,586	0	3,586	3,586
Subtotal	0	0	30,308	0	30,308	30,308
Telecommunications:						
Central	0	0	12,587	0	12,587	12,587
Eastern	0	0	19,110	0	19,110	19,110
Pacific	0	0	298	0	298	298
Southern	0	0	73,609	0	73,609	73,609
Western	0	0	15,550	0	15,550	15,550
Subtotal	0	0	121,154	0	121,154	121,154
Temporary Help Services:						
Central	0	0	6,407	0	6,407	6,407
Eastern	0	0	11,059	0	11,059	11,059
Pacific	0	0	149	0	149	149
Southern	0	0	41,583	0	41,583	41,583
Western	0	0	9,367	0	9,367	9,367
Subtotal	0	0	68,566	0	68,566	68,566
Transportation:						
Central	0	0	184,544	0	184,544	184,544
Eastern	0	0	184,968	0	184,968	184,968
Pacific	0	0	3,259	0	3,259	3,259
Southern	0	0	842,960	0	842,960	842,960
Western	0	0	83,587	0	83,587	83,587
Subtotal	0	0	1,299,318	0	1,299,318	1,299,318
Utilities:						
Central	0	0	30,683	0	30,683	30,683
Eastern	0	0	44,025	0	44,025	44,025
Pacific	0	0	411	0	411	411
Southern	0	0	201,775	0	201,775	201,775
Western	0	0	29,334	0	29,334	29,334
Subtotal	0	0	306,228	0	306,228	306,228
Warehousing:						
Central	0	0	15,139	0	15,139	15,139
Eastern	0	0	22,380	0	22,380	22,380
Pacific	0	0	377	0	377	377
Southern	0	0	87,373	0	87,373	87,373
Western	0	0	21,292	0	21,292	21,292
Subtotal	0	0	146,561	0	146,561	146,561
Non-Core:						
Central	0	0	1,389,956	0	1,389,956	1,389,956
Eastern	0	0	2,433,884	0	2,433,884	2,433,884
Pacific	0	0	54,538	0	54,538	54,538
Southern	0	0	9,127,069	0	9,127,069	9,127,069
Western	0	0	2,149,829	0	2,149,829	2,149,829
Subtotal	0	0	15,155,276	0	15,155,276	15,155,276
Total Costs for Subsequent Hazard Alert—Super-						
visor:						
Central	0	0	2,384,543	0	2,384,543	2,384,543
Eastern	0	0	3,759,640	0	3,759,640	3,759,640
Pacific	0	0	81,165	0	81,165	81,165
Southern	0	0	14,715,873	0	14,715,873	14,715,873
Western	0	0	3,051,637	0	3,051,637	3,051,637
Total	0	0	23,992,858	0	23,992,858	23,992,858

Warning Signs

Commercial Kitchens:						
Alaskan	564	627	0	0	564	627
Central	44,703	49,766	0	0	44,703	49,766
Eastern	77,765	86,573	0	0	77,765	86,573
Pacific	1,463	1,629	0	0	1,463	1,629
Southern	57,794	64,340	0	0	57,794	64,340

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Western	49,059	54,616	0	0	49,059	54,616
Subtotal	231,347	257,551	0	0	231,347	257,551
Construction:						
Alaskan	151	168	0	0	151	168
Central	10,082	11,224	0	0	10,082	11,224
Eastern	16,073	17,893	0	0	16,073	17,893
Pacific	257	286	0	0	257	286
Southern	12,900	14,361	0	0	12,900	14,361
Western	6,793	7,563	0	0	6,793	7,563
Subtotal	46,255	51,494	0	0	46,255	51,494
Drycleaning and Commercial Laundries:						
Alaskan	20	22	0	0	20	22
Central	2,516	2,801	0	0	2,516	2,801
Eastern	6,463	7,195	0	0	6,463	7,195
Pacific	51	57	0	0	51	57
Southern	3,814	4,246	0	0	3,814	4,246
Western	2,740	3,050	0	0	2,740	3,050
Subtotal	15,604	17,371	0	0	15,604	17,371
Landscaping and Facilities Support:						
Alaskan	11	12	0	0	11	12
Central	2,626	2,924	0	0	2,626	2,924
Eastern	3,808	4,239	0	0	3,808	4,239
Pacific	18	20	0	0	18	20
Southern	2,320	2,583	0	0	2,320	2,583
Western	939	1,046	0	0	939	1,046
Subtotal	9,722	10,824	0	0	9,722	10,824
Maintenance and Repair:						
Alaskan	40	44	0	0	40	44
Central	2,629	2,927	0	0	2,629	2,927
Eastern	2,729	3,038	0	0	2,729	3,038
Pacific	39	44	0	0	39	44
Southern	2,972	3,309	0	0	2,972	3,309
Western	1,688	1,879	0	0	1,688	1,879
Subtotal	10,097	11,240	0	0	10,097	11,240
Manufacturing:						
Alaskan	13	14	0	0	13	14
Central	3,739	4,162	0	0	3,739	4,162
Eastern	4,182	4,656	0	0	4,182	4,656
Pacific	28	32	0	0	28	32
Southern	3,298	3,672	0	0	3,298	3,672
Western	2,854	3,177	0	0	2,854	3,177
Subtotal	14,114	15,713	0	0	14,114	15,713
Oil and Gas:						
Alaskan	10	11	0	0	10	11
Central	736	819	0	0	736	819
Eastern	499	555	0	0	499	555
Southern	1,582	1,761	0	0	1,582	1,761
Western	253	281	0	0	253	281
Subtotal	3,079	3,428	0	0	3,079	3,428
Transportation:						
Alaskan	20	23	0	0	20	23
Central	56	63	0	0	56	63
Eastern	137	153	0	0	137	153
Pacific	5	6	0	0	5	6
Southern	208	231	0	0	208	231
Western	55	62	0	0	55	62
Subtotal	482	536	0	0	482	536
Utilities:						
Alaskan	79	88	0	0	79	88
Central	2,710	3,017	0	0	2,710	3,017
Eastern	3,593	4,000	0	0	3,593	4,000
Pacific	3	3	0	0	3	3
Southern	3,300	3,673	0	0	3,300	3,673
Western	1,554	1,730	0	0	1,554	1,730
Subtotal	11,240	12,513	0	0	11,240	12,513
Non-Core:						
Alaskan	8	9	0	0	8	9
Central	681	758	0	0	681	758
Eastern	1,759	1,958	0	0	1,759	1,958
Pacific	19	22	0	0	19	22

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Southern	804	895	0	0	804	895
Western	1,388	1,546	0	0	1,388	1,546
Subtotal	4,659	5,187	0	0	4,659	5,187
Total Costs for Warning Signs:						
Alaskan	915	1,019	0	0	915	1,019
Central	70,478	78,460	0	0	70,478	78,460
Eastern	117,007	130,260	0	0	117,007	130,260
Pacific	1,884	2,098	0	0	1,884	2,098
Southern	88,991	99,071	0	0	88,991	99,071
Western	67,324	74,949	0	0	67,324	74,949
Total	346,599	385,857	0	0	346,599	385,857
Signage Placement						
Commercial Kitchens:						
Alaskan	116	129	0	0	116	129
Central	9,215	10,259	0	0	9,215	10,259
Eastern	16,044	17,862	0	0	16,044	17,862
Pacific	303	337	0	0	303	337
Southern	11,913	13,262	0	0	11,913	13,262
Western	10,122	11,268	0	0	10,122	11,268
Subtotal	47,714	53,118	0	0	47,714	53,118
Construction:						
Alaskan	73	82	0	0	73	82
Central	4,761	5,301	0	0	4,761	5,301
Eastern	7,589	8,449	0	0	7,589	8,449
Pacific	125	139	0	0	125	139
Southern	6,167	6,866	0	0	6,167	6,866
Western	3,500	3,896	0	0	3,500	3,896
Subtotal	22,216	24,732	0	0	22,216	24,732
Drycleaning and Commercial Laundries:						
Alaskan	7	8	0	0	7	8
Central	846	941	0	0	846	941
Eastern	2,172	2,419	0	0	2,172	2,419
Pacific	17	19	0	0	17	19
Southern	1,282	1,427	0	0	1,282	1,427
Western	921	1,025	0	0	921	1,025
Subtotal	5,245	5,839	0	0	5,245	5,839
Landscaping and Facilities Support:						
Alaskan	4	4	0	0	4	4
Central	883	983	0	0	883	983
Eastern	1,280	1,425	0	0	1,280	1,425
Pacific	6	7	0	0	6	7
Southern	780	868	0	0	780	868
Western	316	352	0	0	316	352
Subtotal	3,268	3,638	0	0	3,268	3,638
Maintenance and Repair:						
Alaskan	13	15	0	0	13	15
Central	884	984	0	0	884	984
Eastern	917	1,021	0	0	917	1,021
Pacific	13	15	0	0	13	15
Southern	999	1,112	0	0	999	1,112
Western	567	632	0	0	567	632
Subtotal	3,394	3,778	0	0	3,394	3,778
Manufacturing:						
Alaskan	6	6	0	0	6	6
Central	1,615	1,798	0	0	1,615	1,798
Eastern	1,806	2,011	0	0	1,806	2,011
Pacific	12	14	0	0	12	14
Southern	1,425	1,586	0	0	1,425	1,586
Western	1,233	1,372	0	0	1,233	1,372
Subtotal	6,096	6,787	0	0	6,096	6,787
Oil and Gas:						
Alaskan	4	4	0	0	4	4
Central	275	306	0	0	275	306
Eastern	187	208	0	0	187	208
Southern	592	659	0	0	592	659
Western	95	105	0	0	95	105
Subtotal	1,152	1,282	0	0	1,152	1,282
Transportation:						
Alaskan	8	9	0	0	8	9

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Central	21	23	0	0	21	23
Eastern	51	57	0	0	51	57
Pacific	2	2	0	0	2	2
Southern	78	86	0	0	78	86
Western	21	23	0	0	21	23
Subtotal	180	201	0	0	180	201
Utilities:						
Alaskan	46	51	0	0	46	51
Central	1,572	1,750	0	0	1,572	1,750
Eastern	2,084	2,320	0	0	2,084	2,320
Pacific	2	2	0	0	2	2
Southern	1,914	2,130	0	0	1,914	2,130
Western	901	1,003	0	0	901	1,003
Subtotal	6,518	7,256	0	0	6,518	7,256
Non-Core:						
Alaskan	5	5	0	0	5	5
Central	402	448	0	0	402	448
Eastern	1,039	1,156	0	0	1,039	1,156
Pacific	11	13	0	0	11	13
Southern	475	528	0	0	475	528
Western	820	913	0	0	820	913
Subtotal	2,751	3,063	0	0	2,751	3,063
Total Costs for Signage Placement:						
Alaskan	281	312	0	0	281	312
Central	20,474	22,793	0	0	20,474	22,793
Eastern	33,170	36,927	0	0	33,170	36,927
Pacific	492	547	0	0	492	547
Southern	25,623	28,525	0	0	25,623	28,525
Western	18,495	20,590	0	0	18,495	20,590
Total	98,534	109,694	0	0	98,534	109,694
Total Costs for Requirements at or above the High Heat Trigger						
Agriculture, Forestry, and Fishing:						
Central	0	0	42,380,008	28,260,379	14,119,630	14,119,630
Eastern	0	0	35,661,233	23,886,065	11,775,168	11,775,168
Pacific	0	0	556,114	371,868	184,245	184,245
Southern	0	0	192,037,096	128,848,517	63,188,579	63,188,579
Western	0	0	27,352,262	17,612,811	9,739,451	9,739,451
Subtotal	0	0	297,986,712	198,979,639	99,007,073	99,007,073
Building Materials and Equipment Suppliers:						
Central	0	0	15,259,345	10,720,490	4,538,855	4,538,855
Eastern	0	0	27,374,501	19,326,690	8,047,810	8,047,810
Pacific	0	0	695,315	489,955	205,360	205,360
Southern	0	0	114,088,707	80,616,258	33,472,449	33,472,449
Western	0	0	10,537,593	7,222,675	3,314,918	3,314,918
Subtotal	0	0	167,955,460	118,376,068	49,579,392	49,579,392
Commercial Kitchens:						
Alaskan	680	757	0	0	680	757
Central	53,918	60,025	68,619,433	50,009,739	18,663,611	18,669,718
Eastern	93,809	104,434	151,155,901	110,815,642	40,434,069	40,444,694
Pacific	1,767	1,967	5,006,642	3,663,797	1,344,612	1,344,812
Southern	69,707	77,602	573,330,985	421,490,458	151,910,234	151,918,129
Western	59,181	65,884	60,628,710	43,350,035	17,337,856	17,344,559
Subtotal	279,061	310,669	858,741,671	629,329,670	229,691,061	229,722,669
Construction:						
Alaskan	224	249	0	0	224	249
Central	14,843	16,524	209,056,982	141,690,442	67,381,383	67,383,064
Eastern	23,662	26,342	463,946,432	316,103,585	147,866,509	147,869,189
Pacific	382	425	14,776,247	10,040,905	4,735,724	4,735,767
Southern	19,067	21,226	1,826,423,948	1,246,717,469	579,725,546	579,727,706
Western	10,293	11,459	193,613,925	129,218,140	64,406,078	64,407,244
Subtotal	68,470	76,226	2,707,817,534	1,843,770,540	864,115,464	864,123,220
Drycleaning and Commercial Laundries:						
Alaskan	27	30	0	0	27	30
Central	3,362	3,742	2,128,940	1,511,252	621,050	621,431
Eastern	8,636	9,614	5,791,351	4,134,982	1,665,005	1,665,983
Pacific	68	76	208,637	149,402	59,303	59,311
Southern	5,096	5,674	19,050,617	13,664,133	5,391,581	5,392,158
Western	3,660	4,075	1,935,742	1,341,209	598,194	598,608
Subtotal	20,849	23,210	29,115,287	20,800,977	8,335,159	8,337,520

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Landscaping and Facilities Support:						
Alaskan	14	16	0	0	14	16
Central	3,509	3,907	38,297,610	25,669,779	12,631,341	12,631,739
Eastern	5,088	5,664	99,438,739	67,109,986	32,333,840	32,334,416
Pacific	24	27	3,040,514	2,046,991	993,547	993,550
Southern	3,100	3,451	327,823,997	221,913,360	105,913,738	105,914,089
Western	1,255	1,397	33,798,576	22,246,099	11,553,732	11,553,874
Subtotal	12,990	14,462	502,399,436	338,986,214	163,426,212	163,427,683
Maintenance and Repair:						
Alaskan	53	59	0	0	53	59
Central	3,513	3,911	23,017,823	15,941,193	7,080,143	7,080,541
Eastern	3,646	4,059	45,127,748	31,452,400	13,678,994	13,679,407
Pacific	53	59	887,136	617,516	269,672	269,678
Southern	3,971	4,421	169,223,833	118,399,919	50,827,885	50,828,335
Western	2,255	2,511	17,659,435	11,977,449	5,684,241	5,684,496
Subtotal	13,491	15,019	255,915,975	178,388,478	77,540,988	77,542,516
Manufacturing:						
Alaskan	18	20	0	0	18	20
Central	5,353	5,960	183,678,416	132,203,016	51,480,754	51,481,360
Eastern	5,989	6,667	265,045,610	191,654,507	73,397,092	73,397,770
Pacific	41	45	1,255,989	900,119	355,911	355,916
Southern	4,723	5,258	765,527,687	553,306,520	212,225,890	212,226,425
Western	4,087	4,550	62,524,352	43,702,341	18,826,098	18,826,561
Subtotal	20,211	22,500	1,278,032,055	921,766,502	356,285,763	356,288,052
Oil and Gas:						
Alaskan	14	16	0	0	14	16
Central	1,011	1,125	4,844,875	3,255,669	1,590,217	1,590,331
Eastern	685	763	3,957,224	2,687,559	1,270,351	1,270,429
Southern	2,173	2,419	219,150,051	149,263,297	69,888,927	69,889,173
Western	347	387	2,790,653	1,855,780	935,221	935,260
Subtotal	4,231	4,710	230,742,803	157,062,304	73,684,730	73,685,209
Postal and Delivery Services:						
Central	0	0	7,067,739	4,865,313	2,202,426	2,202,426
Eastern	0	0	15,795,086	10,979,919	4,815,167	4,815,167
Pacific	0	0	259,654	179,937	79,717	79,717
Southern	0	0	48,615,830	33,929,834	14,685,996	14,685,996
Western	0	0	5,333,758	3,598,956	1,734,802	1,734,802
Subtotal	0	0	77,072,067	53,553,958	23,518,109	23,518,109
Recreation and Amusement:						
Central	0	0	11,449,963	7,788,056	3,661,907	3,661,907
Eastern	0	0	29,020,353	19,883,004	9,137,349	9,137,349
Pacific	0	0	577,712	395,164	182,548	182,548
Southern	0	0	106,664,237	73,343,696	33,320,541	33,320,541
Western	0	0	12,200,093	8,139,672	4,060,421	4,060,421
Subtotal	0	0	159,912,358	109,549,593	50,362,765	50,362,765
Sanitation and Waste Removal:						
Central	0	0	2,772,688	1,898,218	874,470	874,470
Eastern	0	0	6,804,557	4,677,890	2,126,667	2,126,667
Pacific	0	0	215,690	148,006	67,684	67,684
Southern	0	0	24,349,088	16,796,017	7,553,071	7,553,071
Western	0	0	2,307,226	1,543,819	763,407	763,407
Subtotal	0	0	36,449,250	25,063,950	11,385,300	11,385,300
Telecommunications:						
Central	0	0	9,176,182	6,378,212	2,797,971	2,797,971
Eastern	0	0	21,179,000	14,811,293	6,367,707	6,367,707
Pacific	0	0	388,366	270,956	117,410	117,410
Southern	0	0	72,117,556	50,535,718	21,581,839	21,581,839
Western	0	0	6,987,064	4,781,573	2,205,491	2,205,491
Subtotal	0	0	109,848,169	76,777,752	33,070,417	33,070,417
Temporary Help Services:						
Central	0	0	39,694,731	27,884,466	11,810,265	11,810,265
Eastern	0	0	96,536,678	68,420,422	28,116,256	28,116,256
Pacific	0	0	3,309,799	2,338,558	971,241	971,241
Southern	0	0	660,310,207	468,920,086	191,390,121	191,390,121
Western	0	0	46,479,235	32,035,820	14,443,415	14,443,415
Subtotal	0	0	846,330,650	599,599,352	246,731,298	246,731,298
Transportation:						
Alaskan	28	31	0	0	28	31
Central	77	86	32,003,351	21,724,453	10,278,975	10,278,984
Eastern	188	210	47,422,875	32,486,839	14,936,225	14,936,247

TABLE VIII.C.25—TOTAL COSTS—REQUIREMENTS AT OR ABOVE THE HIGH HEAT TRIGGER—Continued
[2023\$]

Industry category	One-time annualized		Annual	Annual cost savings	Total annualized	
	0%	2%			0%	2%
Pacific	7	8	2,524,644	1,730,353	794,298	794,299
Southern	285	318	253,695,845	174,399,675	79,296,456	79,296,488
Western	76	85	22,541,484	15,127,338	7,414,223	7,414,231
Subtotal	662	737	358,188,201	245,468,657	112,720,205	112,720,280
Utilities:						
Alaskan	125	139	0	0	125	139
Central	4,282	4,767	19,601,649	13,433,591	6,172,340	6,172,825
Eastern	5,677	6,320	39,556,812	27,238,766	12,323,724	12,324,367
Pacific	5	5	281,923	194,078	87,850	87,850
Southern	5,213	5,804	141,846,798	97,848,768	44,003,243	44,003,834
Western	2,455	2,734	11,600,777	7,829,182	3,774,051	3,774,329
Subtotal	17,758	19,769	212,887,959	146,544,384	66,361,333	66,363,344
Warehousing:						
Central	0	0	11,386,839	8,060,758	3,326,081	3,326,081
Eastern	0	0	23,769,417	16,940,032	6,829,384	6,829,384
Pacific	0	0	150,530	106,818	43,711	43,711
Southern	0	0	72,652,817	51,878,587	20,774,229	20,774,229
Western	0	0	7,971,638	5,506,470	2,465,168	2,465,168
Subtotal	0	0	115,931,240	82,492,666	33,438,574	33,438,574
Non-Core:						
Alaskan	13	14	0	0	13	14
Central	1,083	1,206	569,939,859	395,235,676	174,705,267	174,705,390
Eastern	2,798	3,114	1,571,729,282	1,094,641,235	477,090,844	477,091,161
Pacific	31	34	34,448,756	23,901,214	10,547,573	10,547,576
Southern	1,278	1,423	3,222,640,561	2,265,794,085	956,847,754	956,847,899
Western	2,208	2,458	578,369,859	391,910,093	186,461,974	186,462,224
Subtotal	7,410	8,250	5,977,128,316	4,171,482,302	1,805,653,424	1,805,654,264
Total:						
Alaskan	1,196	1,331	0	0	1,196	1,331
Central	90,952	101,253	1,290,376,435	896,530,702	393,936,685	393,946,986
Eastern	150,177	167,187	2,949,312,800	2,057,250,816	892,212,161	892,229,171
Pacific	2,376	2,645	68,583,668	47,545,638	21,040,406	21,040,676
Southern	114,614	127,596	8,809,549,859	6,167,666,393	2,641,998,079	2,642,011,061
Western	85,819	95,539	1,104,632,382	748,999,461	355,718,740	355,728,460
Total	445,133	495,551	14,222,455,144	9,917,993,009	4,304,907,268	4,304,957,686

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

F. Heat Illness and Emergency Response and Planning

All covered employers would be required to respond when employees are experiencing signs and symptoms of heat-related illness or when there is a heat-related emergency at their work sites.

OSHA calculates the total costs associated with responding to heat-related illnesses by multiplying the labor-based unit cost by the number of affected establishments and the number of heat-related illnesses per establishment (shown in table VIII.C.6.).

OSHA calculates the total costs associated with responding to heat-related emergencies as a sum of total labor-based costs and capital-based costs. Total labor-based costs are

calculated by multiplying the labor-based unit costs by the number of affected establishments and the number of heat-related emergencies per establishment (also shown in table VIII.C.6.). As discussed in section VIII.C.6.), labor-based unit costs incurred during heat-related emergencies consist of reducing an employee's body temperature before emergency medical services arrive as well as contacting emergency medical services and transporting employees to a place where they can be reached by an emergency medical provider. Total capital-based costs are calculated by multiplying the capital-based unit costs by the number of affected establishments. As discussed in section VIII.C.6.), capital-based unit costs consist of ice, ice sheets, and ice

coolers. Cost frequency is assumed to be one-time for purchases of ice sheets and ice coolers and the costs of purchasing ice when the initial heat trigger is met or exceeded are calculated on an annual basis. OSHA assumes that ice costs are incurred only when the initial heat trigger is met or exceeded. Using this assumption, OSHA multiplied the number of 8-hour work shift equivalents by the number of affected establishments and the unit cost for ice to determine the total annual costs associated with ice purchases.

Table VIII.C.26. shows the annualized one-time, annual, and total annualized costs for each of these requirements by industry category and region, discounted (2 percent over a 10-year period) and undiscounted.

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Medical Response—Non-Emergency					
Agriculture, Forestry, and Fishing:					
Alaskan	\$0	\$0	\$22	\$22	\$22
Central	0	0	1,561	1,561	1,561
Eastern	0	0	822	822	822
Pacific	0	0	11	11	11
Southern	0	0	1,427	1,427	1,427
Western	0	0	212	212	212
Subtotal	0	0	4,055	4,055	4,055
Building Materials and Equipment Suppliers:					
Alaskan	0	0	4	4	4
Central	0	0	390	390	390
Eastern	0	0	608	608	608
Pacific	0	0	10	10	10
Southern	0	0	543	543	543
Western	0	0	342	342	342
Subtotal	0	0	1,897	1,897	1,897
Commercial Kitchens:					
Alaskan	0	0	8	8	8
Central	0	0	656	656	656
Eastern	0	0	1,098	1,098	1,098
Pacific	0	0	23	23	23
Southern	0	0	791	791	791
Western	0	0	561	561	561
Subtotal	0	0	3,136	3,136	3,136
Construction:					
Alaskan	0	0	39	39	39
Central	0	0	3,014	3,014	3,014
Eastern	0	0	3,653	3,653	3,653
Pacific	0	0	54	54	54
Southern	0	0	2,649	2,649	2,649
Western	0	0	726	726	726
Subtotal	0	0	10,134	10,134	10,134
Drycleaning and Commercial Laundries:					
Alaskan	0	0	0	0	0
Central	0	0	38	38	38
Eastern	0	0	97	97	97
Pacific	0	0	1	1	1
Southern	0	0	57	57	57
Western	0	0	35	35	35
Subtotal	0	0	228	228	228
Landscaping and Facilities Support:					
Alaskan	0	0	22	22	22
Central	0	0	1,829	1,829	1,829
Eastern	0	0	3,022	3,022	3,022
Pacific	0	0	40	40	40
Southern	0	0	2,154	2,154	2,154
Western	0	0	1,699	1,699	1,699
Subtotal	0	0	8,766	8,766	8,766
Maintenance and Repair:					
Alaskan	0	0	3	3	3
Central	0	0	334	334	334
Eastern	0	0	442	442	442
Pacific	0	0	5	5	5
Southern	0	0	359	359	359
Western	0	0	231	231	231
Subtotal	0	0	1,376	1,376	1,376
Manufacturing:					
Alaskan	0	0	13	13	13
Central	0	0	2,617	2,617	2,617
Eastern	0	0	2,545	2,545	2,545
Pacific	0	0	20	20	20
Southern	0	0	1,908	1,908	1,908
Western	0	0	1,440	1,440	1,440
Subtotal	0	0	8,544	8,544	8,544
Oil and Gas:					
Alaskan	0	0	17	17	17
Central	0	0	671	671	671
Eastern	0	0	351	351	351
Southern	0	0	2,546	2,546	2,546

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Western	0	0	335	335	335
Subtotal	0	0	3,921	3,921	3,921
Postal and Delivery Services:					
Alaskan	0	0	19	19	19
Central	0	0	799	799	799
Eastern	0	0	1,011	1,011	1,011
Pacific	0	0	11	11	11
Southern	0	0	744	744	744
Western	0	0	375	375	375
Subtotal	0	0	2,958	2,958	2,958
Recreation and Amusement:					
Alaskan	0	0	6	6	6
Central	0	0	267	267	267
Eastern	0	0	401	401	401
Pacific	0	0	5	5	5
Southern	0	0	261	261	261
Western	0	0	175	175	175
Subtotal	0	0	1,116	1,116	1,116
Sanitation and Waste Removal:					
Alaskan	0	0	6	6	6
Central	0	0	217	217	217
Eastern	0	0	313	313	313
Pacific	0	0	5	5	5
Southern	0	0	227	227	227
Western	0	0	119	119	119
Subtotal	0	0	887	887	887
Telecommunications:					
Alaskan	0	0	11	11	11
Central	0	0	696	696	696
Eastern	0	0	952	952	952
Pacific	0	0	10	10	10
Southern	0	0	837	837	837
Western	0	0	467	467	467
Subtotal	0	0	2,974	2,974	2,974
Temporary Help Services:					
Alaskan	0	0	2	2	2
Central	0	0	432	432	432
Eastern	0	0	609	609	609
Pacific	0	0	6	6	6
Southern	0	0	517	517	517
Western	0	0	306	306	306
Subtotal	0	0	1,873	1,873	1,873
Transportation:					
Alaskan	0	0	52	52	52
Central	0	0	3,215	3,215	3,215
Eastern	0	0	2,894	2,894	2,894
Pacific	0	0	36	36	36
Southern	0	0	2,944	2,944	2,944
Western	0	0	726	726	726
Subtotal	0	0	9,867	9,867	9,867
Utilities:					
Alaskan	0	0	13	13	13
Central	0	0	546	546	546
Eastern	0	0	685	685	685
Pacific	0	0	5	5	5
Southern	0	0	768	768	768
Western	0	0	315	315	315
Subtotal	0	0	2,332	2,332	2,332
Warehousing:					
Alaskan	0	0	2	2	2
Central	0	0	260	260	260
Eastern	0	0	329	329	329
Pacific	0	0	4	4	4
Southern	0	0	323	323	323
Western	0	0	203	203	203
Subtotal	0	0	1,120	1,120	1,120
Non-Core:					
Alaskan	0	0	953	953	953
Central	0	0	57,371	57,371	57,371
Eastern	0	0	47,165	47,165	47,165

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Pacific	0	0	435	435	435
Southern	0	0	22,835	22,835	22,835
Western	0	0	19,411	19,411	19,411
Subtotal	0	0	148,169	148,169	148,169
Total Costs for Medical Response—Non-Emergency:					
Alaskan	0	0	1,193	1,193	1,193
Central	0	0	74,912	74,912	74,912
Eastern	0	0	66,997	66,997	66,997
Pacific	0	0	681	681	681
Southern	0	0	41,890	41,890	41,890
Western	0	0	27,678	27,678	27,678
Total	0	0	213,352	213,352	213,352
Medical Response—Emergency					
Agriculture, Forestry, and Fishing:					
Alaskan	0	0	0	0	0
Central	0	0	28	28	28
Eastern	0	0	15	15	15
Pacific	0	0	0	0	0
Southern	0	0	25	25	25
Western	0	0	4	4	4
Subtotal	0	0	72	72	72
Building Materials and Equipment Suppliers:					
Alaskan	0	0	0	0	0
Central	0	0	6	6	6
Eastern	0	0	10	10	10
Pacific	0	0	0	0	0
Southern	0	0	9	9	9
Western	0	0	5	5	5
Subtotal	0	0	30	30	30
Commercial Kitchens:					
Alaskan	0	0	0	0	0
Central	0	0	11	11	11
Eastern	0	0	18	18	18
Pacific	0	0	0	0	0
Southern	0	0	13	13	13
Western	0	0	9	9	9
Subtotal	0	0	51	51	51
Construction:					
Alaskan	0	0	1	1	1
Central	0	0	53	53	53
Eastern	0	0	64	64	64
Pacific	0	0	1	1	1
Southern	0	0	47	47	47
Western	0	0	13	13	13
Subtotal	0	0	178	178	178
Drycleaning and Commercial Laundries:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	1	1	1
Subtotal	0	0	4	4	4
Landscaping and Facilities Support:					
Alaskan	0	0	0	0	0
Central	0	0	31	31	31
Eastern	0	0	51	51	51
Pacific	0	0	1	1	1
Southern	0	0	36	36	36
Western	0	0	29	29	29
Subtotal	0	0	147	147	147
Maintenance and Repair:					
Alaskan	0	0	0	0	0
Central	0	0	5	5	5
Eastern	0	0	7	7	7
Pacific	0	0	0	0	0
Southern	0	0	6	6	6
Western	0	0	4	4	4

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	0	0	22	22	22
Manufacturing:					
Alaskan	0	0	0	0	0
Central	0	0	43	43	43
Eastern	0	0	41	41	41
Pacific	0	0	0	0	0
Southern	0	0	31	31	31
Western	0	0	23	23	23
Subtotal	0	0	139	139	139
Oil and Gas:					
Alaskan	0	0	0	0	0
Central	0	0	12	12	12
Eastern	0	0	6	6	6
Southern	0	0	45	45	45
Western	0	0	6	6	6
Subtotal	0	0	69	69	69
Postal and Delivery Services:					
Alaskan	0	0	0	0	0
Central	0	0	13	13	13
Eastern	0	0	16	16	16
Pacific	0	0	0	0	0
Southern	0	0	12	12	12
Western	0	0	6	6	6
Subtotal	0	0	47	47	47
Recreation and Amusement:					
Alaskan	0	0	0	0	0
Central	0	0	4	4	4
Eastern	0	0	7	7	7
Pacific	0	0	0	0	0
Southern	0	0	4	4	4
Western	0	0	3	3	3
Subtotal	0	0	18	18	18
Sanitation and Waste Removal:					
Alaskan	0	0	0	0	0
Central	0	0	4	4	4
Eastern	0	0	5	5	5
Pacific	0	0	0	0	0
Southern	0	0	4	4	4
Western	0	0	2	2	2
Subtotal	0	0	15	15	15
Telecommunications:					
Alaskan	0	0	0	0	0
Central	0	0	11	11	11
Eastern	0	0	15	15	15
Pacific	0	0	0	0	0
Southern	0	0	13	13	13
Western	0	0	7	7	7
Subtotal	0	0	48	48	48
Temporary Help Services:					
Alaskan	0	0	0	0	0
Central	0	0	7	7	7
Eastern	0	0	10	10	10
Pacific	0	0	0	0	0
Southern	0	0	9	9	9
Western	0	0	5	5	5
Subtotal	0	0	32	32	32
Transportation:					
Alaskan	0	0	1	1	1
Central	0	0	51	51	51
Eastern	0	0	46	46	46
Pacific	0	0	1	1	1
Southern	0	0	47	47	47
Western	0	0	12	12	12
Subtotal	0	0	158	158	158
Utilities:					
Alaskan	0	0	0	0	0
Central	0	0	9	9	9
Eastern	0	0	11	11	11
Pacific	0	0	0	0	0
Southern	0	0	12	12	12
Western	0	0	5	5	5

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	0	0	37	37	37
Warehousing:					
Alaskan	0	0	0	0	0
Central	0	0	4	4	4
Eastern	0	0	5	5	5
Pacific	0	0	0	0	0
Southern	0	0	5	5	5
Western	0	0	3	3	3
Subtotal	0	0	18	18	18
Non-Core:					
Alaskan	0	0	15	15	15
Central	0	0	914	914	914
Eastern	0	0	756	756	756
Pacific	0	0	7	7	7
Southern	0	0	369	369	369
Western	0	0	313	313	313
Subtotal	0	0	2,375	2,375	2,375
Total Costs for Medical Response—Emergency:					
Alaskan	0	0	19	19	19
Central	0	0	1,207	1,207	1,207
Eastern	0	0	1,086	1,086	1,086
Pacific	0	0	11	11	11
Southern	0	0	688	688	688
Western	0	0	449	449	449
Total	0	0	3,460	3,460	3,460

Contact Emergency Medical Services

Agriculture, Forestry, and Fishing:					
Alaskan	0	0	0	0	0
Central	0	0	4	4	4
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	4	4	4
Western	0	0	1	1	1
Subtotal	0	0	12	12	12
Building Materials and Equipment Suppliers:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	1	1	1
Subtotal	0	0	5	5	5
Commercial Kitchens:					
Alaskan	0	0	0	0	0
Central	0	0	2	2	2
Eastern	0	0	3	3	3
Pacific	0	0	0	0	0
Southern	0	0	2	2	2
Western	0	0	1	1	1
Subtotal	0	0	8	8	8
Construction:					
Alaskan	0	0	0	0	0
Central	0	0	8	8	8
Eastern	0	0	10	10	10
Pacific	0	0	0	0	0
Southern	0	0	7	7	7
Western	0	0	2	2	2
Subtotal	0	0	28	28	28
Drycleaning and Commercial Laundries:					
Alaskan	0	0	0	0	0
Central	0	0	0	0	0
Eastern	0	0	0	0	0
Pacific	0	0	0	0	0
Southern	0	0	0	0	0
Western	0	0	0	0	0
Subtotal	0	0	1	1	1
Landscaping and Facilities Support:					
Alaskan	0	0	0	0	0
Central	0	0	5	5	5

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Eastern	0	0	8	8	8
Pacific	0	0	0	0	0
Southern	0	0	6	6	6
Western	0	0	5	5	5
Subtotal	0	0	24	24	24
Maintenance and Repair:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	1	1	1
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	1	1	1
Subtotal	0	0	4	4	4
Manufacturing:					
Alaskan	0	0	0	0	0
Central	0	0	2	2	2
Eastern	0	0	1	1	1
Pacific	0	0	0	0	0
Southern	0	0	5	5	5
Western	0	0	4	4	4
Subtotal	0	0	22	22	22
Oil and Gas:					
Alaskan	0	0	0	0	0
Central	0	0	2	2	2
Eastern	0	0	1	1	1
Southern	0	0	7	7	7
Western	0	0	1	1	1
Subtotal	0	0	11	11	11
Postal and Delivery Services:					
Alaskan	0	0	0	0	0
Central	0	0	2	2	2
Eastern	0	0	3	3	3
Pacific	0	0	0	0	0
Southern	0	0	2	2	2
Western	0	0	1	1	1
Subtotal	0	0	8	8	8
Recreation and Amusement:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	1	1	1
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	0	0	0
Subtotal	0	0	3	3	3
Sanitation and Waste Removal:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	1	1	1
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	0	0	0
Subtotal	0	0	2	2	2
Telecommunications:					
Alaskan	0	0	0	0	0
Central	0	0	2	2	2
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	2	2	2
Western	0	0	1	1	1
Subtotal	0	0	8	8	8
Temporary Help Services:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	1	1	1
Subtotal	0	0	5	5	5
Transportation:					
Alaskan	0	0	0	0	0

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Central	0	0	8	8	8
Eastern	0	0	7	7	7
Pacific	0	0	0	0	0
Southern	0	0	8	8	8
Western	0	0	2	2	2
Subtotal	0	0	25	25	25
Utilities:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	2	2	2
Pacific	0	0	0	0	0
Southern	0	0	2	2	2
Western	0	0	1	1	1
Subtotal	0	0	6	6	6
Warehousing:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	1	1	1
Pacific	0	0	0	0	0
Southern	0	0	1	1	1
Western	0	0	1	1	1
Subtotal	0	0	3	3	3
Non-Core:					
Alaskan	0	0	2	2	2
Central	0	0	146	146	146
Eastern	0	0	121	121	121
Pacific	0	0	1	1	1
Southern	0	0	59	59	59
Western	0	0	50	50	50
Subtotal	0	0	380	380	380
Total Costs for Contact Emergency Medical Services:					
Alaskan	0	0	3	3	3
Central	0	0	193	193	193
Eastern	0	0	174	174	174
Pacific	0	0	2	2	2
Southern	0	0	110	110	110
Western	0	0	72	72	72
Total	0	0	554	554	554
Agriculture, Forestry, and Fishing					
Transport Worker:					
Alaskan	0	0	1	1	1
Central	0	0	67	67	67
Eastern	0	0	35	35	35
Pacific	0	0	0	0	0
Southern	0	0	61	61	61
Western	0	0	9	9	9
Subtotal	0	0	173	173	173
Building Materials and Equipment Suppliers:					
Alaskan	0	0	0	0	0
Central	0	0	15	15	15
Eastern	0	0	23	23	23
Pacific	0	0	0	0	0
Southern	0	0	21	21	21
Western	0	0	13	13	13
Subtotal	0	0	73	73	73
Commercial Kitchens:					
Alaskan	0	0	0	0	0
Central	0	0	26	26	26
Eastern	0	0	43	43	43
Pacific	0	0	1	1	1
Southern	0	0	31	31	31
Western	0	0	22	22	22
Subtotal	0	0	122	122	122
Construction:					
Alaskan	0	0	2	2	2
Central	0	0	127	127	127
Eastern	0	0	154	154	154
Pacific	0	0	2	2	2
Southern	0	0	112	112	112

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Western	0	0	31	31	31
Subtotal	0	0	427	427	427
Drycleaning and Commercial Laundries:					
Alaskan	0	0	0	0	0
Central	0	0	1	1	1
Eastern	0	0	4	4	4
Pacific	0	0	0	0	0
Southern	0	0	2	2	2
Western	0	0	1	1	1
Subtotal	0	0	9	9	9
Landscaping and Facilities Support:					
Alaskan	0	0	1	1	1
Central	0	0	74	74	74
Eastern	0	0	122	122	122
Pacific	0	0	2	2	2
Southern	0	0	87	87	87
Western	0	0	69	69	69
Subtotal	0	0	354	354	354
Maintenance and Repair:					
Alaskan	0	0	0	0	0
Central	0	0	13	13	13
Eastern	0	0	17	17	17
Pacific	0	0	0	0	0
Southern	0	0	14	14	14
Western	0	0	9	9	9
Subtotal	0	0	53	53	53
Manufacturing:					
Alaskan	0	0	1	1	1
Central	0	0	102	102	102
Eastern	0	0	100	100	100
Pacific	0	0	1	1	1
Southern	0	0	75	75	75
Western	0	0	56	56	56
Subtotal	0	0	334	334	334
Oil and Gas:					
Alaskan	0	0	1	1	1
Central	0	0	28	28	28
Eastern	0	0	15	15	15
Southern	0	0	108	108	108
Western	0	0	14	14	14
Subtotal	0	0	166	166	166
Postal and Delivery Services:					
Alaskan	0	0	1	1	1
Central	0	0	31	31	31
Eastern	0	0	39	39	39
Pacific	0	0	0	0	0
Southern	0	0	29	29	29
Western	0	0	14	14	14
Subtotal	0	0	113	113	113
Recreation and Amusement:					
Alaskan	0	0	0	0	0
Central	0	0	10	10	10
Eastern	0	0	16	16	16
Pacific	0	0	0	0	0
Southern	0	0	10	10	10
Western	0	0	7	7	7
Subtotal	0	0	43	43	43
Sanitation and Waste Removal:					
Alaskan	0	0	0	0	0
Central	0	0	9	9	9
Eastern	0	0	13	13	13
Pacific	0	0	0	0	0
Southern	0	0	9	9	9
Western	0	0	5	5	5
Subtotal	0	0	36	36	36
Telecommunications:					
Alaskan	0	0	0	0	0
Central	0	0	27	27	27
Eastern	0	0	37	37	37
Pacific	0	0	0	0	0

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Southern	0	0	32	32	32
Western	0	0	18	18	18
Subtotal	0	0	114	114	114
Temporary Help Services:					
Alaskan	0	0	0	0	0
Central	0	0	17	17	17
Eastern	0	0	25	25	25
Pacific	0	0	0	0	0
Southern	0	0	21	21	21
Western	0	0	12	12	12
Subtotal	0	0	76	76	76
Transportation:					
Alaskan	0	0	2	2	2
Central	0	0	123	123	123
Eastern	0	0	111	111	111
Pacific	0	0	1	1	1
Southern	0	0	113	113	113
Western	0	0	28	28	28
Subtotal	0	0	379	379	379
Utilities:					
Alaskan	0	0	0	0	0
Central	0	0	21	21	21
Eastern	0	0	26	26	26
Pacific	0	0	0	0	0
Southern	0	0	29	29	29
Western	0	0	12	12	12
Subtotal	0	0	89	89	89
Warehousing:					
Alaskan	0	0	0	0	0
Central	0	0	10	10	10
Eastern	0	0	13	13	13
Pacific	0	0	0	0	0
Southern	0	0	12	12	12
Western	0	0	8	8	8
Subtotal	0	0	43	43	43
Non-Core:					
Alaskan	0	0	36	36	36
Central	0	0	2,194	2,194	2,194
Eastern	0	0	1,815	1,815	1,815
Pacific	0	0	17	17	17
Southern	0	0	886	886	886
Western	0	0	751	751	751
Subtotal	0	0	5,699	5,699	5,699
Total Costs for Transport Worker:					
Alaskan	0	0	46	46	46
Central	0	0	2,896	2,896	2,896
Eastern	0	0	2,606	2,606	2,606
Pacific	0	0	27	27	27
Southern	0	0	1,652	1,652	1,652
Western	0	0	1,079	1,079	1,079
Total	0	0	8,305	8,305	8,305
Ice Sheets.					
Agriculture, Forestry, and Fishing.					
Alaskan	3,919	4,363	0	3,919	4,363
Central	284,403	316,616	0	284,403	316,616
Eastern	149,682	166,636	0	149,682	166,636
Pacific	2,022	2,251	0	2,022	2,251
Southern	260,013	289,464	0	260,013	289,464
Western	38,559	42,926	0	38,559	42,926
Subtotal	738,598	822,255	0	738,598	822,255
Building Materials and Equipment Suppliers:					
Alaskan	409	455	0	409	455
Central	32,691	36,393	0	32,691	36,393
Eastern	46,817	52,120	0	46,817	52,120
Pacific	741	825	0	741	825
Southern	42,659	47,491	0	42,659	47,491
Western	25,237	28,096	0	25,237	28,096
Subtotal	148,554	165,380	0	148,554	165,380
Commercial Kitchens:					
Alaskan	4,919	5,477	0	4,919	5,477

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Central	392,047	436,452	0	392,047	436,452
Eastern	652,643	726,565	0	652,643	726,565
Pacific	12,463	13,875	0	12,463	13,875
Southern	478,939	533,186	0	478,939	533,186
Western	333,020	370,740	0	333,020	370,740
Subtotal	1,874,032	2,086,295	0	1,874,032	2,086,295
Construction:					
Alaskan	7,015	7,810	0	7,015	7,810
Central	538,801	599,828	0	538,801	599,828
Eastern	656,231	730,559	0	656,231	730,559
Pacific	9,774	10,881	0	9,774	10,881
Southern	478,099	532,251	0	478,099	532,251
Western	136,369	151,815	0	136,369	151,815
Subtotal	1,826,289	2,033,145	0	1,826,289	2,033,145
Drycleaning and Commercial Laundries:					
Alaskan	159	177	0	159	177
Central	19,859	22,109	0	19,859	22,109
Eastern	51,015	56,794	0	51,015	56,794
Pacific	402	447	0	402	447
Southern	30,107	33,517	0	30,107	33,517
Western	18,521	20,619	0	18,521	20,619
Subtotal	120,063	133,662	0	120,063	133,662
Landscaping and Facilities Support:					
Alaskan	1,015	1,130	0	1,015	1,130
Central	105,516	117,467	0	105,516	117,467
Eastern	171,723	191,173	0	171,723	191,173
Pacific	2,503	2,786	0	2,503	2,786
Southern	120,865	134,555	0	120,865	134,555
Western	86,959	96,809	0	86,959	96,809
Subtotal	488,581	543,921	0	488,581	543,921
Maintenance and Repair:					
Alaskan	1,733	1,929	0	1,733	1,929
Central	175,535	195,417	0	175,535	195,417
Eastern	232,663	259,016	0	232,663	259,016
Pacific	2,796	3,113	0	2,796	3,113
Southern	188,980	210,385	0	188,980	210,385
Western	121,702	135,486	0	121,702	135,486
Subtotal	723,409	805,346	0	723,409	805,346
Manufacturing:					
Alaskan	550	613	0	550	613
Central	108,365	120,639	0	108,365	120,639
Eastern	105,352	117,284	0	105,352	117,284
Pacific	841	936	0	841	936
Southern	79,014	87,964	0	79,014	87,964
Western	59,634	66,388	0	59,634	66,388
Subtotal	353,755	393,824	0	353,755	393,824
Oil and Gas:					
Alaskan	784	873	0	784	873
Central	31,780	35,379	0	31,780	35,379
Eastern	17,148	19,091	0	17,148	19,091
Southern	115,134	128,175	0	115,134	128,175
Western	15,218	16,941	0	15,218	16,941
Subtotal	180,064	200,459	0	180,064	200,459
Postal and Delivery Services:					
Alaskan	1,828	2,035	0	1,828	2,035
Central	78,479	87,368	0	78,479	87,368
Eastern	99,269	110,513	0	99,269	110,513
Pacific	1,048	1,167	0	1,048	1,167
Southern	73,083	81,361	0	73,083	81,361
Western	36,803	40,972	0	36,803	40,972
Subtotal	290,510	323,415	0	290,510	323,415
Recreation and Amusement:					
Alaskan	2,173	2,419	0	2,173	2,419
Central	86,303	96,078	0	86,303	96,078
Eastern	129,160	143,789	0	129,160	143,789
Pacific	1,602	1,783	0	1,602	1,783
Southern	84,110	93,637	0	84,110	93,637
Western	56,791	63,223	0	56,791	63,223
Subtotal	360,139	400,930	0	360,139	400,930
Sanitation and Waste Removal:					

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Alaskan	177	197	0	177	197
Central	6,511	7,249	0	6,511	7,249
Eastern	9,397	10,461	0	9,397	10,461
Pacific	142	159	0	142	159
Southern	6,819	7,591	0	6,819	7,591
Western	3,557	3,960	0	3,557	3,960
Subtotal	26,604	29,617	0	26,604	29,617
Telecommunications:					
Alaskan	244	271	0	244	271
Central	14,806	16,483	0	14,806	16,483
Eastern	20,265	22,560	0	20,265	22,560
Pacific	221	246	0	221	246
Southern	17,801	19,818	0	17,801	19,818
Western	9,937	11,063	0	9,937	11,063
Subtotal	63,274	70,441	0	63,274	70,441
Temporary Help Services:					
Alaskan	69	76	0	69	76
Central	12,968	14,437	0	12,968	14,437
Eastern	18,273	20,343	0	18,273	20,343
Pacific	175	195	0	175	195
Southern	15,516	17,274	0	15,516	17,274
Western	9,194	10,236	0	9,194	10,236
Subtotal	56,196	62,561	0	56,196	62,561
Transportation:					
Alaskan	5,154	5,738	0	5,154	5,738
Central	315,763	351,528	0	315,763	351,528
Eastern	284,254	316,450	0	284,254	316,450
Pacific	3,541	3,942	0	3,541	3,942
Southern	289,153	321,904	0	289,153	321,904
Western	71,295	79,371	0	71,295	79,371
Subtotal	969,160	1,078,933	0	969,160	1,078,933
Utilities:					
Alaskan	783	872	0	783	872
Central	33,502	37,297	0	33,502	37,297
Eastern	41,998	46,755	0	41,998	46,755
Pacific	288	320	0	288	320
Southern	47,105	52,440	0	47,105	52,440
Western	19,317	21,505	0	19,317	21,505
Subtotal	142,993	159,189	0	142,993	159,189
Warehousing:					
Alaskan	175	194	0	175	194
Central	25,535	28,427	0	25,535	28,427
Eastern	32,288	35,945	0	32,288	35,945
Pacific	410	456	0	410	456
Southern	31,697	35,287	0	31,697	35,287
Western	19,910	22,165	0	19,910	22,165
Subtotal	110,014	122,475	0	110,014	122,475
Non-Core:					
Alaskan	31,903	35,517	0	31,903	35,517
Central	2,345,882	2,611,589	0	2,345,882	2,611,589
Eastern	3,852,103	4,288,412	0	3,852,103	4,288,412
Pacific	60,769	67,652	0	60,769	67,652
Southern	3,037,027	3,381,017	0	3,037,027	3,381,017
Western	1,978,080	2,202,128	0	1,978,080	2,202,128
Subtotal	11,305,765	12,586,315	0	11,305,765	12,586,315
Total Costs for Ice Sheets:					
Alaskan	63,010	70,146	0	63,010	70,146
Central	4,608,745	5,130,756	0	4,608,745	5,130,756
Eastern	6,570,282	7,314,467	0	6,570,282	7,314,467
Pacific	99,738	111,034	0	99,738	111,034
Southern	5,396,123	6,007,317	0	5,396,123	6,007,317
Western	3,040,103	3,384,441	0	3,040,103	3,384,441
Total	19,778,001	22,018,161	0	19,778,001	22,018,161
Ice.					
Agriculture, Forestry, and Fishing.					
Alaskan	0	0	446	446	446
Central	0	0	5,904,480	5,904,480	5,904,480
Eastern	0	0	3,256,910	3,256,910	3,256,910
Pacific	0	0	145,592	145,592	145,592
Southern	0	0	13,828,413	13,828,413	13,828,413
Western	0	0	984,176	984,176	984,176

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	0	0	24,120,016	24,120,016	24,120,016
Building Materials and Equipment Suppliers:					
Alaskan	0	0	46	46	46
Central	0	0	647,575	647,575	647,575
Eastern	0	0	912,708	912,708	912,708
Pacific	0	0	53,375	53,375	53,375
Southern	0	0	2,568,554	2,568,554	2,568,554
Western	0	0	670,491	670,491	670,491
Subtotal	0	0	4,852,749	4,852,749	4,852,749
Commercial Kitchens:					
Alaskan	0	0	559	559	559
Central	0	0	7,717,626	7,717,626	7,717,626
Eastern	0	0	12,712,137	12,712,137	12,712,137
Pacific	0	0	897,553	897,553	897,553
Southern	0	0	28,462,002	28,462,002	28,462,002
Western	0	0	8,930,719	8,930,719	8,930,719
Subtotal	0	0	58,720,595	58,720,595	58,720,595
Construction:					
Alaskan	0	0	797	797	797
Central	0	0	9,565,873	9,565,873	9,565,873
Eastern	0	0	12,957,020	12,957,020	12,957,020
Pacific	0	0	703,866	703,866	703,866
Southern	0	0	28,772,465	28,772,465	28,772,465
Western	0	0	4,062,547	4,062,547	4,062,547
Subtotal	0	0	56,062,569	56,062,569	56,062,569
Drycleaning and Commercial Laundries:					
Alaskan	0	0	18	18	18
Central	0	0	396,549	396,549	396,549
Eastern	0	0	954,226	954,226	954,226
Pacific	0	0	28,916	28,916	28,916
Southern	0	0	1,772,663	1,772,663	1,772,663
Western	0	0	490,895	490,895	490,895
Subtotal	0	0	3,643,268	3,643,268	3,643,268
Landscaping and Facilities Support:					
Alaskan	0	0	115	115	115
Central	0	0	2,084,690	2,084,690	2,084,690
Eastern	0	0	3,394,782	3,394,782	3,394,782
Pacific	0	0	180,238	180,238	180,238
Southern	0	0	7,349,405	7,349,405	7,349,405
Western	0	0	2,327,639	2,327,639	2,327,639
Subtotal	0	0	15,336,869	15,336,869	15,336,869
Maintenance and Repair:					
Alaskan	0	0	197	197	197
Central	0	0	3,446,620	3,446,620	3,446,620
Eastern	0	0	4,631,181	4,631,181	4,631,181
Pacific	0	0	201,369	201,369	201,369
Southern	0	0	11,236,731	11,236,731	11,236,731
Western	0	0	3,270,460	3,270,460	3,270,460
Subtotal	0	0	22,786,559	22,786,559	22,786,559
Manufacturing:					
Alaskan	0	0	63	63	63
Central	0	0	1,878,565	1,878,565	1,878,565
Eastern	0	0	2,043,899	2,043,899	2,043,899
Pacific	0	0	60,540	60,540	60,540
Southern	0	0	4,507,111	4,507,111	4,507,111
Western	0	0	1,570,311	1,570,311	1,570,311
Subtotal	0	0	10,060,489	10,060,489	10,060,489
Oil and Gas:					
Alaskan	0	0	89	89	89
Central	0	0	679,900	679,900	679,900
Eastern	0	0	310,644	310,644	310,644
Southern	0	0	6,186,305	6,186,305	6,186,305
Western	0	0	322,752	322,752	322,752
Subtotal	0	0	7,499,690	7,499,690	7,499,690
Postal and Delivery Services:					
Alaskan	0	0	208	208	208
Central	0	0	1,592,194	1,592,194	1,592,194
Eastern	0	0	1,908,549	1,908,549	1,908,549
Pacific	0	0	75,491	75,491	75,491
Southern	0	0	3,900,095	3,900,095	3,900,095
Western	0	0	957,348	957,348	957,348

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	0	0	8,433,885	8,433,885	8,433,885
Recreation and Amusement:					
Alaskan	0	0	247	247	247
Central	0	0	1,656,570	1,656,570	1,656,570
Eastern	0	0	2,519,069	2,519,069	2,519,069
Pacific	0	0	115,370	115,370	115,370
Southern	0	0	4,946,955	4,946,955	4,946,955
Western	0	0	1,503,157	1,503,157	1,503,157
Subtotal	0	0	10,741,370	10,741,370	10,741,370
Sanitation and Waste Removal:					
Alaskan	0	0	20	20	20
Central	0	0	125,786	125,786	125,786
Eastern	0	0	183,236	183,236	183,236
Pacific	0	0	10,260	10,260	10,260
Southern	0	0	390,745	390,745	390,745
Western	0	0	96,609	96,609	96,609
Subtotal	0	0	806,655	806,655	806,655
Telecommunications:					
Alaskan	0	0	28	28	28
Central	0	0	296,733	296,733	296,733
Eastern	0	0	407,173	407,173	407,173
Pacific	0	0	15,899	15,899	15,899
Southern	0	0	997,075	997,075	997,075
Western	0	0	267,246	267,246	267,246
Subtotal	0	0	1,984,154	1,984,154	1,984,154
Temporary Help Services:					
Alaskan	0	0	8	8	8
Central	0	0	249,978	249,978	249,978
Eastern	0	0	371,092	371,092	371,092
Pacific	0	0	12,610	12,610	12,610
Southern	0	0	896,743	896,743	896,743
Western	0	0	253,049	253,049	253,049
Subtotal	0	0	1,783,480	1,783,480	1,783,480
Transportation:					
Alaskan	0	0	586	586	586
Central	0	0	6,347,834	6,347,834	6,347,834
Eastern	0	0	5,777,439	5,777,439	5,777,439
Pacific	0	0	255,024	255,024	255,024
Southern	0	0	16,735,409	16,735,409	16,735,409
Western	0	0	2,032,671	2,032,671	2,032,671
Subtotal	0	0	31,148,963	31,148,963	31,148,963
Utilities:					
Alaskan	0	0	89	89	89
Central	0	0	676,799	676,799	676,799
Eastern	0	0	880,610	880,610	880,610
Pacific	0	0	20,720	20,720	20,720
Southern	0	0	2,564,705	2,564,705	2,564,705
Western	0	0	498,202	498,202	498,202
Subtotal	0	0	4,641,124	4,641,124	4,641,124
Warehousing:					
Alaskan	0	0	20	20	20
Central	0	0	517,417	517,417	517,417
Eastern	0	0	684,456	684,456	684,456
Pacific	0	0	29,519	29,519	29,519
Southern	0	0	1,745,873	1,745,873	1,745,873
Western	0	0	539,749	539,749	539,749
Subtotal	0	0	3,517,034	3,517,034	3,517,034
Non-Core:					
Alaskan	0	0	3,627	3,627	3,627
Central	0	0	47,433,999	47,433,999	47,433,999
Eastern	0	0	76,037,869	76,037,869	76,037,869
Pacific	0	0	4,376,294	4,376,294	4,376,294
Southern	0	0	178,850,258	178,850,258	178,850,258
Western	0	0	52,965,329	52,965,329	52,965,329
Subtotal	0	0	359,667,375	359,667,375	359,667,375
Total Costs for Ice:					
Alaskan	0	0	7,163	7,163	7,163
Central	0	0	91,219,187	91,219,187	91,219,187
Eastern	0	0	129,943,000	129,943,000	129,943,000
Pacific	0	0	7,182,636	7,182,636	7,182,636
Southern	0	0	315,711,506	315,711,506	315,711,506

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Western	0	0	81,743,351	81,743,351	81,743,351
Total	0	0	625,806,844	625,806,844	625,806,844
Ice Cooler.					
Agriculture, Forestry, and Fishing.					
Alaskan	1,555	1,731	0	1,555	1,731
Central	112,807	125,585	0	112,807	125,585
Eastern	59,371	66,096	0	59,371	66,096
Pacific	802	893	0	802	893
Southern	103,133	114,815	0	103,133	114,815
Western	15,294	17,027	0	15,294	17,027
Subtotal	292,962	326,145	0	292,962	326,145
Building Materials and Equipment Suppliers:					
Alaskan	162	180	0	162	180
Central	12,967	14,435	0	12,967	14,435
Eastern	18,570	20,673	0	18,570	20,673
Pacific	294	327	0	294	327
Southern	16,921	18,837	0	16,921	18,837
Western	10,010	11,144	0	10,010	11,144
Subtotal	58,923	65,597	0	58,923	65,597
Commercial Kitchens:					
Alaskan	1,951	2,172	0	1,951	2,172
Central	155,504	173,117	0	155,504	173,117
Eastern	258,869	288,189	0	258,869	288,189
Pacific	4,944	5,503	0	4,944	5,503
Southern	189,970	211,487	0	189,970	211,487
Western	132,091	147,053	0	132,091	147,053
Subtotal	743,329	827,522	0	743,329	827,522
Construction:					
Alaskan	2,783	3,098	0	2,783	3,098
Central	213,714	237,920	0	213,714	237,920
Eastern	260,292	289,774	0	260,292	289,774
Pacific	3,877	4,316	0	3,877	4,316
Southern	189,636	211,116	0	189,636	211,116
Western	54,090	60,217	0	54,090	60,217
Subtotal	724,392	806,440	0	724,392	806,440
Drycleaning and Commercial Laundries:					
Alaskan	63	70	0	63	70
Central	7,877	8,769	0	7,877	8,769
Eastern	20,235	22,527	0	20,235	22,527
Pacific	159	177	0	159	177
Southern	11,942	13,294	0	11,942	13,294
Western	7,346	8,178	0	7,346	8,178
Subtotal	47,623	53,017	0	47,623	53,017
Landscaping and Facilities Support:					
Alaskan	403	448	0	403	448
Central	41,853	46,593	0	41,853	46,593
Eastern	68,113	75,828	0	68,113	75,828
Pacific	993	1,105	0	993	1,105
Southern	47,941	53,371	0	47,941	53,371
Western	34,492	38,399	0	34,492	38,399
Subtotal	193,794	215,744	0	193,794	215,744
Maintenance and Repair:					
Alaskan	687	765	0	687	765
Central	69,625	77,511	0	69,625	77,511
Eastern	92,285	102,738	0	92,285	102,738
Pacific	1,109	1,235	0	1,109	1,235
Southern	74,958	83,449	0	74,958	83,449
Western	48,273	53,740	0	48,273	53,740
Subtotal	286,938	319,438	0	286,938	319,438
Manufacturing:					
Alaskan	218	243	0	218	243
Central	42,983	47,851	0	42,983	47,851
Eastern	41,787	46,520	0	41,787	46,520
Pacific	333	371	0	333	371
Southern	31,341	34,890	0	31,341	34,890
Western	23,653	26,333	0	23,653	26,333
Subtotal	140,316	156,209	0	140,316	156,209
Oil and Gas:					
Alaskan	311	346	0	311	346
Central	12,605	14,033	0	12,605	14,033

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Eastern	6,802	7,572	0	6,802	7,572
Southern	45,668	50,840	0	45,668	50,840
Western	6,036	6,720	0	6,036	6,720
Subtotal	71,422	79,512	0	71,422	79,512
Postal and Delivery Services:					
Alaskan	725	807	0	725	807
Central	31,128	34,654	0	31,128	34,654
Eastern	39,375	43,835	0	39,375	43,835
Pacific	416	463	0	416	463
Southern	28,988	32,271	0	28,988	32,271
Western	14,598	16,251	0	14,598	16,251
Subtotal	115,230	128,281	0	115,230	128,281
Recreation and Amusement:					
Alaskan	862	960	0	862	960
Central	34,232	38,109	0	34,232	38,109
Eastern	51,231	57,034	0	51,231	57,034
Pacific	635	707	0	635	707
Southern	33,362	37,141	0	33,362	37,141
Western	22,526	25,077	0	22,526	25,077
Subtotal	142,848	159,027	0	142,848	159,027
Sanitation and Waste Removal:					
Alaskan	70	78	0	70	78
Central	2,583	2,875	0	2,583	2,875
Eastern	3,727	4,149	0	3,727	4,149
Pacific	57	63	0	57	63
Southern	2,705	3,011	0	2,705	3,011
Western	1,411	1,571	0	1,411	1,571
Subtotal	10,552	11,748	0	10,552	11,748
Telecommunications:					
Alaskan	97	108	0	97	108
Central	5,873	6,538	0	5,873	6,538
Eastern	8,038	8,948	0	8,038	8,948
Pacific	88	97	0	88	97
Southern	7,061	7,861	0	7,061	7,861
Western	3,942	4,388	0	3,942	4,388
Subtotal	25,097	27,940	0	25,097	27,940
Temporary Help Services:					
Alaskan	27	30	0	27	30
Central	5,144	5,726	0	5,144	5,726
Eastern	7,248	8,069	0	7,248	8,069
Pacific	69	77	0	69	77
Southern	6,155	6,852	0	6,155	6,852
Western	3,647	4,060	0	3,647	4,060
Subtotal	22,290	24,815	0	22,290	24,815
Transportation:					
Alaskan	2,044	2,276	0	2,044	2,276
Central	125,246	139,432	0	125,246	139,432
Eastern	112,749	125,519	0	112,749	125,519
Pacific	1,405	1,564	0	1,405	1,564
Southern	114,692	127,682	0	114,692	127,682
Western	28,279	31,482	0	28,279	31,482
Subtotal	384,414	427,955	0	384,414	427,955
Utilities:					
Alaskan	311	346	0	311	346
Central	13,289	14,794	0	13,289	14,794
Eastern	16,658	18,545	0	16,658	18,545
Pacific	114	127	0	114	127
Southern	18,684	20,800	0	18,684	20,800
Western	7,662	8,530	0	7,662	8,530
Subtotal	56,718	63,142	0	56,718	63,142
Warehousing:					
Alaskan	69	77	0	69	77
Central	10,128	11,275	0	10,128	11,275
Eastern	12,807	14,257	0	12,807	14,257
Pacific	163	181	0	163	181
Southern	12,572	13,996	0	12,572	13,996
Western	7,897	8,792	0	7,897	8,792
Subtotal	43,637	48,579	0	43,637	48,579
Non-Core:					
Alaskan	12,654	14,088	0	12,654	14,088

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Central	930,486	1,035,878	0	930,486	1,035,878
Eastern	1,527,924	1,700,984	0	1,527,924	1,700,984
Pacific	24,104	26,834	0	24,104	26,834
Southern	1,204,627	1,341,069	0	1,204,627	1,341,069
Western	784,599	873,467	0	784,599	873,467
Subtotal	4,484,394	4,992,320	0	4,484,394	4,992,320
Total Costs for Ice Cooler:					
Alaskan	24,993	27,823	0	24,993	27,823
Central	1,828,043	2,035,097	0	1,828,043	2,035,097
Eastern	2,606,080	2,901,259	0	2,606,080	2,901,259
Pacific	39,561	44,041	0	39,561	44,041
Southern	2,140,354	2,382,782	0	2,140,354	2,382,782
Western	1,205,847	1,342,427	0	1,205,847	1,342,427
Total	7,844,878	8,733,430	0	7,844,878	8,733,430
Total Costs for Heat Illness and Emergency Response and Planning.					
Agriculture, Forestry, and Fishing.					
Alaskan	5,474	6,094	468	5,942	6,562
Central	397,210	442,200	5,906,140	6,303,350	6,348,340
Eastern	209,053	232,732	3,257,783	3,466,836	3,490,515
Pacific	2,824	3,143	145,604	148,427	148,747
Southern	363,147	404,279	13,829,931	14,193,078	14,234,210
Western	53,853	59,953	984,402	1,038,255	1,044,354
Subtotal	1,031,560	1,148,400	24,124,328	25,155,888	25,272,728
Building Materials and Equipment Suppliers:					
Alaskan	571	635	51	622	686
Central	45,657	50,828	647,987	693,644	698,815
Eastern	65,387	72,793	913,350	978,737	986,143
Pacific	1,035	1,152	53,385	54,421	54,538
Southern	59,579	66,328	2,569,128	2,628,707	2,635,456
Western	35,248	39,240	670,853	706,100	710,093
Subtotal	207,477	230,977	4,854,754	5,062,231	5,085,731
Commercial Kitchens:					
Alaskan	6,871	7,649	568	7,438	8,216
Central	547,551	609,570	7,718,320	8,265,871	8,327,889
Eastern	911,512	1,014,754	12,713,298	13,624,809	13,728,052
Pacific	17,407	19,379	897,577	914,984	916,955
Southern	668,909	744,673	28,462,838	29,131,747	29,207,511
Western	465,111	517,792	8,931,312	9,396,424	9,449,105
Subtotal	2,617,361	2,913,817	58,723,912	61,341,273	61,637,729
Construction:					
Alaskan	9,798	10,908	839	10,637	11,746
Central	752,515	837,748	9,569,076	10,321,590	10,406,824
Eastern	916,523	1,020,333	12,960,902	13,877,425	13,981,235
Pacific	13,651	15,197	703,923	717,574	719,120
Southern	667,736	743,367	28,775,279	29,443,015	29,518,646
Western	190,459	212,032	4,063,319	4,253,778	4,275,350
Subtotal	2,550,681	2,839,585	56,073,337	58,624,018	58,912,922
Drycleaning and Commercial Laundries:					
Alaskan	222	247	18	241	266
Central	27,736	30,878	396,589	424,325	427,467
Eastern	71,250	79,320	954,328	1,025,579	1,033,649
Pacific	561	624	28,917	29,477	29,541
Southern	42,049	46,812	1,772,724	1,814,773	1,819,536
Western	25,867	28,797	490,932	516,799	519,729
Subtotal	167,685	186,678	3,643,509	3,811,195	3,830,188
Landscaping and Facilities Support:					
Alaskan	1,418	1,579	139	1,557	1,718
Central	147,368	164,060	2,086,628	2,233,996	2,250,688
Eastern	239,837	267,002	3,397,985	3,637,822	3,664,987
Pacific	3,495	3,891	180,281	183,777	184,172
Southern	168,806	187,926	7,351,688	7,520,494	7,539,613
Western	121,451	135,207	2,329,439	2,450,890	2,464,646
Subtotal	682,376	759,665	15,346,160	16,028,535	16,105,825
Maintenance and Repair:					
Alaskan	2,420	2,694	200	2,620	2,895
Central	245,160	272,928	3,446,973	3,692,133	3,719,902
Eastern	324,948	361,754	4,631,648	4,956,597	4,993,402
Pacific	3,905	4,348	201,375	205,280	205,722
Southern	263,939	293,834	11,237,111	11,501,050	11,530,945
Western	169,974	189,226	3,270,705	3,440,679	3,459,931

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	1,010,347	1,124,784	22,788,013	23,798,360	23,912,797
Manufacturing:					
Alaskan	768	856	77	845	932
Central	151,348	168,490	1,881,334	2,032,682	2,049,825
Eastern	147,139	163,805	2,046,592	2,193,731	2,210,396
Pacific	1,174	1,307	60,562	61,736	61,869
Southern	110,355	122,854	4,509,130	4,619,485	4,631,984
Western	83,287	92,721	1,571,835	1,655,122	1,664,556
Subtotal	494,071	550,032	10,069,529	10,563,601	10,619,562
Oil and Gas:					
Alaskan	1,095	1,219	108	1,202	1,326
Central	44,385	49,412	680,613	724,998	730,025
Eastern	23,950	26,663	311,017	334,968	337,681
Southern	160,802	179,015	6,189,011	6,349,813	6,368,027
Western	21,254	23,661	323,109	344,363	346,770
Subtotal	251,486	279,971	7,503,858	7,755,344	7,783,829
Postal and Delivery Services:					
Alaskan	2,553	2,842	227	2,780	3,069
Central	109,607	122,022	1,593,038	1,702,645	1,715,060
Eastern	138,644	154,348	1,909,617	2,048,261	2,063,965
Pacific	1,464	1,630	75,502	76,966	77,132
Southern	102,071	113,632	3,900,882	4,002,953	4,014,514
Western	51,401	57,223	957,744	1,009,145	1,014,967
Subtotal	405,740	451,696	8,437,011	8,842,751	8,888,707
Recreation and Amusement:					
Alaskan	3,035	3,379	254	3,289	3,632
Central	120,534	134,187	1,656,853	1,777,387	1,791,040
Eastern	180,391	200,823	2,519,494	2,699,885	2,720,317
Pacific	2,237	2,491	115,376	117,613	117,866
Southern	117,472	130,778	4,947,232	5,064,704	5,078,010
Western	79,316	88,300	1,503,343	1,582,659	1,591,643
Subtotal	502,986	559,957	10,742,550	11,245,537	11,302,508
Sanitation and Waste Removal:					
Alaskan	248	276	26	274	302
Central	9,094	10,124	126,016	135,110	136,140
Eastern	13,124	14,610	183,568	196,691	198,178
Pacific	199	222	10,265	10,464	10,487
Southern	9,524	10,603	390,986	400,510	401,588
Western	4,968	5,531	96,734	101,703	102,266
Subtotal	37,157	41,365	807,595	844,752	848,960
Telecommunications:					
Alaskan	340	379	40	380	419
Central	20,679	23,021	297,469	318,148	320,490
Eastern	28,303	31,508	408,180	436,483	439,688
Pacific	308	343	15,910	16,219	16,254
Southern	24,862	27,678	997,959	1,022,821	1,025,637
Western	13,879	15,451	267,740	281,618	283,190
Subtotal	88,371	98,381	1,987,297	2,075,668	2,085,678
Temporary Help Services:					
Alaskan	96	107	10	106	117
Central	18,112	20,163	250,436	268,548	270,600
Eastern	25,521	28,412	371,738	397,259	400,150
Pacific	245	272	12,616	12,861	12,888
Southern	21,671	24,125	897,291	918,962	921,417
Western	12,841	14,296	253,374	266,215	267,669
Subtotal	78,486	87,376	1,785,465	1,863,951	1,872,841
Transportation:					
Alaskan	7,198	8,014	641	7,840	8,655
Central	441,009	490,960	6,351,231	6,792,240	6,842,191
Eastern	397,003	441,969	5,780,498	6,177,501	6,222,468
Pacific	4,946	5,506	255,062	260,008	260,568
Southern	403,844	449,586	16,738,520	17,142,365	17,188,106
Western	99,574	110,853	2,033,438	2,133,012	2,144,291
Subtotal	1,353,575	1,506,888	31,159,391	32,512,966	32,666,279
Utilities:					
Alaskan	1,094	1,218	103	1,196	1,320
Central	46,791	52,091	677,376	724,167	729,467
Eastern	58,656	65,300	881,334	939,991	946,634
Pacific	402	447	20,725	21,126	21,172
Southern	65,789	73,240	2,565,516	2,631,305	2,638,757
Western	26,979	30,034	498,535	525,513	528,569

TABLE VIII.C.26—TOTAL COSTS—HEAT ILLNESS AND EMERGENCY RESPONSE AND PLANNING—Continued
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Subtotal	199,711	222,331	4,643,589	4,843,299	4,865,920
Warehousing:					
Alaskan	244	272	22	266	293
Central	35,663	39,702	517,691	553,354	557,394
Eastern	45,095	50,202	684,804	729,898	735,006
Pacific	572	637	29,523	30,096	30,161
Southern	44,269	49,283	1,746,214	1,790,483	1,795,497
Western	27,808	30,957	539,964	567,771	570,921
Subtotal	153,651	171,054	3,518,218	3,671,869	3,689,272
Non-Core:					
Alaskan	44,558	49,605	4,634	49,191	54,238
Central	3,276,369	3,647,467	47,494,625	50,770,993	51,142,092
Eastern	5,380,026	5,989,397	76,087,725	81,467,752	82,077,122
Pacific	84,873	94,486	4,376,753	4,461,626	4,471,239
Southern	4,241,654	4,722,086	178,874,407	183,116,060	183,596,492
Western	2,762,679	3,075,595	52,985,853	55,748,532	56,061,448
Subtotal	15,790,158	17,578,635	359,823,997	375,614,155	377,402,632
Total.					
Alaskan	88,002	97,970	8,424	96,426	106,394
Central	6,436,788	7,165,853	91,298,395	97,735,184	98,464,248
Eastern	9,176,362	10,215,726	130,013,862	139,190,225	140,229,588
Pacific	139,298	155,076	7,183,357	7,322,655	7,338,433
Southern	7,536,477	8,390,099	315,755,847	323,292,325	324,145,946
Western	4,245,950	4,726,869	81,772,629	86,018,579	86,499,498
Total	27,622,878	30,751,591	626,032,515	653,655,393	656,784,106

Source: OSHA estimate.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

G. Training

All affected establishments would be required to provide training on heat-related hazards to at-risk workers and designated persons both upon promulgation and periodically thereafter.⁷⁹ OSHA calculates the total costs of each training requirement by either multiplying the number of affected establishments by the corresponding unit costs or multiplying the number of affected employees by the

corresponding unit costs. The unit costs to undergo employee trainings (initial, annual refresher, and supplemental) are employee-based and are combined with the number of affected employees. All other training-related unit costs are establishment-based (developing, preparing, conducting employee training (initial, annual refresher, supplemental) and supervisor training (initial, annual refresher)) and are combined with the number of affected establishments. OSHA assumes that one

percent of affected establishments would incur the establishment-based cost of supplemental trainings annually. Additionally, OSHA assumes employers would incur the cost of providing supplemental training to one percent of employees annually.

Table VIII.C.27. shows the annualized one-time, annual, and total annualized costs for each of these requirements by industry category, discounted (2 percent over a 10-year period) and undiscounted.

TABLE VIII.C.27—TOTAL COSTS—TRAINING
[2023\$]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Initial Employee Training Development					
Agriculture, Forestry, and Fishing	\$874,213	\$973,231	\$0	\$874,213	\$973,231
Building Materials and Equipment Suppliers	196,858	219,155	0	196,858	219,155
Commercial Kitchens	1,551,304	1,727,013	0	1,551,304	1,727,013
Construction	3,520,999	3,919,806	0	3,520,999	3,919,806
Drycleaning and Commercial Laundries	161,955	180,299	0	161,955	180,299
Landscaping and Facilities Support	661,920	736,893	0	661,920	736,893
Maintenance and Repair	965,373	1,074,716	0	965,373	1,074,716
Manufacturing	687,852	765,762	0	687,852	765,762
Oil and Gas	356,567	396,953	0	356,567	396,953
Postal and Delivery Services	429,895	478,587	0	429,895	478,587
Recreation and Amusement	404,065	449,832	0	404,065	449,832
Sanitation and Waste Removal	36,316	40,430	0	36,316	40,430
Telecommunications	138,034	153,668	0	138,034	153,668

⁷⁹Employers would be required to conduct refresher trainings annually for both at-risk workers and designated persons. Supplemental trainings would also be required for at-risk workers when

either (1) worker(s) heat exposure changes, (2) policies and procedures change, (3) worker(s) does not retain information, or (4) a heat-related injury or illness occurs that results in death, days away

from work, medical treatment beyond first aid, or loss of consciousness.

TABLE VIII.C.27—TOTAL COSTS—TRAINING—Continued
[2023]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Temporary Help Services	77,023	85,747	0	77,023	85,747
Transportation	1,433,544	1,595,915	0	1,433,544	1,595,915
Utilities	234,921	261,529	0	234,921	261,529
Warehousing	164,390	183,009	0	164,390	183,009
Non-Core	17,129,902	19,070,125	0	17,129,902	19,070,125
Subtotal	29,025,131	32,312,671	0	29,025,131	32,312,671
Initial Employee Training—Designated Person					
Agriculture, Forestry, and Fishing	327,830	364,961	0	327,830	364,961
Building Materials and Equipment Suppliers	73,822	82,183	0	73,822	82,183
Commercial Kitchens	581,739	647,630	0	581,739	647,630
Construction	1,320,375	1,469,927	0	1,320,375	1,469,927
Drycleaning and Commercial Laundries	60,733	67,612	0	60,733	67,612
Landscaping and Facilities Support	248,220	276,335	0	248,220	276,335
Maintenance and Repair	362,015	403,019	0	362,015	403,019
Manufacturing	257,945	287,161	0	257,945	287,161
Oil and Gas	133,712	148,857	0	133,712	148,857
Postal and Delivery Services	161,211	179,470	0	161,211	179,470
Recreation and Amusement	151,524	168,687	0	151,524	168,687
Sanitation and Waste Removal	13,619	15,161	0	13,619	15,161
Telecommunications	51,763	57,626	0	51,763	57,626
Temporary Help Services	28,883	32,155	0	28,883	32,155
Transportation	537,579	598,468	0	537,579	598,468
Utilities	88,095	98,074	0	88,095	98,074
Warehousing	61,646	68,628	0	61,646	68,628
Non-Core	6,423,713	7,151,297	0	6,423,713	7,151,297
Subtotal	10,884,424	12,117,251	0	10,884,424	12,117,251
Initial Employee Training—At-Risk Worker					
Agriculture, Forestry, and Fishing	934,279	1,040,101	0	934,279	1,040,101
Building Materials and Equipment Suppliers	746,591	831,153	0	746,591	831,153
Commercial Kitchens	4,066,902	4,527,541	0	4,066,902	4,527,541
Construction	4,331,381	4,821,976	0	4,331,381	4,821,976
Drycleaning and Commercial Laundries	122,360	136,219	0	122,360	136,219
Landscaping and Facilities Support	1,942,964	2,163,034	0	1,942,964	2,163,034
Maintenance and Repair	1,029,589	1,146,206	0	1,029,589	1,146,206
Manufacturing	2,507,091	2,791,058	0	2,507,091	2,791,058
Oil and Gas	541,637	602,986	0	541,637	602,986
Postal and Delivery Services	361,448	402,388	0	361,448	402,388
Recreation and Amusement	724,272	806,307	0	724,272	806,307
Sanitation and Waste Removal	142,218	158,326	0	142,218	158,326
Telecommunications	420,884	468,556	0	420,884	468,556
Temporary Help Services	2,505,173	2,788,922	0	2,505,173	2,788,922
Transportation	1,356,516	1,510,162	0	1,356,516	1,510,162
Utilities	582,011	647,932	0	582,011	647,932
Warehousing	553,790	616,515	0	553,790	616,515
Non-Core	53,834,831	59,932,448	0	53,834,831	59,932,448
Subtotal	76,703,936	85,391,828	0	76,703,936	85,391,828
Initial Supervisor Training Development					
Agriculture, Forestry, and Fishing	437,106	486,615	0	437,106	486,615
Building Materials and Equipment Suppliers	98,429	109,577	0	98,429	109,577
Commercial Kitchens	775,652	863,507	0	775,652	863,507
Construction	1,760,499	1,959,903	0	1,760,499	1,959,903
Drycleaning and Commercial Laundries	80,978	90,150	0	80,978	90,150
Landscaping and Facilities Support	330,960	368,446	0	330,960	368,446
Maintenance and Repair	482,687	537,358	0	482,687	537,358
Manufacturing	343,926	382,881	0	343,926	382,881
Oil and Gas	178,283	198,477	0	178,283	198,477
Postal and Delivery Services	214,948	239,294	0	214,948	239,294
Recreation and Amusement	202,033	224,916	0	202,033	224,916
Sanitation and Waste Removal	18,158	20,215	0	18,158	20,215
Telecommunications	69,017	76,834	0	69,017	76,834
Temporary Help Services	38,511	42,873	0	38,511	42,873
Transportation	716,772	797,958	0	716,772	797,958
Utilities	117,460	130,765	0	117,460	130,765
Warehousing	82,195	91,505	0	82,195	91,505
Non-Core	8,564,951	9,535,063	0	8,564,951	9,535,063
Subtotal	14,512,566	16,156,335	0	14,512,566	16,156,335
Initial Supervisor Training—Supervisor					
Agriculture, Forestry, and Fishing	273,191	304,135	0	273,191	304,135

TABLE VIII.C.27—TOTAL COSTS—TRAINING—Continued
[2023]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Building Materials and Equipment Suppliers	61,518	68,486	0	61,518	68,486
Commercial Kitchens	484,783	539,692	0	484,783	539,692
Construction	1,100,312	1,224,939	0	1,100,312	1,224,939
Drycleaning and Commercial Laundries	50,611	56,344	0	50,611	56,344
Landscaping and Facilities Support	206,850	230,279	0	206,850	230,279
Maintenance and Repair	301,679	335,849	0	301,679	335,849
Manufacturing	214,954	239,301	0	214,954	239,301
Oil and Gas	111,427	124,048	0	111,427	124,048
Postal and Delivery Services	134,342	149,559	0	134,342	149,559
Recreation and Amusement	126,270	140,572	0	126,270	140,572
Sanitation and Waste Removal	11,349	12,634	0	11,349	12,634
Telecommunications	43,136	48,021	0	43,136	48,021
Temporary Help Services	24,070	26,796	0	24,070	26,796
Transportation	447,983	498,723	0	447,983	498,723
Utilities	73,413	81,728	0	73,413	81,728
Warehousing	51,372	57,190	0	51,372	57,190
Non-Core	5,353,094	5,959,414	0	5,353,094	5,959,414
Subtotal	9,070,353	10,097,710	0	9,070,353	10,097,710

Initial Supervisor Training—Designated Person

Agriculture, Forestry, and Fishing	218,553	243,308	0	218,553	243,308
Building Materials and Equipment Suppliers	49,214	54,789	0	49,214	54,789
Commercial Kitchens	387,826	431,753	0	387,826	431,753
Construction	880,250	979,951	0	880,250	979,951
Drycleaning and Commercial Laundries	40,489	45,075	0	40,489	45,075
Landscaping and Facilities Support	165,480	184,223	0	165,480	184,223
Maintenance and Repair	241,343	268,679	0	241,343	268,679
Manufacturing	171,963	191,440	0	171,963	191,440
Oil and Gas	89,142	99,238	0	89,142	99,238
Postal and Delivery Services	107,474	119,647	0	107,474	119,647
Recreation and Amusement	101,016	112,458	0	101,016	112,458
Sanitation and Waste Removal	9,079	10,107	0	9,079	10,107
Telecommunications	34,508	38,417	0	34,508	38,417
Temporary Help Services	19,256	21,437	0	19,256	21,437
Transportation	358,386	398,979	0	358,386	398,979
Utilities	58,730	65,382	0	58,730	65,382
Warehousing	41,097	45,752	0	41,097	45,752
Non-Core	4,282,475	4,767,531	0	4,282,475	4,767,531
Subtotal	7,256,283	8,078,168	0	7,256,283	8,078,168

Annual Employee Refresher Training—Designated Person

Agriculture, Forestry, and Fishing	0	0	1,768,652	1,768,652	1,768,652
Building Materials and Equipment Suppliers	0	0	369,108	369,108	369,108
Commercial Kitchens	0	0	2,850,713	2,850,713	2,850,713
Construction	0	0	527,929	527,929	527,929
Drycleaning and Commercial Laundries	0	0	303,666	303,666	303,666
Landscaping and Facilities Support	0	0	1,209,995	1,209,995	1,209,995
Maintenance and Repair	0	0	1,810,074	1,810,074	1,810,074
Oil and Gas	0	0	672,075	672,075	672,075
Postal and Delivery Services	0	0	806,053	806,053	806,053
Recreation and Amusement	0	0	757,622	757,622	757,622
Sanitation and Waste Removal	0	0	68,093	68,093	68,093
Telecommunications	0	0	258,814	258,814	258,814
Temporary Help Services	0	0	144,417	144,417	144,417
Transportation	0	0	2,950,027	2,950,027	2,950,027
Utilities	0	0	618,234	618,234	618,234
Warehousing	0	0	308,231	308,231	308,231
Non-Core	0	0	32,061,160	32,061,160	32,061,160
Subtotal	0	0	47,484,865	47,484,865	47,484,865

Annual Employee Refresher Training—At-Risk Worker

Agriculture, Forestry, and Fishing	0	0	6,150,895	6,150,895	6,150,895
Building Materials and Equipment Suppliers	0	0	3,732,953	3,732,953	3,732,953
Commercial Kitchens	0	0	19,973,908	19,973,908	19,973,908
Construction	0	0	7,431,366	7,431,366	7,431,366
Drycleaning and Commercial Laundries	0	0	611,800	611,800	611,800
Landscaping and Facilities Support	0	0	9,244,018	9,244,018	9,244,018
Maintenance and Repair	0	0	5,147,944	5,147,944	5,147,944
Oil and Gas	0	0	2,725,803	2,725,803	2,725,803
Postal and Delivery Services	0	0	1,807,242	1,807,242	1,807,242
Recreation and Amusement	0	0	3,621,359	3,621,359	3,621,359
Sanitation and Waste Removal	0	0	711,089	711,089	711,089
Telecommunications	0	0	2,104,420	2,104,420	2,104,420

TABLE VIII.C.27—TOTAL COSTS—TRAINING—Continued
[2023]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Temporary Help Services	0	0	12,525,865	12,525,865	12,525,865
Transportation	0	0	7,140,067	7,140,067	7,140,067
Utilities	0	0	4,739,454	4,739,454	4,739,454
Warehousing	0	0	2,768,949	2,768,949	2,768,949
Non-Core	0	0	268,614,044	268,614,044	268,614,044
Subtotal	0	0	359,051,175	359,051,175	359,051,175
Annual Supervisor Refresher Training—Supervisor					
Agriculture, Forestry, and Fishing	0	0	1,473,877	1,473,877	1,473,877
Building Materials and Equipment Suppliers	0	0	307,590	307,590	307,590
Commercial Kitchens	0	0	2,375,594	2,375,594	2,375,594
Construction	0	0	439,941	439,941	439,941
Drycleaning and Commercial Laundries	0	0	253,055	253,055	253,055
Landscaping and Facilities Support	0	0	1,008,329	1,008,329	1,008,329
Maintenance and Repair	0	0	1,508,395	1,508,395	1,508,395
Oil and Gas	0	0	560,062	560,062	560,062
Postal and Delivery Services	0	0	671,711	671,711	671,711
Recreation and Amusement	0	0	631,352	631,352	631,352
Sanitation and Waste Removal	0	0	56,744	56,744	56,744
Telecommunications	0	0	215,678	215,678	215,678
Temporary Help Services	0	0	120,348	120,348	120,348
Transportation	0	0	2,458,356	2,458,356	2,458,356
Utilities	0	0	515,195	515,195	515,195
Warehousing	0	0	256,859	256,859	256,859
Non-Core	0	0	26,717,633	26,717,633	26,717,633
Subtotal	0	0	39,570,721	39,570,721	39,570,721
Annual Supervisor Refresher Training—Designated Person					
Agriculture, Forestry, and Fishing	0	0	1,179,102	1,179,102	1,179,102
Building Materials and Equipment Suppliers	0	0	246,072	246,072	246,072
Commercial Kitchens	0	0	1,900,475	1,900,475	1,900,475
Construction	0	0	351,953	351,953	351,953
Drycleaning and Commercial Laundries	0	0	202,444	202,444	202,444
Landscaping and Facilities Support	0	0	806,663	806,663	806,663
Maintenance and Repair	0	0	1,206,716	1,206,716	1,206,716
Oil and Gas	0	0	448,050	448,050	448,050
Postal and Delivery Services	0	0	537,369	537,369	537,369
Recreation and Amusement	0	0	505,082	505,082	505,082
Sanitation and Waste Removal	0	0	45,395	45,395	45,395
Telecommunications	0	0	172,542	172,542	172,542
Temporary Help Services	0	0	96,278	96,278	96,278
Transportation	0	0	1,966,685	1,966,685	1,966,685
Utilities	0	0	412,156	412,156	412,156
Warehousing	0	0	205,487	205,487	205,487
Non-Core	0	0	21,374,107	21,374,107	21,374,107
Subtotal	0	0	31,656,577	31,656,577	31,656,577
Supplemental Employee Refresher Training—Designated Person					
Agriculture, Forestry, and Fishing	0	0	17,687	17,687	17,687
Building Materials and Equipment Suppliers	0	0	3,691	3,691	3,691
Commercial Kitchens	0	0	28,507	28,507	28,507
Construction	0	0	5,279	5,279	5,279
Drycleaning and Commercial Laundries	0	0	3,037	3,037	3,037
Landscaping and Facilities Support	0	0	12,100	12,100	12,100
Maintenance and Repair	0	0	18,101	18,101	18,101
Oil and Gas	0	0	6,721	6,721	6,721
Postal and Delivery Services	0	0	8,061	8,061	8,061
Recreation and Amusement	0	0	7,576	7,576	7,576
Sanitation and Waste Removal	0	0	681	681	681
Telecommunications	0	0	2,588	2,588	2,588
Temporary Help Services	0	0	1,444	1,444	1,444
Transportation	0	0	29,500	29,500	29,500
Utilities	0	0	6,182	6,182	6,182
Warehousing	0	0	3,082	3,082	3,082
Non-Core	0	0	320,612	320,612	320,612
Subtotal	0	0	474,849	474,849	474,849
Supplemental Employee Refresher Training—At-Risk Worker					
Agriculture, Forestry, and Fishing	0	0	61,509	61,509	61,509
Building Materials and Equipment Suppliers	0	0	37,330	37,330	37,330
Commercial Kitchens	0	0	199,739	199,739	199,739

TABLE VIII.C.27—TOTAL COSTS—TRAINING—Continued
[2023]

Industry category	One-time annualized		Annual	Total annualized	
	0%	2%		0%	2%
Construction	0	0	74,314	74,314	74,314
Drycleaning and Commercial Laundries	0	0	6,118	6,118	6,118
Landscaping and Facilities Support	0	0	92,440	92,440	92,440
Maintenance and Repair	0	0	51,479	51,479	51,479
Oil and Gas	0	0	27,258	27,258	27,258
Postal and Delivery Services	0	0	18,072	18,072	18,072
Recreation and Amusement	0	0	36,214	36,214	36,214
Sanitation and Waste Removal	0	0	7,111	7,111	7,111
Telecommunications	0	0	21,044	21,044	21,044
Temporary Help Services	0	0	125,259	125,259	125,259
Transportation	0	0	71,401	71,401	71,401
Utilities	0	0	47,395	47,395	47,395
Warehousing	0	0	27,689	27,689	27,689
Non-Core	0	0	2,686,140	2,686,140	2,686,140
Subtotal	0	0	3,590,512	3,590,512	3,590,512
Total					
Agriculture, Forestry, and Fishing	3,065,172	3,412,350	10,651,721	13,716,894	14,064,071
Building Materials and Equipment Suppliers	1,226,431	1,365,343	4,696,744	5,923,175	6,062,087
Commercial Kitchens	7,848,207	8,737,136	27,328,936	35,177,143	36,066,072
Construction	12,913,815	14,376,502	8,830,781	21,744,597	23,207,283
Drycleaning and Commercial Laundries	517,126	575,699	1,380,121	1,897,247	1,955,819
Landscaping and Facilities Support	3,556,395	3,959,211	12,373,546	15,929,940	16,332,756
Maintenance and Repair	3,382,686	3,765,827	9,742,711	13,125,396	13,508,537
Manufacturing	4,183,731	4,657,602	0	4,183,731	4,657,602
Oil and Gas	1,410,768	1,570,559	4,439,969	5,850,737	6,010,528
Postal and Delivery Services	1,409,318	1,568,945	3,848,509	5,257,827	5,417,453
Recreation and Amusement	1,709,181	1,902,772	5,559,205	7,268,385	7,461,976
Sanitation and Waste Removal	230,739	256,874	889,114	1,119,853	1,145,988
Telecommunications	757,342	843,122	2,775,086	3,532,428	3,618,208
Temporary Help Services	2,692,916	2,997,929	13,013,611	15,706,527	16,011,540
Transportation	4,850,780	5,400,205	14,616,036	19,466,817	20,016,242
Utilities	1,154,630	1,285,410	6,338,616	7,493,247	7,624,026
Warehousing	954,490	1,062,600	3,570,298	4,524,787	4,632,898
Non-Core	95,588,967	106,415,877	351,773,696	447,362,662	458,189,573
Total	147,452,693	164,153,963	481,828,698	629,281,391	645,982,661

Source: OSHA.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.**H. Recordkeeping**

The proposed standard would require affected indoor establishments to maintain environmental measurements for six months. Certain models of environmental monitoring equipment can automatically upload measurements taken to a recordkeeping database. OSHA assumes that establishments required to maintain these records would purchase a wireless temperature

and humidity data logger with this capability (cost captured under the Identifying Heat Hazards provision in section VIII.C.V.C.). For this reason, OSHA assumes that establishments would not incur an additional cost to maintain these records beyond the time required to take the measurements themselves (also captured in section VIII.C.V.C.).

I. Total Costs of the Proposed Standard

Accounting for the costs associated with all provisions, OSHA estimates that annualized costs, using a 2 percent discount rate over a ten-year period, would equal 7.8 billion. Table VIII.C.28. shows the total costs of the proposed standard by industry category and region. Table VIII.C.29. shows the total costs of the proposed standard by provision.

TABLE VIII.C.28—TOTAL COSTS OF PROPOSED STANDARD BY INDUSTRY CATEGORY AND REGION
[2023]

	One-time	Periodic costs annualized		Annual	Cost savings	Total annualized ^a	
		0%	2%			0%	2%
Agriculture, Forestry, and Fishing							
Alaskan	\$382,520	\$25,400	\$23,728	\$91,573	\$7	\$132,358	\$136,792
Central	32,095,286	1,874,386	1,751,017	62,352,975	28,665,280	37,084,663	37,455,687
Eastern	17,835,946	955,385	892,504	47,389,145	24,123,746	25,144,533	25,350,373
Pacific	234,288	13,394	12,512	934,183	384,690	574,262	576,969
Southern	30,484,939	1,686,951	1,575,919	225,927,630	129,505,465	99,639,354	99,991,389
Western	10,348,543	953,696	890,925	41,033,629	18,153,681	24,010,171	24,131,198
Subtotal	91,381,522	5,509,211	5,146,605	377,729,135	200,832,869	186,585,339	187,642,407

TABLE VIII.C.28—TOTAL COSTS OF PROPOSED STANDARD BY INDUSTRY CATEGORY AND REGION—Continued
[2023]

	One-time	Periodic costs annualized		Annual	Cost savings	Total annualized ^a	
		0%	2%			0%	2%
Building Materials and Equipment Suppliers							
Alaskan	73,244	6,454	6,029	22,293	11	30,252	31,108
Central	6,164,179	536,834	501,500	20,645,717	10,913,203	10,402,615	10,474,581
Eastern	8,768,769	785,209	733,528	34,605,315	19,559,927	16,000,785	16,103,245
Pacific	137,453	12,450	11,631	1,020,163	507,369	527,784	529,391
Southern	8,097,617	709,966	663,237	126,957,154	81,071,558	46,766,355	46,860,912
Western	5,225,565	522,755	488,349	15,565,091	7,398,609	8,741,314	8,802,592
Subtotal	28,466,828	2,573,667	2,404,273	198,815,733	119,450,676	82,469,106	82,801,829
Commercial Kitchens							
Alaskan	549,495	76,847	71,789	165,987	19	228,602	235,133
Central	49,420,733	6,134,657	5,730,885	102,302,796	50,480,882	57,377,453	57,961,753
Eastern	81,115,976	10,278,954	9,602,411	205,636,428	111,478,395	103,297,526	104,257,396
Pacific	1,643,878	197,251	184,268	8,155,868	3,774,306	4,565,675	4,585,083
Southern	64,789,002	7,549,866	7,052,947	658,904,303	422,956,059	243,182,131	243,946,159
Western	45,955,018	6,478,114	6,051,736	95,928,702	43,836,108	57,335,907	57,882,325
Subtotal	243,474,102	30,715,689	28,694,036	1,071,094,084	632,525,768	465,987,295	468,867,850
Construction							
Alaskan	1,970,414	90,248	84,308	381,506	146	587,427	610,106
Central	124,809,723	5,773,126	5,393,149	276,994,643	143,672,185	146,380,743	147,817,492
Eastern	185,264,838	8,472,733	7,915,072	563,370,759	318,816,805	263,927,711	266,060,003
Pacific	2,828,279	128,458	120,003	20,460,443	10,357,236	10,398,881	10,431,429
Southern	140,183,098	6,281,225	5,867,806	1,990,987,667	1,252,043,769	753,590,330	755,203,238
Western	95,685,192	5,693,786	5,319,031	252,822,597	131,327,431	131,633,064	132,739,616
Subtotal	550,741,543	26,439,574	24,699,368	3,105,017,615	1,856,217,570	1,306,518,156	1,312,861,883
Drycleaning and Commercial Laundries							
Alaskan	20,363	3,291	3,075	6,992	1	9,356	9,600
Central	2,472,950	410,674	383,645	3,748,206	1,537,412	2,499,157	2,528,809
Eastern	6,132,138	1,054,962	985,526	9,594,795	4,179,153	6,134,352	6,208,027
Pacific	60,013	8,303	7,757	324,887	154,506	177,212	177,925
Southern	3,813,305	622,595	581,616	23,397,552	13,735,831	10,105,311	10,150,992
Western	2,485,111	447,179	417,746	3,716,313	1,369,087	2,640,455	2,670,391
Subtotal	14,983,879	2,547,005	2,379,365	40,788,745	20,975,991	21,565,843	21,745,744
Landscaping and Facilities Support							
Alaskan	197,905	9,247	8,639	57,613	43	78,285	80,564
Central	15,928,220	910,565	850,633	52,336,359	26,156,301	27,863,936	28,047,989
Eastern	26,916,385	1,487,495	1,389,590	122,773,476	67,859,770	57,754,094	58,064,912
Pacific	437,568	23,090	21,570	4,330,295	2,117,991	2,258,370	2,263,419
Southern	20,065,797	1,057,656	988,043	363,466,916	223,153,028	142,426,233	142,657,739
Western	15,235,305	858,763	802,240	48,189,915	22,716,571	27,082,750	27,258,747
Subtotal	78,781,181	4,346,816	4,060,716	591,154,573	342,003,705	257,463,668	258,373,369
Maintenance and Repair							
Alaskan	215,858	26,776	25,014	67,597	14	91,847	94,399
Central	21,311,213	2,695,519	2,518,105	37,119,880	16,211,936	23,308,617	23,560,779
Eastern	29,094,622	3,559,615	3,325,327	64,302,224	31,787,358	35,780,290	36,124,066
Pacific	351,104	42,847	40,027	1,479,871	638,831	880,434	884,582
Southern	24,302,282	2,900,712	2,709,792	199,152,349	119,019,773	82,852,875	83,139,736
Western	16,832,123	2,263,433	2,114,457	30,066,027	12,222,844	19,752,738	19,952,439
Subtotal	92,107,202	11,488,901	10,732,722	332,187,947	179,880,757	162,666,801	163,756,002
Manufacturing							
Alaskan	208,090	14,066	13,141	32,847	44	55,019	57,432
Central	46,722,857	2,476,921	2,313,895	225,799,894	134,580,429	96,139,443	96,678,557
Eastern	49,352,278	2,864,175	2,675,660	308,082,858	193,954,812	119,349,692	119,920,136
Pacific	275,775	22,532	21,049	1,788,665	931,985	886,512	889,725
Southern	38,013,636	2,135,219	1,994,682	830,736,198	556,561,957	278,189,127	278,628,229
Western	27,269,499	2,028,785	1,895,254	86,192,896	44,851,904	44,270,821	44,587,803
Subtotal	161,842,134	9,541,698	8,913,680	1,452,633,359	930,881,129	538,890,613	540,761,882
Oil and Gas							
Alaskan	230,784	11,136	10,403	75,868	53	100,007	102,665

TABLE VIII.C.28—TOTAL COSTS OF PROPOSED STANDARD BY INDUSTRY CATEGORY AND REGION—Continued
[2023]

	One-time	Periodic costs annualized		Annual	Cost savings	Total annualized ^a	
		0%	2%			0%	2%
Central	5,254,963	447,260	417,823	8,133,964	3,324,037	5,380,150	5,441,459
Eastern	2,946,199	240,700	224,857	5,775,743	2,726,288	3,368,145	3,402,478
Southern	21,685,085	1,640,611	1,532,629	245,969,418	149,975,760	98,326,228	98,578,405
Western	2,771,305	239,669	223,894	4,717,343	1,903,145	3,115,295	3,147,643
Subtotal	32,888,335	2,579,376	2,409,606	264,672,336	157,929,282	110,289,825	110,672,651
Postal and Delivery Services							
Alaskan	223,989	27,487	25,678	64,174	2	89,319	91,966
Central	10,250,664	1,189,567	1,111,272	12,828,157	4,937,878	9,034,302	9,155,164
Eastern	13,819,885	1,517,304	1,417,437	23,773,311	11,087,251	14,219,778	14,382,377
Pacific	144,635	16,201	15,134	465,869	185,834	296,118	297,821
Southern	10,090,918	1,136,067	1,061,293	58,865,833	34,096,163	25,892,369	26,011,207
Western	5,829,356	736,437	687,966	9,319,823	3,668,631	6,307,770	6,376,742
Subtotal	40,359,447	4,623,062	4,318,780	105,317,166	53,975,760	55,839,656	56,315,277
Recreation and Amusement							
Alaskan	210,864	20,358	19,018	57,466	3	80,585	83,055
Central	9,811,950	843,376	787,866	17,877,387	7,852,494	11,090,426	11,204,934
Eastern	15,803,455	1,264,869	1,181,617	39,502,426	19,982,691	21,226,567	21,410,624
Pacific	200,532	15,892	14,846	963,577	406,550	578,670	581,005
Southern	10,826,402	823,464	769,265	122,043,421	73,576,662	49,631,746	49,757,665
Western	8,194,447	700,718	654,598	18,758,186	8,218,151	11,429,552	11,525,169
Subtotal	45,047,650	3,668,678	3,427,212	199,202,463	110,036,551	94,037,545	94,562,450
Sanitation and Waste Removal							
Alaskan	33,469	2,039	1,905	9,981	7	13,525	13,912
Central	1,117,336	84,368	78,815	3,783,722	1,935,236	1,968,656	1,981,649
Eastern	1,797,476	120,671	112,729	8,449,281	4,735,129	3,905,966	3,926,808
Pacific	29,262	1,783	1,666	305,303	153,166	155,241	155,580
Southern	1,367,533	87,530	81,769	26,837,577	16,888,684	10,094,399	10,110,239
Western	831,250	58,708	54,844	3,257,159	1,581,133	1,765,022	1,774,672
Subtotal	5,176,326	355,099	331,727	42,643,022	25,293,354	17,902,810	17,962,860
Telecommunications							
Alaskan	64,849	5,117	4,780	21,032	14	28,014	28,769
Central	3,579,895	311,005	290,535	12,308,820	6,509,796	6,188,114	6,229,906
Eastern	5,274,999	425,661	397,645	25,792,488	14,993,199	11,369,355	11,430,805
Pacific	59,652	4,637	4,332	544,081	280,645	269,865	270,559
Southern	4,687,346	373,919	349,308	79,412,836	50,846,902	29,072,061	29,126,648
Western	2,724,734	260,838	243,670	9,652,087	4,891,989	5,058,656	5,090,561
Subtotal	16,391,476	1,381,178	1,290,271	127,731,345	77,522,545	51,986,066	52,177,248
Temporary Help Services							
Alaskan	16,876	1,220	1,139	4,988	4	6,794	6,990
Central	9,875,319	230,862	215,667	51,592,972	28,479,694	24,123,896	24,236,673
Eastern	13,317,760	325,305	303,894	112,624,291	69,170,634	44,817,963	44,970,108
Pacific	285,783	3,117	2,912	4,508,995	2,418,741	2,119,144	2,122,393
Southern	20,047,132	276,225	258,044	713,170,489	471,523,566	243,679,259	243,907,428
Western	10,232,846	198,451	185,389	61,162,815	32,737,109	29,468,836	29,585,532
Subtotal	53,775,715	1,035,180	967,046	943,064,551	604,329,748	344,215,893	344,829,125
Transportation							
Alaskan	705,899	65,875	61,539	204,688	41	281,825	290,083
Central	39,276,702	4,098,420	3,828,669	55,353,625	22,046,506	37,644,631	38,105,890
Eastern	37,285,875	3,738,797	3,492,716	69,982,708	32,796,689	41,288,487	41,725,758
Pacific	586,991	46,755	43,678	3,804,184	1,787,980	2,079,579	2,086,415
Southern	39,677,412	3,803,184	3,552,865	299,605,425	175,255,496	128,697,989	129,162,606
Western	17,327,009	2,706,608	2,528,464	34,566,152	15,385,219	21,184,295	21,391,375
Subtotal	134,859,888	14,459,640	13,507,932	463,516,783	247,271,929	231,176,806	232,762,128
Utilities							
Alaskan	148,444	12,671	11,837	56,132	17	72,227	73,959
Central	7,146,656	575,888	537,984	26,352,196	13,657,174	13,467,276	13,550,526
Eastern	9,587,651	712,199	665,323	48,962,091	27,538,893	22,453,183	22,564,626
Pacific	62,534	6,067	5,668	408,852	201,198	214,514	215,247
Southern	10,044,588	839,241	784,004	157,131,720	98,366,742	59,853,362	59,970,488

TABLE VIII.C.28—TOTAL COSTS OF PROPOSED STANDARD BY INDUSTRY CATEGORY AND REGION—Continued
[2023]

	One-time	Periodic costs annualized		Annual	Cost savings	Total annualized ^a	
		0%	2%			0%	2%
Western	4,579,887	434,070	405,500	16,308,986	7,985,486	8,824,896	8,878,506
Subtotal	31,569,760	2,580,136	2,410,316	249,219,978	147,749,511	104,885,457	105,253,352
Warehousing							
Alaskan	23,861	3,648	3,407	8,026	1	10,776	11,060
Central	5,061,913	533,106	498,018	15,543,866	8,175,173	7,928,195	7,987,661
Eastern	7,009,792	674,099	629,731	29,673,913	17,101,945	13,340,358	13,422,450
Pacific	61,662	8,558	7,994	251,578	110,383	148,218	148,950
Southern	6,441,787	661,753	618,198	81,655,479	52,136,892	30,228,941	30,304,551
Western	4,325,559	500,559	467,613	11,931,088	5,614,252	6,799,447	6,850,443
Subtotal	22,924,573	2,381,722	2,224,961	139,063,951	83,138,646	58,455,935	58,725,115
Non-Core							
Alaskan	5,182,429	456,951	426,875	1,764,690	644	2,327,985	2,388,511
Central	391,224,691	38,434,798	35,905,088	868,489,307	403,322,044	508,133,212	512,718,138
Eastern	667,495,610	60,452,354	56,473,487	2,079,644,665	1,107,489,644	1,044,949,817	1,052,751,986
Pacific	9,892,196	891,014	832,369	54,062,267	24,745,067	30,395,521	30,511,129
Southern	450,564,899	48,351,398	45,168,995	3,787,838,223	2,278,523,483	1,559,206,369	1,564,503,073
Western	371,580,343	38,699,763	36,152,613	906,764,875	401,438,741	546,354,145	550,717,629
Subtotal	1,895,940,169	187,286,279	174,959,427	7,698,564,027	4,215,519,623	3,691,367,049	3,713,590,466
Total							
Alaskan	10,459,352	858,832	802,306	3,093,451	1,069	4,224,201	4,346,103
Central	781,525,250	67,561,332	63,114,565	1,853,564,488	912,457,660	1,026,015,486	1,035,137,646
Eastern	1,178,819,653	98,930,485	92,419,056	3,799,935,917	2,079,382,329	1,848,328,601	1,862,076,179
Pacific	17,291,605	1,442,349	1,347,416	103,809,082	49,156,476	56,526,001	56,727,623
Southern	905,182,777	80,937,580	75,610,412	9,992,060,191	6,199,237,788	3,891,434,439	3,902,010,703
Western	647,433,093	63,782,331	59,584,291	1,649,953,684	765,300,091	955,775,136	963,363,384
Total	3,540,711,730	313,512,910	292,878,045	17,402,416,812	10,005,535,413	7,782,303,863	7,823,661,638

Source: OSHA estimate.

^a The total costs with cost savings accounts for the potential labor productivity loss avoided by having more efficient and effective rest breaks required by the proposed standard than are currently taken.TABLE VIII.C.29—TOTAL COSTS OF THE PROPOSED STANDARD BY PROVISION
[2023\$]

Provision	One-time	Periodic costs annualized		Annual	Costs savings	Total annualized ^a	
		0%	2%			0%	2%
Rule Familiarization	\$153,433,817	\$0	\$0	\$0	\$0	\$15,343,382	\$17,081,254
Heat Injury and Illness Prevention Plan	996,730,462	0	0	173,783,056	0	273,456,102	284,745,597
Identifying Heat Hazards	71,768,226	313,512,910	292,878,045	367,833,244	0	406,361,358	408,428,047
Requirements at or above the Initial Heat Trigger	563,572,187	0	0	1,530,484,155	87,542,404	1,499,298,970	1,505,682,286
Requirements at or above the High Heat Trigger	4,451,329	0	0	14,222,455,144	9,917,993,009	4,304,907,268	4,304,957,686
Heat Illness and Emergency Response and Planning	276,228,782	0	0	626,032,515	0	653,655,393	656,784,106
Training	1,474,526,928	0	0	481,828,698	0	629,281,391	645,982,661
Total	3,540,711,730	313,512,910	292,878,045	17,402,416,812	10,005,535,413	7,782,303,863	7,823,661,638

Source: OSHA estimate.

^a The total costs with cost savings accounts for the potential labor productivity loss avoided by having more effective rest breaks required by the proposed standard than are currently taken.

VI. Sensitivity Analysis

In this section, OSHA presents the results of five sensitivity analyses where isolated changes were made to the parameter (cost model inputs) assumptions that were used to estimate the total costs of the proposed standard. The methodology and calculations underlying the estimates of the costs are

generally linear and additive in nature. Thus, the sensitivity of the results and conclusions of this analysis will generally be proportional to isolated variations of a particular input parameter. For example, if the estimated time that an employee spends in annual training was doubled, the corresponding labor costs would double as well.

OSHA evaluated a series of five such changes in cost input parameters to illustrate how these adjustments would impact the estimated total costs of the proposed standard. The requirements of the proposed standard work collectively to produce the benefit of avoided HRIs and heat-related fatalities. The agency is unable to directly attribute avoided

HRIs and heat-related fatalities to any specific provision so is unable to analyze the impact that these isolated changes to parameters might have on benefits.

In the first of five sensitivity tests, OSHA decreased the estimated percentage of buildings with adequate cooling, which is an input into calculating the number of indoor in-scope firms and establishments. For this analysis, OSHA reduced the number of buildings that are cooled under an assumption that all employees work in areas that are adequately cooled only if at least 70 percent of their floorspace cooled (versus the assumption that this condition is met when at least 50 percent of the floorspace is cooled). OSHA used 60 percent of the percentage of buildings with 51 to 99 percent of floorspace cooled according to CBECS data for 2018 plus the percentage of buildings with 100 percent of floorspace cooled to estimate the percentage of establishments that are adequately cooled under this sensitivity analysis. For example, if the percentage of buildings with 51 to 99 percent of floorspace cooled is 25 percent and the percentage of buildings with 100 percent of floorspace cooled is 50 percent, the estimate used in the primary cost analysis is 75 percent of buildings where all employees work in spaces that are adequately cooled, while the sensitivity analysis assumes that the percentage is 65 percent. Table VIII.C.30. shows that the estimated costs

of compliance would increase costs by \$585 million annually, or by about 7.5 percent.

In the second sensitivity test, OSHA decreased the estimated non-compliance rates (i.e., assumed higher baseline compliance) for rest breaks at both heat triggers by half. OSHA included this sensitivity test due to uncertainty surrounding the current provision of rest breaks by employers for non-heat related reasons (e.g., union contracts, existing State laws) that may result in an underestimate of baseline compliance. As a result of this adjustment, estimated annualized total costs decreased by nearly \$2.1 billion annually, or approximately 27.0 percent (see table VIII.C.30.).

In the third sensitivity test, OSHA assumed that all employers without an existing HIIPP will opt to use the OSHA provided template to develop their HIIPP, rather than a portion of establishments opting to write a HIIPP from scratch. Table VIII.C.30. shows that this assumption would lower the estimate annualized costs by \$7.8 million, or about 0.1 percent.

For the fourth sensitivity analysis, OSHA increased the estimated travel time to rest breaks by one minute for employees working indoors and two minutes for employees working outdoors, thus increasing travel time to 3 minutes for indoor employees and 6 minutes for outdoor employees. As shown in table VIII.C.30., the increase in

travel time to rest breaks would increase estimated annualized costs by approximately \$1.4 billion, or by about 18.1 percent.

The final sensitivity test looks at the percent of productivity recovered as a result of rest breaks. OSHA has incorporated the potential cost reduction from decreased worker pacing—offsetting about 70 percent of the labor cost of rest breaks.⁸⁰ However, this analysis rests on specific assumptions and is dependent on the extent of the available literature, in which heat and productivity were assessed in different settings with different break policies, but break policies did not vary within the same setting. An alternative calculation, provided in appendix A, suggests that this offset may be even greater—up to 100 percent of the time spent for rest breaks being recovered through improved labor productivity.⁸¹ Assuming that scheduled rest breaks offset pacing 100 percent for workers above the high heat trigger, the cost of this proposed standard would decrease by about \$2.5 billion making the total costs around \$7.8 – \$2.5 = \$5.3 billion.

OSHA welcomes input from the public regarding all aspects of this sensitivity analysis, including any data or information regarding the accuracy of the preliminary estimates of compliance costs and benefits and how the estimates of costs may be affected by varying assumptions and methodological approaches.

TABLE VIII.C.30—RESULTS FROM SENSITIVITY ANALYSES OF ISOLATED CHANGES TO COST MODEL PARAMETERS

Impact variable	OSHA's primary estimate	Sensitivity test assumption	Impact to annualized costs	Percentage impact to costs	Adjusted annualized costs
Percentage of buildings cooled by industry.	Using CBECS data, considered all buildings with at least 51 percent of floorspace cooled as adequately cooled.	Using CBECS data, considered buildings with 70 percent of floorspace cooled as adequately cooled.	\$585,344,087	7.48	\$8,409,005,725
Rest break non-compliance rates ...	As detailed in table VIII.C.3. Rest Break Non-Compliance Rates by State and Territory.	Reduce the rates in table VIII.C.3. Rest Break Non-Compliance Rates by State and Territory by 50 percent (i.e., assume higher baseline compliance).	– 2,113,058,097	– 27.01	5,710,603,541
Percentage of establishments without existing HIIPP that will use OSHA template.	90 percent of all employers with more than 10 employees, all employers with 10 or less employees.	100% of all employers	– 7,832,568	– 0.10	7,815,829,070
Travel time to/from rest break area	2 minutes for indoor and 4 minutes for outdoor.	3 minutes for indoor and 6 minutes for outdoor.	1,418,460,548	18.13	9,242,122,186
Recovered break time through improved productivity.	~70% of break time offset by increased productivity.	100% of break time offset by increased productivity.	2,500,000,000	.....	5,300,000,000

Source: OSHA estimate.

⁸⁰ See Section VIII.C.VI., Sensitivity Analysis for a discussion of potential underestimation of levels of current compliance with the rest break requirements of the proposed standard and the

impacts alternative noncompliance rates might have on the estimated costs of the proposed standard.

⁸¹ As described in the discussion of additional unquantified potential benefits, a reduction of

pacing from increased rest breaks could potentially increase production and revenue.

D. Economic Feasibility

I. Introduction

As explained in Section II., Pertinent Legal Authority, to demonstrate that a standard is economically feasible, “OSHA must construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms.” *Lead I*, 647 F.2d at 1272. OSHA standards therefore satisfy the economic feasibility criterion so long as they do not cause massive economic dislocations within a particular industry or imperil the very existence of the industry. *Lead II*, 939 F.2d at 980; see also *Asbestos I*, 499 F.2d. at 478.

In this feasibility analysis, when OSHA speaks of the costs of complying with the proposed standard as a percent of revenues, it is referring to the costs of complying with 29 CFR 1910.148 for the subset of those establishments that will incur obligations under the proposed standard, as opposed to the costs as a percent of *all* establishments in an industry, whether they are directly affected or not. This avoids underestimating the average per-establishment cost used in the feasibility analysis, even while it may overstate the impact on the industry as a whole. Based on the analysis below, OSHA preliminarily concludes that the proposed standard is economically feasible.

II. OSHA’s Screening Test for Economic Feasibility

To determine whether a standard is economically feasible, OSHA typically begins by using a screening test to determine whether the costs of the standard are beneath the threshold level at which the economic viability of an affected industry might be threatened. The screening test is a revenue test. While there is no firm rule on which to base the threshold, OSHA generally considers a standard to be economically feasible for an affected industry when the annualized costs of compliance are less than one percent of annual revenues for the average establishment in an industry that incurs an obligation. The one-percent revenue threshold is intentionally set at a low level so that OSHA can confidently assert that the standard is economically feasible for industries that are below the threshold (*i.e.*, industries for which the costs of compliance are less than one percent of annual revenues). To put the one percent threshold into perspective, across the wide swath of affected

industries, prices (and therefore revenues), particularly in the recent past, are generally observed to change by considerably more than one percent per year.⁸² ⁸³

Another and less reliable screening test that OSHA traditionally used to consider whether a standard is economically feasible for an affected industry is whether the costs of compliance are less than ten percent of annual profits for the average establishment (see, *e.g.*, OSHA’s economic analysis of its 2016 *Occupational Exposure to Respirable Crystalline Silica* (Silica) rulemaking, 81 FR 16286, 16533 (Mar. 25, 2016); upheld in *N. Am.’s Bldg. Trades Unions v. OSHA*, 878 F.3d 271, 300 (D.C. Cir., 2017)). The ten-percent profit test was intended to be at a sufficiently low level to allow OSHA to identify industries that might require further examination. Specifically, the profit screening was primarily used to alert OSHA to potential impacts on industries where demand does not allow for ready absorption of new costs (*e.g.*, industries with foreign competition where the American firms would incur costs that their foreign competitors would not because they are not subject to OSHA requirements). In addition, setting the threshold for the profit test low provided an additional basis for concluding that the standard would be economically feasible for industries below that threshold, without further evaluation. OSHA notes that this profit screen relied on accounting profit (revenues minus explicit costs) versus the superior profit measurement of economic profit (revenues minus explicit costs minus implicit costs).

For this proposed standard, OSHA has discontinued the use of its profit screening test for the following reasons. First, OSHA has been virtually alone among Federal agencies in consistently using a profitability test (comparing costs to profits) as part of its regulatory impact analyses. The agency could find no evidence that other Federal regulatory agencies are being asked to examine feasibility based on profits. OSHA infers that the silence on the use of the profitability test among all other Federal regulatory bodies implies that the revenue test is sufficient. Even OSHA’s sister agency, the Mine Safety and Health Administration (MSHA), does not rely on a profitability test despite very similar statutory language

that also requires an economic feasibility determination for its regulations.⁸⁴

Secondly, eliminating the profit test avoids OSHA’s reliance on published IRS corporate net income data that lack transparency, comprehensive coverage within industries, and statistical reliability for industries where sample sizes may be statistically inadequate. Furthermore, because firms typically have an incentive to minimize their tax burden, it is reasonable to expect that some of the reported accounting data may have been strategically adjusted to reduce reported profits and their associated tax implications. Business profits are much more likely to reflect such strategic accounting than business revenues. It is therefore unsurprising that OSHA is the lone outlier by including profit screens in its economic analysis. As the Environmental Protection Agency (EPA) noted in its economic impact analysis supporting the *National Air Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning* (72 FR 25138 (May 3, 2007))⁸⁵, when explaining its reliance on a “sales test” (revenue) and rejecting the use of industry profits as part of its determination of the impact of its regulation on small businesses, “revenues or sales data is commonly available data for entities normally impacted by EPA regulations and profits data normally made available is often not the true profits earned by firms due to accounting and tax considerations.” EPA also noted that “firms and entities often have ways available in the tax code to reduce their reported profits; thus, using reported profits may lead to an overestimate of the economic impact of a regulation to an affected firm or entity and their consumers.” OSHA is aware of no other publicly available source of business income data.

Even to the extent that firms are not manipulating profit data for tax purposes, profit data are often not accurately aligned with a firm’s financial status for purposes of evaluating the economic impact of an OSHA standard. For example, a firm that had already invested a significant amount of capital to voluntarily adopt all of the controls proposed by OSHA’s

⁸² For data on Consumer Price Index (CPI) changes over time, see BLS’s CPI website at <https://www.bls.gov/cpi/>.

⁸³ For data on Producer Price Index (PPI) changes over time, see BLS’s PPI website at <https://www.bls.gov/ppi/>.

⁸⁴ The Mine Act instructs the Secretary to “set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity.” 30 U.S.C. 811(a)(6)(A). It goes on to say that “[i]n addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be . . . the feasibility of the standards.”

⁸⁵ Available at https://www.epa.gov/sites/default/files/2020-07/documents/halogenated-solvent_eia_neshap_final_05-2007.pdf.

standard could show only marginal profit after accounting for those expenses, suggesting that it would be economically infeasible for that firm to comply with OSHA's standard. Yet, in reality, its ability to comply with OSHA's standard could not be questioned because compliance had already been accomplished.

OSHA is required to make its determinations on the best available evidence, and OSHA's experience has been that the profit screen has amounted to little more than a distraction that unhelpfully flags industries for time-consuming analyses, while not actually aiding the agency in identifying industries for which standards would be economically infeasible. For example, the profit screen can produce the unhelpful result of flagging industries with significant numbers of nonprofit or not-for-profit organizations, as well as failing (at least for tax purposes) enterprises reporting negative profits. The revenue screen is obviously more useful for evaluating the economic impact of the standard on such entities.

Another example of the inefficiency of the profit screen is that it often requires OSHA to manipulate data to adjust for the underlying limitations of the profit data sources to perform the screening analysis at all. If significant adjustments are necessary, the result becomes less meaningful. As a case in point, this proposed standard would affect nineteen 4-digit NAICS industries in the Agriculture, Forestry, Fishing and Hunting sector (NAICS 11). No profit data are available at the 4-digit level for any of the 19 industries, and, since 2013, about half of the profit data at the 3-digit level are missing. OSHA's traditional process for adjusting data to perform the profit screen is to substitute data from the next highest level of NAICS codes (focusing on a broader swath of industries). In order for OSHA to include these industries in a profit screen for this rulemaking, OSHA would have had to apply the 2-digit profit rate to all 19 industries, which are as different as logging and aquaculture with the result potentially flagging economic distress for one industry that is actually the result of more drastic economic problems in an entirely different industry (e.g., flagging impacts on aquaculture that would actually result from a decrease in logging profits).

OSHA also notes that it gathers additional information about potential economic impacts directly from small not-for-profit entities and small businesses as part of its compliance with the Small Business Regulatory

Enforcement Fairness Act (SBREFA), discussed in more detail later in this analysis. OSHA is one of only a handful of agencies required to engage in this process, which along with the opportunity for public comment on proposed standards and the accompanying economic analysis, provides an additional avenue for the agency to identify potential significant economic impact not flagged via the revenue screen. Avoiding the red herrings produced by the profit screen allows the agency to focus its resources on areas where the best evidence indicates that a standard may truly pose economic feasibility issues for an industry.

Third, compounding underlying issues with profit reporting is the reality that current IRS data are measurably different and inferior to pre-2013 IRS profit data because the more recent data are presented at a more aggregated level (e.g., at the 2-digit rather than 6-digit NAICS level). These changes to the IRS data make them incompatible with performing this type of screening analysis. Up to this point, where OSHA presented a profit screening analysis, the agency was relying on data from 2003 through 2013. At this point, it is difficult to assume that profit data from those years are meaningfully representative of current industry activity. Accordingly, revenues are a more accurate measure than profits for evaluating economic feasibility and those data are regularly collected and reported by agencies such as the Census Bureau. Therefore, the appropriate economic feasibility test will be the revenue test for most or all covered industries.

OSHA judges that the revenue test can stand alone in playing the signaling role that it has long served in tandem with the profit screen, given the latter's increasing unreliability. That is, a standard is not necessarily judged economically infeasible for the industries that do not pass the initial revenue screening test (i.e., those for which the costs of compliance with the standard are one percent or more of annual revenues) nor did previous OSHA analyses declare a standard infeasible based on one or more industries failing the profit screening test. Instead, OSHA normally views industries failing one or both tests as requiring additional examination as to whether the standard would be economically feasible (see *N. Am.'s Bldg. Trades Unions v. OSHA*, 878 F.3d at 297). OSHA therefore conducts further analysis of the industries that "fail" the screening tests to evaluate whether the standard would threaten

the existence or competitive structure of those industries (see *United Steelworkers of Am., AFL-CIO-CLC v. Marshall*, 647 F.2d 1189, 1272 (D.C. Cir. 1980)) and the agency will continue to do so for industries that fail the revenue screening test. There are fluctuations of prices over time with a general inflationary long-term trend upward, and they include effects such as the pass-through of costs and modifications in tax accounting procedures. Using the cost-to-profit test has never led to the conclusion that a standard will eliminate an industry or significantly alter its competitive structure, and as described above, that test is increasingly limited given the lack of data available. Instead, the revenue test is sufficient to signal to OSHA where it should look more carefully at one or more industries to assess feasibility.

III. Time Parameters for Analysis

OSHA's economic analyses almost always measure the costs of a standard on an annual basis, conducting the screening tests by measuring the cost of the standard against the annual revenues for a given industry. One year is typically the minimum period for evaluating the status of a business; for example, most business filings for tax or financial purposes are annual in nature.

Some compliance costs are up-front costs and others are spread over the duration of compliance with the standard; regardless, the costs of the standard overall will not typically be incurred or absorbed by businesses all at once. For example, the initial capital costs for equipment that will be used over many years are typically addressed through installments over a year or more to leverage loans or payment options to allow more time to marshal revenue and minimize impacts on reserves.

This proposed standard would include permanent requirements to protect employees from hazards of heat stress in the workplace. Thus, for this proposed standard, OSHA has based its analysis of economic feasibility on annual costs and revenues. As noted earlier in this feasibility analysis, this is consistent with OSHA's typical methodology for analyzing economic feasibility (e.g., OSHA's final Silica rule, 81 FR 16533).

IV. Data Used for the Feasibility Screening Test

OSHA presents the estimated costs of complying with this proposed standard in *Costs of Compliance* (Section VIII.C., Costs of Compliance) and table VIII.D.1. In this section presents a summary of those costs, including average cost per establishment and total annual costs, by

4-digit NAICS code. OSHA relies on these estimated costs in its examination of feasibility, using the test described above.

Most revenue numbers used to determine cost-to-revenue ratios were obtained from the 2017 SUBS (Census Bureau, 2021a). This is the most current information available from this source, which OSHA considers to be the best available source of revenue data for U.S. businesses. OSHA adjusted these figures to 2023 dollars using the Bureau of Economic Analysis's GDP deflator (BEA, n.d.), which is OSHA's standard source for inflation and deflation analysis (See Section VIII.C., Costs of Compliance for a full discussion of data sources and methodology). For industries that are unavailable in the SUBS dataset, OSHA sourced revenue data from a variety of other sources. These industries are listed below, along with the alternative sources and methods for estimating annual revenues.

Agriculture: As most agricultural industries are not included in the SUBS dataset,⁸⁶ OSHA used the Department of Agriculture's 2017 Census of Agriculture (USDA, 2017) to derive estimates of annual revenues. Specifically, OSHA used industry-level estimates of "total sales" from chapter 1, table 75 "Summary by North American Industry Classification System" to represent annual revenues. Since these "total sales" data are combined for Aquaculture (NAICS 1125) and Other Animal Production (NAICS 1129), OSHA based NAICS 1125 revenues on NOAA Fisheries' Aquaculture website, which estimated U.S. aquaculture production at \$1.5 billion (NOAA, 2023a). For NAICS 1129, OSHA subtracted this \$1.5 billion from the Agriculture Census "total sales" estimate for NAICS 1125 and 1129. OSHA adjusted these figures to 2023 dollars using the BEA's GDP deflator.

Local Government: OSHA relied on data from three alternative sources for local government estimates. To estimate total receipts for local government entities, OSHA first estimated the average annual receipts per resident by State. The estimate was equal to the ratio of total local government receipts in the datasets found in the Census Bureau's 2021 Annual Survey of State and Local Government Finances

(Census Bureau, 2023a) to the total population served in the GUS dataset. OSHA then multiplied the population associated with each government entity captured in the GUS with the ratio from step one to arrive at an estimate of total annual receipts per government entity.

State Government: OSHA used the State government revenues estimated in the Census Bureau's 2021 Annual Survey of State and Local Government Finances (Census Bureau, 2023a) to estimate annual receipts for State governments. For U.S. territories, OSHA used point estimates from other sources (American Samoa Department of Commerce, 2021; Guam Governor's Office, 2024; CNMI Department of Commerce, 2017; Financial Oversight and Management Board for Puerto Rico, 2023; USVI's Governor's Office, 2024). OSHA adjusted these figures to 2023 dollars using the BEA's GDP deflator.

Rail Transportation,⁸⁷ Postal Service, and Insurance and Employee Benefit Funds: A small subset of non-agricultural industries are also unavailable in the SUBS dataset. These industries are Rail Transportation (NAICS 4821), Postal and Delivery Services (NAICS 4911), and Insurance and Employment Benefit Funds (NAICS 5251). The economic data estimates for these three industries were derived from the Quarterly Census of Employment and Wages (QCEW) collected by the Bureau of Labor Statistics (BLS). While the QCEW does not present revenue data, it does include total annual wages by industry and State. OSHA used the ratio of receipts to wages from the SUBS dataset for corresponding sector-level data (e.g., the ratio applied to wage data for NAICS 5251 is based on receipts and wage data for sector 52 in the SUBS dataset) to convert the 2022 QCEW wage data (BLS, 2023f) into annual receipts by industry and State.

A large percentage of the costs of this proposed standard are variable costs because they depend primarily on the number and types of employees at an establishment. While fixed cost can be more limiting in terms of options for businesses, most of the costs of this standard are not fixed. Instead, most of the compliance costs vary with the level

and type of output and employment at an establishment.

In general, "[w]hen an industry is subjected to a higher cost, it does not simply swallow it; it raises its price and reduces its output, and in this way shifts a part of the cost to its consumers and a part to its suppliers." *Am. Dental Ass'n v. Sec'y of Labor*, 984 F.2d 823, 829 (7th Cir., 1993). Increases in prices in industries with elastic demand typically result in reduced quantity demanded, but rarely eliminate all demand for the product. Increases in costs can also be passed along, but with a likely reduction in output.

A reduction in output could happen in a variety of ways: individual establishments could reduce their level of service or production, both of which take the form of a reduction of employee hours; some marginal establishments could close; or in the case of an industry with high turnover of establishments, new entry could be delayed until demand equals supply. In many cases, a decrease in overall output for an industry will be a combination of all three kinds of reductions. The primary means of achieving the reduction in output most likely depends on the rate of turnover of establishments in the industry and on the form that the costs of the regulation take.

There are two situations typically mentioned when an industry subject to regulatory costs might be unable to pass those costs on: (1) foreign competition not subject to the regulation; or (2) domestic competition from other firms or other industries, not subject to the regulation, that produce goods or services that are close substitutes. Otherwise, when all affected domestic industries are covered by a standard and foreign businesses must also comply with the standard or are unable to compete effectively, the ability of a competing industry to offer a substitute product at a lower price is greatly diminished.

V. Factors That Indicate the Ability To Absorb or Pass on the Costs of the Proposed Standard

As discussed above, when all establishments in an affected industry are covered by and required to comply with a standard, none of the competitors gain any economic advantage from the standard and the ability of a competitor to offer a substitute product or service at a lower price is greatly diminished. OSHA believes this is the case for the industries covered by the proposed standard. The scope of proposed 29 CFR 1910.148 is broad. The proposed standard applies, with certain exceptions, to each setting where any

⁸⁶ The NAICS industries that were estimated using this method are Oilseed and Grain Farming (111100), Vegetable and Melon Farming (111200), Fruit and Nut Tree Farming (111300), Greenhouse, Nursery, and Floriculture (111400), Other Crop Farming (111900), Cattle Ranch and Farming (112100), Hog and Pig Farming (112200), Poultry and Egg Production (112300), Sheep and Goat Farming (112400), Aquaculture (112500), and Other Animal Production (112900).

⁸⁷ The FRA has promulgated regulations requiring the use of environmental controls to address heat hazards in three specific, limited contexts: non-steam-powered locomotives purchased or remanufactured after June 8, 2012 (49 CFR 229.119(g)), camp cars (49 CFR 228.313(c)), and certain on-track roadway maintenance machines (49 CFR 214.505(a)). OSHA's standard would apply to the working conditions of railroad employees in all other contexts, including within trains and machinery not covered by these regulations and during all outdoor work.

employee is exposed to heat above a specified threshold, with the result that if an employer enters such a setting, it must comply with the standard. Hence, given the proposed standard's broad applicability, any employer in a particular industry, including domestic competitors providing similar services or goods, would equally be subject to the proposed standard. This negates the potential for substitution by an industry not subject to the standard.

In addition, and as discussed below, OSHA has concluded that many employers that provide services affected by the proposed standard are generally not subject to international competition (e.g., personal services, such as child care, healthcare services and healthcare support services, and building support services like landscaping and maintenance) because they must be performed domestically. Thus, for those industries, competition from foreign entities that would not also be subject to this proposed standard and its related costs is not a factor.

Finally, while OSHA has attempted to quantify the more obvious cost savings associated with compliance with the proposed standard, in terms of a wage cost offset from increased labor productivity, there are more subtle benefits to reducing heat stress, which suggests that the actual net costs of the proposed standard will be lower than the cost estimates in Section VIII.C., Costs of Compliance used to demonstrate economic feasibility. These cost savings are difficult to quantify and include increased labor supply and decreased disutility to employees. For additional discussion of this issue, see Section VIII.D., Benefits. The economic advantages of increasing the retention of employees by reducing peak heat stressors has been noted in numerous articles, and while difficult to quantify, would tend to counteract the relatively more obvious costs of intervention (e.g., Glaser et al., 2022).

VI. Economic Feasibility Screening Analysis

This section summarizes OSHA's economic feasibility findings for specific industries covered by the proposed standard. As stated previously, the agency has historically used the two screening tests (costs less than one percent of revenue and costs less than ten percent of profit) as an initial indicator of economic feasibility; however, as discussed earlier, OSHA has discontinued use of the profit screening test because of its serious flaws. In this section, OSHA identifies and discusses the industries that fall above the threshold level for the

revenue screening test. OSHA also identifies and discusses industries where small and very small industries fall above the threshold.

A. Economic Feasibility Screening Analysis: All Establishments

Table VIII.D.1. shows that for the majority of industries, as defined by covered NAICS codes, the cost-to-revenue ratios are below OSHA's screening threshold of one percent, with an average cost for all 298 affected industries of 0.04 percent of revenues. This means that if the average firm needed to absorb the costs of the standard (rather than passing the costs through to other parties), this would amount to an additional four cent burden on \$100 of revenue and suggests that compliance with this proposed standard would be feasible for all of these industries.

Five of the 298 industries are estimated to have costs equal to or greater than one percent of revenues. They are all in either agriculture or in-person health care or social assistance services. Two agricultural industries, Sheep and Goat Farming (NAICS 1124) and Other Animal Production (NAICS 1129) were found to have costs above one percent of revenues among affected establishments. Three health care and social assistance industries, Individual and Family Services (NAICS 6241), Vocational Rehabilitation Services (NAICS 6243), and Child Care Services (NAICS 6244) were also found to have costs above one percent of revenues.

Some industries, such as agriculture, would be expected to have relatively large impacts under the proposed standard, due to the prevalence of outdoor work. Nonetheless, the costs of their compliance with the proposed standard would not generally be expected to exceed one percent of revenues when all cost offsets (e.g., current practices to address heat hazards, productivity gains outside of rest breaks) are considered, based on available empirical evidence. For example, the Fair Food Program in Florida (Rivero and Uzcategui, 2024), which encompassed a number of labor benefits (e.g., wage bonuses) in addition to heat stress protection, resulted in price increases of only one extra cent per pound of tomatoes,⁸⁸ for a total

⁸⁸ This measure is an increase in price, not costs. The pass through of costs could be less than 100 percent due to competition. However, since a portion of the one-cent premium is used to pay a worker bonus, one can infer that the increase in cost of compliance is likely less than one-cent and that pass-through of costs to firms is greater than 100 percent.

average price of about \$2 per pound,⁸⁹ to cover the cost of the protections and benefits to employees. This suggests that the net cost of robust heat illness protections may be less than 0.5 percent of revenues in an industry and geographic region that would be most significantly affected by the proposed standard. Sheep and Goat Farming (NAICS 1124) and Other Animal Production (NAICS 1129), which both have costs greater than one percent of revenues, are both heavily weighted to very small family-owned farms (USDA, 2019). Due to a Congressional budget rider, OSHA is not able to expend funds on enforcement activities for small farms. Only about 5 percent of sheep and goat farms are something other than family-owned farms (*i.e.*, partnerships or corporations). The data for other animal production and aquaculture farms are combined and reported as a single industry. For those two industries combined, 10 percent of farms are something other than family-owned farms. Given the economies of scale necessary for aquaculture, it's likely that these account for more of the corporate farms in the combined Other Animal Production and Aquaculture data, meaning more farms in NAICS 1129 may be family-owned farms than appear to be in the combined data. Based on the 2017 Census of Agriculture (USDA, 2019), about 12,000 of about 93,000 total sheep and goat farms have hired labor and those have on average 2 hired laborers. For other animal production and aquaculture combined, about 41,000 farms out of about 222,000 total farms report having hired labor and have on average 3 hired laborers. Based on the size and organization of these farms, and because a longstanding appropriations rider generally prevents OSHA from enforcing its standards against most small farm operations with 10 or fewer employees, it is unlikely OSHA would enforce the proposed standard in those industries.

Aside from the issues discussed previously, the agency believes some of these industries are unlikely to have as large of a cost as a percentage of revenue as presented, in part due to inflexibility in the cost analysis regarding the amount of time spent outside in heat in a nondiscretionary manner. For example, even if the assumption that employees in healthcare or child care services spend a large percentage of their time outside is realistic under normal circumstances, these employees would likely limit their time outside in high heat situations if only to protect

⁸⁹ As of December 2023, <https://fred.stlouisfed.org/series/APU0000712311>.

those in their care. This is also true in livestock industries that have existing recommendations for shade and shelter for livestock under extreme heat conditions.⁹⁰ If the costs of complying with this proposed standard were onerous, limiting employee exposure to the outdoors during times of extreme heat would be a costless method to comply with the standard and could possibly result in these employers being

fully exempt from the standard (*e.g.*, if the employer limited employee's outdoor exposure to meet the exemption for short duration employee exposure). OSHA believes that these five industries have estimated costs that exceed one percent of revenue as a result of data limitations, rather than a real finding of infeasibility. Therefore, OSHA has preliminarily determined that the proposed rule is economically feasible.

The agency welcomes public comment on what the likely practical effects of the proposed standard would be in these various industries. To the extent commenters believe the proposed standard poses an issue of economic feasibility, the agency welcomes comment on how the proposed standard should be modified to achieve greater feasibility.

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
1111	Oilseed and Grain Farming	19,259	\$22,566,188	\$1,172	\$1,039,788	0.11
1112	Vegetable and Melon Farming	2,635	13,812,142	5,242	1,435,990	0.37
1113	Fruit and Tree Nut Farming	7,247	20,428,950	2,819	887,377	0.32
1114	Greenhouse, Nursery, and Floriculture Production.	3,362	17,437,825	5,186	922,741	0.56
1119	Other Crop Farming	12,848	22,027,652	1,714	334,120	0.51
1121	Cattle Ranching and Farming	24,349	41,972,826	1,724	884,209	0.19
1122	Hog and Pig Farming	1,491	3,582,128	2,402	3,692,579	0.07
1123	Poultry and Egg Production	2,904	6,619,341	2,279	3,595,687	0.06
1124	Sheep and Goat Farming	1,995	3,420,215	1,714	109,499	1.57
1125	Aquaculture	208	895,579	4,301	1,415,210	0.30
1129	Other Animal Production	6,404	11,346,005	1,772	143,632	1.23
1131	Timber Tract Operations	498	726,511	1,459	2,701,023	0.05
1132	Forest Nurseries and Gathering of Forest Products.	168	179,247	1,067	1,164,036	0.09
1133	Logging	8,084	7,860,331	972	1,692,869	0.06
1141	Fishing	2,473	1,185,393	479	1,188,497	0.04
1142	Hunting and Trapping	351	374,292	1,066	799,221	0.13
1151	Support Activities for Crop Production	5,049	7,698,282	1,525	3,457,291	0.04
1152	Support Activities for Animal Production	4,765	3,734,295	784	724,524	0.11
1153	Support Activities for Forestry	1,788	1,775,204	993	1,311,774	0.08
2111	Oil and Gas Extraction	6,382	23,921,221	3,748	43,886,186	0.01
2131	Support Activities for Mining	13,313	79,841,646	5,997	7,972,536	0.08
2211	Electric Power Generation, Transmission and Distribution.	11,101	80,690,106	7,269	45,828,657	0.02
2212	Natural Gas Distribution	2,497	12,578,004	5,037	40,786,387	0.01
2213	Water, Sewage and Other Systems	4,879	11,985,242	2,456	3,542,449	0.07
2361	Residential Building Construction	173,182	124,444,236	719	2,401,784	0.03
2362	Nonresidential Building Construction	43,061	97,309,378	2,260	13,006,470	0.02
2371	Utility System Construction	19,159	112,079,119	5,850	9,895,873	0.06
2372	Land Subdivision	4,943	3,549,637	718	2,247,710	0.03
2373	Highway, Street, and Bridge Construction	9,752	43,581,038	4,469	15,724,180	0.03
2379	Other Heavy and Civil Engineering Construction	4,324	11,738,493	2,715	6,787,322	0.04
2381	Foundation, Structure, and Building Exterior Contractors.	93,258	168,622,817	1,808	2,354,331	0.08
2382	Building Equipment Contractors	184,768	342,792,872	1,855	2,724,810	0.07
2383	Building Finishing Contractors	116,519	136,463,298	1,171	1,425,684	0.08
2389	Other Specialty Trade Contractors	69,751	97,414,741	1,397	2,689,361	0.05
3111	Animal Food Manufacturing	895	2,550,666	2,850	35,255,690	0.01
3112	Grain and Oilseed Milling	369	2,281,901	6,192	106,536,918	0.01
3113	Sugar and Confectionery Product Manufacturing	941	3,360,910	3,574	17,901,036	0.02
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing.	916	6,966,483	7,605	43,442,236	0.02
3115	Dairy Product Manufacturing	801	5,315,596	6,640	76,548,651	0.01
3116	Animal Slaughtering and Processing	1,742	28,278,302	16,233	72,789,500	0.02
3117	Seafood Product Preparation and Packaging	270	1,229,069	4,561	29,356,549	0.02
3118	Bakeries and Tortilla Manufacturing	5,847	16,243,920	2,778	6,816,984	0.04
3119	Other Food Manufacturing	1,887	9,779,813	5,183	33,613,908	0.02
3121	Beverage Manufacturing	4,528	9,124,037	2,015	14,142,707	0.01
3122	Tobacco Manufacturing	69	773,005	11,285	262,563,987	0.00
3131	Fiber, Yarn, and Thread Mills	136	2,067,055	15,199	31,396,792	0.05
3132	Fabric Mills	386	2,777,269	7,204	18,720,390	0.04
3133	Textile and Fabric Finishing and Fabric Coating Mills.	402	1,843,098	4,591	10,606,110	0.04
3141	Textile Furnishings Mills	818	3,870,400	4,734	9,794,328	0.05
3149	Other Textile Product Mills	2,022	3,442,371	1,702	2,702,841	0.06
3151	Apparel Knitting Mills	89	523,876	5,920	6,382,954	0.09

⁹⁰USDA guidance for the livestock industry identifies provision of shelter, increased shade, and altering plans based on heat exposure ([https://www.climatehubs.usda.gov/approach/manage-](https://www.climatehubs.usda.gov/approach/manage-livestock-cope-warmer-and-drier-conditions)

[livestock-cope-warmer-and-drier-conditions](https://www.climatehubs.usda.gov/approach/manage-livestock-cope-warmer-and-drier-conditions)). Similarly, South Dakota State University Extension recommends provision of shade during the day, minimization, or avoidance of unnecessary animal

work during hot time periods, and adequate ventilation and air movement for indoor animal housing (<https://extension.sdstate.edu/heat-stress-small-ruminants>).

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
3152	Cut and Sew Apparel Manufacturing	2,480	4,006,111	1,616	2,064,640	0.08
3159	Apparel Accessories and Other Apparel Manufacturing.	286	574,129	2,011	2,548,686	0.08
3161	Leather and Hide Tanning and Finishing	78	101,034	1,304	7,624,471	0.02
3162	Footwear Manufacturing	112	773,050	6,902	8,295,065	0.08
3169	Other Leather and Allied Product Manufacturing	364	444,901	1,222	2,105,457	0.06
3211	Sawmills and Wood Preservation	1,634	7,765,268	4,752	12,001,150	0.04
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing.	670	5,091,443	7,605	19,759,596	0.04
3219	Other Wood Product Manufacturing	4,904	16,287,680	3,321	5,998,996	0.06
3221	Pulp, Paper, and Paperboard Mills	173	6,568,365	37,967	235,901,294	0.02
3222	Converted Paper Product Manufacturing	1,787	12,244,762	6,854	34,990,870	0.02
3231	Printing and Related Support Activities	12,693	14,738,174	1,161	3,996,639	0.03
3241	Petroleum and Coal Products Manufacturing	1,022	8,724,306	8,541	267,378,536	0.00
3251	Basic Chemical Manufacturing	1,144	11,393,676	9,964	108,368,479	0.01
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing.	681	8,148,929	11,966	91,947,879	0.01
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing.	440	1,670,914	3,798	28,466,636	0.01
3254	Pharmaceutical and Medicine Manufacturing	1,166	12,270,203	10,528	109,652,940	0.01
3255	Paint, Coating, and Adhesive Manufacturing	873	4,187,636	4,800	29,510,337	0.02
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing.	1,102	5,589,291	5,072	37,391,152	0.01
3259	Other Chemical Product and Preparation Manufacturing.	1,093	4,806,806	4,398	23,897,452	0.02
3261	Plastics Product Manufacturing	5,149	35,819,947	6,957	22,658,441	0.03
3262	Rubber Product Manufacturing	880	6,058,076	6,888	21,611,316	0.03
3271	Clay Product and Refractory Manufacturing	550	2,002,058	3,640	8,078,807	0.05
3272	Glass and Glass Product Manufacturing	815	4,007,533	4,917	15,793,703	0.03
3273	Cement and Concrete Product Manufacturing	4,404	13,765,912	3,126	7,785,632	0.04
3274	Lime and Gypsum Product Manufacturing	118	725,364	6,173	26,805,595	0.02
3279	Other Nonmetallic Mineral Product Manufacturing	1,585	4,779,209	3,016	8,864,633	0.03
3311	Iron and Steel Mills and Ferroalloy Manufacturing	268	5,962,845	22,291	201,642,290	0.01
3312	Steel Product Manufacturing from Purchased Steel.	318	3,034,850	9,559	38,589,534	0.02
3313	Alumina and Aluminum Production and Processing.	210	2,605,926	12,409	61,726,946	0.02
3314	Nonferrous Metal (except Aluminum) Production and Processing.	389	3,035,679	7,804	61,261,580	0.01
3315	Foundries	796	5,296,856	6,654	20,840,709	0.03
3321	Forging and Stamping	1,141	4,199,802	3,682	14,958,369	0.02
3322	Cutlery and Handtool Manufacturing	558	1,274,207	2,286	9,193,550	0.02
3323	Architectural and Structural Metals Manufacturing	6,472	23,411,603	3,618	8,360,234	0.04
3324	Boiler, Tank, and Shipping Container Manufacturing.	740	4,557,414	6,163	24,162,652	0.03
3325	Hardware Manufacturing	304	1,285,814	4,230	16,750,859	0.03
3326	Spring and Wire Product Manufacturing	555	1,725,936	3,110	9,533,258	0.03
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing.	11,346	16,998,778	1,498	3,557,493	0.04
3328	Coating, Engraving, Heat Treating, and Allied Activities.	2,761	7,251,052	2,626	5,616,834	0.05
3329	Other Fabricated Metal Product Manufacturing	3,063	12,570,102	4,104	12,315,179	0.03
3331	Agriculture, Construction, and Mining Machinery Manufacturing.	1,422	10,297,500	7,242	32,127,400	0.02
3332	Industrial Machinery Manufacturing	1,534	4,564,312	2,976	12,175,393	0.02
3333	Commercial and Service Industry Machinery Manufacturing.	939	3,136,561	3,340	15,121,049	0.02
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing.	842	7,964,382	9,459	29,965,620	0.03
3335	Metalworking Machinery Manufacturing	3,159	5,185,713	1,642	6,125,519	0.03
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing.	441	3,614,996	8,197	51,409,099	0.02
3339	Other General Purpose Machinery Manufacturing	2,903	13,233,407	4,559	19,613,189	0.02
3341	Computer and Peripheral Equipment Manufacturing.	449	841,625	1,877	19,085,845	0.01
3342	Communications Equipment Manufacturing	614	2,801,459	4,563	31,095,928	0.01
3343	Audio and Video Equipment Manufacturing	227	293,740	1,294	6,807,492	0.02
3344	Semiconductor and Other Electronic Component Manufacturing.	1,900	8,118,846	4,273	27,994,372	0.02
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing.	2,520	10,704,689	4,248	31,086,340	0.01
3346	Manufacturing and Reproducing Magnetic and Optical Media.	204	198,879	977	4,335,534	0.02
3351	Electric Lighting Equipment Manufacturing	501	1,444,609	2,886	13,083,478	0.02
3352	Household Appliance Manufacturing	125	1,066,209	8,530	45,138,353	0.02
3353	Electrical Equipment Manufacturing	995	5,832,098	5,861	21,618,940	0.03
3359	Other Electrical Equipment and Component Manufacturing.	977	4,726,132	4,840	22,536,250	0.02

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
3361	Motor Vehicle Manufacturing	122	1,085,733	8,899	454,487,339	0.00
3362	Motor Vehicle Body and Trailer Manufacturing	944	8,246,263	8,740	29,205,076	0.03
3363	Motor Vehicle Parts Manufacturing	2,425	27,059,128	11,161	61,631,308	0.02
3364	Aerospace Product and Parts Manufacturing	826	12,167,578	14,731	93,792,988	0.02
3365	Railroad Rolling Stock Manufacturing	104	1,429,522	13,812	63,611,383	0.02
3366	Ship and Boat Building	721	11,788,451	16,361	21,809,920	0.08
3369	Other Transportation Equipment Manufacturing ..	408	1,037,801	2,547	15,117,084	0.02
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.	5,083	13,274,090	2,611	4,297,730	0.06
3372	Office Furniture (including Fixtures) Manufac- turing.	1,767	5,200,805	2,943	7,971,335	0.04
3379	Other Furniture Related Product Manufacturing ..	366	1,792,138	4,903	15,572,532	0.03
3391	Medical Equipment and Supplies Manufacturing	5,090	13,095,541	2,573	10,884,255	0.02
3399	Other Miscellaneous Manufacturing	8,780	13,579,420	1,547	4,017,213	0.04
4231	Motor Vehicle and Motor Vehicle Parts and Sup- plies Merchant Wholesalers.	2,351	26,489,257	11,269	45,407,480	0.02
4232	Furniture and Home Furnishing Merchant Whole- salers.	1,298	9,523,083	7,336	10,625,767	0.07
4233	Lumber and Other Construction Materials Mer- chant Wholesalers.	1,736	13,456,090	7,749	13,371,930	0.06
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers.	3,513	25,485,899	7,255	20,295,064	0.04
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.	958	8,692,950	9,072	27,671,464	0.03
4236	Household Appliances and Electrical and Elec- tronic Goods Merchant Wholesalers.	2,879	28,074,222	9,752	27,451,825	0.04
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.	1,951	13,236,652	6,783	11,557,780	0.06
4238	Machinery, Equipment, and Supplies Merchant Wholesalers.	5,776	58,234,641	10,082	11,596,411	0.09
4239	Miscellaneous Durable Goods Merchant Whole- salers.	3,188	16,166,409	5,071	9,310,978	0.05
4241	Paper and Paper Product Merchant Wholesalers	967	8,226,081	8,507	19,885,243	0.04
4242	Drugs and Druggists' Sundries Merchant Whole- salers.	1,019	14,966,530	14,683	110,821,278	0.01
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers.	1,534	8,083,432	5,269	13,145,411	0.04
4244	Grocery and Related Product Merchant Whole- salers.	3,517	45,101,982	12,823	34,945,484	0.04
4245	Farm Product Raw Material Merchant Whole- salers.	613	4,961,179	8,089	41,951,216	0.02
4246	Chemical and Allied Products Merchant Whole- salers.	1,223	9,926,609	8,115	23,780,447	0.03
4247	Petroleum and Petroleum Products Merchant Wholesalers.	638	6,705,416	10,506	203,610,923	0.01
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.	451	11,640,093	25,813	43,026,015	0.06
4249	Miscellaneous Nondurable Goods Merchant Wholesalers.	2,852	20,258,440	7,103	15,167,514	0.05
4251	Wholesale Trade Agents and Brokers	3,957	15,142,900	3,827	21,159,691	0.02
4411	Automobile Dealers	7,943	70,381,781	8,860	26,031,796	0.03
4412	Other Motor Vehicle Dealers	2,484	10,727,937	4,319	6,684,856	0.06
4413	Automotive Parts, Accessories, and Tire Retail- ers.	10,382	38,063,251	3,666	2,310,332	0.16
4441	Building Material and Supplies Dealers	10,300	26,774,594	2,599	5,880,598	0.04
4442	Lawn and Garden Equipment and Supplies Ret- ailers.	3,493	10,491,710	3,003	3,918,834	0.08
4451	Grocery and Convenience Retailers	16,712	111,429,709	6,668	8,142,684	0.08
4452	Specialty Food Retailers	4,575	10,190,815	2,227	2,565,311	0.09
4453	Beer, Wine, and Liquor Retailers	6,050	7,676,768	1,269	2,103,423	0.06
4491	Furniture and Home Furnishings Retailers	9,532	20,849,798	2,187	3,437,969	0.06
4492	Electronics and Appliance Retailers	5,359	13,310,629	2,484	3,870,143	0.06
4551	Department Stores	892	11,243,234	12,610	17,685,253	0.07
4552	Warehouse Clubs, Supercenters, and Other Gen- eral Merchandise Retailers.	9,875	55,995,417	5,670	12,141,433	0.05
4561	Health and Personal Care Retailers	17,607	26,342,201	1,496	4,568,247	0.03
4571	Gasoline Stations	18,856	34,130,245	1,810	5,062,894	0.04
4572	Fuel Dealers	1,393	2,870,053	2,061	4,568,306	0.05
4581	Clothing and Clothing Accessories Retailers	16,339	44,247,522	2,708	2,473,681	0.11
4582	Shoe Retailers	4,397	9,190,469	2,090	2,227,506	0.09
4583	Jewelry, Luggage, and Leather Goods Retailers	4,259	6,611,743	1,552	2,704,423	0.06
4591	Sporting Goods, Hobby, and Musical Instrument Retailers.	7,353	16,879,497	2,296	3,294,022	0.07
4592	Book Retailers and News Dealers	1,515	3,229,542	2,131	2,950,989	0.07
4593	Florists	2,383	4,426,367	1,857	1,442,716	0.13
4594	Office Supplies, Stationery, and Gift Retailers	5,104	10,013,108	1,962	2,084,249	0.09
4595	Used Merchandise Retailers	3,668	7,796,516	2,126	1,521,114	0.14

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
4599	Other Miscellaneous Retailers	8,050	15,263,208	1,896	2,640,719	0.07
4811	Scheduled Air Transportation	1,901	25,658,803	13,497	89,545,214	0.02
4812	Nonscheduled Air Transportation	1,825	4,628,067	2,535	11,544,951	0.02
4821	Rail Transportation	119	124,334	1,041	2,215,217	0.05
4831	Deep Sea, Coastal, and Great Lakes Water Transportation.	877	5,042,806	5,750	36,316,671	0.02
4832	Inland Water Transportation	476	3,118,127	6,552	11,566,749	0.06
4841	General Freight Trucking	64,907	89,062,119	1,372	3,024,850	0.05
4842	Specialized Freight Trucking	42,255	50,978,497	1,206	2,422,016	0.05
4851	Urban Transit Systems	782	1,541,702	1,972	5,727,178	0.03
4852	Interurban and Rural Bus Transportation	670	1,142,712	1,705	3,183,166	0.05
4853	Taxi and Limousine Service	6,647	7,550,221	1,136	2,114,168	0.05
4854	School and Employee Bus Transportation	3,712	6,449,362	1,737	2,931,452	0.06
4855	Charter Bus Industry	1,069	1,792,372	1,677	3,278,126	0.05
4859	Other Transit and Ground Passenger Transportation.	4,351	3,709,249	852	1,757,646	0.05
4861	Pipeline Transportation of Crude Oil	649	1,410,922	2,174	13,170,788	0.02
4862	Pipeline Transportation of Natural Gas	1,812	4,248,289	2,345	15,487,431	0.02
4869	Other Pipeline Transportation	580	1,250,571	2,156	14,063,673	0.02
4871	Scenic and Sightseeing Transportation, Land	617	1,320,235	2,139	2,100,659	0.10
4872	Scenic and Sightseeing Transportation, Water	1,554	3,274,995	2,108	1,392,280	0.15
4879	Scenic and Sightseeing Transportation, Other	268	510,004	1,901	2,851,407	0.07
4881	Support Activities for Air Transportation	5,046	22,255,588	4,410	5,491,720	0.08
4882	Support Activities for Rail Transportation	1,293	4,921,648	3,806	4,754,766	0.08
4883	Support Activities for Water Transportation	2,258	11,495,850	5,092	8,269,227	0.06
4884	Support Activities for Road Transportation	10,553	8,555,879	811	1,051,046	0.08
4885	Freight Transportation Arrangement	18,079	29,423,164	1,627	3,691,452	0.04
4889	Other Support Activities for Transportation	1,434	1,669,460	1,165	1,708,634	0.07
4911	Postal Service	25,465	28,299,988	1,111	5,242,980	0.02
4921	Couriers and Express Delivery Services	8,360	24,629,329	2,946	9,114,393	0.03
4922	Local Messengers and Local Delivery	3,780	3,385,960	896	1,707,066	0.05
4931	Warehousing and Storage	14,274	58,725,115	4,114	2,766,853	0.15
5121	Motion Picture and Video Industries	3,012	16,428,008	5,454	5,083,819	0.11
5122	Sound Recording Industries	489	1,147,515	2,346	4,484,294	0.05
5131	Newspaper, Periodical, Book, and Directory Publishers.	3,052	20,020,700	6,559	11,229,220	0.06
5132	Software Publishers	1,821	13,284,155	7,296	25,213,904	0.03
5161	Radio and Television Broadcasting Stations	778	9,163,332	11,786	8,807,054	0.13
5162	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.	533	6,637,578	12,460	44,140,119	0.03
5171	Wired and Wireless Telecommunications (except Satellite).	7,811	49,672,322	6,360	12,522,782	0.05
5174	Satellite Telecommunications	59	491,286	8,376	14,838,437	0.06
5178	All Other Telecommunications	358	2,013,640	5,620	9,959,665	0.06
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services.	2,409	13,757,855	5,712	11,018,831	0.05
5192	Web Search Portals, Libraries, Archives, and Other Information Services.	611	1,902,061	3,111	6,745,774	0.05
5221	Depository Credit Intermediation	16,260	66,680,457	4,101	5,815,480	0.07
5222	Nondepository Credit Intermediation	6,274	23,451,028	3,738	10,353,450	0.04
5223	Activities Related to Credit Intermediation	3,968	13,782,701	3,473	5,998,640	0.06
5231	Securities and Commodity Contracts Intermediation and Brokerage.	3,942	12,199,622	3,095	10,423,406	0.03
5232	Securities and Commodity Exchanges	4	62,437	13,904	411,532,288	0.00
5239	Other Financial Investment Activities	10,124	23,123,395	2,284	5,472,042	0.04
5241	Insurance Carriers	4,350	35,116,961	8,073	74,913,679	0.01
5242	Agencies, Brokerages, and Other Insurance Related Activities.	20,264	50,123,045	2,474	2,715,515	0.09
5251	Insurance and Employee Benefit Funds	236	527,154	2,237	3,562,001	0.06
5259	Other Investment Pools and Funds	123	255,212	2,079	2,004,745	0.10
5311	Lessors of Real Estate	17,809	50,853,115	2,855	2,394,282	0.12
5312	Offices of Real Estate Agents and Brokers	16,673	36,947,635	2,216	1,136,243	0.20
5313	Activities Related to Real Estate	13,274	53,336,543	4,018	1,215,258	0.33
5321	Automotive Equipment Rental and Leasing	2,256	15,749,238	6,981	4,088,904	0.17
5322	Consumer Goods Rental	2,693	10,999,021	4,085	1,173,984	0.35
5323	General Rental Centers	420	1,665,083	3,969	1,486,508	0.27
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing.	2,130	13,168,084	6,182	5,500,482	0.11
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	377	1,245,184	3,303	19,386,258	0.02
5411	Legal Services	25,571	52,480,381	2,052	1,941,967	0.11
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.	18,287	48,179,649	2,635	1,396,296	0.19
5413	Architectural, Engineering, and Related Services	15,623	174,866,256	11,193	3,312,024	0.34
5414	Specialized Design Services	4,494	13,137,406	2,923	931,984	0.31
5415	Computer Systems Design and Related Services	19,606	79,048,499	4,032	3,773,095	0.11

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
5416	Management, Scientific, and Technical Consulting Services.	24,060	100,628,588	4,182	1,787,507	0.23
5417	Scientific Research and Development Services ...	2,556	33,102,069	12,948	10,398,760	0.12
5418	Advertising, Public Relations, and Related Services.	5,218	30,433,443	5,833	3,373,336	0.17
5419	Other Professional, Scientific, and Technical Services.	9,861	64,294,316	6,520	1,535,518	0.42
5511	Management of Companies and Enterprises	7,687	181,889,901	23,662	2,601,094	0.91
5611	Office Administrative Services	4,694	13,289,558	2,831	2,192,216	0.13
5612	Facilities Support Services	928	17,834,897	19,228	5,252,912	0.37
5613	Employment Services	7,276	344,829,125	47,393	8,776,960	0.54
5614	Business Support Services	4,372	13,798,527	3,156	2,727,986	0.12
5615	Travel Arrangement and Reservation Services ...	3,108	6,673,364	2,147	2,592,365	0.08
5616	Investigation and Security Services	3,513	73,921,446	21,042	2,971,429	0.71
5617	Services to Buildings and Dwellings	27,351	173,828,441	6,355	922,181	0.69
5619	Other Support Services	2,751	17,358,050	6,309	2,809,043	0.22
5621	Waste Collection	1,605	5,725,756	3,567	5,516,059	0.06
5622	Waste Treatment and Disposal	358	2,044,381	5,704	6,960,982	0.08
5629	Remediation and Other Waste Management Services.	1,496	10,192,723	6,814	3,165,201	0.22
6111	Elementary and Secondary Schools	3,291	40,472,071	12,297	4,413,940	0.28
6112	Junior Colleges	120	1,194,543	9,970	8,501,343	0.12
6113	Colleges, Universities, and Professional Schools	661	32,001,201	48,400	69,334,614	0.07
6114	Business Schools and Computer and Management Training.	1,248	2,668,673	2,138	1,826,775	0.12
6115	Technical and Trade Schools	1,228	4,444,652	3,619	1,991,961	0.18
6116	Other Schools and Instruction	7,639	17,939,335	2,348	592,020	0.40
6117	Educational Support Services	1,310	3,196,265	2,439	2,241,261	0.11
6211	Offices of Physicians	9,917	25,952,877	2,617	2,598,098	0.10
6212	Offices of Dentists	6,017	16,631,978	2,764	1,123,388	0.25
6213	Offices of Other Health Practitioners	6,967	15,574,576	2,235	650,896	0.34
6214	Outpatient Care Centers	2,008	14,460,890	7,201	4,256,944	0.17
6215	Medical and Diagnostic Laboratories	767	4,775,293	6,226	3,788,420	0.16
6216	Home Health Care Services	1,474	39,821,728	27,010	3,024,173	0.89
6219	Other Ambulatory Health Care Services	507	6,057,721	11,957	4,132,554	0.29
6221	General Medical and Surgical Hospitals	245	65,020,765	265,020	218,034,685	0.12
6222	Psychiatric and Substance Abuse Hospitals	27	5,602,159	207,993	45,105,867	0.46
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.	37	3,694,704	99,601	61,909,640	0.16
6231	Nursing Care Facilities (Skilled Nursing Facilities)	752	35,736,039	47,496	8,679,090	0.55
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.	1,863	22,918,890	12,302	1,273,215	0.97
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.	1,120	26,868,839	23,984	3,060,931	0.78
6239	Other Residential Care Facilities	227	4,128,616	18,174	1,856,976	0.98
6241	Individual and Family Services	3,329	57,309,240	17,218	1,658,588	1.04
6242	Community Food and Housing, and Emergency and Other Relief Services.	650	6,458,493	9,929	2,982,906	0.33
6243	Vocational Rehabilitation Services	328	7,785,986	23,739	2,100,542	1.13
6244	Child Care Services	3,406	61,315,616	18,003	652,479	2.76
7111	Performing Arts Companies	4,832	6,157,218	1,274	2,085,725	0.06
7112	Spectator Sports	2,206	5,962,390	2,703	12,928,871	0.02
7113	Promoters of Performing Arts, Sports, and Similar Events.	4,362	8,735,781	2,003	4,539,819	0.04
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.	2,223	2,215,936	997	2,365,997	0.04
7115	Independent Artists, Writers, and Performers	15,379	14,540,701	945	848,451	0.11
7121	Museums, Historical Sites, and Similar Institutions.	4,091	7,846,087	1,918	3,102,080	0.06
7131	Amusement Parks and Arcades	2,347	15,577,978	6,639	5,344,729	0.12
7132	Gambling Industries	1,638	3,926,485	2,398	9,343,172	0.03
7139	Other Amusement and Recreation Industries	39,654	70,323,368	1,773	1,310,750	0.14
7211	Traveler Accommodation	21,598	63,177,043	2,925	5,123,987	0.06
7212	RV (Recreational Vehicle) Parks and Recreational Camps.	2,754	2,698,715	980	1,029,528	0.10
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps.	746	791,148	1,061	994,545	0.11
7223	Special Food Services	16,532	29,428,448	1,780	1,586,703	0.11
7224	Drinking Places (Alcoholic Beverages)	14,785	14,060,549	951	739,078	0.13
7225	Restaurants and Other Eating Places	210,896	409,134,932	1,940	1,274,637	0.15
8111	Automotive Repair and Maintenance	74,001	126,236,663	1,706	873,479	0.20
8112	Electronic and Precision Equipment Repair and Maintenance.	5,811	11,875,534	2,044	1,945,895	0.11
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	9,972	25,065,047	2,514	2,202,353	0.11

TABLE VIII.D.1—ECONOMIC IMPACTS ON ESTABLISHMENTS AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Establishments	Total annualized costs	Average annualized cost per establishment	Average revenue per establishment	Costs as % of revenue
8114	Personal and Household Goods Repair and Maintenance.	9,830	12,454,292	1,267	559,118	0.23
8121	Personal Care Services	60,820	71,616,377	1,178	360,641	0.33
8122	Death Care Services	9,602	18,086,417	1,884	1,109,180	0.17
8123	Drycleaning and Laundry Services	15,411	21,745,744	1,411	916,522	0.15
8129	Other Personal Services	21,448	31,265,564	1,458	691,008	0.21
8131	Religious Organizations	84,819	139,934,279	1,650	975,827	0.17
8132	Grantmaking and Giving Services	9,147	11,510,923	1,258	7,324,606	0.02
8133	Social Advocacy Organizations	8,168	11,803,888	1,445	2,343,993	0.06
8134	Civic and Social Organizations	12,043	18,907,950	1,570	859,416	0.18
8139	Business, Professional, Labor, Political, and Similar Organizations.	26,876	37,917,962	1,411	2,057,484	0.07
9992	State Government	8	169,386,525	20,359,760	80,797,224,446	0.03
9993	Local Government	5,172	504,582,765	97,561	64,081,034	0.15
Total .....	.....	2,535,774	7,823,661,638	3,085	7,392,091	0.04

B. Economic Feasibility Screening Analysis: Small and Very Small Entities

The preceding discussion focused on the economic viability of each affected industry in its entirety, including entities of all sizes. Even though OSHA has found that the proposed standard does not threaten the economic viability of these industries, the agency also examines whether there is still a possibility that the competitive structure of these industries could be significantly altered. For instance, in some industries, if most or all small firms in that industry would have to close, it could reasonably be concluded that the competitive structure of the industry had been affected by the proposed standard.

To address this possibility, OSHA examines the average compliance costs per affected small entity and very small entity for each industry covered under the final standard. See Section VIII.B., Profile of Affected Industries for a discussion of OSHA's methodology for estimating the number of small and very small entities.

As with its analysis of all establishments, the agency relies on a screening test—costs less than one percent of revenue—to evaluate the impacts on small and very small entities.⁹¹ As with the screening tests for establishments of all sizes, in cases where the small and very small entities in particular industries are above the threshold level for the primary screening test, OSHA will investigate further.

⁹¹ The agency calculates the average per-entity revenues for small and very small entities in each NAICS industry in the same manner that it calculated the average per-establishment revenues for its analysis of all establishments, above.

OSHA notes that cost impacts for affected small or very small entities will generally tend to be somewhat higher, on average, than the cost impacts for the average business in those affected industries. That is to be expected. After all, smaller businesses typically suffer from diseconomies of scale in many aspects of their business, leading to lower revenue per dollar of cost and higher average costs. Small businesses are able to overcome these obstacles by providing specialized products and services, offering local service and better service, or otherwise creating a market niche for themselves. In a dynamic environment, they also tend to benefit from less institutional inertia. The higher cost impacts for smaller businesses estimated for this standard generally fall within the range observed in other OSHA standards, and OSHA is not aware of any record of major industry failures resulting from those standards.⁹² For industries that are below the thresholds for the cost-to-revenue test, the agency concludes that the costs of complying with the proposed standard are unlikely to threaten the survival of small entities or very small entities and are, consequently, unlikely to alter the competitive structure of the affected industries.

As discussed further in Section VIII.F., Initial Regulatory Flexibility Analysis, the agency is required by the Regulatory Flexibility Act to determine whether a proposed standard would

⁹² For example, OSHA's economic analysis for the agency's 2016 Silica rule showed cost-to-revenue ratios as high as 1.29 percent for small entities and 2.09 percent for very small entities (see OSHA's *Final Economic and Regulatory Flexibility Analysis* for its Silica rule, chapter VI, tables VI-7 and VI-8, pp. VI-87–VI-94, Document ID OSHA-2010-0034-4247, attachment 6).

likely have a significant economic impact on a substantial number of small entities. As an extension of the feasibility screening analysis, the agency also performed a screening analysis of costs as a percentage of revenues of small entities. Table VIII.D.2. and table VIII.D.3. show that parallel to the previous analysis of costs as percent of average revenues for all establishments, for all but seven (out of 298) of the covered NAICS industries, the cost-to-revenue ratios are generally well below OSHA's screening threshold of one percent, suggesting that compliance with this standard would be feasible for small and very small entities in all of these industries. Since the impact is somewhat higher on average to small entities, two industries, Home Health Care Services (NAICS 6216) and Other Residential Care Facilities (NAICS 6239), had costs marginally above one percent, in addition to the five listed previously for the feasibility screening test for all establishments. A slightly different mix (four of 298) presents for Very Small Entities, the two agriculture industries listed previously and two of the four health care and social service industries, Other Residential Care Facilities (NAICS 6239) and Child Care Services (NAICS 6244) having costs of more than one percent as a percent of revenues.

While the impacts are marginally greater for small entities, the general profile does not differ significantly from the issues with larger entities, suggesting that the proposed standard does not pose unique challenges for small entities. (This result is consistent with the costs being overwhelmingly employee based, as opposed to establishment based (see Section VIII.C., Costs of Compliance)).

Table VIII.D.2. shows that the estimated average cost of complying with the proposed standard for the average small entity in all industries covered by the standard is \$1,946 annually, and table VIII.D.3. shows that the estimated average cost of the standard for the average very small entity is \$1,178 annually.

The tables further show that for all small entities in covered NAICS industries, the cost-to-revenue ratios are below OSHA's one percent screening threshold, except for the seven industries previously discussed, suggesting that compliance with this proposed standard would be feasible for small entities in these industries.

As is typical with new requirements, the costs will be borne primarily by those businesses that have lagged in implementing safety measures. See *Lead I*, 647 F.2d at 1265 ("It would appear to be consistent with the purposes of the

[OSH] Act to envisage the economic demise of an employer who has lagged behind the rest of the industry in protecting the health and safety of employees and is consequently financially unable to comply with new standards as quickly as other employers.'") (quoting *Indus. Union Dep't, AFL-CIO v. Hodgson*, 499 F.2d 467, 478 (D.C. Cir. 1974)). Indeed, one of the main differentiations between businesses similarly situated in the same industry, where one would be exempt from this proposed standard while the other would not, would be in situations where one employer has invested in air conditioning that keeps their facility below the heat trigger while the other has forgone those investments. The businesses that have already incurred many of the costs of compliance will presumably be at low risk of going out of business as a result

of the standard. Even when small or very small entities in particular industries are above the revenue screening threshold, it would be very unlikely that this proposed standard would result in the alteration of the economic structure of these industries based on the failure of most or all of the small or very small entities in those industries.

Moreover, OSHA has considered input from SBA-defined small entities who participated in the SBREFA process, with regard to the potential provisions of a regulatory framework for a heat standard. OSHA's adjustments to the regulatory framework presented during the panel, along with a set of regulatory alternatives and options drafted and analyzed in response to recommendations from the SBAR Panel, are also discussed in Section VIII.F., Initial Regulatory Flexibility Analysis.

TABLE VIII.D.2—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
1111	Oilseed and Grain Farming	12,511	\$13,585,428	\$1,086	\$759,359	0.14
1112	Vegetable and Melon Farming	2,127	9,980,549	4,693	1,153,664	0.41
1113	Fruit and Tree Nut Farming	6,121	14,284,547	2,334	682,745	0.34
1114	Greenhouse, Nursery, and Floriculture Production	2,720	12,359,299	4,544	741,146	0.61
1119	Other Crop Farming	9,564	15,497,239	1,620	282,465	0.57
1121	Cattle Ranching and Farming	18,428	28,781,484	1,562	700,078	0.22
1122	Hog and Pig Farming	1,048	2,182,612	2,082	2,601,611	0.08
1123	Poultry and Egg Production	2,278	4,700,946	2,064	2,939,009	0.07
1124	Sheep and Goat Farming	1,548	2,393,222	1,546	88,910	1.74
1125	Aquaculture	160	616,482	3,859	1,133,734	0.34
1129	Other Animal Production	4,913	7,999,112	1,628	115,067	1.41
1131	Timber Tract Operations	442	439,946	996	1,501,147	0.07
1132	Forest Nurseries and Gathering of Forest Products	150	152,566	1,017	790,399	0.13
1133	Logging	7,980	7,648,751	958	1,563,286	0.06
1141	Fishing	2,432	1,113,045	458	853,204	0.05
1142	Hunting and Trapping	351	374,292	1,066	799,221	0.13
1151	Support Activities for Crop Production	4,648	5,853,520	1,259	2,707,767	0.05
1152	Support Activities for Animal Production	4,640	3,376,198	728	506,802	0.14
1153	Support Activities for Forestry	1,658	1,398,749	844	1,111,045	0.08
2111	Oil and Gas Extraction	5,307	16,476,736	3,105	26,579,145	0.01
2131	Support Activities for Mining	10,921	43,981,568	4,027	3,821,423	0.11
2211	Electric Power Generation, Transmission and Distribution	2,058	28,171,559	13,690	76,221,412	0.02
2212	Natural Gas Distribution	418	3,527,573	8,436	70,106,856	0.01
2213	Water, Sewage and Other Systems	3,668	7,573,926	2,065	1,410,992	0.15
2361	Residential Building Construction	171,099	106,947,179	625	1,421,852	0.04
2362	Nonresidential Building Construction	40,735	62,520,995	1,535	6,719,320	0.02
2371	Utility System Construction	16,774	34,191,049	2,038	3,633,655	0.06
2372	Land Subdivision	4,805	3,170,977	660	1,877,172	0.04
2373	Highway, Street, and Bridge Construction	8,285	17,087,777	2,062	6,724,608	0.03
2379	Other Heavy and Civil Engineering Construction	4,056	6,569,839	1,620	3,024,764	0.05
2381	Foundation, Structure, and Building Exterior Contractors	91,279	125,277,109	1,372	1,699,487	0.08
2382	Building Equipment Contractors	177,612	233,824,679	1,316	1,621,258	0.08
2383	Building Finishing Contractors	114,496	106,453,318	930	1,078,107	0.09
2389	Other Specialty Trade Contractors	68,126	72,672,079	1,067	1,929,027	0.06
3111	Animal Food Manufacturing	636	1,601,425	2,520	24,357,224	0.01
3112	Grain and Oilseed Milling	250	1,211,561	4,854	62,037,403	0.01
3113	Sugar and Confectionery Product Manufacturing	868	2,204,453	2,539	9,556,299	0.03
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing	743	3,725,663	5,016	25,690,434	0.02
3115	Dairy Product Manufacturing	588	2,637,411	4,484	49,929,979	0.01
3116	Animal Slaughtering and Processing	1,456	12,280,924	8,438	38,292,294	0.02
3117	Seafood Product Preparation and Packaging	221	902,567	4,087	22,008,470	0.02
3118	Bakeries and Tortilla Manufacturing	5,471	11,517,147	2,105	3,818,211	0.06
3119	Other Food Manufacturing	1,655	5,268,917	3,183	16,374,321	0.02
3121	Beverage Manufacturing	4,226	6,542,557	1,548	8,758,819	0.02
3122	Tobacco Manufacturing	58	515,881	8,848	182,294,825	0.00
3131	Fiber, Yarn, and Thread Mills	102	1,037,014	10,139	19,374,286	0.05

TABLE VIII.D.2—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3132	Fabric Mills	345	1,937,288	5,609	12,945,642	0.04
3133	Textile and Fabric Finishing and Fabric Coating Mills	378	1,346,267	3,565	7,871,921	0.05
3141	Textile Furnishings Mills	769	2,410,151	3,134	5,547,861	0.06
3149	Other Textile Product Mills	1,981	2,870,758	1,449	2,012,712	0.07
3152	Cut and Sew Apparel Manufacturing	1,485	1,708,817	1,151	907,132	0.13
3159	Apparel Accessories and Other Apparel Manufacturing	279	488,329	1,750	1,772,440	0.10
3161	Leather and Hide Tanning and Finishing	75	78,767	1,048	6,384,614	0.02
3162	Footwear Manufacturing	102	410,499	4,029	5,074,485	0.08
3211	Sawmills and Wood Preservation	1,425	5,001,937	3,510	7,582,835	0.05
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing.	169	1,273,144	7,533	21,682,868	0.03
3219	Other Wood Product Manufacturing	4,412	11,586,726	2,626	4,072,371	0.06
3221	Pulp, Paper, and Paperboard Mills	35	855,082	24,193	136,863,576	0.02
3222	Converted Paper Product Manufacturing	1,264	6,774,484	5,360	24,890,031	0.02
3231	Printing and Related Support Activities	12,027	11,573,349	962	2,522,782	0.04
3241	Petroleum and Coal Products Manufacturing	464	3,199,326	6,895	177,980,216	0.00
3251	Basic Chemical Manufacturing	642	4,655,288	7,251	78,530,261	0.01
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing.	530	4,077,855	7,695	52,682,176	0.01
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing.	355	1,140,904	3,217	18,940,264	0.02
3254	Pharmaceutical and Medicine Manufacturing	925	5,779,821	6,251	51,766,648	0.01
3255	Paint, Coating, and Adhesive Manufacturing	705	2,479,397	3,516	16,249,794	0.02
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing.	1,002	3,477,371	3,470	17,908,986	0.02
3259	Other Chemical Product and Preparation Manufacturing	872	2,542,871	2,916	12,165,378	0.02
3261	Plastics Product Manufacturing	4,134	19,980,060	4,833	13,921,131	0.03
3262	Rubber Product Manufacturing	699	3,192,709	4,565	12,772,546	0.04
3271	Clay Product and Refractory Manufacturing	463	1,199,726	2,590	5,587,274	0.05
3272	Glass and Glass Product Manufacturing	706	1,989,379	2,819	6,976,531	0.04
3273	Cement and Concrete Product Manufacturing	2,173	8,394,899	3,863	8,676,117	0.04
3274	Lime and Gypsum Product Manufacturing	74	303,318	4,126	15,209,592	0.03
3279	Other Nonmetallic Mineral Product Manufacturing	1,369	3,198,469	2,336	5,186,460	0.05
3311	Iron and Steel Mills and Ferroalloy Manufacturing	191	2,633,059	13,753	115,596,140	0.01
3312	Steel Product Manufacturing from Purchased Steel	246	1,720,852	6,991	28,374,263	0.02
3313	Alumina and Aluminum Production and Processing	155	1,282,335	8,290	35,439,130	0.02
3314	Nonferrous Metal (except Aluminum) Production and Processing.	309	1,616,110	5,227	39,316,152	0.01
3315	Foundries	691	2,989,596	4,329	11,281,321	0.04
3321	Forging and Stamping	991	2,784,200	2,810	10,193,180	0.03
3322	Cutlery and Handtool Manufacturing	529	928,777	1,755	5,517,119	0.03
3323	Architectural and Structural Metals Manufacturing	5,974	16,517,707	2,765	5,735,883	0.05
3324	Boiler, Tank, and Shipping Container Manufacturing	589	2,689,023	4,567	12,577,513	0.04
3325	Hardware Manufacturing	272	770,518	2,836	8,866,155	0.03
3326	Spring and Wire Product Manufacturing	492	1,152,112	2,340	6,269,990	0.04
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing.	11,032	15,208,419	1,379	2,901,748	0.05
3328	Coating, Engraving, Heat Treating, and Allied Activities	2,521	5,835,961	2,315	4,178,955	0.06
3329	Other Fabricated Metal Product Manufacturing	2,806	7,766,243	2,767	7,493,462	0.04
3331	Agriculture, Construction, and Mining Machinery Manufacturing.	1,247	5,944,680	4,766	18,417,556	0.03
3332	Industrial Machinery Manufacturing	425	1,030,865	2,425	10,195,646	0.02
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing.	699	3,921,041	5,609	15,601,508	0.04
3335	Metalworking Machinery Manufacturing	3,010	4,202,594	1,396	4,357,322	0.03
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing.	337	1,582,741	4,698	25,365,617	0.02
3339	Other General Purpose Machinery Manufacturing	1,762	5,979,770	3,394	12,034,903	0.03
3341	Computer and Peripheral Equipment Manufacturing	415	490,089	1,182	8,911,705	0.01
3342	Communications Equipment Manufacturing	547	1,256,142	2,294	13,522,113	0.02
3343	Audio and Video Equipment Manufacturing	219	262,564	1,198	5,604,208	0.02
3344	Semiconductor and Other Electronic Component Manufacturing.	1,680	4,552,187	2,709	13,079,398	0.02
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing.	2,157	4,626,878	2,145	12,820,769	0.02
3352	Household Appliance Manufacturing	101	332,021	3,290	14,304,913	0.02
3353	Electrical Equipment Manufacturing	852	2,906,501	3,411	10,715,020	0.03
3359	Other Electrical Equipment and Component Manufacturing	752	2,497,573	3,319	12,404,672	0.03
3361	Motor Vehicle Manufacturing	23	51,856	2,260	58,221,416	0.00
3362	Motor Vehicle Body and Trailer Manufacturing	803	4,874,596	6,071	15,741,094	0.04
3363	Motor Vehicle Parts Manufacturing	1,978	13,487,337	6,817	32,394,740	0.02
3364	Aerospace Product and Parts Manufacturing	646	3,977,519	6,160	29,941,829	0.02
3365	Railroad Rolling Stock Manufacturing	74	567,108	7,707	33,655,605	0.02
3366	Ship and Boat Building	658	7,118,392	10,818	14,164,896	0.08
3369	Other Transportation Equipment Manufacturing	392	641,075	1,635	6,718,062	0.02
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.	4,766	9,401,064	1,972	2,859,010	0.07

TABLE VIII.D.2—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3372	Office Furniture (including Fixtures) Manufacturing	1,690	3,989,090	2,360	5,125,287	0.05
3379	Other Furniture Related Product Manufacturing	326	1,166,170	3,581	8,591,445	0.04
3391	Medical Equipment and Supplies Manufacturing	4,621	7,495,312	1,622	4,733,183	0.03
3399	Other Miscellaneous Manufacturing	8,582	11,161,673	1,301	2,660,648	0.05
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.	1,544	11,511,623	7,456	8,053,146	0.09
4232	Furniture and Home Furnishing Merchant Wholesalers	1,077	5,781,729	5,367	5,828,655	0.09
4233	Lumber and Other Construction Materials Merchant Wholesalers.	993	5,631,821	5,671	6,885,143	0.08
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers.	2,259	10,168,859	4,501	5,929,082	0.08
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.	709	4,763,004	6,715	13,288,617	0.05
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.	1,907	11,364,290	5,960	8,540,329	0.07
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.	1,026	5,820,745	5,674	6,361,789	0.09
4238	Machinery, Equipment, and Supplies Merchant Wholesalers.	4,033	29,834,160	7,398	5,737,517	0.13
4239	Miscellaneous Durable Goods Merchant Wholesalers	2,831	10,561,663	3,731	5,222,434	0.07
4241	Paper and Paper Product Merchant Wholesalers	717	3,784,639	5,277	5,821,550	0.09
4242	Drugs and Druggists' Sundries Merchant Wholesalers	662	4,340,575	6,561	10,574,055	0.06
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	386	1,344,807	3,483	5,167,182	0.07
4244	Grocery and Related Product Merchant Wholesalers	2,662	15,934,090	5,986	10,630,078	0.06
4245	Farm Product Raw Material Merchant Wholesalers	325	2,641,457	8,119	23,756,996	0.03
4246	Chemical and Allied Products Merchant Wholesalers	809	4,315,458	5,336	8,980,738	0.06
4247	Petroleum and Petroleum Products Merchant Wholesalers	376	3,206,820	8,522	61,864,570	0.01
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.	326	3,172,050	9,724	13,306,719	0.07
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	2,124	10,353,521	4,876	5,895,079	0.08
4251	Wholesale Trade Agents and Brokers	3,749	9,368,912	2,499	12,764,272	0.02
4411	Automobile Dealers	6,500	37,276,607	5,735	15,961,277	0.04
4412	Other Motor Vehicle Dealers	955	3,490,111	3,656	5,414,403	0.07
4441	Building Material and Supplies Dealers	544	1,021,683	1,877	2,831,193	0.07
4451	Grocery and Convenience Retailers	6,886	22,913,996	3,328	3,311,379	0.10
4452	Specialty Food Retailers	1,180	2,429,585	2,059	1,053,778	0.20
4811	Scheduled Air Transportation	727	10,339,037	14,225	97,899,634	0.01
4812	Nonscheduled Air Transportation	1,637	3,179,136	1,942	6,496,273	0.03
4821	Rail Transportation	113	78,448	697	1,132,927	0.06
4831	Deep Sea, Coastal, and Great Lakes Water Transportation.	606	2,154,113	3,553	16,994,169	0.02
4832	Inland Water Transportation	410	1,791,814	4,371	6,386,189	0.07
4841	General Freight Trucking	55,843	50,365,637	902	1,458,914	0.06
4842	Specialized Freight Trucking	39,386	41,886,506	1,063	1,812,364	0.06
4851	Urban Transit Systems	513	590,618	1,151	2,151,325	0.05
4852	Interurban and Rural Bus Transportation	488	896,937	1,837	2,488,321	0.07
4853	Taxi and Limousine Service	6,453	7,243,177	1,122	862,937	0.13
4854	School and Employee Bus Transportation	2,232	3,191,204	1,430	2,019,525	0.07
4855	Charter Bus Industry	978	1,507,466	1,541	2,813,587	0.05
4859	Other Transit and Ground Passenger Transportation	3,856	3,185,344	826	1,343,491	0.06
4861	Pipeline Transportation of Crude Oil	70	347,281	4,984	28,045,336	0.02
4862	Pipeline Transportation of Natural Gas	59	90,847	1,528	15,269,599	0.01
4869	Other Pipeline Transportation	71	269,120	3,788	22,870,110	0.02
4871	Scenic and Sightseeing Transportation, Land	572	1,034,717	1,808	1,542,634	0.12
4872	Scenic and Sightseeing Transportation, Water	1,479	2,781,692	1,881	961,471	0.20
4879	Scenic and Sightseeing Transportation, Other	229	354,470	1,551	1,442,518	0.11
4881	Support Activities for Air Transportation	3,639	7,427,615	2,041	2,726,627	0.07
4882	Support Activities for Rail Transportation	494	1,414,555	2,861	3,694,856	0.08
4883	Support Activities for Water Transportation	1,852	6,207,901	3,353	4,619,864	0.07
4884	Support Activities for Road Transportation	9,012	6,993,625	776	1,019,225	0.08
4885	Freight Transportation Arrangement	12,925	18,974,056	1,468	2,467,206	0.06
4889	Other Support Activities for Transportation	1,387	1,669,460	1,203	1,765,588	0.07
4921	Couriers and Express Delivery Services	3,724	12,926,412	3,471	9,170,589	0.04
4922	Local Messengers and Local Delivery	3,431	3,012,249	878	1,312,866	0.07
4931	Warehousing and Storage	9,681	56,004,514	5,785	3,692,460	0.16
5121	Motion Picture and Video Industries	2,568	7,638,794	2,975	1,544,741	0.19
5122	Sound Recording Industries	466	946,190	2,032	1,914,032	0.11
5174	Satellite Telecommunications	46	165,892	3,602	3,473,723	0.10
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services.	1,352	3,731,170	2,759	2,821,642	0.10
5221	Depository Credit Intermediation	1,562	21,857,409	13,995	15,334,364	0.09
5222	Nondepository Credit Intermediation	1,085	3,521,500	3,245	2,825,317	0.11
5223	Activities Related to Credit Intermediation	1,822	4,068,120	2,232	1,274,881	0.18
5232	Securities and Commodity Exchanges	1	26,178	39,745	753,808,884	0.01
5239	Other Financial Investment Activities	1,542	3,322,810	2,154	3,014,962	0.07
5241	Insurance Carriers	724	7,767,572	10,729	64,751,762	0.02
5242	Agencies, Brokerages, and Other Insurance Related Activities.	18,002	37,871,610	2,104	884,543	0.24

TABLE VIII.D.2—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
5251	Insurance and Employee Benefit Funds	161	187,816	1,164	860,458	0.14
5259	Other Investment Pools and Funds	122	253,899	2,075	1,915,830	0.11
5311	Lessors of Real Estate	13,445	32,370,835	2,408	1,498,519	0.16
5312	Offices of Real Estate Agents and Brokers	14,553	27,775,521	1,909	848,299	0.22
5313	Activities Related to Real Estate	10,787	33,316,314	3,088	865,500	0.36
5321	Automotive Equipment Rental and Leasing	567	2,987,344	5,267	2,647,455	0.20
5322	Consumer Goods Rental	1,185	5,301,598	4,475	1,093,599	0.41
5323	General Rental Centers	318	1,344,257	4,222	1,436,198	0.29
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	1,171	5,466,318	4,667	3,114,198	0.15
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	315	671,532	2,130	3,900,891	0.05
5411	Legal Services	23,897	49,298,948	2,063	1,105,731	0.19
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services	15,652	36,586,403	2,338	715,353	0.33
5413	Architectural, Engineering, and Related Services	12,833	75,874,312	5,913	1,482,804	0.40
5414	Specialized Design Services	4,402	11,949,232	2,715	783,080	0.35
5415	Computer Systems Design and Related Services	16,220	39,798,676	2,454	1,363,070	0.18
5416	Management, Scientific, and Technical Consulting Services	22,491	62,683,511	2,787	917,797	0.30
5417	Scientific Research and Development Services	2,115	15,224,604	7,199	5,734,418	0.13
5418	Advertising, Public Relations, and Related Services	4,587	16,632,694	3,626	1,610,062	0.23
5419	Other Professional, Scientific, and Technical Services	8,774	45,327,608	5,166	1,037,261	0.50
5511	Management of Companies and Enterprises	932	7,466,268	8,009	7,794,296	0.10
5611	Office Administrative Services	4,204	10,143,593	2,413	1,807,749	0.13
5612	Facilities Support Services	296	3,898,123	13,148	4,474,249	0.29
5613	Employment Services	3,752	42,559,048	11,344	2,963,924	0.38
5614	Business Support Services	3,342	5,943,802	1,778	1,306,752	0.14
5615	Travel Arrangement and Reservation Services	1,972	3,129,421	1,587	1,663,607	0.10
5616	Investigation and Security Services	2,773	25,002,454	9,018	1,245,244	0.72
5617	Services to Buildings and Dwellings	26,019	112,901,810	4,339	671,194	0.65
5619	Other Support Services	2,399	7,136,600	2,975	1,533,830	0.19
5621	Waste Collection	1,078	2,523,921	2,342	3,245,312	0.07
5622	Waste Treatment and Disposal	181	743,227	4,112	3,879,488	0.11
5629	Remediation and Other Waste Management Services	1,259	6,361,525	5,055	2,114,365	0.24
6111	Elementary and Secondary Schools	2,856	34,194,636	11,975	4,338,191	0.28
6112	Junior Colleges	61	567,155	9,272	7,096,235	0.13
6113	Colleges, Universities, and Professional Schools	178	641,408	3,603	3,148,365	0.11
6114	Business Schools and Computer and Management Training	1,150	2,051,773	1,785	1,184,543	0.15
6115	Technical and Trade Schools	1,020	3,125,752	3,063	1,475,233	0.21
6116	Other Schools and Instruction	7,124	15,777,099	2,215	471,098	0.47
6117	Educational Support Services	1,184	2,055,225	1,736	994,278	0.17
6211	Offices of Physicians	7,538	16,396,965	2,175	1,557,548	0.14
6212	Offices of Dentists	5,517	15,448,753	2,800	1,107,348	0.25
6213	Offices of Other Health Practitioners	5,985	13,236,859	2,212	610,067	0.36
6214	Outpatient Care Centers	799	6,631,683	8,303	3,531,393	0.24
6215	Medical and Diagnostic Laboratories	326	1,639,918	5,023	2,880,366	0.17
6216	Home Health Care Services	1,021	21,196,909	20,756	1,947,504	1.07
6219	Other Ambulatory Health Care Services	290	2,399,519	8,280	2,122,696	0.39
6221	General Medical and Surgical Hospitals	58	3,146,213	54,588	31,988,544	0.17
6222	Psychiatric and Substance Abuse Hospitals	10	1,136,474	118,967	26,840,059	0.44
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	6	408,435	64,547	24,345,151	0.27
6231	Nursing Care Facilities (Skilled Nursing Facilities)	377	15,692,040	41,623	7,737,051	0.54
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities	454	12,424,041	27,345	2,746,969	1.00
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly	779	13,425,442	17,232	2,104,725	0.82
6239	Other Residential Care Facilities	136	3,155,732	23,216	2,165,006	1.07
6241	Individual and Family Services	2,496	39,826,256	15,956	1,571,030	1.02
6242	Community Food and Housing, and Emergency and Other Relief Services	480	5,254,947	10,949	2,633,784	0.42
6243	Vocational Rehabilitation Services	172	4,469,310	25,964	2,335,393	1.11
6244	Child Care Services	2,687	51,565,482	19,189	676,561	2.84
7111	Performing Arts Companies	4,679	5,483,031	1,172	1,560,279	0.08
7112	Spectator Sports	2,011	2,409,683	1,198	2,328,568	0.05
7113	Promoters of Performing Arts, Sports, and Similar Events	4,046	5,398,753	1,334	2,099,056	0.06
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	2,119	2,111,109	996	1,445,877	0.07
7115	Independent Artists, Writers, and Performers	15,342	14,460,165	942	835,413	0.11
7121	Museums, Historical Sites, and Similar Institutions	3,845	6,836,964	1,778	2,394,793	0.07
7131	Amusement Parks and Arcades	1,742	3,288,557	1,888	1,040,189	0.18
7132	Gambling Industries	1,000	2,273,300	2,272	5,012,918	0.05
7139	Other Amusement and Recreation Industries	34,659	51,264,046	1,479	1,051,729	0.14
7211	Traveler Accommodation	17,375	32,853,003	1,891	2,184,689	0.09
7212	RV (Recreational Vehicle) Parks and Recreational Camps	2,543	2,405,045	946	991,813	0.10

TABLE VIII.D.2—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps	687	741,076	1,079	930,215	0.12
7223	Special Food Services	7,295	8,312,585	1,139	857,031	0.13
7224	Drinking Places (Alcoholic Beverages)	14,383	13,061,680	908	663,521	0.14
7225	Restaurants and Other Eating Places	157,253	276,972,590	1,761	1,144,923	0.15
8111	Automotive Repair and Maintenance	62,789	100,273,474	1,597	798,630	0.20
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	8,982	14,997,313	1,670	1,261,858	0.13
8114	Personal and Household Goods Repair and Maintenance	9,417	11,449,589	1,216	455,661	0.27
8121	Personal Care Services	52,932	64,529,881	1,219	346,123	0.35
8122	Death Care Services	6,955	13,214,986	1,900	1,130,650	0.17
8123	Drycleaning and Laundry Services	13,051	16,733,433	1,282	564,862	0.23
8129	Other Personal Services	16,792	22,209,398	1,323	509,230	0.26
8131	Religious Organizations	83,837	126,171,312	1,505	722,894	0.21
8132	Grantmaking and Giving Services	7,839	8,889,289	1,134	3,473,007	0.03
8133	Social Advocacy Organizations	6,903	8,993,435	1,303	1,442,084	0.09
8134	Civic and Social Organizations	11,030	15,706,906	1,424	697,379	0.20
8139	Business, Professional, Labor, Political, and Similar Organizations	25,710	33,664,444	1,309	1,384,987	0.09
9993	Local Government	4,846	132,114,558	27,261	17,292,921	0.16
Total .....	.....	1,985,235	3,863,384,856	1,946	2,403,819	0.08

Source: OSHA estimate.

TABLE VIII.D.3—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
1111	Oilseed and Grain Farming	7,184	\$6,027,437	\$839	\$609,184	0.14
1112	Vegetable and Melon Farming	1,227	3,233,900	2,636	705,291	0.37
1113	Fruit and Tree Nut Farming	3,060	4,119,361	1,346	384,931	0.35
1114	Greenhouse, Nursery, and Floriculture Production	1,545	4,149,308	2,686	513,448	0.52
1119	Other Crop Farming	5,537	6,434,964	1,162	198,860	0.58
1121	Cattle Ranching and Farming	10,474	11,742,592	1,121	523,461	0.21
1122	Hog and Pig Farming	585	921,175	1,575	2,022,974	0.08
1123	Poultry and Egg Production	1,356	2,018,022	1,488	2,264,037	0.07
1124	Sheep and Goat Farming	856	968,612	1,131	59,994	1.89
1125	Aquaculture	91	239,911	2,630	875,290	0.30
1129	Other Animal Production	2,806	3,272,814	1,166	88,841	1.31
1131	Timber Tract Operations	429	403,940	942	1,293,445	0.07
1132	Forest Nurseries and Gathering of Forest Products	144	104,419	725	679,386	0.11
1133	Logging	7,530	6,292,246	836	1,170,494	0.07
1141	Fishing	2,416	1,100,212	455	667,346	0.07
1142	Hunting and Trapping	331	292,626	885	619,029	0.14
1151	Support Activities for Crop Production	4,102	3,213,003	783	1,530,220	0.05
1152	Support Activities for Animal Production	4,531	2,962,939	654	405,439	0.16
1153	Support Activities for Forestry	1,534	1,037,673	676	765,904	0.09
2111	Oil and Gas Extraction	4,571	6,341,178	1,387	2,574,156	0.05
2131	Support Activities for Mining	8,845	14,462,495	1,635	937,066	0.17
2211	Electric Power Generation, Transmission and Distribution	832	2,254,730	2,709	13,316,386	0.02
2212	Natural Gas Distribution	267	546,792	2,049	10,690,728	0.02
2213	Water, Sewage and Other Systems	3,468	5,937,995	1,712	850,747	0.20
2361	Residential Building Construction	167,394	90,561,837	541	1,043,976	0.05
2362	Nonresidential Building Construction	34,810	32,498,908	934	2,948,013	0.03
2371	Utility System Construction	13,929	14,564,718	1,046	1,657,874	0.06
2372	Land Subdivision	4,615	2,626,758	569	1,167,179	0.05
2373	Highway, Street, and Bridge Construction	6,251	5,486,633	878	2,619,746	0.03
2379	Other Heavy and Civil Engineering Construction	3,581	3,418,173	954	1,444,677	0.07
2381	Foundation, Structure, and Building Exterior Contractors	83,470	72,226,262	865	936,942	0.09
2382	Building Equipment Contractors	161,684	141,354,524	874	847,521	0.10
2383	Building Finishing Contractors	108,028	74,449,281	689	653,438	0.11
2389	Other Specialty Trade Contractors	62,342	43,480,559	697	1,039,609	0.07
3111	Animal Food Manufacturing	377	349,776	928	5,316,620	0.02
3112	Grain and Oilseed Milling	130	273,983	2,115	22,940,721	0.01
3113	Sugar and Confectionery Product Manufacturing	652	541,708	831	1,163,232	0.07
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing	441	532,718	1,207	3,760,308	0.03
3115	Dairy Product Manufacturing	337	456,581	1,353	9,285,097	0.01
3116	Animal Slaughtering and Processing	996	872,620	876	2,401,951	0.04
3117	Seafood Product Preparation and Packaging	129	107,828	838	3,136,053	0.03
3118	Bakeries and Tortilla Manufacturing	4,379	4,017,779	918	635,675	0.14

TABLE VIII.D.3—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3119	Other Food Manufacturing	1,111	1,075,034	968	2,724,529	0.04
3121	Beverage Manufacturing	3,429	2,263,370	660	1,398,536	0.05
3122	Tobacco Manufacturing	32	42,411	1,311	6,587,893	0.02
3131	Fiber, Yarn, and Thread Mills	60	75,096	1,254	2,191,371	0.06
3132	Fabric Mills	192	233,984	1,217	3,435,732	0.04
3133	Textile and Fabric Finishing and Fabric Coating Mills	263	271,517	1,031	1,915,018	0.05
3141	Textile Furnishings Mills	630	573,335	910	780,741	0.12
3149	Other Textile Product Mills	1,705	1,270,778	745	614,109	0.12
3151	Apparel Knitting Mills	54	66,320	1,228	1,443,320	0.09
3152	Cut and Sew Apparel Manufacturing	2,095	1,429,596	682	637,842	0.11
3159	Apparel Accessories and Other Apparel Manufacturing	236	188,102	796	619,537	0.13
3161	Leather and Hide Tanning and Finishing	61	42,671	698	2,839,687	0.02
3162	Footwear Manufacturing	75	123,351	1,655	2,193,374	0.08
3169	Other Leather and Allied Product Manufacturing	302	187,558	621	626,299	0.10
3211	Sawmills and Wood Preservation	1,006	1,185,132	1,179	1,727,380	0.07
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing	264	633,617	2,400	4,044,768	0.06
3219	Other Wood Product Manufacturing	3,327	3,257,167	979	1,053,722	0.09
3221	Pulp, Paper, and Paperboard Mills	27	376,078	13,794	93,208,301	0.01
3222	Converted Paper Product Manufacturing	559	893,086	1,597	4,579,693	0.03
3231	Printing and Related Support Activities	10,124	5,790,603	572	693,094	0.08
3241	Petroleum and Coal Products Manufacturing	244	494,702	2,027	28,484,143	0.01
3251	Basic Chemical Manufacturing	277	556,651	2,011	21,892,698	0.01
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing	226	335,765	1,485	6,835,167	0.02
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	229	350,781	1,534	7,269,726	0.02
3254	Pharmaceutical and Medicine Manufacturing	546	603,519	1,106	3,960,913	0.03
3255	Paint, Coating, and Adhesive Manufacturing	448	542,317	1,211	3,140,147	0.04
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	704	655,288	931	2,390,628	0.04
3259	Other Chemical Product and Preparation Manufacturing	579	723,101	1,250	3,072,599	0.04
3261	Plastics Product Manufacturing	2,192	2,911,100	1,328	2,782,966	0.05
3262	Rubber Product Manufacturing	382	557,177	1,459	2,487,702	0.06
3271	Clay Product and Refractory Manufacturing	328	323,850	989	1,473,179	0.07
3272	Glass and Glass Product Manufacturing	539	546,405	1,014	1,791,588	0.06
3273	Cement and Concrete Product Manufacturing	1,336	1,655,935	1,240	2,456,404	0.05
3274	Lime and Gypsum Product Manufacturing	51	122,726	2,409	7,351,270	0.03
3279	Other Nonmetallic Mineral Product Manufacturing	1,006	1,149,905	1,143	1,653,776	0.07
3311	Iron and Steel Mills and Ferroalloy Manufacturing	103	218,406	2,121	6,567,240	0.03
3312	Steel Product Manufacturing from Purchased Steel	121	265,350	2,191	7,339,261	0.03
3313	Alumina and Aluminum Production and Processing	82	262,328	3,197	12,497,676	0.03
3314	Nonferrous Metal (except Aluminum) Production and Processing	178	278,430	1,566	8,757,990	0.02
3315	Foundries	391	547,296	1,398	2,192,210	0.06
3321	Forging and Stamping	556	557,664	1,003	2,020,339	0.05
3322	Cutlery and Handtool Manufacturing	373	259,248	695	1,107,327	0.06
3323	Architectural and Structural Metals Manufacturing	4,125	4,085,887	991	1,456,833	0.07
3324	Boiler, Tank, and Shipping Container Manufacturing	300	423,339	1,409	3,917,337	0.04
3325	Hardware Manufacturing	186	153,954	828	1,511,537	0.05
3326	Spring and Wire Product Manufacturing	298	292,858	983	1,589,842	0.06
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	8,812	6,785,989	770	910,823	0.08
3328	Coating, Engraving, Heat Treating, and Allied Activities	1,740	1,753,611	1,008	985,271	0.10
3329	Other Fabricated Metal Product Manufacturing	1,998	2,026,136	1,014	1,910,855	0.05
3331	Agriculture, Construction, and Mining Machinery Manufacturing	776	880,986	1,135	2,303,225	0.05
3332	Industrial Machinery Manufacturing	951	827,287	870	1,790,885	0.05
3333	Commercial and Service Industry Machinery Manufacturing	602	467,902	777	1,741,883	0.04
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	409	485,787	1,186	2,390,594	0.05
3335	Metalworking Machinery Manufacturing	2,174	1,503,816	692	1,172,111	0.06
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	186	279,911	1,504	4,514,698	0.03
3339	Other General Purpose Machinery Manufacturing	1,576	1,782,884	1,131	2,828,012	0.04
3341	Computer and Peripheral Equipment Manufacturing	317	181,009	570	2,040,422	0.03
3342	Communications Equipment Manufacturing	374	275,245	735	2,213,015	0.03
3343	Audio and Video Equipment Manufacturing	180	98,831	548	1,509,740	0.04
3344	Semiconductor and Other Electronic Component Manufacturing	991	740,401	747	1,810,399	0.04
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	1,411	961,637	682	2,280,952	0.03
3346	Manufacturing and Reproducing Magnetic and Optical Media	158	80,247	509	869,333	0.06
3351	Electric Lighting Equipment Manufacturing	321	290,904	906	2,228,223	0.04
3352	Household Appliance Manufacturing	73	67,216	915	1,907,392	0.05

TABLE VIII.D.3—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3353	Electrical Equipment Manufacturing	543	585,477	1,078	2,265,967	0.05
3359	Other Electrical Equipment and Component Manufacturing	530	775,438	1,462	4,923,782	0.03
3361	Motor Vehicle Manufacturing	72	42,019	586	8,079,095	0.01
3362	Motor Vehicle Body and Trailer Manufacturing	462	571,401	1,237	2,128,388	0.06
3363	Motor Vehicle Parts Manufacturing	1,140	1,248,555	1,096	2,450,442	0.04
3364	Aerospace Product and Parts Manufacturing	368	569,759	1,550	4,750,992	0.03
3365	Railroad Rolling Stock Manufacturing	32	104,712	3,303	12,137,746	0.03
3366	Ship and Boat Building	446	605,519	1,357	1,347,324	0.10
3369	Other Transportation Equipment Manufacturing	321	258,348	804	1,487,253	0.05
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.	4,244	3,437,887	810	718,130	0.11
3372	Office Furniture (including Fixtures) Manufacturing	1,162	1,046,524	901	1,149,394	0.08
3379	Other Furniture Related Product Manufacturing	216	288,388	1,337	2,340,433	0.06
3391	Medical Equipment and Supplies Manufacturing	3,950	2,735,349	693	758,887	0.09
3399	Other Miscellaneous Manufacturing	7,399	5,215,239	705	801,390	0.09
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.	1,257	4,993,354	3,973	3,303,747	0.12
4232	Furniture and Home Furnishing Merchant Wholesalers	910	3,110,498	3,417	2,854,446	0.12
4233	Lumber and Other Construction Materials Merchant Wholesalers.	785	2,505,110	3,193	3,557,039	0.09
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers.	1,916	5,577,568	2,912	2,405,983	0.12
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.	556	2,106,984	3,790	6,228,340	0.06
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.	1,576	5,580,492	3,542	3,369,434	0.11
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.	816	2,636,524	3,230	2,796,763	0.12
4238	Machinery, Equipment, and Supplies Merchant Wholesalers.	3,312	15,267,247	4,610	2,896,468	0.16
4239	Miscellaneous Durable Goods Merchant Wholesalers	2,551	6,358,104	2,492	2,832,277	0.09
4241	Paper and Paper Product Merchant Wholesalers	610	2,004,758	3,287	2,995,604	0.11
4242	Drugs and Druggists' Sundries Merchant Wholesalers	563	1,888,913	3,356	4,020,123	0.08
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	1,248	3,098,845	2,483	2,808,295	0.09
4244	Grocery and Related Product Merchant Wholesalers	2,242	7,359,247	3,283	4,893,717	0.07
4245	Farm Product Raw Material Merchant Wholesalers	266	1,240,969	4,671	11,316,686	0.04
4246	Chemical and Allied Products Merchant Wholesalers	676	2,375,082	3,516	5,030,093	0.07
4247	Petroleum and Petroleum Products Merchant Wholesalers	263	1,242,062	4,718	20,772,751	0.02
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.	243	763,626	3,147	3,176,806	0.10
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	1,870	6,010,140	3,215	2,900,974	0.11
4251	Wholesale Trade Agents and Brokers	3,577	7,395,194	2,068	8,758,811	0.02
4411	Automobile Dealers	4,702	9,420,631	2,004	3,255,236	0.06
4412	Other Motor Vehicle Dealers	1,853	4,518,777	2,439	2,697,277	0.09
4413	Automotive Parts, Accessories, and Tire Retailers	4,859	11,159,040	2,297	1,134,410	0.20
4441	Building Material and Supplies Dealers	5,693	7,059,545	1,240	1,614,974	0.08
4442	Lawn and Garden Equipment and Supplies Retailers	2,502	5,016,485	2,005	1,498,082	0.13
4451	Grocery and Convenience Retailers	10,521	16,794,972	1,596	1,054,320	0.15
4452	Specialty Food Retailers	3,551	5,729,397	1,613	900,891	0.18
4453	Beer, Wine, and Liquor Retailers	5,163	5,975,343	1,157	1,325,671	0.09
4491	Furniture and Home Furnishings Retailers	6,010	8,962,736	1,491	1,223,523	0.12
4492	Electronics and Appliance Retailers	3,217	4,908,069	1,525	1,030,417	0.15
4551	Department Stores	148	190,770	1,287	1,621,586	0.08
4552	Warehouse Clubs, Supercenters, and Other General Merchandise Retailers.	2,556	3,419,681	1,338	842,471	0.16
4561	Health and Personal Care Retailers	7,776	9,533,570	1,226	1,791,759	0.07
4571	Gasoline Stations	10,327	15,498,593	1,501	2,804,858	0.05
4572	Fuel Dealers	649	1,060,755	1,635	2,693,189	0.06
4581	Clothing and Clothing Accessories Retailers	5,967	8,712,135	1,460	698,207	0.21
4582	Shoe Retailers	1,010	1,421,801	1,408	1,020,151	0.14
4583	Jewelry, Luggage, and Leather Goods Retailers	2,976	3,898,966	1,310	1,079,268	0.12
4591	Sporting Goods, Hobby, and Musical Instrument Retailers	5,150	7,074,290	1,374	864,136	0.16
4592	Book Retailers and News Dealers	774	988,633	1,278	744,295	0.17
4593	Florists	2,213	3,540,277	1,600	494,498	0.32
4594	Office Supplies, Stationery, and Gift Retailers	3,317	4,621,207	1,393	627,443	0.22
4595	Used Merchandise Retailers	2,352	3,240,613	1,378	608,402	0.23
4599	Other Miscellaneous Retailers	5,911	8,732,908	1,477	1,042,423	0.14
4811	Scheduled Air Transportation	278	293,355	1,054	3,080,504	0.03
4812	Nonscheduled Air Transportation	1,285	1,286,819	1,001	2,040,509	0.05
4821	Rail Transportation	96	51,361	536	399,619	0.13
4831	Deep Sea, Coastal, and Great Lakes Water Transportation.	455	544,184	1,196	2,200,414	0.05
4832	Inland Water Transportation	323	453,643	1,403	1,350,810	0.10
4841	General Freight Trucking	51,643	37,499,799	726	861,013	0.08
4842	Specialized Freight Trucking	35,020	26,650,522	761	892,912	0.09
4851	Urban Transit Systems	373	312,637	839	839,880	0.10
4852	Interurban and Rural Bus Transportation	332	422,567	1,274	833,268	0.15

TABLE VIII.D.3—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
4853	Taxi and Limousine Service	5,931	6,596,898	1,112	473,725	0.23
4854	School and Employee Bus Transportation	1,444	1,578,496	1,093	381,438	0.29
4855	Charter Bus Industry	663	764,143	1,152	976,121	0.12
4859	Other Transit and Ground Passenger Transportation	3,097	2,381,262	769	514,988	0.15
4861	Pipeline Transportation of Crude Oil	27	34,499	1,282	5,687,521	0.02
4862	Pipeline Transportation of Natural Gas	59	90,847	1,528	15,269,599	0.01
4869	Other Pipeline Transportation	29	37,586	1,288	4,867,763	0.03
4871	Scenic and Sightseeing Transportation, Land	474	570,363	1,203	670,486	0.18
4872	Scenic and Sightseeing Transportation, Water	1,385	2,109,958	1,524	589,761	0.26
4879	Scenic and Sightseeing Transportation, Other	208	272,900	1,311	812,572	0.16
4881	Support Activities for Air Transportation	2,961	3,481,748	1,176	1,058,641	0.11
4882	Support Activities for Rail Transportation	315	430,553	1,366	1,603,240	0.09
4883	Support Activities for Water Transportation	1,396	1,914,888	1,372	1,256,551	0.11
4884	Support Activities for Road Transportation	8,222	6,121,945	745	687,092	0.11
4885	Freight Transportation Arrangement	11,283	15,674,157	1,389	1,583,872	0.09
4889	Other Support Activities for Transportation	1,202	1,095,829	912	799,155	0.11
4921	Couriers and Express Delivery Services	3,125	2,811,195	900	843,986	0.11
4922	Local Messengers and Local Delivery	2,990	2,455,403	821	741,162	0.11
4931	Warehousing and Storage	3,555	3,599,514	1,012	1,301,304	0.08
5121	Motion Picture and Video Industries	2,383	4,673,631	1,962	903,851	0.22
5122	Sound Recording Industries	445	780,716	1,754	660,025	0.27
5131	Newspaper, Periodical, Book, and Directory Publishers	1,936	4,503,697	2,326	816,692	0.28
5132	Software Publishers	1,057	2,023,518	1,915	1,268,517	0.15
5161	Radio and Television Broadcasting Stations	370	1,470,235	3,969	662,207	0.60
5162	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers	235	560,991	2,388	1,346,479	0.18
5171	Wired and Wireless Telecommunications (except Satellite)	942	1,900,994	2,018	1,249,302	0.16
5174	Satellite Telecommunications	40	86,847	2,157	1,745,466	0.12
5178	All Other Telecommunications	287	502,736	1,753	1,126,736	0.16
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	1,112	2,196,650	1,976	1,171,961	0.17
5192	Web Search Portals, Libraries, Archives, and Other Information Services	468	867,704	1,853	507,510	0.37
5221	Depository Credit Intermediation	637	1,709,643	2,682	1,711,700	0.16
5222	Nondepository Credit Intermediation	1,654	3,919,691	2,369	1,191,143	0.20
5223	Activities Related to Credit Intermediation	1,718	3,212,716	1,870	758,941	0.25
5231	Securities and Commodity Contracts Intermediation and Brokerage	1,349	2,298,865	1,704	1,235,568	0.14
5232	Securities and Commodity Exchanges	0	19,633	39,745	753,808,884	0.01
5239	Other Financial Investment Activities	6,852	11,878,438	1,734	1,247,480	0.14
5241	Insurance Carriers	499	1,011,256	2,025	3,600,269	0.06
5242	Agencies, Brokerages, and Other Insurance Related Activities	17,366	34,184,872	1,968	575,155	0.34
5251	Insurance and Employee Benefit Funds	197	166,858	849	198,788	0.43
5259	Other Investment Pools and Funds	112	200,679	1,786	1,085,641	0.16
5311	Lessors of Real Estate	12,961	26,616,095	2,054	1,090,656	0.19
5312	Offices of Real Estate Agents and Brokers	14,379	25,261,103	1,757	700,221	0.25
5313	Activities Related to Real Estate	10,077	22,407,861	2,224	584,901	0.38
5321	Automotive Equipment Rental and Leasing	482	1,447,641	3,004	1,018,247	0.29
5322	Consumer Goods Rental	1,039	3,003,692	2,891	609,218	0.47
5323	General Rental Centers	284	865,973	3,049	969,539	0.31
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	949	2,282,588	2,404	1,447,107	0.17
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	285	476,238	1,669	3,054,162	0.05
5411	Legal Services	22,852	45,807,442	2,005	747,237	0.27
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services	14,754	29,735,652	2,015	425,212	0.47
5413	Architectural, Engineering, and Related Services	11,568	42,680,149	3,690	796,165	0.46
5414	Specialized Design Services	4,322	10,844,535	2,509	651,156	0.39
5415	Computer Systems Design and Related Services	15,074	30,869,789	2,048	699,158	0.29
5416	Management, Scientific, and Technical Consulting Services	21,484	48,439,074	2,255	605,529	0.37
5417	Scientific Research and Development Services	1,662	4,503,806	2,709	1,184,901	0.23
5418	Advertising, Public Relations, and Related Services	4,240	11,597,282	2,735	972,915	0.28
5419	Other Professional, Scientific, and Technical Services	8,042	31,055,715	3,862	718,191	0.54
5511	Management of Companies and Enterprises	622	1,694,619	2,724	2,000,475	0.14
5611	Office Administrative Services	3,518	5,423,804	1,542	785,494	0.20
5612	Facilities Support Services	157	441,128	2,817	1,344,810	0.21
5613	Employment Services	2,522	4,435,122	1,758	862,254	0.20
5614	Business Support Services	2,939	3,932,901	1,338	637,724	0.21
5615	Travel Arrangement and Reservation Services	1,846	2,452,247	1,328	1,145,290	0.12
5616	Investigation and Security Services	2,305	7,402,537	3,212	568,222	0.57
5617	Services to Buildings and Dwellings	24,202	62,022,534	2,563	441,221	0.58
5619	Other Support Services	2,194	4,403,819	2,007	960,942	0.21
5621	Waste Collection	893	1,162,660	1,301	1,262,504	0.10
5622	Waste Treatment and Disposal	140	316,092	2,251	1,725,940	0.13

TABLE VIII.D.3—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
5629	Remediation and Other Waste Management Services	1,086	3,133,580	2,885	1,098,195	0.26
6111	Elementary and Secondary Schools	1,169	3,475,761	2,973	637,302	0.47
6112	Junior Colleges	29	111,992	3,817	2,336,262	0.16
6113	Colleges, Universities, and Professional Schools	119	231,971	1,952	1,512,355	0.13
6114	Business Schools and Computer and Management Training.	1,062	1,591,435	1,498	755,854	0.20
6115	Technical and Trade Schools	841	1,646,426	1,959	687,422	0.28
6116	Other Schools and Instruction	6,476	11,488,813	1,774	332,175	0.53
6117	Educational Support Services	1,096	1,574,151	1,437	604,768	0.24
6211	Offices of Physicians	6,908	12,269,746	1,776	960,870	0.18
6212	Offices of Dentists	5,290	13,513,854	2,555	948,924	0.27
6213	Offices of Other Health Practitioners	5,695	10,110,019	1,775	447,256	0.40
6214	Outpatient Care Centers	536	1,544,461	2,879	989,325	0.29
6215	Medical and Diagnostic Laboratories	265	717,035	2,703	1,182,302	0.23
6216	Home Health Care Services	653	2,917,046	4,468	518,702	0.86
6219	Other Ambulatory Health Care Services	209	655,184	3,137	797,038	0.39
6221	General Medical and Surgical Hospitals	4	20,164	5,297	10,704,238	0.05
6222	Psychiatric and Substance Abuse Hospitals	1	60,072	40,967	15,140,669	0.27
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.	2	89,129	45,058	23,112,360	0.19
6231	Nursing Care Facilities (Skilled Nursing Facilities)	97	299,181	3,092	1,138,055	0.27
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.	246	1,184,615	4,820	495,389	0.97
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.	523	2,224,552	4,252	439,078	0.97
6239	Other Residential Care Facilities	83	513,007	6,216	469,247	1.32
6241	Individual and Family Services	1,805	7,386,994	4,092	424,361	0.96
6242	Community Food and Housing, and Emergency and Other Relief Services.	334	1,555,480	4,659	990,632	0.47
6243	Vocational Rehabilitation Services	81	345,131	4,262	566,673	0.75
6244	Child Care Services	2,132	20,144,880	9,448	290,434	3.25
7111	Performing Arts Companies	4,171	4,129,821	990	787,860	0.13
7112	Spectator Sports	1,794	1,430,879	797	1,258,295	0.06
7113	Promoters of Performing Arts, Sports, and Similar Events	3,604	3,665,186	1,017	1,122,492	0.09
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.	2,047	2,033,576	993	1,093,566	0.09
7115	Independent Artists, Writers, and Performers	15,202	14,251,524	937	787,943	0.12
7121	Museums, Historical Sites, and Similar Institutions	3,149	3,311,160	1,051	608,424	0.17
7131	Amusement Parks and Arcades	1,354	1,316,414	972	516,918	0.19
7132	Gambling Industries	744	922,020	1,239	1,354,532	0.09
7139	Other Amusement and Recreation Industries	28,297	22,821,999	807	483,584	0.17
7211	Traveler Accommodation	12,993	15,574,139	1,199	877,297	0.14
7212	RV (Recreational Vehicle) Parks and Recreational Camps	2,293	1,620,981	707	721,900	0.10
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps.	654	651,616	996	650,782	0.15
7223	Special Food Services	6,293	4,826,527	767	453,753	0.17
7224	Drinking Places (Alcoholic Beverages)	12,801	9,231,321	721	450,393	0.16
7225	Restaurants and Other Eating Places	117,267	109,738,307	936	537,890	0.17
8111	Automotive Repair and Maintenance	64,015	85,582,777	1,337	646,006	0.21
8112	Electronic and Precision Equipment Repair and Maintenance.	4,843	7,081,340	1,462	555,490	0.26
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	8,375	11,158,572	1,332	842,857	0.16
8114	Personal and Household Goods Repair and Maintenance	9,205	10,159,719	1,104	380,439	0.29
8121	Personal Care Services	50,363	59,103,771	1,174	267,441	0.44
8122	Death Care Services	6,418	9,445,610	1,472	854,725	0.17
8123	Drycleaning and Laundry Services	12,190	12,520,561	1,027	353,835	0.29
8129	Other Personal Services	15,818	15,920,372	1,006	339,338	0.30
8131	Religious Organizations	76,718	98,017,873	1,278	417,227	0.31
8132	Grantmaking and Giving Services	7,573	8,483,782	1,120	2,705,446	0.04
8133	Social Advocacy Organizations	6,199	6,958,994	1,123	816,788	0.14
8134	Civic and Social Organizations	10,249	12,512,391	1,221	479,271	0.25
8139	Business, Professional, Labor, Political, and Similar Organizations.	23,841	28,061,383	1,177	819,457	0.14
9993	Local Government	1,922	4,052,837	2,109	1,111,959	0.19
Total		1,847,745	2,177,399,776	1,178	987,455	0.12

Source: OSHA estimate.

E. Benefits

I. Introduction

OSHA’s proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings is a crucial step towards ensuring the health, safety, and well-being of employees with occupational exposure to hazardous heat. Compliance with this standard is projected to yield substantial health and safety benefits, primarily through the reduction of occupational non-fatal heat-related injuries and illnesses (HRIs) and heat-related fatalities. These include severe conditions such as heat stroke, which can be fatal if not promptly treated, and heat exhaustion, which can lead to more serious complications if ignored. To estimate the health and safety benefits of this standard, OSHA has conducted an analysis of data on workplace incidents involving exposure to heat. In this section, OSHA will first present the available BLS data on HRIs and heat-related fatalities. After that, there is a discussion of underreporting issues surrounding these data which leads to a presentation of OSHA’s underreporting adjusted count of HRIs and heat-related fatalities. Even with this adjustment, there remains a great deal of uncertainty surrounding the extent of underreporting, other parameters used in this estimation of health and safety benefits, as well as additional potential benefits, all of which the agency discusses next in an uncertainty analysis. Finally, this section includes a sensitivity analysis that calculates the potential benefits of this standard assuming different parameters to demonstrate the range of potential quantifiable benefits.

II. Fatal and Non-Fatal Heat-Related Injuries and Illnesses

OSHA estimated the potential benefits of the proposed standard by determining the number of HRIs and heat-related fatalities that could be prevented through its provisions. This estimation was based on data regarding occupational fatalities and HRIs resulting from exposure to environmental heat. OSHA conducted this analysis using data from the BLS Injuries, Illnesses, and Fatalities (IIF) program. The IIF program collects data annually through two major surveys: the Census of Fatal Occupational Injuries (CFOI) and the Survey of Occupational Injuries and Illnesses (SOII). OSHA identified the number of heat-related fatalities and HRIs by searching BLS’ CFOI and SOII databases for incidents captured under BLS event or exposure

classification code 531—Exposure to Environmental Heat.

A. Heat-Related Fatalities

The CFOI, a Federal/State cooperative program, aims to provide accurate, comprehensive, and timely information on occupational fatalities. According to the CFOI data, between 1992 and 2022, there were 1,042 fatal cases due to employee exposure to environmental heat (BLS, 2024c). As depicted in table VIII.E.1., while the annual number of heat-related fatalities has fluctuated over this 31-year period, a gradual increasing trend in the annual average is evident.

TABLE VIII.E.1—OCCUPATIONAL FATALITIES: EXPOSURE TO ENVIRONMENTAL HEAT, ALL OWNERSHIPS, U.S.

[1992–2022]	
Year	Number of fatalities
1992	12
1993	22
1994	28
1995	35
1996	18
1997	22
1998	34
1999	35
2000	21
2001	24
2002	40
2003	29
2004	18
2005	47
2006	44
2007	32
2008	27
2009	35
2010	40
2011	61
2012	31
2013	34
2014	18
2015	37
2016	39
2017	32
2018	49
2019	43
2020	56
2021	36
2022	43
Total Fatalities	1,042

Source: BLS, 2024c.

To assess recent trends, OSHA focused its analysis on heat-related fatalities between 2011 and 2022. Over this 12-year timeframe, BLS CFOI data reported a total of 479 work-related fatalities from exposure to environmental heat, an average of 40 fatalities per year. OSHA also evaluated the fatality counts by industry. Due to BLS publication guidelines, some

industry-level estimates were not publishable, denoted by dashes in the BLS tables. OSHA used the BLS data to estimate the number of fatalities by industry for those cases. OSHA used four steps to estimate the number of industry fatalities in years with undisclosed BLS data.

First, OSHA reviewed the total annual number of heat-related fatalities in all industries, comparing this total to the sum of annual total fatalities in private industry and government. In all cases where the sum of the fatalities in the two categories did not match the total annual fatalities, one of the categories had an undisclosed annual fatality count. Therefore, OSHA assumed that the fatality count for the undisclosed estimate was equal to the difference between total annual fatalities and the fatalities in the published estimate (total for private industry or government). For example, in 2020, the total number of fatalities in all industries was 56, the total number of fatalities in private industry was 52, and the total in government was undisclosed. OSHA estimated that the number of heat-related fatalities in government was equal to the difference, four.

Second, OSHA reviewed the total heat-related deaths in all private industry and compared to the sum of heat-related fatalities in private goods-producing industries and private service-producing industries combined. Since these two groups cover all private industry, the numbers are expected to be equal. In 2019–2022, the data for both categories (goods-producing and service-providing) was undisclosed. OSHA estimated the number of fatalities for both categories for 2019–2022. Using the data from 2011–2018, OSHA divided the average percentage of heat-related private industry fatalities that were attributable to each group, estimating that 63 percent of private industry fatalities were in goods-producing industries and the remaining 37 percent were in service-producing industries. In each of the four years with undisclosed data, OSHA estimated the total fatalities in goods-producing and service-providing industries by multiplying each percentage by the total number of private industry annual heat-related fatalities. For example, in 2019, OSHA estimates that 63 percent of the private industry fatalities, 25.3 fatalities, are in goods-producing industries.

Next, OSHA reviewed the super-sectors within private goods-producing and private service-providing industries, comparing the total annual fatalities in each category to the sum of the annual fatalities of the lower, more

detailed underlying super-sectors.⁹³ In years where the comparison showed a mismatch due to undisclosed data, OSHA estimated the data for the undisclosed super-sectors by distributing the difference between the total annual fatalities and the sum of fatalities in the underlying super-sectors across the super-sectors with undisclosed data. More specifically, the estimate for these undisclosed super-sectors was set equal to the difference described above multiplied by the percentage of non-fatal heat-related incidents⁹⁴ by super-sector. This percentage is calculated by the estimate of average annual heat-related non-fatal injuries and illnesses within the super-sector divided by the average total number of heat-related incidents in the category in which it belongs (*i.e.*, goods-producing or service-providing).

Finally, OSHA examined the annual fatality counts for government and used a different method to estimate fatalities due to the differences in scope between SOII and CFOI.⁹⁵ For each year, OSHA calculated the difference between the total annual heat-related fatalities in

government and the sum of annual fatality counts by all government ownership types (Federal, State, and local). OSHA assumed this difference represents the number of fatalities for ownership types with undisclosed yearly estimates. OSHA evenly distributed the difference across all government ownerships with undisclosed estimates for that year. For example, in 2020 there were four total heat-related fatalities in all government. Since none of the government ownership types had disclosed estimates, OSHA estimated that local, State, and Federal Government had 1.3 (4/3) fatalities each. Table VIII.E.2. presents the total estimated fatality counts for 2011 to 2022 by industry groups.

Further analysis of the data revealed that an estimated 88.1 percent or 422 of these fatalities occurred within private industry, while 11.9 percent or 57 fatalities were recorded in Federal, State, and local governments. Within the private industry, the Goods Producing industries accounted for 262 of these estimated fatalities, with

Construction accounting for 162 of the incidents within that sector. Natural Resources and Mining (which includes agriculture) and Manufacturing accounted for 52 and 49 of the estimated fatalities within the Goods-Producing industries respectively. Additionally, 160 of the 422 fatalities in private industry occurred in the Service-Providing industries, which includes super-sectors such as Trade, Transportation and Utilities, Leisure and Hospitality, and Professional and Business Services. Professional and Business Services (this NAICS super-sector can include disparate occupations, including janitors, material movers, groundskeeping workers, office clerks, security guards, architects, accountants, engineers, general managers, waste collectors, and lawyers) made up nearly 45 percent of all fatalities within the Service Providing industries, accounting for 71 of the 160 fatalities within this group. These findings are detailed below in table VIII.E.2., illustrating the distribution of fatalities across different sectors and industries.

TABLE VIII.E.2—ESTIMATED OCCUPATIONAL FATALITIES BY INDUSTRY: EXPOSURE TO ENVIRONMENTAL HEAT, NUMBER AND PERCENT, ALL OWNERSHIPS, U.S.
[2011–2022]

Industry	Estimated total number of fatalities	Percent of total fatalities
Total Injuries Fatalities	479	.....
Private Industry ^a	422	88.1
Goods Producing Industries ^{b,c}	262	54.8
Natural Resources and Mining	52	10.8
Construction	162	33.7
Manufacturing	49	10.3
Service Providing Industries ^{b,c}	160	33.3
Trade, Transportation and Utilities	45	9.4
Information	7	1.4
Financial Activities	5	1.0
Professional and Business Services	71	14.8
Education and Health Services	7	1.4
Leisure and Hospitality	15	3.2
Other Services	10	2.0
Government ^{a,d}	57	11.9
Federal Government	26	5.5
State Government	10	2.1
Local Government	21	4.3

Source: OSHA derived estimates based on BLS, 2024c.

^a OSHA estimated years with undisclosed data using the difference between total annual fatalities and the sum of private industry and government fatalities.

^b OSHA estimated years with undisclosed estimates for goods-producing industry totals and service-providing industry totals by comparing the annual sum of both categories to the total annual private industry fatalities and adjusting for the average percentage of private industries that fall within each category.

^c For years with undisclosed data in the underlying super-sectors within these categories, OSHA estimated the number of fatalities by multiplying the number of fatalities unaccounted for in the published data by a ratio of the non-fatal heat-related injuries and illnesses for the super-sector.

⁹³ The underlying super-sectors of Goods-Producing Industries are Natural Resources and Mining (includes agriculture), Construction, and Manufacturing. The underlying super-sectors within Service-Providing industries are Trade, Transportation, and Utilities; Information; Financial

Activities; Professional and Business Services; Education and Health Services; Leisure and Hospitality; and Other Services.

⁹⁴ The percentage of total domain-level non-fatal heat-related incidents by super-sector was

calculated using the SOII data from 2011–2022, described in more detail in section VIII.E.II.B., below.

⁹⁵ SOII excludes Federal Government ownership and CFOI does not.

^d Estimates for the three different government ownership codes with annual undisclosed data were estimated by distributing the residual between the total annual government fatalities and the sum of published fatalities at the more detailed government ownership level, evenly across all government ownership types with undisclosed estimates.

B. Non-Fatal Heat-Related Injuries and Illnesses (HRIs)

The BLS SOII is a Federal/State cooperative program that publishes estimates on non-fatal occupational injuries and illnesses, including HRIs.

From 2011 to 2022, SOII recorded a total of 39,450 HRIs that required days away from work, averaging 3,288 HRIs per year (BLS, 2023b; BLS, 2023g; and BLS, 2023h). As detailed in table VIII.E.3., 35.8 percent of these HRIs required only one day away from work to recover after

the incident, 21.5 percent required two days, and 23.9 percent needed three to five days. The remaining 18.8 percent of cases needed six or more days away from work for recovery from injuries and illnesses caused by exposure to environmental heat.

TABLE VIII.E.3—NON-FATAL OCCUPATIONAL INJURIES AND ILLNESSES REQUIRING DAYS AWAY FROM WORK: EXPOSURE TO ENVIRONMENTAL HEAT, NUMBER AND PERCENT, ALL OWNERSHIPS, U.S.

[2011–2022]

	Number of non-fatal injuries and illnesses	Percent of total non-fatal injuries and illnesses
Total Non-Fatal Injuries and Illnesses	39,450	.....
Number of days away from work:		
Cases involving 1 day	14,130	35.8
Cases involving 2 days	8,500	21.5
Cases involving 3–5 days	9,440	23.9
Cases involving 6–10 days	3,660	9.3
Cases involving 11–20 days	1,760	4.5
Cases involving 21–30 days	480	1.2
Cases involving 31 or more days	1,500	3.8
Median days away from work ^a	2	.....

Source: OSHA calculations based on BLS, 2023b; BLS, 2023g; and BLS, 2023h.

Note: Because of rounding and data exclusion of nonclassifiable responses, data may not sum to the totals. Days away from work include those that result in days away from work with or without job transfer or restriction.

^a Median days away from work is the measure used to summarize the varying lengths of absences from work among the cases with days away from work. Half the cases involved more days and half involved less days than a specified median. Median days away from work are represented in actual values.

Table VIII.E.4. details the BLS' SOII estimates of annual incidence rates of HRIs between 2011 and 2022. Over this

period, the average estimated annual incidence rate is 3 cases per 100,000 full-time workers for HRIs. This

incidence rate indicates the annual frequency of injuries and illnesses due to heat exposure.

TABLE VIII.E.4—NON-FATAL OCCUPATIONAL INJURIES OR ILLNESSES: EXPOSURE TO ENVIRONMENTAL HEAT, NUMBER AND ANNUAL INCIDENCE RATES PER 100,000 WORKERS, ALL OWNERSHIPS, U.S.

[2011–2022]

Year	Number of non-fatal injuries or illnesses	Incidence rate per 100,000 full-time workers
2011	4,420	4
2012	4,170	4
2013	3,160	3
2014	2,660	2
2015	2,830	3
2016	4,110	4
2017	3,180	3
2018	3,950	3
2019	3,080	3
2020	2,330	2
2021 & 2022	5,560	2
Total Non-Fatal Injuries and Illnesses, All Ownerships	39,450	.....
Average Non-Fatal Injuries and Illnesses Per Year	3,288	3

Source: BLS, 2023b; BLS, 2023g; and BLS, 2023h.

Note: Starting with 2021, BLS published data biennially. The number of HRIs reported for 2021 and 2022, is a biennial estimate.

Table VIII.E.5. presents the number of HRIs by industry from 2011 to 2022. Similar to the findings illustrated in table VIII.E.2., table VIII.E.5.

demonstrates that the majority of HRIs also occur predominantly within private industry, accounting for 79.9 percent or 31,510 of the 39,450 non-fatal injuries

and illnesses. Twenty-one percent of HRIs occurred within State and local governments, accounting for 7,930 of all HRIs. Within private industry, more

than half of all recorded HRIs occurred in the Service Providing sector, which accounted for 18,460 of the total 31,510 HRIs recorded. The Trade, Transportation, and Utilities industry (which includes Wholesale Trade, Retail Trade, Transportation and Warehousing,

and Utilities) made up 8,010 of HRIs within the Service Providing sector, followed by Professional and Business Services, and Leisure and Hospitality with 4,260, and 1,790 HRIs, respectively. The Goods Producing sector accounted for 13,050 of the total

HRIs within private industry, most of which occurred within the Construction and Manufacturing industries, with 6,130 and 5,100 non-fatal cases respectively.

TABLE VIII.E.5—NON-FATAL OCCUPATIONAL INJURIES AND ILLNESSES BY INDUSTRY: EXPOSURE TO ENVIRONMENTAL HEAT, NUMBER AND PERCENT, ALL OWNERSHIPS, U.S.
[2011–2022]

Industry	Number of injuries and illnesses	Percent of total injuries and illnesses
Total Injuries and Illnesses	39,450	.....
Private Industry	31,510	79.9
Goods Producing Industries	13,050	33.1
Natural Resources and Mining	1,790	4.5
Agriculture, Forestry, Fishing and Hunting	1,200	3.0
Mining	580	1.5
Construction	6,130	15.5
Manufacturing	5,100	12.9
Service Providing Industries	18,460	46.8
Trade, Transportation and Utilities	8,010	20.3
Wholesale Trade	1,570	4.0
Retail Trade	2,200	5.6
Transportation and Warehousing	3,900	9.9
Utilities	330	0.8
Information	1,140	2.9
Financial Activities	810	2.1
Finance and Insurance .....	.....	.....
Real Estate and Rental and Leasing	680	1.7
Professional and Business Services	4,260	10.8
Professional, Scientific, and Technical Services	120	0.3
Management of Companies and Enterprises	60	0.2
Administrative and support and waste management and remediation services	3,520	8.9
Education and Health Services	1,140	2.9
Educational Services	110	0.3
Healthcare and Social Assistance	1,000	2.5
Leisure and Hospitality	1,790	4.5
Arts, Entertainment, and Recreation	540	1.4
Accommodation and Food Services	1,230	3.1
Other Services	1,250	3.2
Other Services, Except Public Administration	1,250	3.2
Public Administration .....	.....	.....
State Government	1,490	3.8
Local Government	6,440	16.3

Source: OSHA calculation from BLS, 2023b; BLS, 2023g; and BLS, 2023h.

Note: Because of rounding and data exclusion for detailed categories that did not meet the BLS publication guidelines, data may not sum to the totals. The SOII excludes all work-related fatalities as well as non-fatal work injuries and illnesses to the self-employed, to workers on farms with 10 or fewer employees, to private household workers; to volunteers, and to Federal Government workers.

C. Underreporting

Based on an analysis of relevant academic literature (discussed in detail in Section V.A., Risk Assessment), OSHA has determined that heat-related occupational fatalities and HRIs are underreported due to (1) employers not being fully compliant with recordkeeping rules, (2) employees not reporting cases to their employers, (3) a lack of identifying heat as the cause of a heat-related injury or illness, and (4)

the scope and inclusion criteria of the various surveillance data.

I. Underreporting of Heat-Related Fatalities

BLS CFOI is well-regarded as the most complete and authoritative source on fatal workplace injuries and estimates of its magnitude of underreporting of occupational fatalities do not exist. However, there may be factors specific to heat-related fatalities that make CFOI

particularly likely to misclassify the cause of death as being due to some other cause. This could mean that heat-related fatalities may be historically excluded from CFOI (e.g., cause of death is listed as cardiac arrest) or listed under another, not heat-specific Occupational Injury and Illness Classification System (OIICS) category (e.g., a worker faints due to heat exposure, falls from a height, and subsequently suffers a fatal traumatic injury). Additionally, as

discussed in Section V.A., Risk Assessment, the documentation upon which BLS relies to code occupational fatalities (e.g., death certificates, coroner reports) may have limitations for heat-related fatalities due to the lack of expertise or experience of the individual determining the cause of death and whether the individual witnessed the events preceding the fatality. Therefore, OSHA has preliminarily determined that there is reason to believe that the number of heat-related fatalities in CFOI are undercounted, but precise estimates of this quantification do not exist.

II. OSHA's Underreporting Adjustment—Heat-Related Fatalities

Heat-related fatalities are often identified in public health surveillance through review of International Classification of Diseases (ICD) codes listed in death certificates, which are known to be limited in their capture of heat as a cause-of-death (Shen et al., 1998). However, epidemiologists have increasingly used statistical techniques to identify excess deaths attributable to heat, both globally and in the United States, regardless of the cause-of-death listed on the death certificate. A recent study from 2020 estimated that, on average, 5,608 excess deaths were the result of heat each year between 1997 and 2006 in the 297 counties examined (representing approximately 62 percent of the U.S. population) or 9,045 excess deaths per year when extrapolated to the full nation (Weinberger et al., 2020). Estimates for similar time periods using the death certificate approach ranged from 618 to 658 heat-related deaths per year across the U.S. (Xu, 2012; Fowler et al., 2013). This would suggest that nationally heat-related deaths may be 13.7-to-14.6 fold undercounted. However, it is unclear if this ratio could be applied to CFOI estimates of occupational heat-related fatalities, as it is not clear what proportion of these excess deaths occurred among workers. Recent evidence from Mexico indicates that heat-related excess deaths are concentrated among working-age individuals and children (preprint by Wilson et al., 2024). If the same pattern holds in the U.S., then the undercounting estimates above (13.7–14.6) might be understating the magnitude of the undercount for workers. However, another recent study that examined heat-related excess deaths in Europe found that these deaths were predominantly concentrated among individuals over the age of 65 (Ballester et al., 2023). If this pattern were true for the U.S., the undercounting estimates above might be overstating the magnitude of

undercounting for workers. These two studies had important differences in methodology (e.g., use of exposure metric, use of observational weather data, and age groups analyzed) and underlying population (e.g., age distribution), and the researchers were not able to characterize work-related deaths. Given that the proportion of work-related deaths among the total estimated excess heat-related deaths in the U.S. is unknown, OSHA did not adjust the ratio derived from comparing Weinberger et al.'s estimates to Xu and Fowler et al.'s counts. Therefore, for this analysis, OSHA estimates that occupational fatalities due to heat are undercounted by a factor of 14. Additional values of the undercount—both higher and lower—are presented later in this section in a sensitivity analysis. OSHA welcomes comment on the estimates of avoided fatalities, the underreporting adjustment, data sources, and methodologies employed here. The agency welcomes additional studies that OSHA should consider and comment on whether there are more appropriate underreporting factors that should be used to adjust reported fatalities in the final economic analysis.

III. Underreporting of Non-Fatal HRIs

As discussed in Section V.A., Risk Assessment, researchers and government agencies have long acknowledged the shortcomings of BLS's SOII in accurately estimating all non-fatal occupational injuries and illnesses. One limitation is the scope of cases for which BLS has historically reported enough information to identify HRIs—only those cases involving days away from work.⁹⁶ Another limitation of SOII is the reliance on employer-reported data, as research has demonstrated that employers are not always fully compliant with recordkeeping rules. Quantifying the magnitude of the undercounting of SOII is difficult, but comparisons to workers' compensation and other databases provide some context for the potential magnitude of undercounting.

IV. OSHA's Underreporting Adjustment—Non-Fatal HRIs

The best available estimates of the magnitude of the underreporting of injuries and illnesses comes from a 2014 study funded by BLS that compared State-based surveillance data from California (specifically the Workers'

Compensation Information System, data from healthcare facilities across the State, and Doctors' First Reports of Occupational Illness or Injury) to BLS SOII microdata for both carpal tunnel syndrome and amputations from 2007–2008 (Joe et al., 2014). In this study, researchers linked individual cases in each dataset to the corresponding case in other datasets to obtain a better estimate of the total number of cases for each outcome occurring in California during this time. They found that the State-based data sources contained 5 times more amputations and 10 times more carpal tunnel syndrome cases than were reported in the BLS SOII data. Joe et al. (2014) also found that about 30 percent of SOII cases were not captured in the State database which suggests that both sources are failing to capture some injuries.

While Joe et al. (2014) was not specific to heat, a more recent study from California compared the number of HRI claims in the State's Workers' Compensation Information System to the estimated number of HRIs reported in BLS SOII for the same years (2009–2017) (Heinzerling et al., 2020). Heinzerling et al. found 3–6 times the number of HRI cases estimated by SOII in the State's workers' compensation database each year. While this study did not match individual cases as was done in Joe et al. (2014), it is reasonable to assume that similar to the findings in that study, some HRIs that were captured by the SOII data were not captured by the State's workers' compensation data. This would mean that there are even more cases in the State database that are not captured in SOII (which would mean the undercount estimate of 3–6 times is an underestimate). It is also possible that the workers' compensation database examined by Heinzerling et al. (2020) is missing HRIs. In Joe et al., 2014, approximately 54–74 percent of cases identified in the healthcare facility data were only found in that dataset and 46 percent of cases identified in the Doctors' First Reports data were found only in that dataset. This suggests that the number of cases Heinzerling et al. (2020) identified in the workers' compensation data that they compared to BLS SOII may itself have been an undercount.

Finally, simply comparing the total number of recorded occupational fatalities annually to the total number of annual recorded non-fatal injuries and illnesses suggests potentially significant underreporting of HRIs. For each occupational death in 2022, there were about 965 medically consulted work-related injuries (4,695 fatalities to

⁹⁶ BLS expanded their publication of case and demographic data for injury and illness cases involving days of job transfer or restriction (DJTR) with the introduction of biennial estimates in 2021–2022. (<https://www.bls.gov/iif/notes/2022/biennial-estimates.htm>).

4,530,000 medically consulted injuries based on data from the National Safety Council (NSC, n.d.). In 2022, for each occupational fatality, there were about 639 recordable injuries and illnesses (5,486 fatalities to 3.5046 million recordable cases (BLS, 2024c; BLS, 2023b)). This ratio is generally consistent across a number of specific causes or types of occupational fatalities and non-fatal injuries and illnesses. Similarly, for heat-specific cases, a ratio of 1,000 emergency department visits and hospitalizations per 1.4 fatalities was reported in a 2011 analysis by the Florida Department of Health (Florida DOH, 2011; also discussed in Section V.A., Risk Assessment). As such, the ratio of heat-related fatalities to HRIs (about 82 HRIs for every one fatality) from the data that OSHA is relying on for its estimate of benefits indicates an unusually low number of HRIs. Based on the reported number of occupational heat-related fatalities (which OSHA believes, and research supports, is an underestimate) of 40 per year, the expected number of HRIs would be around 38,000 per year versus the 3,288 reported annual HRIs (assuming the relationship between fatalities and non-fatal injuries and illnesses is similar for heat-related fatalities and injuries and illnesses and the all-cause mortality and injury and illness numbers).

Based on these studies, OSHA has preliminarily determined that the range of estimates reported in Joe et al. (2014) (i.e., 5–10 times more cases than in the SOII data) are the best available estimates on the magnitude of undercounting of occupational injuries and illnesses by BLS SOII. These values are supported by Heinzerling et al. (2020) which found 3–6 times the number of HRI cases but which had limitations likely leading to an underestimation of the magnitude. OSHA welcomes comment on this adjustment, submission of additional data or studies that would help the agency refine this estimate, and suggestions on alternative methodologies.

V. Underreporting-Adjusted HRIs and Heat-Related Fatalities

Based on this analysis, OSHA estimates that HRIs are undercounted by a factor of 7.5 (mid-point of 5 and 10) and heat-related fatalities are undercounted by a factor of 14. Applying these factors to BLS' reported 39,450 HRIs and 479 fatalities, OSHA estimates an underreporting adjusted total of 295,875 HRIs and a total of 6,706 heat-related fatalities from 2011 to 2022, an annual average of 24,656 and 559 per year respectively. Additional values of

the undercount—both higher and lower—are presented later in this section in a sensitivity analysis.

III. Monetized Health and Safety Benefits

As explained in Section V.C., Risk Reduction, OSHA has preliminarily determined, based on a review of academic literature on the effectiveness of heat injury and illness prevention methods, that full compliance with this proposed standard would reduce heat-related fatalities by 99.8–100 percent and HRIs by 37–96 percent. For this benefits analysis, OSHA is assuming an effectiveness of 95 percent for fatalities and 65 percent of HRIs. The effect of different assumptions on the outcome of this benefits analysis are discussed below in the sensitivity analysis.

Applying the undercount adjustment to BLS-reported heat-related fatalities and HRIs discussed above by factors of 14 and 7.5 respectively, OSHA estimates that the proposed standard will prevent 531 heat-related fatalities per year (of the estimated 559 fatalities) and 16,027 HRIs per year (of the estimated 24,656 HRIs) under the assumptions of 95 percent effectiveness for heat-related fatalities and 65 percent effectiveness for HRIs.⁹⁷ Using the 2022 estimate of the value of a statistical life (VSL) developed by the Department of Transportation (DOT)⁹⁸ and converting to 2023 dollars using the GDP deflator (BEA, 2024), \$13.77 million, OSHA estimates the monetized benefits from avoided fatal heat-related incidents in the first year would be \$7.310 billion. OSHA monetized benefits of avoided HRIs using the midpoint of the range of the value of a statistical injury (VSI) cited in Viscusi and Gentry (2015), converted to 2023 dollars using the GDP deflator, \$116,588 per injury.⁹⁹ The estimated monetized benefits from avoided HRIs are \$1.869 billion per

⁹⁷ OSHA assumes that the proposed standard is equally effective at preventing fatalities and HRIs that are currently reported in the economic data and those that are currently unreported. The agency welcomes comment on this assumption.

⁹⁸ Available at <https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis> (DOT, 2024). The 2022 estimate was based on a comprehensive 2021 Department of Transportation guidance update, available at <https://www.transportation.gov/sites/dot.gov/files/2021-03/DOT%20VSL%20Guidance%20-%202021%20Update.pdf> (DOT, 2021).

⁹⁹ OSHA welcomes comment regarding this VSI estimate and whether it is an appropriate value given that HRIs may be less severe than other injuries and illnesses typically considered in the VSI derivation. The agency welcomes suggestions on alternative VSI estimates for HRIs as well as supporting data, methodologies, or studies that would help the agency refine this estimate.

year. Total benefits each year for avoided heat-related fatalities and HRIs are \$9.179 billion.

IV. Additional Unquantified Potential Benefits

OSHA believes the proposed standard may provide several additional potential benefits beyond the avoided direct heat-related fatalities and HRIs captured in the monetized health and safety benefits. These potential benefits include avoided indirect fatal and non-fatal injuries related to heat exposure, increased labor supply, and increased utility for employees. The agency's estimate of monetized health and safety benefits has not incorporated benefits for these factors. The values presented here are shown to demonstrate the potential magnitude of these benefits but are highly uncertain and, therefore, not incorporated into the main quantified estimate of the benefits of this proposed standard.

A. Indirect Fatalities and Non-Fatal Injuries

As discussed in detail in Section V.A., Risk Assessment, and Section IV., Health Effects, workers face additional risks from working in hot environments other than the direct physical effects of heat on the employee's body. Indirect injuries that are caused by the physiological effects of heat stress, but are not themselves, heat exhaustion or heat stroke (i.e., falling, motor vehicle accidents, etc.). Direct HRIs and fatalities are those caused by the effects of heat on the body without the involvement of other factors. The underreporting adjustments in the benefits analysis may not capture or only capture some of the underreporting of indirect HRIs and heat-related fatalities. Researchers have used the natural fluctuations in temperatures to conduct quasi-experimental studies examining the relationship between heat and workers' compensation claims for traumatic injuries (Spector et al., 2016; Calkins et al., 2019; Dillender, 2019; Park et al., 2021; Negrusa et al., 2024). These papers' findings suggest that there may be many workers' compensation claims that are heat-related but not coded as such. For instance, Park et al. (2021) estimated that approximately 20,000 injuries per year in California between 2001 and 2018 were caused by hotter temperatures (relative to "optimal" temperature). For comparison, for a similar time period (2000–2017), Heinzerling et al. (2020) only identified an average of 889 HRI workers' compensation claims per year in California (a 22-fold difference),

suggesting that relying on workers' compensation claims for HRIs alone does not capture the higher incidence of injuries of other kinds where heat may have played a role. OSHA has not included a quantified value of potentially avoided indirect heat-related fatalities and non-fatal occupational injuries, but these studies suggest that heat may contribute to additional impacts on employees and that these impacts may be significant. Because of this, the benefits of this proposed standard may be greater than what OSHA estimates in the primary estimate.

If the relationship between directly- and indirectly-caused heat-related non-fatal injuries found in Park et al. (2021) was representative of the true relationship, the number of occupational direct and indirect heat-related non-fatal injuries may be as high as 72,000 annually (based on the BLS-reported annual non-fatal injuries of 3,288 and an estimate of 22 indirect heat-related injuries per 1 direct heat-related injury). Assuming the proposed standard prevented 65 percent of these indirect non-fatal injuries, it might prevent a total of 47,000 indirect non-fatal injuries each year. Monetizing those avoided injuries would represent about an additional \$5.5 billion in benefits (using a VSI of \$116,588 per avoided injury). If the relationship between non-fatal injuries and fatalities seen for occupational injuries and fatalities in general of one fatality for every 1,000 injuries holds for these accidents, this means that there might be 72 indirect heat-related fatalities annually.¹⁰⁰ Given that these are caused by different factors besides heat and so may be preventable at lower rates than direct heat-related fatalities, assuming preventability equal to the preventability of non-fatal injuries, this proposed standard might prevent an additional 46 indirect heat-related fatalities annually. Monetized, this would mean additional benefits of \$644 million.

B. Worker Disutility and Decreased Labor Supply

There is a lengthy economic literature that suggests that humans have strong preferences for not being exposed to extreme temperatures. Roback (1982)

and Sinha et al. (2018) used revealed preference techniques and found that most people experience non-trivial direct disutility¹⁰¹ from exposure to extreme temperatures and that they are willing to pay non-trivial amounts to mitigate those exposures where they can. Studies of real world responses to extreme temperatures including Graff Zivin and Neidell (2014) and Rode et al. (2022) found that workers decrease the amount of labor they are willing to supply (i.e., for workers who are able to do so, they will shorten their work day or choose to not work on a certain day) when temperatures are extreme (with a greater decrease in labor supplied when temperatures are extremely hot versus when they are extremely cold) suggesting that workers prefer to forgo wages rather than be exposed to extreme temperatures. In cases where labor markets are imperfectly competitive, workers might benefit from this proposed standard because they do not have the option to avoid exposure to extreme temperatures, even if they were willing to forgo wages (for more on the implications of imperfect labor market competition for compensating differentials, see, e.g., Burdett and Mortensen, 1998; Sorkin, 2018). While the interventions in this proposed standard will not eliminate the need for work to be performed in hot environments, to the extent that these interventions mitigate some of the physical discomfort caused by heat, employees may experience a decrease in the disutility they face due to working in hot environments.

While an individual's utility or disutility is difficult to measure, Li et al. (2020) found that people expressed a willingness to pay (WTP) between \$2.60 and \$4.60 per day to avoid a hot day. WTP may not already be satisfied in the labor market as a result of imperfect competition, imperfect information, binding minimum wages, or other features of the market. This is not perfectly analogous to utility but gives a range for the value that individuals place on avoiding excessive heat. Assuming a point estimate of a WTP of \$3 per day¹⁰² to mitigate the physical

discomfort of working in hot environments, all employees in the scope of this proposed standard receiving heat protections for 30 days on average would equal benefits of \$3.236 billion. Employees in many parts of the country work in hot conditions for many more than 30 days, meaning that, if benefits to workers to mitigate the negative physical effects of heat that do not rise to the level of a heat injury or illness were captured and monetized, the benefits of this proposed standard may be even greater than those shown by the monetized safety and health benefits.

Graff Zivin and Neidell (2014) found that workers with high exposure to heat reduced their labor supply by as much as one hour per day when the temperatures were above 85°F.¹⁰³ Based on an average loaded hourly wage of \$43.60 (the average for all at-risk workers in the scope of the proposed standard), if employees working in the hottest environments (assumed here to be the sum of workers exposed to process heat and outdoor workers) supply 5 additional hours of labor each over the course of a year, they would cumulatively receive additional wages of \$3.877 billion. Measures that improve the comfort of employees and reduce the negative physical effects of heat could easily result in the small increase in labor supply discussed here. As mentioned previously, employers benefit when employees produce more so the benefits of increased labor supply would be more than just the increased wages paid to employees—employers' revenue would increase because of increased employee output as well.

V. Uncertainty

A few factors contribute to uncertainty in the estimates of the benefits of this proposed standard including potential underreporting of heat-related fatalities and HRIs, uncertainty of the effectiveness of the

might be higher. Second, those surveyed by Li et al. (2020) were not necessarily workers who were working in high heat. Employee's WTP for heat mitigating measures might be higher than a general individual's WTP to avoid hot days in general since employees have to perform physical labor in those hot environments and because employees have less control over workplace factors like resting, clothing choices, or the ability to stay inside or to relocate somewhere with air conditioning. Finally, those surveyed by Li et al. (2020) may have included nonworking individuals who may have a lower income and therefore a lower WTP than individuals who are working for wages.

¹⁰³ Note that this change in labor supply refers to real world effects seen where workers choose to work fewer hours when temperatures are excessively hot or cold (e.g., ending their workday early, choosing to not work on certain days) and is different from the productivity effects of rest breaks discussed elsewhere.

¹⁰⁰ This calculation uses a more generalized ratio of occupational injuries to fatalities than those discussed previously based on NSC and BLS data (NSC, n.d.; BLS, 2023b; BLS, 2024c). If the NSC-derived ratio of 965 injuries to one fatality were more accurate, there could be about 75 indirect heat-related fatalities annually. If the BLS-derived ratio of 639 injuries to one fatality were correct, the indirect heat-related fatalities could be around 113 annually.

¹⁰¹ In economic terms, disutility is the negative or harmful effects of some activity or economic transaction. In economics, individuals are assumed to try to maximize their utility (and conversely minimize their disutility).

¹⁰² This assumes a value on the lower end of what Li et al. (2020) estimated since this proposed standard will not entirely remove most employees from hot environments. There are arguments to be made that this might be an underestimate for a few reasons. First, people have a higher WTP to avoid very high temperatures so where this proposed standard improves conditions for employees exposed to very high temperatures, their WTP

interventions required by the proposed standard, and potential benefits of improved labor productivity.

A. Underreporting

As discussed earlier, OSHA believes the number of HRIs and heat-related fatalities estimated from the BLS data is likely underestimated compared to the true number of HRIs and heat-related fatalities in the United States. Research suggests that HRIs and heat-related fatalities are underreported in multiple datasets (e.g., BLS CFOI, BLS SOII, workers' compensation claims data, and hospital discharge data). The general underreporting and undercounting of occupational injuries and illnesses has been a topic of multiple government reports (e.g., Ruser, 2008; Miller, 2008; GAO, 2009; Wiatrowski, 2014). While there is a good deal of agreement that some level of underreporting exists for occupational injuries and illnesses in general and HRIs specifically, there is uncertainty regarding the magnitude of underreporting. OSHA has adjusted for underreporting of HRIs and heat-related fatalities but there remains a wide range of estimates of underreporting in the research. There still remains a high level of uncertainty in these estimates and the magnitude of underreporting is potentially considerably higher than what OSHA has estimated. If the HRIs were underreported by a factor of 10 rather than 7.5 (which is plausible based on the available evidence) and this proposed standard has the same effectiveness, it could prevent about an additional 11,500 HRIs which could account for an additional \$1.342 billion in benefits.

B. Program Effectiveness

As explained above, for this benefits analysis, OSHA assumes that the proposed standard will be 65 percent effective in curbing HRIs. This topic, the relevant literature, and how the agency arrived at its estimates of the standard's effectiveness are discussed in-depth in Section V.C., Risk Reduction. As discussed previously, OSHA found that the literature on this issue lacks certainty. Few studies included a concurrent control group, rather most studies looked at rates of HRI before and after an intervention in the same group. Studies were generally performed on specific industries, or in specific settings, and the effectiveness of the intervention might be higher or lower than the study average across the firms and employees covered by this rulemaking. Additionally, no study tested an intervention that would exactly match the controls required by the proposed standard. For example,

McCarthy et al. (2019) report a 60–90 percent decrease in the odds of HRI among municipal outdoor workers in Texas after a Heat Stress Awareness Program (HSAP) intervention was implemented in 2011. However, this study lacked a control group that received no intervention making it difficult to determine if the reported effectiveness could be attributed to the intervention. While OSHA assumed the effectiveness of the proposed standard in preventing HRIs to be on the lower end of what McCarthy et al. (2019) found, there is evidence that the effectiveness of heat interventions may be much higher than that (See Section V.C., Risk Reduction, for additional discussion).

If the proposed standard were more effective at preventing heat-related fatalities and HRIs than OSHA estimates in this analysis (and based on available evidence this is plausible, see Section V.C., Risk Reduction) and prevented all fatalities (100 percent versus 95 percent) and 10 percent more HRIs (75 percent versus 65 percent), the proposed standard might prevent 28 more fatalities and about 2,500 more non-fatal injuries and illnesses annually. Monetized, this represents approximately an additional \$672 million in benefits.

C. Labor Productivity Losses

As discussed above in section VIII.E.IV.A., OSHA has preliminarily determined, based on numerous studies, that there are labor productivity losses from working in the heat that can be partially recovered through the provision of rest breaks. However, precisely defining the magnitude of labor productivity losses that could be recuperated under the proposed standard is difficult with the current research available. This analysis rests on specific assumptions and is dependent on the extent of the available literature, in which heat and productivity were assessed in different settings with different break policies, but break policies did not vary within the same setting. OSHA mentions those impacts here, as well, to acknowledge the uncertainty associated with those estimates. This factor is examined in the sensitivity analysis in Section VIII.C. Costs of Compliance (section VIII.C.VI).

VI. Sensitivity Analysis

OSHA considers the rate of effectiveness of the various measures of this proposed standard a major source of uncertainty in the calculation of benefits. OSHA has compiled a sensitivity analysis to illustrate the range that could depict the benefits

estimate. As shown below in table VIII.E.6. for the low estimate, OSHA estimated program effectiveness to be 50 percent for HRIs and 90 percent for heat-related fatalities (as opposed to the primary estimate of 65 percent effectiveness for HRI prevention and 95 percent effectiveness for fatality prevention). For the high estimate, OSHA estimated 100 percent effectiveness for the prevention of both heat-related fatalities and HRIs by the proposed standard (as opposed to the primary estimate of 65 percent effectiveness for HRI prevention and 95 percent effectiveness for fatality prevention).

At the 50 percent level of effectiveness, OSHA calculated monetized benefits of avoided HRIs of \$1.437 billion. At the 90 percent level of effectiveness, OSHA calculated monetized benefits of avoided heat-related fatalities of \$6.926 billion. Both estimates use the same VSI and VSL discussed above. Total monetized benefits at the 50 and 90 percent level of effectiveness are \$8.363 billion per year.

At the 100 percent level of effectiveness, the monetized benefits of avoided HRIs are \$2.875 billion per year. The monetized benefits of avoided heat-related fatalities at the same level of effectiveness are \$7.696 billion. Both estimates use the same VSI and VSL discussed above. Total monetized benefits per year for the 100 percent level of effectiveness are \$10.570 billion.

The sensitivity analysis also looked at the impact on the estimated number of avoided HRIs and heat-related fatalities under different assumptions of underreporting, specifically (1) alternative assumptions for the underreporting related to HRIs, assuming factors of 2 or 10 or no underreporting and (2) alternative assumptions regarding the underreporting of heat-related fatalities, assuming that heat-related fatalities were underreported by factors of 3 or 15 or not underreported at all. The estimated number of avoided HRIs and avoided heat-related fatalities under these alternative assumptions of underreporting are presented in tables VIII.E.6. and VIII.E.7. with OSHA's primary estimate of effectiveness as well as under the low and high levels of effectiveness discussed above.

Total monetized benefits per year from avoided heat-related fatalities and HRIs under different assumptions of program effectiveness and underreporting are presented in Table VIII.E.8.

TABLE VIII.E.6—SENSITIVITY ANALYSIS—HRIS

	Primary estimate (65% effectiveness)	Low estimate (50% effectiveness)	High estimate (100% effectiveness)
Cases—No underreporting adjustment	2,137	1,644	3,288
Cases—Low underreporting (2X)	4,274	3,288	6,575
Cases—High underreporting (10X)	21,369	16,438	32,875
Cases—Primary estimate underreporting (7.5X)	16,027	12,328	24,656
Monetized benefits, no underreporting adjustment	\$249,133,988	\$191,641,529	\$383,283,058
Monetized benefits, low underreporting (2X)	\$498,267,975	\$383,283,058	\$766,566,116
Monetized benefits, high underreporting (10X)	\$2,491,339,876	\$1,916,415,290	\$3,832,830,579
Monetized benefits, OSHA primary estimate underreporting (7.5X)	\$1,868,504,907	\$1,437,311,467	\$2,874,622,934

Source: OSHA estimate.

TABLE VIII.E.7—SENSITIVITY ANALYSIS—HEAT-RELATED FATALITIES

	Primary estimate (95% effectiveness)	Low estimate (90% effectiveness)	High estimate (100% effectiveness)
Cases—No underreporting adjustment	37.9	35.9	39.9
Cases—Low underreporting (3X)	113.8	107.8	119.8
Cases—High underreporting (15X)	568.86	538.92	598.8
Cases—Primary estimate underreporting (14X)	530.936	502.992	558.88
Monetized benefits, no underreporting adjustment underreporting	\$522,213,480	\$494,728,560	\$549,698,400
Monetized benefits, low underreporting (3X)	\$1,566,640,440	\$1,484,185,680	\$1,649,095,200
Monetized benefits, high underreporting (15X)	\$7,833,202,200	\$7,420,928,400	\$8,245,476,000
Monetized benefits, primary estimate underreporting (14X)	\$7,310,988,720	\$6,926,199,840	\$7,695,777,600

Source: OSHA estimate.

TABLE VIII.E.8—SENSITIVITY ANALYSIS—TOTAL ESTIMATED BENEFITS

	Primary underreporting estimate	No underreporting	Low underreporting	High underreporting
Monetized Health and Safety Benefits				
Low Effectiveness	\$8,363,511,307	\$686,370,089	\$1,867,468,738	\$9,337,343,690
High Effectiveness	10,570,400,534	932,981,458	2,415,661,316	12,078,306,579
OSHA Primary Estimate Effectiveness	9,179,493,627	771,347,468	2,064,908,415	10,324,542,076

Source: OSHA estimate.

VII. Conclusion

Uncertainty as to the magnitude of underreporting and uncertainty as to the effectiveness of the interventions prescribed by this proposed standard create substantial uncertainty in the calculation of monetized benefits. Additional uncertainty is added by the magnitude of labor productivity benefits from the required rest breaks. With the caveat of multiple areas of uncertainty, OSHA preliminarily concludes that this proposed standard would have an estimated \$9.179 billion in total annualized benefits.

F. Initial Regulatory Flexibility Analysis, Small Business Regulatory Enforcement Fairness Act, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

I. Introduction

The RFA, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (Mar. 29,

1996), hereafter jointly referred to as the RFA, requires Federal agencies to consider the economic impact of a proposed rulemaking on small entities. The RFA states that whenever a Federal agency is required to publish a general notice of proposed rulemaking, the agency must prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) (5 U.S.C. 603(a)). Pursuant to section 605(b), instead of an IRFA, the head of an agency may certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. A factual basis must support a certification. If the head of an agency makes a certification, the agency shall publish such certification in the **Federal Register** at the time of publication of a general notice of proposed rulemaking or at the time of publication of the final rule (5 U.S.C. 605(b)).

To determine whether OSHA can certify that the proposed standard for

Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings will not have a significant economic impact on a substantial number of small entities, OSHA has developed a screening test to consider the minimum threshold effects of the proposed rule on small entities. This screening test is similar in concept to the revenue test used in Section VIII.D., Economic Feasibility, to identify minimum threshold effects to demonstrate economic feasibility. However, for this IRFA the screening test is applied not to all establishments but to small entities (called “small business concerns” by SBA).

OSHA is not able to certify that the proposed rule will not result in a significant economic impact on a substantial number of small entities, thus triggering the need for an IRFA. Under the provisions of the RFA, as amended in 1996, each such analysis shall contain:

1. A description of the reasons why action by the agency is being considered;

2. A succinct statement of the objectives of, and legal basis for, the proposed rule;

3. A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for the preparation of the report or record;

5. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and

6. A description and discussion of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities, such as:

(a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(b) The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(c) The use of performance rather than design standards; and

(d) An exemption from coverage of the rule, or any part thereof, for such small entities (5 U.S.C. 603, 607). The RFA further states that the required elements of the IRFA may be performed in conjunction with or as part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of the IRFA (5 U.S.C. 605). The remaining sections of this chapter address each of the components listed above.

II. Initial Regulatory Flexibility Analysis

A. Description of the Reasons Why Action by the Agency Is Being Considered

Heat is the leading cause of death among all weather-related phenomena in the United States. Excessive heat exacerbates existing health conditions (e.g., asthma and heart disease) and can cause heat stroke and even death if not treated properly and promptly. Heat-related illnesses are adverse clinical health outcomes that occur due to exposure to heat (e.g., heat exhaustion or heat stroke). A heat-related injury is an injury linked to heat exposure (e.g.,

a fall that occurred while a person was experiencing dizziness related to heat exposure).

Employees in both outdoor and indoor work settings without adequate climate controls are at risk of hazardous heat exposure, which may lead to heat-related illnesses and injuries (HRIs). Certain heat-generating processes, machinery, and equipment (e.g., hot tar ovens, furnaces) can also cause HRIs when effective cooling measures are not in place. Some groups, such as pregnant employees, may be more likely to experience adverse health effects from heat. In contrast, others are disproportionately employed in work settings with a higher risk of HRI, such as workers of color in essential jobs.

The BLS SOII estimates that there have been 39,450 work-related HRIs involving days away from work between 2011 and 2022, for an average of 3,288 HRIs of this severity occurring per year during this period. Additionally, according to the BLS CFI, exposure to environmental heat has killed 479 U.S. workers from 2011–2022, with an average of 40 fatalities per year during that period. As explained in Section V.A., Risk Assessment, these statistics likely do not capture the true magnitude and prevalence of heat-related injuries, illnesses, and fatalities. OSHA's estimates of the annual incidents of heat-related fatalities and HRIs and the number the agency expects will be avoided by this proposed standard can be found in Section VIII.E., Benefits.

OSHA has developed and published recommendations for heat injury and illness prevention. However, in the absence of a Federal standard, multiple States have issued regulations to address heat hazards in the workplace. Five States have enacted laws that aim to protect employees exposed to heat: Minnesota (Minn. R. 5205.0110); California (Cal. Code of Regs. title 8, section 3395); Washington (Wash. Admin. Code sections 296–62–095 through 296–62–09560; 296307–097 through 296–307–09760); Oregon (Or. Admin. R. 437–002–0156; Or. Admin. R. 437004–1131); and Colorado (7 Colo. Code Regs section 1103–15.3).

OSHA has received multiple petitions to promulgate a heat injury and illness prevention standard in recent years, including in 2018 from Public Citizen, on behalf of approximately 130 organizations. Members of Congress have also urged OSHA to initiate rulemaking for a Federal heat standard.

In the **Federal Register**, OSHA published an advance notice of proposed rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings on October

27, 2021 (86 FR 59309). From the ANPRM, OSHA initiated the rulemaking process to consider a heat-related injury and illness prevention standard. The standard would set forth the employer's obligations and the measures necessary to protect employees to reduce the number of HRIs and fatalities more effectively among workers. The goal is to prevent or reduce the number of occupational HRIs and fatalities caused by exposure to hazardous heat.

OSHA has developed potential options for various elements of a heat-specific standard using: stakeholder comments from the ANPRM; academic literature; best practices from State heat-specific standards; recommendations from the National Institute for Occupational Safety and Health (NIOSH) and the National Advisory Committee on Occupational Safety and Health (NACOSH); and other input from experts, stakeholders, and the public.

As described in the benefits analysis in Section VIII.E., Benefits, OSHA estimates that approximately 559 heat-related fatalities and approximately 24,656 HRIs among employees occur annually. However, as explained in that section, OSHA also believes there remains a great deal of uncertainty surrounding the extent of underreporting and other parameters used in this estimate.

B. Statement of the Objectives of and Legal Basis for the Proposed Rule

The objective of the proposed standard is to reduce the number of HRIs and fatalities due to exposure to hazardous heat occurring among employees in the course of their work. This objective would be achieved by requiring employers to establish heat injury and illness prevention plans (HIIPPs); identify and monitor heat hazards, provide rest breaks, adequate water, and training; plan for, and be ready to respond to, heat emergencies; and take other steps to ensure that employees can perform their duties safely.

The legal basis for the rulemaking is discussed in depth in Section II., Pertinent Legal Authority. In short, Congress enacted the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*), “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651(b)). To that end, Congress authorized the Secretary of Labor “to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce” (29 U.S.C. 651(b)(3); see also 29 U.S.C. 655(b)).

The OSH Act imposes several requirements OSHA must satisfy before adopting a safety standard. Among other things, the standard must provide a high degree of employee protection, substantially reduce a significant risk to workers, be technologically feasible, and be economically feasible (see 58 FR 16612, 16614–16 (Mar. 30, 1993); *Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am. v. OSHA*, 37 F.3d 665, 668–69 (D.C. Cir. 1994)). A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that is reasonably expected to be developed (see *Am. Iron and Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C.

Cir. 1991)). In determining economic feasibility, OSHA must consider the cost of compliance in an industry rather than on individual employers. In its economic analyses, OSHA “must construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms” (*Am. Iron and Steel Inst.*, 939 F.2d at 980, quoting *United Steelworkers of Am. v. Marshall*, 647 F.2d 1189, 1272 (D.C. Cir. 1980)).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

Section VIII.B., Profile of Affected Industries, of this PEA presents OSHA’s

preliminary analysis of the type and number of small entities to which the proposed rule would apply. To estimate the number of small entities potentially affected by this rulemaking, OSHA used definitions developed by SBA for each sector as well as the definition of a small government and small non-profit entity according to the RFA. OSHA estimates the proposed rule would affect approximately 2.0 million small entities. Across these small entities, roughly 16.2 million employees would be protected by the proposed rule. Table VIII.F.1. presents counts of small and very small entities, establishments, and employees by industry and region.

TABLE VIII.F.1—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Agriculture, Forestry, and Fishing						
Alaskan	475	478	831	466	466	544
Central	24,294	24,322	149,091	15,065	15,065	55,208
Eastern	16,193	16,208	115,421	12,736	12,738	53,826
Pacific	199	199	1,399	138	138	1,082
Southern	26,346	26,377	169,979	17,326	17,331	62,951
Western	16,211	16,268	314,889	10,009	10,012	58,338
Subtotal	83,717	83,853	751,608	55,739	55,750	231,950
Building Materials and Equipment Suppliers						
Alaskan	14	15	216	27	27	202
Central	1,192	1,282	25,975	2,192	2,231	18,113
Eastern	1,999	2,128	40,838	3,358	3,409	27,914
Pacific	38	41	679	52	52	395
Southern	1,814	1,946	34,426	2,855	2,898	23,385
Western	1,509	1,596	28,722	2,311	2,345	18,858
Subtotal	6,566	7,009	130,856	10,795	10,962	88,866
Commercial Kitchens						
Alaskan	509	579	4,603	430	432	1,745
Central	36,119	40,201	472,283	26,822	26,939	130,727
Eastern	65,298	69,963	724,441	51,676	51,830	233,251
Pacific	1,282	1,388	16,812	946	949	4,411
Southern	42,239	47,058	571,817	31,027	31,159	145,802
Western	38,954	43,511	487,920	29,838	30,051	149,486
Subtotal	184,402	202,700	2,277,876	140,740	141,361	665,422
Construction						
Alaskan	2,383	2,400	6,784	2,277	2,279	4,532
Central	158,425	158,752	562,118	147,997	148,028	315,449
Eastern	230,158	230,528	840,221	214,268	214,313	467,181
Pacific	3,308	3,317	15,761	2,986	2,986	8,179
Southern	163,896	164,295	695,987	149,782	149,827	359,212
Western	151,930	152,258	602,318	140,362	140,392	322,939
Subtotal	710,101	711,550	2,723,189	657,671	657,825	1,477,491

TABLE VIII.F.1—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Drycleaning and Commercial Laundries						
Alaskan	17	19	95	16	17	69
Central	1,929	2,171	8,814	1,754	1,797	4,391
Eastern	5,626	5,994	17,624	5,330	5,438	10,761
Pacific	39	41	313	32	34	83
Southern	3,087	3,449	12,989	2,843	2,951	7,977
Western	2,352	2,501	8,319	2,214	2,268	5,138
Subtotal	13,051	14,174	48,155	12,190	12,506	28,419
Landscaping and Facilities Support						
Alaskan	105	109	1,938	98	99	860
Central	11,364	11,974	165,112	10,565	10,796	82,930
Eastern	18,330	19,096	270,325	17,103	17,308	131,677
Pacific	223	250	5,027	202	203	2,067
Southern	12,805	13,271	200,425	11,867	11,974	101,006
Western	9,634	9,974	152,217	8,953	9,030	77,219
Subtotal	52,461	54,673	795,043	48,789	49,410	395,758
Maintenance and Repair						
Alaskan	174	186	1,055	174	176	821
Central	19,068	19,653	108,461	19,174	19,344	84,101
Eastern	25,688	26,211	144,821	25,704	25,857	113,180
Pacific	304	318	1,926	304	306	1,384
Southern	20,023	20,552	117,782	20,239	20,395	87,092
Western	15,931	16,477	100,556	16,000	16,166	72,908
Subtotal	81,188	83,397	474,600	81,595	82,245	359,487
Manufacturing						
Alaskan	161	180	1,703	141	147	430
Central	28,332	29,454	617,095	20,447	20,529	95,353
Eastern	33,582	34,481	611,009	25,312	25,388	112,950
Pacific	282	288	2,422	248	248	818
Southern	24,499	25,279	450,901	18,822	18,884	83,417
Western	24,347	24,818	337,592	19,945	19,989	76,876
Subtotal	111,203	114,500	2,020,722	84,915	85,185	369,844
Oil and Gas						
Alaskan	53	61	692	29	29	70
Central	2,861	3,003	15,645	2,423	2,443	4,948
Eastern	1,391	1,458	9,518	1,116	1,125	2,497
Pacific	0	0	0	0	0	0
Southern	10,562	11,375	87,027	8,658	8,691	17,744
Western	1,561	1,631	9,034	1,306	1,308	2,807
Subtotal	16,428	17,527	121,915	13,532	13,596	28,065
Postal and Delivery Services						
Alaskan	21	33	34	18	18	26
Central	1,374	1,951	11,199	1,168	1,171	1,544
Eastern	2,238	3,001	18,998	1,899	1,900	2,351
Pacific	25	36	56	20	20	27
Southern	1,965	2,731	17,147	1,709	1,720	2,104
Western	1,533	2,081	17,285	1,302	1,309	1,733
Subtotal	7,155	9,832	64,719	6,115	6,139	7,785
Recreation and Amusement						
Alaskan	258	262	836	243	244	407
Central	9,660	9,978	76,652	8,093	8,131	23,284

TABLE VIII.F.1—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Eastern	14,184	14,593	126,221	11,535	11,573	34,163
Pacific	176	182	1,996	131	131	387
Southern	9,058	9,335	79,313	7,510	7,547	22,207
Western	7,620	7,976	68,703	6,226	6,251	18,228
Subtotal	40,956	42,326	353,720	33,738	33,877	98,674
Sanitation and Waste Removal						
Alaskan	17	17	260	16	16	144
Central	598	613	11,803	519	519	5,716
Eastern	908	925	21,423	763	765	8,892
Pacific	13	16	510	10	10	186
Southern	579	600	13,810	481	482	5,650
Western	403	416	10,566	333	334	4,111
Subtotal	2,517	2,586	58,372	2,120	2,125	24,699
Telecommunications						
Alaskan	0	0	0	4	4	18
Central	6	6	28	281	303	1,237
Eastern	11	12	108	370	388	1,356
Pacific	0	0	0	2	3	13
Southern	14	16	124	341	361	1,341
Western	14	14	71	271	286	1,089
Subtotal	46	48	332	1,269	1,344	5,054
Temporary Help Services						
Alaskan	3	3	111	2	2	24
Central	746	785	58,271	487	490	4,506
Eastern	1,258	1,305	92,651	845	847	7,409
Pacific	9	10	1,444	5	5	43
Southern	1,001	1,064	81,872	663	666	5,193
Western	734	765	47,601	520	525	3,995
Subtotal	3,752	3,933	281,950	2,522	2,537	21,170
Transportation						
Alaskan	472	551	2,648	402	407	779
Central	35,362	35,967	100,567	32,172	32,196	40,920
Eastern	30,938	31,687	109,558	27,247	27,290	38,381
Pacific	336	378	3,401	248	252	513
Southern	30,063	31,185	121,185	26,656	26,726	38,318
Western	22,303	23,056	77,739	19,941	20,008	26,654
Subtotal	119,474	122,823	415,098	106,667	106,879	145,566
Utilities						
Alaskan	56	86	742	34	37	110
Central	1,169	2,078	18,326	711	760	2,076
Eastern	1,235	2,285	22,667	835	957	2,177
Pacific	12	25	105	9	9	28
Southern	2,393	3,494	28,343	1,911	1,960	4,049
Western	1,279	1,717	11,810	1,067	1,103	3,123
Subtotal	6,144	9,686	81,995	4,568	4,826	11,564
Warehousing						
Alaskan	21	22	126	10	10	17
Central	2,193	3,078	70,279	732	753	1,639
Eastern	2,820	3,920	105,756	1,034	1,051	2,412
Pacific	42	51	449	8	8	34
Southern	2,570	3,800	87,420	965	975	2,066

TABLE VIII.F.1—PROFILE OF SMALL AND VERY SMALL AFFECTED ENTITIES, ESTABLISHMENTS, AND EMPLOYEES, BY CORE INDUSTRY AND REGION—Continued

Region	Small (SBA/RFA)			Very small (<20)		
	Entities	Establishments	Employees	Entities	Establishments	Employees
Western	2,035	2,888	67,352	806	820	1,817
Subtotal	9,681	13,759	331,382	3,555	3,618	7,985
Non-Core						
Alaskan	1,503	1,582	14,497	1,594	1,620	5,729
Central	109,785	114,774	1,251,037	117,012	117,910	428,271
Eastern	175,885	181,593	1,867,095	189,755	190,941	648,153
Pacific	2,738	2,857	22,687	2,818	2,851	9,578
Southern	133,234	138,262	1,099,714	147,342	148,376	508,465
Western	113,249	117,242	1,000,087	122,703	123,582	423,075
Subtotal	536,394	556,310	5,255,118	581,225	585,280	2,023,270
Total						
Alaskan	6,241	6,582	37,172	5,982	6,031	16,526
Central	444,478	460,042	3,722,756	407,614	409,405	1,300,411
Eastern	627,742	645,388	5,138,694	590,884	593,119	1,898,531
Pacific	9,027	9,397	74,988	8,161	8,205	29,227
Southern	486,148	504,089	3,870,261	450,999	452,925	1,477,979
Western	411,599	425,189	3,342,781	384,105	385,778	1,268,393
Total	1,985,235	2,050,685	16,186,651	1,847,745	1,855,463	5,991,068

Source: OSHA, based on BLS 2023c; Census Bureau, 2021a; Census Bureau, 2023a; Census Bureau, 2023d; SBA, 2023; USDA, 2019; and USFA, 2023.

Note: Due to rounding, figures in the columns and rows may not sum to the totals shown.

E. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

OSHA calculates costs for small entities, as defined by SBA (SBA, 2023) and the RFA, and for “very small” entities, defined by OSHA as those with fewer than 20 employees, in each industry. To estimate costs for these small and very small entities, OSHA first calculates for each 4-digit NAICS industry and State combination, the average one-time cost per establishment, average annual cost per establishment, average one-time cost per employee, and average annual cost per employee for each provision. Since OSHA assumes the indoor work area hazard evaluation

is completed every five years, average per-establishment and average per-employee costs are taken for the corresponding cost items. OSHA then multiplies these estimates by the number of small, affected establishments or affected employees at small establishments to derive one-time and annual costs for each provision of the proposed standard. One-time costs are annualized to determine total annualized costs by provision of the proposed standard. This same methodology is applied to the very small business analysis.

Table VIII.F.2. below shows across all provisions of the proposed rule, that small entities are estimated to incur annualized costs of approximately \$3.9

billion for 2.0 million entities while 1.8 million very small entities are estimated to incur annualized costs of about \$2.2 billion. The costs by provision are shown below while the detailed discussion of the unit costs, other parameters, and methodology are included in Section VIII.C., Costs of Compliance. Requirements at or above the high heat trigger (which includes requirements for rest breaks) are the most expensive provision for small entities, accounting for almost half of overall costs. The second most expensive provision of this proposed rule for small entities is the requirements at or above the initial heat trigger provision, which accounts for about 12.5 percent of costs overall.

TABLE VIII.F.2—TOTAL COSTS OF THE PROPOSED HEAT INJURY AND ILLNESS PREVENTION STANDARD BY PROVISION FOR SMALL ENTITIES
[2023\$]

Provision	One-time	Periodic costs annualized		Annual	Costs savings	Total annualized ^a	
		0%	2%			0%	2%
Rule Familiarization	\$126,197,841	\$0	\$0	\$0	\$0	\$12,619,784	\$14,049,167
Heat Injury and Illness Prevention Plan	797,869,328	0	0	142,832,518	0	222,619,451	231,656,540
Identifying Heat Hazards	51,433,925	216,486,243	202,237,502	270,810,603	0	297,602,620	299,050,963
Requirements at or above the Initial Heat Trigger	257,883,589	0	0	651,324,232	35,815,071	641,297,520	644,218,446
Requirements at or above the High Heat Trigger	3,616,156	0	0	6,173,098,461	4,288,986,520	1,884,473,557	1,884,514,515
Heat Illness and Emergency Response and Planning	203,967,646	0	0	459,558,305	0	479,955,069	482,265,315

TABLE VIII.F.2—TOTAL COSTS OF THE PROPOSED HEAT INJURY AND ILLNESS PREVENTION STANDARD BY PROVISION FOR SMALL ENTITIES—Continued
[2023\$]

Provision	One-time	Periodic costs annualized		Annual	Costs savings	Total annualized ^a	
		0%	2%			0%	2%
Training	822,601,053	0	0	216,052,591	0	298,312,696	307,629,910
Total	2,263,569,538	216,486,243	202,237,502	7,913,676,711	4,324,801,590	3,836,880,698	3,863,384,856

Source: OSHA.

^a The total costs with cost savings accounts for the potential labor productivity loss avoided by having more efficient and effective rest breaks required by the proposed standard than are currently taken.

TABLE VIII.F.3—TOTAL COSTS OF THE PROPOSED HEAT INJURY AND ILLNESS PREVENTION STANDARD BY PROVISION FOR VERY SMALL ENTITIES
[2023\$]

Provision	One-time	Periodic costs annualized		Annual	Costs savings	Total annualized ^a	
		0%	2%			0%	2%
Rule Familiarization	\$114,091,454	\$0	\$0	\$0	\$0	\$11,409,145	\$12,701,405
Heat Injury and Illness Prevention Plan	722,235,085	0	0	129,326,342	0	201,549,851	209,730,267
Identifying Heat Hazards	48,640,027	188,281,796	175,889,421	254,469,418	0	278,161,601	279,465,502
Requirements at or above the Initial Heat Trigger	123,616,262	0	0	252,006,494	13,475,322	250,892,798	252,292,941
Requirements at or above the High Heat Trigger	2,654,923	0	0	2,476,140,705	1,705,554,474	770,851,723	770,881,794
Heat Illness and Emergency Response and Planning	192,369,277	0	0	433,352,739	0	452,589,667	454,768,543
Training	609,255,824	0	0	129,732,988	0	190,658,570	197,559,323
Total	1,812,663,317	188,281,796	175,889,421	3,682,138,934	1,719,029,797	2,163,203,649	2,184,487,809

Source: OSHA.

^a The total costs with cost savings accounts for the potential labor productivity loss avoided by having more efficient and effective rest breaks required by the proposed standard than are currently taken.

Table VIII.F.4. presents the average costs per small entity, while table VIII.F.5. presents the average costs per very small entity. On average, nearly 2.0 million small entities are estimated to incur costs of \$1,950 annually to comply with the proposed standard. Fishing (NAICS 1141) are estimated to have the lowest costs of compliance of the covered small entities—\$461 on average annually to comply with the proposed rule. The small entities with the largest costs, Psychiatric and Substance Abuse Hospitals (NAICS 6222), would spend an estimated \$118,974 annually to comply with the proposed standard.

On average, about 1.8 million very small entities are estimated to incur costs of \$1,182 annually to comply with the proposed standard. The smallest average costs per very small entity are incurred by Fishing (NAICS 1141)—estimated to be \$459 on average annually to comply with the proposed standard. The highest average costs for very small establishments are incurred by Specialty (except Psychiatric and Substance Abuse) Hospitals (NAICS 6223) and are estimated to be about \$45,066 annually.

The potential small entity impacts of the proposed rule were derived based

on the methodology detailed in Section VIII.D., Economic Feasibility. Table VIII.F.5. shows that, while small entities in most industries are estimated to have costs that are well below one percent of revenue, a few are estimated to experience costs that exceed one percent of revenues. Costs as a percentage of revenues for these entities vary from less than 0.01 percent for Tobacco Manufacturing (NAICS 3122) and Petroleum and Coal Products Manufacturing (NAICS 3241) to 2.84 percent for Child Care Services (NAICS 6244). Note that the costs in these tables were annualized using a 2 percent discount rate. The impacts for very small entities can be seen in table VIII.F.6.

As with the small entity impact analysis, the very small entity impact analysis shows that, in the majority of industries, the average impacts per entity are well below the one percent threshold. Impacts range from 0.01 percent for a few industries such as Petroleum and Coal Products Manufacturing (NAICS 3241), and Motor Vehicle.

As discussed in depth in Section VIII.D., Economic Feasibility, the agency believes some of the estimated impact in some of these industries is likely

overstated, due to inflexibility in the cost analysis regarding the amount of time spent outside in heat in a nondiscretionary manner. For example, even if the assumption that these employees spend a large percentage of their time outside is realistic under normal circumstances, childcare providers and in-person health care providers would likely limit their time outside in high heat situations if only to protect those in their care. If the costs of complying with this proposed standard were onerous, limiting employee exposure to the outdoors during times of extreme heat would be a costless method to comply with the standard and could possibly result in these employers being fully exempt from the standard (e.g., if the employer limited employee's outdoor exposure to meet the exemption for short duration employee exposure). OSHA's cost estimates did not take changes in employee scheduling into account and therefore may have overestimated costs to employers whose employees have discretion regarding the amount of time they spend outside.

NAICS 1124 Sheep and Goat Farming and NAICS 1129 Other Animal Production are both heavily weighted to very small family-owned farms (USDA,

2019). Due to a Congressional budget rider, OSHA is not able to expend funds on enforcement activities for small farms. Only about 5 percent of sheep and goat farms and 12 percent of combined Other Animal Production and Aquaculture are something other than family-owned farms (*i.e.*, partnerships or corporations). (Given the economies of scale necessary for aquaculture, it's likely that these account for more of the corporate farms in the combined Other Animal Production and Aquaculture data meaning more farms in NAICS 1129 may be family-owned farms than

appear to be in the combined data.) Based on the Census of Agriculture, about 20,000 of about 79,000 total sheep and goat farms have hired labor and those have 2 hired laborers on average. For other animal production and aquaculture combined, about 35,000 farms out of about 190,000 total farms report having hired labor and have an average of 3.5 hire laborers. Based on the size and organization of these farms, it is unlikely OSHA would be enforcing this standard on those industries so they would not incur compliance costs. OSHA welcomes feedback on this

analysis of the impact on small and very small entities

The costs of this proposed standard are largely employee-based and the agency has not found there to be feasibility concerns for entities of any size. Therefore, the agency believes that including large non-profits in the profile of SBA/RFA defined small entities would not alter the findings of the Initial Regulatory Flexibility Analysis. OSHA welcomes comment regarding the inclusion of large non-profits in the profile of SBA/RFA defined small entities.

TABLE VIII.F.4—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
1111	Oilseed and Grain Farming	12,511	\$13,585,428	\$1,086	\$759,359	0.14
1112	Vegetable and Melon Farming	2,127	9,980,549	4,693	1,153,664	0.41
1113	Fruit and Tree Nut Farming	6,121	14,284,547	2,334	682,745	0.34
1114	Greenhouse, Nursery, and Floriculture Production	2,720	12,359,299	4,544	741,146	0.61
1119	Other Crop Farming	9,564	15,497,239	1,620	282,465	0.57
1121	Cattle Ranching and Farming	18,428	28,781,484	1,562	700,078	0.22
1122	Hog and Pig Farming	1,048	2,182,612	2,082	2,601,611	0.08
1123	Poultry and Egg Production	2,278	4,700,946	2,064	2,939,009	0.07
1124	Sheep and Goat Farming	1,548	2,393,222	1,546	88,910	1.74
1125	Aquaculture	160	616,482	3,859	1,133,734	0.34
1129	Other Animal Production	4,913	7,999,112	1,628	115,067	1.41
1131	Timber Tract Operations	442	439,946	996	1,501,147	0.07
1132	Forest Nurseries and Gathering of Forest Products	150	152,566	1,017	790,399	0.13
1133	Logging	7,980	7,648,751	958	1,563,286	0.06
1141	Fishing	2,432	1,113,045	458	853,204	0.05
1142	Hunting and Trapping	351	374,292	1,066	799,221	0.13
1151	Support Activities for Crop Production	4,648	5,853,520	1,259	2,707,767	0.05
1152	Support Activities for Animal Production	4,640	3,376,198	728	506,802	0.14
1153	Support Activities for Forestry	1,658	1,398,749	844	1,111,045	0.08
2111	Oil and Gas Extraction	5,307	16,476,736	3,105	26,579,145	0.01
2131	Support Activities for Mining	10,921	43,981,568	4,027	3,821,423	0.11
2211	Electric Power Generation, Transmission and Distribution	2,058	28,171,559	13,690	76,221,412	0.02
2212	Natural Gas Distribution	418	3,527,573	8,436	70,106,856	0.01
2213	Water, Sewage and Other Systems	3,668	7,573,926	2,065	1,410,992	0.15
2361	Residential Building Construction	171,099	106,947,179	625	1,421,852	0.04
2362	Nonresidential Building Construction	40,735	62,520,995	1,535	6,719,320	0.02
2371	Utility System Construction	16,774	34,191,049	2,038	3,633,655	0.06
2372	Land Subdivision	4,805	3,170,977	660	1,877,172	0.04
2373	Highway, Street, and Bridge Construction	8,285	17,087,777	2,062	6,724,608	0.03
2379	Other Heavy and Civil Engineering Construction	4,056	6,569,839	1,620	3,024,764	0.05
2381	Foundation, Structure, and Building Exterior Contractors	91,279	125,277,109	1,372	1,699,487	0.08
2382	Building Equipment Contractors	177,612	233,824,679	1,316	1,621,258	0.08
2383	Building Finishing Contractors	114,496	106,453,318	930	1,078,107	0.09
2389	Other Specialty Trade Contractors	68,126	72,672,079	1,067	1,929,027	0.06
3111	Animal Food Manufacturing	636	1,601,425	2,520	24,357,224	0.01
3112	Grain and Oilseed Milling	250	1,211,561	4,854	62,037,403	0.01
3113	Sugar and Confectionery Product Manufacturing	868	2,204,453	2,539	9,556,299	0.03
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing	743	3,725,663	5,016	25,690,434	0.02
3115	Dairy Product Manufacturing	588	2,637,411	4,484	49,929,979	0.01
3116	Animal Slaughtering and Processing	1,456	12,280,924	8,438	38,292,294	0.02
3117	Seafood Product Preparation and Packaging	221	902,567	4,087	22,008,470	0.02
3118	Bakeries and Tortilla Manufacturing	5,471	11,517,147	2,105	3,818,211	0.06
3119	Other Food Manufacturing	1,655	5,268,917	3,183	16,374,321	0.02
3121	Beverage Manufacturing	4,226	6,542,557	1,548	8,758,819	0.02
3122	Tobacco Manufacturing	58	515,881	8,848	182,294,825	0.00
3131	Fiber, Yarn, and Thread Mills	102	1,037,014	10,139	19,374,286	0.05
3132	Fabric Mills	345	1,937,288	5,609	12,945,642	0.04
3133	Textile and Fabric Finishing and Fabric Coating Mills	378	1,346,267	3,565	7,871,921	0.05
3141	Textile Furnishings Mills	769	2,410,151	3,134	5,547,861	0.06
3149	Other Textile Product Mills	1,981	2,870,758	1,449	2,012,712	0.07
3152	Cut and Sew Apparel Manufacturing	1,485	1,708,817	1,151	907,132	0.13
3159	Apparel Accessories and Other Apparel Manufacturing	279	488,329	1,750	1,772,440	0.10
3161	Leather and Hide Tanning and Finishing	75	78,767	1,048	6,384,614	0.02
3162	Footwear Manufacturing	102	410,499	4,029	5,074,485	0.08
3211	Sawmills and Wood Preservation	1,425	5,001,937	3,510	7,582,835	0.05
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing	169	1,273,144	7,533	21,682,868	0.03

TABLE VIII.F.4—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3219	Other Wood Product Manufacturing	4,412	11,586,726	2,626	4,072,371	0.06
3221	Pulp, Paper, and Paperboard Mills	35	855,082	24,193	136,863,576	0.02
3222	Converted Paper Product Manufacturing	1,264	6,774,484	5,360	24,890,031	0.02
3231	Printing and Related Support Activities	12,027	11,573,349	962	2,522,782	0.04
3241	Petroleum and Coal Products Manufacturing	464	3,199,326	6,895	177,980,216	0.00
3251	Basic Chemical Manufacturing	642	4,655,288	7,251	78,530,261	0.01
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing	530	4,077,855	7,695	52,682,176	0.01
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	355	1,140,904	3,217	18,940,264	0.02
3254	Pharmaceutical and Medicine Manufacturing	925	5,779,821	6,251	51,766,648	0.01
3255	Paint, Coating, and Adhesive Manufacturing	705	2,479,397	3,516	16,249,794	0.02
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	1,002	3,477,371	3,470	17,908,986	0.02
3259	Other Chemical Product and Preparation Manufacturing	872	2,542,871	2,916	12,165,378	0.02
3261	Plastics Product Manufacturing	4,134	19,980,060	4,833	13,921,131	0.03
3262	Rubber Product Manufacturing	699	3,192,709	4,565	12,772,546	0.04
3271	Clay Product and Refractory Manufacturing	463	1,199,726	2,590	5,587,274	0.05
3272	Glass and Glass Product Manufacturing	706	1,989,379	2,819	6,976,531	0.04
3273	Cement and Concrete Product Manufacturing	2,173	8,394,899	3,863	8,676,117	0.04
3274	Lime and Gypsum Product Manufacturing	74	303,318	4,126	15,209,592	0.03
3279	Other Nonmetallic Mineral Product Manufacturing	1,369	3,198,469	2,336	5,186,460	0.05
3311	Iron and Steel Mills and Ferroalloy Manufacturing	191	2,633,059	13,753	115,596,140	0.01
3312	Steel Product Manufacturing from Purchased Steel	246	1,720,852	6,991	28,374,263	0.02
3313	Alumina and Aluminum Production and Processing	155	1,282,335	8,290	35,439,130	0.02
3314	Nonferrous Metal (except Aluminum) Production and Processing	309	1,616,110	5,227	39,316,152	0.01
3315	Foundries	691	2,989,596	4,329	11,281,321	0.04
3321	Forging and Stamping	991	2,784,200	2,810	10,193,180	0.03
3322	Cutlery and Handtool Manufacturing	529	928,777	1,755	5,517,119	0.03
3323	Architectural and Structural Metals Manufacturing	5,974	16,517,707	2,765	5,735,883	0.05
3324	Boiler, Tank, and Shipping Container Manufacturing	589	2,689,023	4,567	12,577,513	0.04
3325	Hardware Manufacturing	272	770,518	2,836	8,866,155	0.03
3326	Spring and Wire Product Manufacturing	492	1,152,112	2,340	6,269,990	0.04
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	11,032	15,208,419	1,379	2,901,748	0.05
3328	Coating, Engraving, Heat Treating, and Allied Activities	2,521	5,835,961	2,315	4,178,955	0.06
3329	Other Fabricated Metal Product Manufacturing	2,806	7,766,243	2,767	7,493,462	0.04
3331	Agriculture, Construction, and Mining Machinery Manufacturing	1,247	5,944,680	4,766	18,417,556	0.03
3332	Industrial Machinery Manufacturing	425	1,030,865	2,425	10,195,646	0.02
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	699	3,921,041	5,609	15,601,508	0.04
3335	Metalworking Machinery Manufacturing	3,010	4,202,594	1,396	4,357,322	0.03
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	337	1,582,741	4,698	25,365,617	0.02
3339	Other General Purpose Machinery Manufacturing	1,762	5,979,770	3,394	12,034,903	0.03
3341	Computer and Peripheral Equipment Manufacturing	415	490,089	1,182	8,911,705	0.01
3342	Communications Equipment Manufacturing	547	1,256,142	2,294	13,522,113	0.02
3343	Audio and Video Equipment Manufacturing	219	262,564	1,198	5,604,208	0.02
3344	Semiconductor and Other Electronic Component Manufacturing	1,680	4,552,187	2,709	13,079,398	0.02
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	2,157	4,626,878	2,145	12,820,769	0.02
3352	Household Appliance Manufacturing	101	332,021	3,290	14,304,913	0.02
3353	Electrical Equipment Manufacturing	852	2,906,501	3,411	10,715,020	0.03
3359	Other Electrical Equipment and Component Manufacturing	752	2,497,573	3,319	12,404,672	0.03
3361	Motor Vehicle Manufacturing	23	51,856	2,260	58,221,416	0.00
3362	Motor Vehicle Body and Trailer Manufacturing	803	4,874,596	6,071	15,741,094	0.04
3363	Motor Vehicle Parts Manufacturing	1,978	13,487,337	6,817	32,394,740	0.02
3364	Aerospace Product and Parts Manufacturing	646	3,977,519	6,160	29,941,829	0.02
3365	Railroad Rolling Stock Manufacturing	74	567,108	7,707	33,655,605	0.02
3366	Ship and Boat Building	658	7,118,392	10,818	14,164,896	0.08
3369	Other Transportation Equipment Manufacturing	392	641,075	1,635	6,718,062	0.02
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	4,766	9,401,064	1,972	2,859,010	0.07
3372	Office Furniture (including Fixtures) Manufacturing	1,690	3,989,090	2,360	5,125,287	0.05
3379	Other Furniture Related Product Manufacturing	326	1,166,170	3,581	8,591,445	0.04
3391	Medical Equipment and Supplies Manufacturing	4,621	7,495,312	1,622	4,733,183	0.03
3399	Other Miscellaneous Manufacturing	8,582	11,161,673	1,301	2,660,648	0.05
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	1,544	11,511,623	7,456	8,053,146	0.09
4232	Furniture and Home Furnishing Merchant Wholesalers	1,077	5,781,729	5,367	5,828,655	0.09
4233	Lumber and Other Construction Materials Merchant Wholesalers	993	5,631,821	5,671	6,885,143	0.08
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers	2,259	10,168,859	4,501	5,929,082	0.08

TABLE VIII.F.4—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.	709	4,763,004	6,715	13,288,617	0.05
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.	1,907	11,364,290	5,960	8,540,329	0.07
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.	1,026	5,820,745	5,674	6,361,789	0.09
4238	Machinery, Equipment, and Supplies Merchant Wholesalers.	4,033	29,834,160	7,398	5,737,517	0.13
4239	Miscellaneous Durable Goods Merchant Wholesalers	2,831	10,561,663	3,731	5,222,434	0.07
4241	Paper and Paper Product Merchant Wholesalers	717	3,784,639	5,277	5,821,550	0.09
4242	Drugs and Druggists' Sundries Merchant Wholesalers	662	4,340,575	6,561	10,574,055	0.06
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	386	1,344,807	3,483	5,167,182	0.07
4244	Grocery and Related Product Merchant Wholesalers	2,662	15,934,090	5,986	10,630,078	0.06
4245	Farm Product Raw Material Merchant Wholesalers	325	2,641,457	8,119	23,756,996	0.03
4246	Chemical and Allied Products Merchant Wholesalers	809	4,315,458	5,336	8,980,738	0.06
4247	Petroleum and Petroleum Products Merchant Wholesalers	376	3,206,820	8,522	61,864,570	0.01
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.	326	3,172,050	9,724	13,306,719	0.07
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	2,124	10,353,521	4,876	5,895,079	0.08
4251	Wholesale Trade Agents and Brokers	3,749	9,368,912	2,499	12,764,272	0.02
4411	Automobile Dealers	6,500	37,276,607	5,735	15,961,277	0.04
4412	Other Motor Vehicle Dealers	955	3,490,111	3,656	5,414,403	0.07
4441	Building Material and Supplies Dealers	544	1,021,683	1,877	2,831,193	0.07
4451	Grocery and Convenience Retailers	6,886	22,913,996	3,328	3,311,379	0.10
4452	Specialty Food Retailers	1,180	2,429,585	2,059	1,053,778	0.20
4811	Scheduled Air Transportation	727	10,339,037	14,225	97,899,634	0.01
4812	Nonscheduled Air Transportation	1,637	3,179,136	1,942	6,496,273	0.03
4821	Rail Transportation	113	78,448	697	1,132,927	0.06
4831	Deep Sea, Coastal, and Great Lakes Water Transportation.	606	2,154,113	3,553	16,994,169	0.02
4832	Inland Water Transportation	410	1,791,814	4,371	6,386,189	0.07
4841	General Freight Trucking	55,843	50,365,637	902	1,458,914	0.06
4842	Specialized Freight Trucking	39,386	41,886,506	1,063	1,812,364	0.06
4851	Urban Transit Systems	513	590,618	1,151	2,151,325	0.05
4852	Interurban and Rural Bus Transportation	488	896,937	1,837	2,488,321	0.07
4853	Taxi and Limousine Service	6,453	7,243,177	1,122	862,937	0.13
4854	School and Employee Bus Transportation	2,232	3,191,204	1,430	2,019,525	0.07
4855	Charter Bus Industry	978	1,507,466	1,541	2,813,587	0.05
4859	Other Transit and Ground Passenger Transportation	3,856	3,185,344	826	1,343,491	0.06
4861	Pipeline Transportation of Crude Oil	70	347,281	4,984	28,045,336	0.02
4862	Pipeline Transportation of Natural Gas	59	90,847	1,528	15,269,599	0.01
4869	Other Pipeline Transportation	71	269,120	3,788	22,870,110	0.02
4871	Scenic and Sightseeing Transportation, Land	572	1,034,717	1,808	1,542,634	0.12
4872	Scenic and Sightseeing Transportation, Water	1,479	2,781,692	1,881	961,471	0.20
4879	Scenic and Sightseeing Transportation, Other	229	354,470	1,551	1,442,518	0.11
4881	Support Activities for Air Transportation	3,639	7,427,615	2,041	2,726,627	0.07
4882	Support Activities for Rail Transportation	494	1,414,555	2,861	3,694,856	0.08
4883	Support Activities for Water Transportation	1,852	6,207,901	3,353	4,619,864	0.07
4884	Support Activities for Road Transportation	9,012	6,993,625	776	1,019,225	0.08
4885	Freight Transportation Arrangement	12,925	18,974,056	1,468	2,467,206	0.06
4889	Other Support Activities for Transportation	1,387	1,669,460	1,203	1,765,588	0.07
4921	Couriers and Express Delivery Services	3,724	12,926,412	3,471	9,170,589	0.04
4922	Local Messengers and Local Delivery	3,431	3,012,249	878	1,312,866	0.07
4931	Warehousing and Storage	9,681	56,004,514	5,785	3,692,460	0.16
5121	Motion Picture and Video Industries	2,568	7,638,794	2,975	1,544,741	0.19
5122	Sound Recording Industries	466	946,190	2,032	1,914,032	0.11
5174	Satellite Telecommunications	46	165,892	3,602	3,473,723	0.10
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services.	1,352	3,731,170	2,759	2,821,642	0.10
5221	Depository Credit Intermediation	1,562	21,857,409	13,995	15,334,364	0.09
5222	Nondepository Credit Intermediation	1,085	3,521,500	3,245	2,825,317	0.11
5223	Activities Related to Credit Intermediation	1,822	4,068,120	2,232	1,274,881	0.18
5232	Securities and Commodity Exchanges	1	26,178	39,745	753,808,884	0.01
5239	Other Financial Investment Activities	1,542	3,322,810	2,154	3,014,962	0.07
5241	Insurance Carriers	724	7,767,572	10,729	64,751,762	0.02
5242	Agencies, Brokerages, and Other Insurance Related Activities.	18,002	37,871,610	2,104	884,543	0.24
5251	Insurance and Employee Benefit Funds	161	187,816	1,164	860,458	0.14
5259	Other Investment Pools and Funds	122	253,899	2,075	1,915,830	0.11
5311	Lessor of Real Estate	13,445	32,370,835	2,408	1,498,519	0.16
5312	Offices of Real Estate Agents and Brokers	14,553	27,775,521	1,909	848,299	0.22
5313	Activities Related to Real Estate	10,787	33,316,314	3,088	865,500	0.36
5321	Automotive Equipment Rental and Leasing	567	2,987,344	5,267	2,647,455	0.20
5322	Consumer Goods Rental	1,185	5,301,598	4,475	1,093,599	0.41
5323	General Rental Centers	318	1,344,257	4,222	1,436,198	0.29
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing.	1,171	5,466,318	4,667	3,114,198	0.15

TABLE VIII.F.4—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	315	671,532	2,130	3,900,891	0.05
5411	Legal Services	23,897	49,298,948	2,063	1,105,731	0.19
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.	15,652	36,586,403	2,338	715,353	0.33
5413	Architectural, Engineering, and Related Services	12,833	75,874,312	5,913	1,482,804	0.40
5414	Specialized Design Services	4,402	11,949,232	2,715	783,080	0.35
5415	Computer Systems Design and Related Services	16,220	39,798,676	2,454	1,363,070	0.18
5416	Management, Scientific, and Technical Consulting Services.	22,491	62,683,511	2,787	917,797	0.30
5417	Scientific Research and Development Services	2,115	15,224,604	7,199	5,734,418	0.13
5418	Advertising, Public Relations, and Related Services	4,587	16,632,694	3,626	1,610,062	0.23
5419	Other Professional, Scientific, and Technical Services	8,774	45,327,608	5,166	1,037,261	0.50
5511	Management of Companies and Enterprises	932	7,466,268	8,009	7,794,296	0.10
5611	Office Administrative Services	4,204	10,143,593	2,413	1,807,749	0.13
5612	Facilities Support Services	296	3,898,123	13,148	4,474,249	0.29
5613	Employment Services	3,752	42,559,048	11,344	2,963,924	0.38
5614	Business Support Services	3,342	5,943,802	1,778	1,306,752	0.14
5615	Travel Arrangement and Reservation Services	1,972	3,129,421	1,587	1,663,607	0.10
5616	Investigation and Security Services	2,773	25,002,454	9,018	1,245,244	0.72
5617	Services to Buildings and Dwellings	26,019	112,901,810	4,339	671,194	0.65
5619	Other Support Services	2,399	7,136,600	2,975	1,533,830	0.19
5621	Waste Collection	1,078	2,523,921	2,342	3,245,312	0.07
5622	Waste Treatment and Disposal	181	743,227	4,112	3,879,488	0.11
5629	Remediation and Other Waste Management Services	1,259	6,361,525	5,055	2,114,365	0.24
6111	Elementary and Secondary Schools	2,856	34,194,636	11,975	4,338,191	0.28
6112	Junior Colleges	61	567,155	9,272	7,096,235	0.13
6113	Colleges, Universities, and Professional Schools	178	641,408	3,603	3,148,365	0.11
6114	Business Schools and Computer and Management Training.	1,150	2,051,773	1,785	1,184,543	0.15
6115	Technical and Trade Schools	1,020	3,125,752	3,063	1,475,233	0.21
6116	Other Schools and Instruction	7,124	15,777,099	2,215	471,098	0.47
6117	Educational Support Services	1,184	2,055,225	1,736	994,278	0.17
6211	Offices of Physicians	7,538	16,396,965	2,175	1,557,548	0.14
6212	Offices of Dentists	5,517	15,448,753	2,800	1,107,348	0.25
6213	Offices of Other Health Practitioners	5,985	13,236,859	2,212	610,067	0.36
6214	Outpatient Care Centers	799	6,631,683	8,303	3,531,393	0.24
6215	Medical and Diagnostic Laboratories	326	1,639,918	5,023	2,880,366	0.17
6216	Home Health Care Services	1,021	21,196,909	20,756	1,947,504	1.07
6219	Other Ambulatory Health Care Services	290	2,399,519	8,280	2,122,696	0.39
6221	General Medical and Surgical Hospitals	58	3,146,213	54,588	31,988,544	0.17
6222	Psychiatric and Substance Abuse Hospitals	10	1,136,474	118,967	26,840,059	0.44
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.	6	408,435	64,547	24,345,151	0.27
6231	Nursing Care Facilities (Skilled Nursing Facilities)	377	15,692,040	41,623	7,737,051	0.54
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.	454	12,424,041	27,345	2,746,969	1.00
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.	779	13,425,442	17,232	2,104,725	0.82
6239	Other Residential Care Facilities	136	3,155,732	23,216	2,165,006	1.07
6241	Individual and Family Services	2,496	39,826,256	15,956	1,571,030	1.02
6242	Community Food and Housing, and Emergency and Other Relief Services.	480	5,254,947	10,949	2,633,784	0.42
6243	Vocational Rehabilitation Services	172	4,469,310	25,964	2,335,393	1.11
6244	Child Care Services	2,687	51,565,482	19,189	676,561	2.84
7111	Performing Arts Companies	4,679	5,483,031	1,172	1,560,279	0.08
7112	Spectator Sports	2,011	2,409,683	1,198	2,328,568	0.05
7113	Promoters of Performing Arts, Sports, and Similar Events	4,046	5,398,753	1,334	2,099,056	0.06
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.	2,119	2,111,109	996	1,445,877	0.07
7115	Independent Artists, Writers, and Performers	15,342	14,460,165	942	835,413	0.11
7121	Museums, Historical Sites, and Similar Institutions	3,845	6,836,964	1,778	2,394,793	0.07
7131	Amusement Parks and Arcades	1,742	3,288,557	1,888	1,040,189	0.18
7132	Gambling Industries	1,000	2,273,300	2,272	5,012,918	0.05
7139	Other Amusement and Recreation Industries	34,659	51,264,046	1,479	1,051,729	0.14
7211	Traveler Accommodation	17,375	32,853,003	1,891	2,184,689	0.09
7212	RV (Recreational Vehicle) Parks and Recreational Camps	2,543	2,405,045	946	991,813	0.10
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps.	687	741,076	1,079	930,215	0.12
7223	Special Food Services	7,295	8,312,585	1,139	857,031	0.13
7224	Drinking Places (Alcoholic Beverages)	14,383	13,061,680	908	663,521	0.14
7225	Restaurants and Other Eating Places	157,253	276,972,590	1,761	1,144,923	0.15
8111	Automotive Repair and Maintenance	62,789	100,273,474	1,597	798,630	0.20
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	8,982	14,997,313	1,670	1,261,858	0.13
8114	Personal and Household Goods Repair and Maintenance	9,417	11,449,589	1,216	455,661	0.27

TABLE VIII.F.4—ECONOMIC IMPACTS ON SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
8121	Personal Care Services	52,932	64,529,881	1,219	346,123	0.35
8122	Death Care Services	6,955	13,214,986	1,900	1,130,650	0.17
8123	Drycleaning and Laundry Services	13,051	16,733,433	1,282	564,862	0.23
8129	Other Personal Services	16,792	22,209,398	1,323	509,230	0.26
8131	Religious Organizations	83,837	126,171,312	1,505	722,894	0.21
8132	Grantmaking and Giving Services	7,839	8,889,289	1,134	3,473,007	0.03
8133	Social Advocacy Organizations	6,903	8,993,435	1,303	1,442,084	0.09
8134	Civic and Social Organizations	11,030	15,706,906	1,424	697,379	0.20
8139	Business, Professional, Labor, Political, and Similar Organizations	25,710	33,664,444	1,309	1,384,987	0.09
9993	Local Government	4,846	132,114,558	27,261	17,292,921	0.16
Total .....	.....	1,985,235	3,863,384,856	1,946	2,403,819	0.08

Source: OSHA.

TABLE VIII.F.5—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
1111	Oilseed and Grain Farming	\$7,184	\$6,027,437	\$839	\$609,184	0.14
1112	Vegetable and Melon Farming	1,227	3,233,900	2,636	705,291	0.37
1113	Fruit and Tree Nut Farming	3,060	4,119,361	1,346	384,931	0.35
1114	Greenhouse, Nursery, and Floriculture Production	1,545	4,149,308	2,686	513,448	0.52
1119	Other Crop Farming	5,537	6,434,964	1,162	198,860	0.58
1121	Cattle Ranching and Farming	10,474	11,742,592	1,121	523,461	0.21
1122	Hog and Pig Farming	585	921,175	1,575	2,022,974	0.08
1123	Poultry and Egg Production	1,356	2,018,022	1,488	2,264,037	0.07
1124	Sheep and Goat Farming	856	968,612	1,131	59,994	1.89
1125	Aquaculture	91	239,911	2,630	875,290	0.30
1129	Other Animal Production	2,806	3,272,814	1,166	88,841	1.31
1131	Timber Tract Operations	429	403,940	942	1,293,445	0.07
1132	Forest Nurseries and Gathering of Forest Products	144	104,419	725	679,386	0.11
1133	Logging	7,530	6,292,246	836	1,170,494	0.07
1141	Fishing	2,416	1,100,212	455	667,346	0.07
1142	Hunting and Trapping	331	292,626	885	619,029	0.14
1151	Support Activities for Crop Production	4,102	3,213,003	783	1,530,220	0.05
1152	Support Activities for Animal Production	4,531	2,962,939	654	405,439	0.16
1153	Support Activities for Forestry	1,534	1,037,673	676	765,904	0.09
2111	Oil and Gas Extraction	4,571	6,341,178	1,387	2,574,156	0.05
2131	Support Activities for Mining	8,845	14,462,495	1,635	937,066	0.17
2211	Electric Power Generation, Transmission and Distribution	832	2,254,730	2,709	13,316,386	0.02
2212	Natural Gas Distribution	267	546,792	2,049	10,690,728	0.02
2213	Water, Sewage and Other Systems	3,468	5,937,995	1,712	850,747	0.20
2361	Residential Building Construction	167,394	90,561,837	541	1,043,976	0.05
2362	Nonresidential Building Construction	34,810	32,498,908	934	2,948,013	0.03
2371	Utility System Construction	13,929	14,564,718	1,046	1,657,874	0.06
2372	Land Subdivision	4,615	2,626,758	569	1,167,179	0.05
2373	Highway, Street, and Bridge Construction	6,251	5,486,633	878	2,619,746	0.03
2379	Other Heavy and Civil Engineering Construction	3,581	3,418,173	954	1,444,677	0.07
2381	Foundation, Structure, and Building Exterior Contractors	83,470	72,226,262	865	936,942	0.09
2382	Building Equipment Contractors	161,684	141,354,524	874	847,521	0.10
2383	Building Finishing Contractors	108,028	74,449,281	689	653,438	0.11
2389	Other Specialty Trade Contractors	62,342	43,480,559	697	1,039,609	0.07
3111	Animal Food Manufacturing	377	349,776	928	5,316,620	0.02
3112	Grain and Oilseed Milling	130	273,983	2,115	22,940,721	0.01
3113	Sugar and Confectionery Product Manufacturing	652	541,708	831	1,163,232	0.07
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing	441	532,718	1,207	3,760,308	0.03
3115	Dairy Product Manufacturing	337	456,581	1,353	9,285,097	0.01
3116	Animal Slaughtering and Processing	996	872,620	876	2,401,951	0.04
3117	Seafood Product Preparation and Packaging	129	107,828	838	3,136,053	0.03
3118	Bakeries and Tortilla Manufacturing	4,379	4,017,779	918	635,675	0.14
3119	Other Food Manufacturing	1,111	1,075,034	968	2,724,529	0.04
3121	Beverage Manufacturing	3,429	2,263,370	660	1,398,536	0.05
3122	Tobacco Manufacturing	32	42,411	1,311	6,587,893	0.02
3131	Fiber, Yarn, and Thread Mills	60	75,096	1,254	2,191,371	0.06
3132	Fabric Mills	192	233,984	1,217	3,435,732	0.04
3133	Textile and Fabric Finishing and Fabric Coating Mills	263	271,517	1,031	1,915,018	0.05
3141	Textile Furnishings Mills	630	573,335	910	780,741	0.12
3149	Other Textile Product Mills	1,705	1,270,778	745	614,109	0.12
3151	Apparel Knitting Mills	54	66,320	1,228	1,443,320	0.09
3152	Cut and Sew Apparel Manufacturing	2,095	1,429,596	682	637,842	0.11

TABLE VIII.F.5—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3159	Apparel Accessories and Other Apparel Manufacturing	236	188,102	796	619,537	0.13
3161	Leather and Hide Tanning and Finishing	61	42,671	698	2,839,687	0.02
3162	Footwear Manufacturing	75	123,351	1,655	2,193,374	0.08
3169	Other Leather and Allied Product Manufacturing	302	187,558	621	626,299	0.10
3211	Sawmills and Wood Preservation	1,006	1,185,132	1,179	1,727,380	0.07
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing	264	633,617	2,400	4,044,768	0.06
3219	Other Wood Product Manufacturing	3,327	3,257,167	979	1,053,722	0.09
3221	Pulp, Paper, and Paperboard Mills	27	376,078	13,794	93,208,301	0.01
3222	Converted Paper Product Manufacturing	559	893,086	1,597	4,579,693	0.03
3231	Printing and Related Support Activities	10,124	5,790,603	572	693,094	0.08
3241	Petroleum and Coal Products Manufacturing	244	494,702	2,027	28,484,143	0.01
3251	Basic Chemical Manufacturing	277	556,651	2,011	21,892,698	0.01
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing	226	335,765	1,485	6,835,167	0.02
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	229	350,781	1,534	7,269,726	0.02
3254	Pharmaceutical and Medicine Manufacturing	546	603,519	1,106	3,960,913	0.03
3255	Paint, Coating, and Adhesive Manufacturing	448	542,317	1,211	3,140,147	0.04
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	704	655,288	931	2,390,628	0.04
3259	Other Chemical Product and Preparation Manufacturing	579	723,101	1,250	3,072,599	0.04
3261	Plastics Product Manufacturing	2,192	2,911,100	1,328	2,782,966	0.05
3262	Rubber Product Manufacturing	382	557,177	1,459	2,487,702	0.06
3271	Clay Product and Refractory Manufacturing	328	323,850	989	1,473,179	0.07
3272	Glass and Glass Product Manufacturing	539	546,405	1,014	1,791,588	0.06
3273	Cement and Concrete Product Manufacturing	1,336	1,655,935	1,240	2,456,404	0.05
3274	Lime and Gypsum Product Manufacturing	51	122,726	2,409	7,351,270	0.03
3279	Other Nonmetallic Mineral Product Manufacturing	1,006	1,149,905	1,143	1,653,776	0.07
3311	Iron and Steel Mills and Ferroalloy Manufacturing	103	218,406	2,121	6,567,240	0.03
3312	Steel Product Manufacturing from Purchased Steel	121	265,350	2,191	7,339,261	0.03
3313	Alumina and Aluminum Production and Processing	82	262,328	3,197	12,497,676	0.03
3314	Nonferrous Metal (except Aluminum) Production and Processing	178	278,430	1,566	8,757,990	0.02
3315	Foundries	391	547,296	1,398	2,192,210	0.06
3321	Forging and Stamping	556	557,664	1,003	2,020,339	0.05
3322	Cutlery and Handtool Manufacturing	373	259,248	695	1,107,327	0.06
3323	Architectural and Structural Metals Manufacturing	4,125	4,085,887	991	1,456,833	0.07
3324	Boiler, Tank, and Shipping Container Manufacturing	300	423,339	1,409	3,917,337	0.04
3325	Hardware Manufacturing	186	153,954	828	1,511,537	0.05
3326	Spring and Wire Product Manufacturing	298	292,858	983	1,589,842	0.06
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	8,812	6,785,989	770	910,823	0.08
3328	Coating, Engraving, Heat Treating, and Allied Activities	1,740	1,753,611	1,008	985,271	0.10
3329	Other Fabricated Metal Product Manufacturing	1,998	2,026,136	1,014	1,910,855	0.05
3331	Agriculture, Construction, and Mining Machinery Manufacturing	776	880,986	1,135	2,303,225	0.05
3332	Industrial Machinery Manufacturing	951	827,287	870	1,790,885	0.05
3333	Commercial and Service Industry Machinery Manufacturing	602	467,902	777	1,741,883	0.04
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	409	485,787	1,186	2,390,594	0.05
3335	Metalworking Machinery Manufacturing	2,174	1,503,816	692	1,172,111	0.06
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	186	279,911	1,504	4,514,698	0.03
3339	Other General Purpose Machinery Manufacturing	1,576	1,782,884	1,131	2,828,012	0.04
3341	Computer and Peripheral Equipment Manufacturing	317	181,009	570	2,040,422	0.03
3342	Communications Equipment Manufacturing	374	275,245	735	2,213,015	0.03
3343	Audio and Video Equipment Manufacturing	180	98,831	548	1,509,740	0.04
3344	Semiconductor and Other Electronic Component Manufacturing	991	740,401	747	1,810,399	0.04
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	1,411	961,637	682	2,280,952	0.03
3346	Manufacturing and Reproducing Magnetic and Optical Media	158	80,247	509	869,333	0.06
3351	Electric Lighting Equipment Manufacturing	321	290,904	906	2,228,223	0.04
3352	Household Appliance Manufacturing	73	67,216	915	1,907,392	0.05
3353	Electrical Equipment Manufacturing	543	585,477	1,078	2,265,967	0.05
3359	Other Electrical Equipment and Component Manufacturing	530	775,438	1,462	4,923,782	0.03
3361	Motor Vehicle Manufacturing	72	42,019	586	8,079,095	0.01
3362	Motor Vehicle Body and Trailer Manufacturing	462	571,401	1,237	2,128,388	0.06
3363	Motor Vehicle Parts Manufacturing	1,140	1,248,555	1,096	2,450,442	0.04
3364	Aerospace Product and Parts Manufacturing	368	569,759	1,550	4,750,992	0.03
3365	Railroad Rolling Stock Manufacturing	32	104,712	3,303	12,137,746	0.03
3366	Ship and Boat Building	446	605,519	1,357	1,347,324	0.10
3369	Other Transportation Equipment Manufacturing	321	258,348	804	1,487,253	0.05
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	4,244	3,437,887	810	718,130	0.11

TABLE VIII.F.5—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
3372	Office Furniture (including Fixtures) Manufacturing	1,162	1,046,524	901	1,149,394	0.08
3379	Other Furniture Related Product Manufacturing	216	288,388	1,337	2,340,433	0.06
3391	Medical Equipment and Supplies Manufacturing	3,950	2,735,349	693	758,887	0.09
3399	Other Miscellaneous Manufacturing	7,399	5,215,239	705	801,390	0.09
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.	1,257	4,993,354	3,973	3,303,747	0.12
4232	Furniture and Home Furnishing Merchant Wholesalers	910	3,110,498	3,417	2,854,446	0.12
4233	Lumber and Other Construction Materials Merchant Wholesalers.	785	2,505,110	3,193	3,557,039	0.09
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers.	1,916	5,577,568	2,912	2,405,983	0.12
4235	Metal and Mineral (except Petroleum) Merchant Wholesalers.	556	2,106,984	3,790	6,228,340	0.06
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.	1,576	5,580,492	3,542	3,369,434	0.11
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.	816	2,636,524	3,230	2,796,763	0.12
4238	Machinery, Equipment, and Supplies Merchant Wholesalers.	3,312	15,267,247	4,610	2,896,468	0.16
4239	Miscellaneous Durable Goods Merchant Wholesalers	2,551	6,358,104	2,492	2,832,277	0.09
4241	Paper and Paper Product Merchant Wholesalers	610	2,004,758	3,287	2,995,604	0.11
4242	Drugs and Druggists' Sundries Merchant Wholesalers	563	1,888,913	3,356	4,020,123	0.08
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	1,248	3,098,845	2,483	2,808,295	0.09
4244	Grocery and Related Product Merchant Wholesalers	2,242	7,359,247	3,283	4,893,717	0.07
4245	Farm Product Raw Material Merchant Wholesalers	266	1,240,969	4,671	11,316,686	0.04
4246	Chemical and Allied Products Merchant Wholesalers	676	2,375,082	3,516	5,030,093	0.07
4247	Petroleum and Petroleum Products Merchant Wholesalers	263	1,242,062	4,718	20,772,751	0.02
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.	243	763,626	3,147	3,176,806	0.10
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	1,870	6,010,140	3,215	2,900,974	0.11
4251	Wholesale Trade Agents and Brokers	3,577	7,395,194	2,068	8,758,811	0.02
4411	Automobile Dealers	4,702	9,420,631	2,004	3,255,236	0.06
4412	Other Motor Vehicle Dealers	1,853	4,518,777	2,439	2,697,277	0.09
4413	Automotive Parts, Accessories, and Tire Retailers	4,859	11,159,040	2,297	1,134,410	0.20
4441	Building Material and Supplies Dealers	5,693	7,059,545	1,240	1,614,974	0.08
4442	Lawn and Garden Equipment and Supplies Retailers	2,502	5,016,485	2,005	1,498,082	0.13
4451	Grocery and Convenience Retailers	10,521	16,794,972	1,596	1,054,320	0.15
4452	Specialty Food Retailers	3,551	5,729,397	1,613	900,891	0.18
4453	Beer, Wine, and Liquor Retailers	5,163	5,975,343	1,157	1,325,671	0.09
4491	Furniture and Home Furnishings Retailers	6,010	8,962,736	1,491	1,223,523	0.12
4492	Electronics and Appliance Retailers	3,217	4,908,069	1,525	1,030,417	0.15
4551	Department Stores	148	190,770	1,287	1,621,586	0.08
4552	Warehouse Clubs, Supercenters, and Other General Merchandise Retailers.	2,556	3,419,681	1,338	842,471	0.16
4561	Health and Personal Care Retailers	7,776	9,533,570	1,226	1,791,759	0.07
4571	Gasoline Stations	10,327	15,498,593	1,501	2,804,858	0.05
4572	Fuel Dealers	649	1,060,755	1,635	2,693,189	0.06
4581	Clothing and Clothing Accessories Retailers	5,967	8,712,135	1,460	698,207	0.21
4582	Shoe Retailers	1,010	1,421,801	1,408	1,020,151	0.14
4583	Jewelry, Luggage, and Leather Goods Retailers	2,976	3,898,966	1,310	1,079,268	0.12
4591	Sporting Goods, Hobby, and Musical Instrument Retailers	5,150	7,074,290	1,374	864,136	0.16
4592	Book Retailers and News Dealers	774	988,633	1,278	744,295	0.17
4593	Florists	2,213	3,540,277	1,600	494,498	0.32
4594	Office Supplies, Stationery, and Gift Retailers	3,317	4,621,207	1,393	627,443	0.22
4595	Used Merchandise Retailers	2,352	3,240,613	1,378	608,402	0.23
4599	Other Miscellaneous Retailers	5,911	8,732,908	1,477	1,042,423	0.14
4811	Scheduled Air Transportation	278	293,355	1,054	3,080,504	0.03
4812	Nonscheduled Air Transportation	1,285	1,286,819	1,001	2,040,509	0.05
4821	Rail Transportation	96	51,361	536	399,619	0.13
4831	Deep Sea, Coastal, and Great Lakes Water Transportation.	455	544,184	1,196	2,200,414	0.05
4832	Inland Water Transportation	323	453,643	1,403	1,350,810	0.10
4841	General Freight Trucking	51,643	37,499,799	726	861,013	0.08
4842	Specialized Freight Trucking	35,020	26,650,522	761	892,912	0.09
4851	Urban Transit Systems	373	312,637	839	839,880	0.10
4852	Interurban and Rural Bus Transportation	332	422,567	1,274	833,268	0.15
4853	Taxi and Limousine Service	5,931	6,596,898	1,112	473,725	0.23
4854	School and Employee Bus Transportation	1,444	1,578,496	1,093	381,438	0.29
4855	Charter Bus Industry	663	764,143	1,152	976,121	0.12
4859	Other Transit and Ground Passenger Transportation	3,097	2,381,262	769	514,988	0.15
4861	Pipeline Transportation of Crude Oil	27	34,499	1,282	5,687,521	0.02
4862	Pipeline Transportation of Natural Gas	59	90,847	1,528	15,269,599	0.01
4869	Other Pipeline Transportation	29	37,586	1,288	4,867,763	0.03
4871	Scenic and Sightseeing Transportation, Land	474	570,363	1,203	670,486	0.18
4872	Scenic and Sightseeing Transportation, Water	1,385	2,109,958	1,524	589,761	0.26
4879	Scenic and Sightseeing Transportation, Other	208	272,900	1,311	812,572	0.16
4881	Support Activities for Air Transportation	2,961	3,481,748	1,176	1,058,641	0.11

TABLE VIII.F.5—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
4882	Support Activities for Rail Transportation	315	430,553	1,366	1,603,240	0.09
4883	Support Activities for Water Transportation	1,396	1,914,888	1,372	1,256,551	0.11
4884	Support Activities for Road Transportation	8,222	6,121,945	745	687,092	0.11
4885	Freight Transportation Arrangement	11,283	15,674,157	1,389	1,583,872	0.09
4889	Other Support Activities for Transportation	1,202	1,095,829	912	799,155	0.11
4921	Couriers and Express Delivery Services	3,125	2,811,195	900	843,986	0.11
4922	Local Messengers and Local Delivery	2,990	2,455,403	821	741,162	0.11
4931	Warehousing and Storage	3,555	3,599,514	1,012	1,301,304	0.08
5121	Motion Picture and Video Industries	2,383	4,673,631	1,962	903,851	0.22
5122	Sound Recording Industries	445	780,716	1,754	660,025	0.27
5131	Newspaper, Periodical, Book, and Directory Publishers	1,936	4,503,697	2,326	816,692	0.28
5132	Software Publishers	1,057	2,023,518	1,915	1,268,517	0.15
5161	Radio and Television Broadcasting Stations	370	1,470,235	3,969	662,207	0.60
5162	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.	235	560,991	2,388	1,346,479	0.18
5171	Wired and Wireless Telecommunications (except Satellite)	942	1,900,994	2,018	1,249,302	0.16
5174	Satellite Telecommunications	40	86,847	2,157	1,745,466	0.12
5178	All Other Telecommunications	287	502,736	1,753	1,126,736	0.16
5182	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services.	1,112	2,196,650	1,976	1,171,961	0.17
5192	Web Search Portals, Libraries, Archives, and Other Information Services.	468	867,704	1,853	507,510	0.37
5221	Depository Credit Intermediation	637	1,709,643	2,682	1,711,700	0.16
5222	Nondepository Credit Intermediation	1,654	3,919,691	2,369	1,191,143	0.20
5223	Activities Related to Credit Intermediation	1,718	3,212,716	1,870	758,941	0.25
5231	Securities and Commodity Contracts Intermediation and Brokerage.	1,349	2,298,865	1,704	1,235,568	0.14
5232	Securities and Commodity Exchanges	0	19,633	39,745	753,808,884	0.01
5239	Other Financial Investment Activities	6,852	11,878,438	1,734	1,247,480	0.14
5241	Insurance Carriers	499	1,011,256	2,025	3,600,269	0.06
5242	Agencies, Brokerages, and Other Insurance Related Activities.	17,366	34,184,872	1,968	575,155	0.34
5251	Insurance and Employee Benefit Funds	197	166,858	849	198,788	0.43
5259	Other Investment Pools and Funds	112	200,679	1,786	1,085,641	0.16
5311	Lessors of Real Estate	12,961	26,616,095	2,054	1,090,656	0.19
5312	Offices of Real Estate Agents and Brokers	14,379	25,261,103	1,757	700,221	0.25
5313	Activities Related to Real Estate	10,077	22,407,861	2,224	584,901	0.38
5321	Automotive Equipment Rental and Leasing	482	1,447,641	3,004	1,018,247	0.29
5322	Consumer Goods Rental	1,039	3,003,692	2,891	609,218	0.47
5323	General Rental Centers	284	865,973	3,049	969,539	0.31
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing.	949	2,282,588	2,404	1,447,107	0.17
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).	285	476,238	1,669	3,054,162	0.05
5411	Legal Services	22,852	45,807,442	2,005	747,237	0.27
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.	14,754	29,735,652	2,015	425,212	0.47
5413	Architectural, Engineering, and Related Services	11,568	42,680,149	3,690	796,165	0.46
5414	Specialized Design Services	4,322	10,844,535	2,509	651,156	0.39
5415	Computer Systems Design and Related Services	15,074	30,869,789	2,048	699,158	0.29
5416	Management, Scientific, and Technical Consulting Services.	21,484	48,439,074	2,255	605,529	0.37
5417	Scientific Research and Development Services	1,662	4,503,806	2,709	1,184,901	0.23
5418	Advertising, Public Relations, and Related Services	4,240	11,597,282	2,735	972,915	0.28
5419	Other Professional, Scientific, and Technical Services	8,042	31,055,715	3,862	718,191	0.54
5511	Management of Companies and Enterprises	622	1,694,619	2,724	2,000,475	0.14
5611	Office Administrative Services	3,518	5,423,804	1,542	785,494	0.20
5612	Facilities Support Services	157	441,128	2,817	1,344,810	0.21
5613	Employment Services	2,522	4,435,122	1,758	862,254	0.20
5614	Business Support Services	2,939	3,932,901	1,338	637,724	0.21
5615	Travel Arrangement and Reservation Services	1,846	2,452,247	1,328	1,145,290	0.12
5616	Investigation and Security Services	2,305	7,402,537	3,212	568,222	0.57
5617	Services to Buildings and Dwellings	24,202	62,022,534	2,563	441,221	0.58
5619	Other Support Services	2,194	4,403,819	2,007	960,942	0.21
5621	Waste Collection	893	1,162,660	1,301	1,262,504	0.10
5622	Waste Treatment and Disposal	140	316,092	2,251	1,725,940	0.13
5629	Remediation and Other Waste Management Services	1,086	3,133,580	2,885	1,098,195	0.26
6111	Elementary and Secondary Schools	1,169	3,475,761	2,973	637,302	0.47
6112	Junior Colleges	29	111,992	3,817	2,336,262	0.16
6113	Colleges, Universities, and Professional Schools	119	231,971	1,952	1,512,355	0.13
6114	Business Schools and Computer and Management Training.	1,062	1,591,435	1,498	755,854	0.20
6115	Technical and Trade Schools	841	1,646,426	1,959	687,422	0.28
6116	Other Schools and Instruction	6,476	11,488,813	1,774	332,175	0.53
6117	Educational Support Services	1,096	1,574,151	1,437	604,768	0.24
6211	Offices of Physicians	6,908	12,269,746	1,776	960,870	0.18
6212	Offices of Dentists	5,290	13,513,854	2,555	948,924	0.27

TABLE VIII.F.5—ECONOMIC IMPACTS ON VERY SMALL ENTITIES AFFECTED BY THE PROPOSED STANDARD WITH COSTS CALCULATED USING A 2% DISCOUNT RATE—Continued

NAICS	Industry	Entities	Total annualized costs	Average annualized cost per entity	Average revenue per entity	Costs as % of revenue
6213	Offices of Other Health Practitioners	5,695	10,110,019	1,775	447,256	0.40
6214	Outpatient Care Centers	536	1,544,461	2,879	989,325	0.29
6215	Medical and Diagnostic Laboratories	265	717,035	2,703	1,182,302	0.23
6216	Home Health Care Services	653	2,917,046	4,468	518,702	0.86
6219	Other Ambulatory Health Care Services	209	655,184	3,137	797,038	0.39
6221	General Medical and Surgical Hospitals	4	20,164	5,297	10,704,238	0.05
6222	Psychiatric and Substance Abuse Hospitals	1	60,072	40,967	15,140,669	0.27
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	2	89,129	45,058	23,112,360	0.19
6231	Nursing Care Facilities (Skilled Nursing Facilities)	97	299,181	3,092	1,138,055	0.27
6232	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities	246	1,184,615	4,820	495,389	0.97
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly	523	2,224,552	4,252	439,078	0.97
6239	Other Residential Care Facilities	83	513,007	6,216	469,247	1.32
6241	Individual and Family Services	1,805	7,386,994	4,092	424,361	0.96
6242	Community Food and Housing, and Emergency and Other Relief Services	334	1,555,480	4,659	990,632	0.47
6243	Vocational Rehabilitation Services	81	345,131	4,262	566,673	0.75
6244	Child Care Services	2,132	20,144,880	9,448	290,434	3.25
7111	Performing Arts Companies	4,171	4,129,821	990	787,860	0.13
7112	Spectator Sports	1,794	1,430,879	797	1,258,295	0.06
7113	Promoters of Performing Arts, Sports, and Similar Events	3,604	3,665,186	1,017	1,122,492	0.09
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	2,047	2,033,576	993	1,093,566	0.09
7115	Independent Artists, Writers, and Performers	15,202	14,251,524	937	787,943	0.12
7121	Museums, Historical Sites, and Similar Institutions	3,149	3,311,160	1,051	608,424	0.17
7131	Amusement Parks and Arcades	1,354	1,316,414	972	516,918	0.19
7132	Gambling Industries	744	922,020	1,239	1,354,532	0.09
7139	Other Amusement and Recreation Industries	28,297	22,821,999	807	483,584	0.17
7211	Traveler Accommodation	12,993	15,574,139	1,199	877,297	0.14
7212	RV (Recreational Vehicle) Parks and Recreational Camps	2,293	1,620,981	707	721,900	0.10
7213	Rooming and Boarding Houses, Dormitories, and Workers' Camps	654	651,616	996	650,782	0.15
7223	Special Food Services	6,293	4,826,527	767	453,753	0.17
7224	Drinking Places (Alcoholic Beverages)	12,801	9,231,321	721	450,393	0.16
7225	Restaurants and Other Eating Places	117,267	109,738,307	936	537,890	0.17
8111	Automotive Repair and Maintenance	64,015	85,582,777	1,337	646,006	0.21
8112	Electronic and Precision Equipment Repair and Maintenance	4,843	7,081,340	1,462	555,490	0.26
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	8,375	11,158,572	1,332	842,857	0.16
8114	Personal and Household Goods Repair and Maintenance	9,205	10,159,719	1,104	380,439	0.29
8121	Personal Care Services	50,363	59,103,771	1,174	267,441	0.44
8122	Death Care Services	6,418	9,445,610	1,472	854,725	0.17
8123	Drycleaning and Laundry Services	12,190	12,520,561	1,027	353,835	0.29
8129	Other Personal Services	15,818	15,920,372	1,006	339,338	0.30
8131	Religious Organizations	76,718	98,017,873	1,278	417,227	0.31
8132	Grantmaking and Giving Services	7,573	8,483,782	1,120	2,705,446	0.04
8133	Social Advocacy Organizations	6,199	6,958,994	1,123	816,788	0.14
8134	Civic and Social Organizations	10,249	12,512,391	1,221	479,271	0.25
8139	Business, Professional, Labor, Political, and Similar Organizations	23,841	28,061,383	1,177	819,457	0.14
9993	Local Government	1,922	4,052,837	2,109	1,111,959	0.19
Total .....	.....	1,847,745	2,177,399,776	1,178	987,455	0.12

Source: OSHA.

F. Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

The Regulatory Flexibility Act (RFA) requires that the agency's initial regulatory flexibility Analysis identify, "to the extent practicable, . . . all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule" (5 U.S.C. 603(b)(5)). Below, OSHA discusses whether the rules it has identified would duplicate,

overlap, or conflict with the options for a potential standard as outlined above. While some Federal rules may have overlapping requirements, OSHA did not identify any rules that would conflict with the proposed standard. The agency therefore believes that no Federal rules would prevent compliance with the proposed standard.

I. Other Federal Agency Rules

The first Federal rules that OSHA identified are regulations promulgated

by the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*). The Worker Protection Standard (WPS) (40 CFR part 170) is designed to protect agricultural workers from "unreasonable adverse effects of pesticides" (80 FR 67496); however, there are some provisions of the WPS addressing heat hazards associated with PPE use required by that standard. The WPS requires that employers implement "appropriate" or

“sufficient” measures to prevent heat-related illness when workers must wear PPE (40 CFR 170.507, 170.605). The WPS also requires employers to ensure pesticide handlers are trained on how to recognize, prevent, and provide first aid treatment for heat-related illnesses (40 CFR 170.501). Although there may be some overlap between these requirements and some elements of the proposed standard (e.g., training), OSHA is not aware of any conflicts. OSHA’s proposed standard would be entirely consistent with EPA’s requirements around PPE considerations and training for pesticide handlers. Additionally, the WPS, designed to protect workers from pesticide exposure, does not obviate the need for OSHA’s proposed standard, designed to protect workers from hazardous heat. A multitude of factors, including PPE, can contribute to heat injury and illness.

The second set of Federal rules that OSHA identified are Department of Transportation (DOT) regulations. The Federal Motor Carrier Safety Administration (FMCSA) requires drivers of vehicles with gross vehicle weight ratings of 26,001 pounds or more to be instructed about extreme driving conditions, including high heat, to obtain commercial driver’s licenses (49 CFR part 380). FMCSA’s regulations might overlap with OSHA’s proposed rule to the extent they require some training for a limited group of individuals. However, these regulations would not conflict with OSHA’s proposed rule, nor do they obviate the need for a comprehensive OSHA standard with provisions specifically designed to protect workers exposed to a broad range of hazardous heat conditions.

II. OSHA Standards

OSHA does not have any standards that specifically address workplace exposure to hazardous heat. However, OSHA has identified some current standards applicable to some issues related to hazardous heat. These standards, described below, do not conflict with the proposed rule, nor do they obviate the need for an OSHA standard addressing occupational exposure to hazardous heat.

The first set of standards OSHA identified are the sanitation standards (29 CFR 1910.141, 1926.51, 1915.88, 1917.127, 1918.95, 1928.110). Among other things, these standards require employers to provide employees with readily accessible potable drinking water and access to toilet facilities. The field sanitation standard for agriculture also requires employers to notify

employees of the location of water and the importance of drinking water frequently, especially on hot days (29 CFR 1928.110(c)(4)). These existing standards and the provisions of the proposed rule do not conflict, nor do these existing standards obviate the need for a heat-specific standard. While OSHA’s sanitation standards require employers to make drinking water available to employees, their primary purpose is to ensure sanitary conditions in the workplace and they do not include the same level of specificity for provision of water as the proposed standard (e.g., specific quantity of water to be provided).

The second set of standards OSHA has identified are specific to pulp and paper and textile mills. These standards require that exposed water pipes that carry either steam or hot water and are located close to working platforms be guarded to prevent contact (29 CFR 1910.261(k)(11), 1910.262). These standards are primarily concerned with burn and scalding-related hazards to employees. However, when employers guard these pipes by using insulating material, they may also help protect their workplace from increases in temperatures that may, in some cases, induce HRIs. Thus, the existing standards and the proposed standard would be complementary in nature.

The third set of standards that OSHA has identified are two broadly applicable standards that may apply to some heat-related hazards—the Recordkeeping standard (29 CFR 1904.7) and the Safety Training and Education standard for construction (29 CFR 1926.21). OSHA’s Recordkeeping standard requires employers to record and report injuries and illnesses, including heat-related injuries and illnesses, that meet recording criteria. This proposed standard does not include additional requirements for recording and reporting injuries and illnesses and therefore does not duplicate or conflict with 29 CFR 1904.7. OSHA’s Safety Training and Education standard requires employers in the construction industry to train employees in the recognition, avoidance, and prevention of unsafe conditions in their workplaces. However, the standard does not specifically identify hazardous heat as a hazard for which workers need training, nor does it establish heat-specific training requirements.

These standards might, in some cases, overlap with some of the provisions of the proposed standard. However, they do not duplicate or conflict with the proposed standard. OSHA believes that a comprehensive standard addressing

HRIs is necessary to ensure that all employers take all appropriate measures to protect workers from the hazards associated with exposure to hazardous heat. If specific requirements of any final heat standard were to directly overlap with more general requirements in other existing standards, the specific requirements would apply in lieu of the more general requirements, unless otherwise noted (see 29 CFR 1910.5(c)(1)); see also the discussion of the continued applicability of the sanitation standards in the *Explanation of Proposed Requirements* for paragraph (e)(2), Drinking Water).

G. Alternatives and Regulatory Options to the Proposed Rule

This section presents regulatory alternatives and options to the proposed OSHA Heat Injury and Illness Prevention standard and OSHA’s responses to the findings and recommendations of the SBAR panel.

Under the RFA, a regulatory alternative is one that would accomplish the stated objectives of the proposed standard and that would minimize or reduce economic impact of the proposed rule on small entities. A regulatory alternative can reduce the impact on businesses of all sizes, and it need not focus solely on small entities. OSHA also presents regulatory options. Regulatory options would increase the burden of compliance on affected entities and therefore do not meet the definition of a regulatory alternative set out in the RFA. Nevertheless, the agency presents them in this section to provide notice of potential alternate approaches and to solicit comment on these options. Table VIII.F.1. presents these options and alternatives. The assumptions and parameters for estimating the impact of these options and alternatives is discussed below the table.

OMB Circular A–4 (2023) directs agencies, for purposes of complying with E.O. 12866, to identify key attributes or provisions of a proposed standard and examine options for each “including: the proposed or finalized option; at least one option that achieves additional benefits (and presumably costs more due to, for example, greater stringency); and at least one option that costs less (and presumably generates fewer benefits due to, for example, less stringency).” For this proposed standard, OSHA identified requirements for rest breaks and for written HIIPPs as the key provisions for purposes of its E.O. 12866 analysis. The requirements of the proposed standard work in concert to produce the benefit of avoided HRIs and fatalities. The agency is unable to directly attribute avoided

HRIs and fatalities to any specific provision so is unable to discuss the differences in the benefits of alternatives other than based on the assumption that more stringent options might increase benefits while less stringent alternatives might decrease benefits.

As shown in table VIII.F.6, an option to require high heat triggered rest breaks every hour, is the costliest, incurring an additional \$23.0 billion annually compared to the proposed requirement of rest breaks every two hours. The alternative that would reduce the

compliance costs the most would be one that required 10-minute high heat triggered rest breaks (versus the 15-minute rest breaks required in the proposed standard), which results in approximately \$3.2 billion less in compliance costs per year.

TABLE VIII.F.6—COSTS FOR REGULATORY OPTIONS AND ALTERNATIVES
[2023\$]

Description	In-scope entities	In-scope establishments	In-scope employees	Annualized costs (2%)	Difference
Proposed standard as written	2,230,750	2,535,774	35,954,325	\$7,823,661,638	\$0
Review HIIPP at least every other year instead of at least annually	2,230,750	2,535,774	35,954,325	7,737,630,422	–86,031,216
No written HIIPP required for <20 employees instead of <10 employees	2,230,750	2,535,774	35,954,325	7,821,535,276	–2,126,362
All establishments write HIIPP regardless of number of employees	2,230,750	2,535,774	35,954,325	7,839,027,706	15,366,068
At or above the high heat trigger, 15-minute rest break at least every hour instead of at least every two hours	2,230,750	2,535,774	35,954,325	30,821,032,888	22,997,371,249
At or above the high heat trigger, 10-minute rest break at least every two hours instead of 15-minute rest break at least every two hours ...	2,230,750	2,535,774	35,954,325	4,601,335,411	–3,222,326,227
Refresher trainings at least every other year instead of annually	2,230,750	2,535,774	35,954,325	7,585,132,580	–238,529,059
High heat trigger of 95° heat index instead of 90° heat index	2,230,750	2,535,774	35,954,325	5,967,548,421	–1,856,113,217
Acclimatization for employees returning after 30 days away from work, instead of after 14 days away from work	2,230,750	2,535,774	35,954,325	7,822,809,795	–851,843
Limit the sedentary work exemption to sedentary work activities at indoor work areas below [a heat index of 90 °F]	2,230,750	2,535,774	35,954,325	7,824,928,699	1,267,060
Add a requirement for employers to provide medical surveillance	2,230,750	2,535,774	35,954,325	10,301,080,493	2,477,418,855

Source: OSHA.

I. Regulatory Options

a. Regulatory Option 1—All Establishments Write HIIPPs Regardless of Number of Employees

This alternative assumes that all establishments have their HIIPP in writing compared to the proposed standard where establishments with ten or fewer employees do not need to have their HIIPP in writing. All establishments with ten or fewer employees that do not have an existing HIIPP in place are modeled as either using OSHA's template (six hours of a designated person's labor time) or writing their HIIPP from scratch (30 hours) in the same proportions that were assumed for establishments of other sizes.

This regulatory option would add about \$15.4 million in additional costs. OSHA believes that having a written plan is an important tool in protecting employees from heat and other workplace hazards. However, experience has shown that for the smallest employers, employees and supervisors or owners are working closely enough together that the details of safety plans can be readily communicated between individuals. The agency believes that written plans are not necessary for employers with 10 or fewer employees and that this is a useful way to reduce the burden on the smallest employers (although they would still need to have a HIIPP as required by this proposed standard).

b. Regulatory Option 2—At or Above the High Heat Trigger 15-Minute Rest Break at Least Every Hour

The proposed standard would require employers to provide a 15-minute rest break at least every two hours when the high heat trigger is met. This option would require employers to instead provide a 15-minute rest break to their at-risk employees at least every hour where the high heat trigger is met. As such, the cost for rest breaks would be incurred six times during an 8-hour work shift where the high heat trigger is met (excluding rest breaks before lunch and at the end of the workday).

This option would add considerable costs to this proposed standard—nearly \$23.0 billion. As discussed throughout this preamble, OSHA believes that rest breaks are a crucial tool to protect employees from heat injury and illness. As discussed in Section VII.F., Paragraph (f) Requirements at or above the High Heat Trigger, at the high heat trigger, evidence supports providing 15-minute rest breaks where employees are provided with shade, water, and a chance to shed PPE in order to reduce their body temperature every two hours.

c. Regulatory Option 3—Upper Bound Heat Index for Sedentary Work Exemption

When calculating the costs of requirements under the high heat trigger, this alternative leaves in-scope those employees who are considered sedentary but who work in non-climate-controlled indoor work conditions

where temperatures are reasonably expected to meet or exceed the high heat trigger (*i.e.*, a heat index of 90 °F). This scope change results in more employees qualifying for high heat trigger rest breaks and requiring more observation time from designated persons. This option is estimated to increase the costs of the proposed standard by about \$1.27 million.

d. Regulatory Option 4—Medical Surveillance

Under the medical surveillance alternative, OSHA adds a requirement that all at-risk employees receive and complete a medical screening questionnaire to determine whether an employee may be predisposed to heat-related health risks. This questionnaire is assumed to take 15 minutes. All at-risk employees are assumed to take this questionnaire in the first year. Only new employees (as determined by using the annual hire rates for each sector) are modeled to take this questionnaire in subsequent years.

OSHA also assumes that employees screened as having a predisposition to heat-related health risks (assumed to be 23 percent of all at-risk employees) undergo a medical examination. This medical examination would take one hour of an at-risk worker's labor time. The cost of the medical examination itself, which the employer would need to cover at no cost to the employee, is estimated to cost \$501.28.

Based on these assumptions, this option would increase the costs of the proposed standard by about \$2.5 billion.

The proposed standard currently includes a suite of controls that OSHA has preliminarily determined would confer a high level of protection to all workers, irrespective of individual risk factors.

II. Alternatives

a. Alternative 1—Review HIIPP at Least Every Other Year

Under this regulatory alternative, establishments would need to review their HIIPP at least every other year instead of at least annually. Therefore, OSHA assumes that costs would be incurred every other year including both a designated person's time and the time of employees involved in the plan review and update as estimated in Section VIII.C., Costs of Compliance.

As shown in table VIII.F.6., this alternative would reduce the cost of the proposed standard by about \$86 million. OSHA believes it is important that the written program be reviewed and updated annually to ensure that any deficiencies are identified and remedied promptly. This also maintains consistency with other OSHA standards that require annual program review and update.

b. Alternative 2—No Written HIIPP Required for Establishments With <20 Employees

This alternative adjusts the number of establishments that do not need to have their HIIPP in writing from establishments with ten or fewer employees to those with 20 or fewer employees and would reduce the cost of the proposed standard by about \$2.1 million.

As discussed above, OSHA believes that the smallest employers can effectively administer a program that is not written. However, the agency believes that this is less effective for a slightly larger employer and, given the fact that employers with between 10 and 20 employees represents a proportionately large group of covered employers, OSHA believes there are

benefits to requiring a written program for this group of employers.

c. Alternative 3—10-Minute Rest Breaks at the High Heat Trigger

This alternative revises the rest break requirements at the high heat trigger to require 10-minute rest breaks every two hours rather than 15-minute rest breaks. The time to walk to and from rest areas are maintained at two minutes for indoor employees and four minutes for outdoor employees.

This alternative reduces the cost of the proposed standard by about \$3.2 billion. OSHA has proposed 15-minute rest breaks based on the available literature on rest break efficacy (see Section VII.F., Paragraph (f) Requirements at or above the High Heat Trigger).

d. Alternative 4—Refresher Trainings at Least Every Other Year

Instead of annual refresher trainings, this alternative assumes refresher trainings take place every other year for both at-risk employees and designated persons. This alternative would reduce the cost of the proposed standard by about \$238.5 million. Training is a highly effective method to protect workers from workplace hazards and regular refresher training is necessary to reinforce the topics of the training. Training must be frequent enough that employees maintain the knowledge necessary to recognize heat-related hazards and to understand and comply with the employer's HIIPP. OSHA has preliminarily determined that annual training is necessary for employees to maintain the requisite knowledge and that it is particularly important for outdoor workers to receive this training before the start of each heat season.

e. Alternative 5—95-Degree High Heat Trigger

The high heat trigger is increased from 90 degrees to 95 degrees under this alternative. Revising the high heat trigger upward results in fewer hours for which establishments need to

implement required procedures under these high heat conditions and, thus, results in lower costs.

As shown in table VIII.F.6., this alternative would reduce costs by about \$1.9 billion (although this is a highly uncertain estimate). However, OSHA has preliminarily determined that a high heat trigger of a heat index of 90 °F would be highly protective and higher triggers may not be adequate for preventing HRIs (see Section V.B., Basis for Initial and High Heat Triggers).

f. Alternative 6—Acclimatization for Employees Returning After 30 Days Away

The amount of time away from work that qualifies an employee as a returning employee is adjusted from 14 days to 30 days under this alternative. While OSHA assumes that two percent of all employees would qualify as returning employees given the 14-day qualifying period, the agency assumes half a percent of employees would qualify with a 30-day period.

OSHA estimates that this alternative would reduce the cost of the proposed standard by about \$850,000. Again, this is a highly uncertain estimate given the lack of data on the number of workers who are away from work for two weeks and those away for 30 days during heat season. This affects a small population, and OSHA has proposed the more protective approach of requiring acclimatization for workers who have been away for 14 consecutive days.

Are there additional burden reducing alternatives that the agency should include that would impact costs to entities? If so, what burden reducing alternatives would be most useful to assess these impacts on entities? The agency would welcome any suggestions in this area.

H. SBAR Panel Recommendations

Table VIII.F.7. lists the SBAR Panel recommendations and OSHA's responses to these recommendations.

TABLE VIII.F.7—OSHA'S RESPONSES TO THE SBAR PANEL RECOMMENDATIONS

Number	Finding	Recommendation	OSHA's response
1	SERs expressed concern that the potential standard should not be a "one size fits all" approach and that it would be difficult for a standard to reasonably and effectively cover heat hazards in all settings and all regions of the U.S. SERs agreed that an OSHA standard should be flexible with a programmatic approach that allows employers to tailor their program to their particular workplace. SERs thought this flexibility was necessary for employers to prevent heat-related injuries and illnesses in their workplace most effectively. Some SERs thought the employer should determine what approaches should be implemented to address heat based on the conditions in their work settings as long as those approaches adhere to the regulatory framework. One SER asked whether the regulatory text, like the regulatory framework provided to SERs, could list multiple options employers can choose from.	The Panel recommends that OSHA's standard include performance-based provisions where practical to allow employers to tailor their heat injury and illness prevention program to their setting and situations, including the local climate and the type of work being performed, and also taking into consideration the size and complexity of the employer's operations. To the extent practicable, the Panel recommends that OSHA offer multiple methods of compliance with provisions of a heat standard. In light of input received from SERs, the Panel recommends that OSHA consider whether the heat trigger levels presented in the regulatory framework—both the initial and high heat triggers—are too low, and also recommends that the agency present these heat triggers as simply as possible to avoid confusion. The Panel also recommends that OSHA provide the methodology used to select the heat triggers, including any scientific evidence or other supporting data, along with consideration of potential alternatives.	The agency has drafted a proposed standard that ensures flexibility for workplaces. By incorporating elements that can be tailored to the workplace, OSHA is effectively addressing concerns of applicability to various workplace settings while establishing minimum requirements that are intended to ensure the heat injury and illness prevention program remains effective and accessible to employees. For example, the proposed standard does not apply to indoor workplaces where air conditioning consistently keeps the ambient temperature below 80°F; the proposed standard only requires employers with 10 or more employees to have a written plan, allows employers to choose the heat metric that works best for their workplace, and make other determinations based on their employee operations. OSHA requests further comment on the flexibility of the provisions included in the proposed heat standard.
2	SERs felt that the heat triggers that OSHA had suggested in the regulatory framework were too low and questioned whether the heat triggers were appropriate across different regions of the U.S. Some SERs reported finding OSHA's table of heat triggers presented in the regulatory framework and the use of an initial and a high heat trigger to be confusing and stressed that OSHA should keep the requirements simple. SERs also asked how the heat triggers had been determined and whether they were scientifically based. However, other SERs supported having two trigger levels and some reported that they had already implemented policies based on multiple trigger points already. Some SERs suggested using the National Weather Service heat advisory as a single measure for a heat trigger tailored to local conditions.	The Panel recommends that OSHA clearly present the data being used to justify a potential standard. The Panel recommends that OSHA thoroughly explore whether and how the injury, illness, and fatality data support the promulgation of a heat standard. The Panel also recommends that OSHA reconsider or simplify recordkeeping of temperature monitoring and not require documentation of rest breaks unless the agency can show that such a requirement is necessary or appropriate to protect workers. The Panel also recommends that OSHA reconsider other potential recordkeeping to determine if those are necessary or appropriate and whether they positively impact worker safety and health.	The agency has provided a discussion of the methodology for determining the initial and high heat triggers in Section V.B., Basis for Initial and High Heat Triggers, which cites both observational and experimental evidence. OSHA simplified the triggers that were initially presented in the regulatory framework; there are no longer ambient temperature triggers or separate, lower forecast triggers. OSHA has also provided evidence that higher triggers, including the NWS heat advisories, would not be protective enough.
2	A few SERs voiced strong concerns about the underlying data on heat-related injuries and illnesses. SERs felt that the numbers of illnesses, injuries, and fatalities reported in the BLS data are low relative to the total number of employees nationally, suggesting that any action or change is unnecessary. One SER thought that the number of heat illnesses and injuries is statistically insignificant, given the millions of workers in the labor force. SERs requested clarification on these data including requests that the data on heat-related injury and illness be published in the record by detailed industry.	The Panel recommends that OSHA clearly present the data being used to justify a potential standard. The Panel recommends that OSHA thoroughly explore whether and how the injury, illness, and fatality data support the promulgation of a heat standard.	The agency has provided a discussion of the data on occupational heat-related injuries, illnesses, and fatalities in Section V.A., Risk Assessment, and Section VIII.E., Benefits, including the significant likelihood of under-reporting of such data. The agency relied on publicly available data from BLS, State health departments, and the peer-reviewed literature. OSHA discusses the need for the standard in Section III.B., Need for Proposal, and whether the threshold for agency action is met in Section VI., Significance of Risk.
3	Many SERs questioned whether the recordkeeping requirements that OSHA had suggested were necessary. Some SERs thought they would have to hire additional staff or take time away from other safety initiatives to complete the paperwork outlined in the regulatory framework. SERs thought that documenting rest breaks would be infeasible, and that recordkeeping of daily temperature monitoring was unnecessary and would be burdensome to comply with.	The Panel recommends that OSHA reconsider or simplify recordkeeping of temperature monitoring and not require documentation of rest breaks unless the agency can show that such a requirement is necessary or appropriate to protect workers. The Panel also recommends that OSHA reconsider other potential recordkeeping to determine if those are necessary or appropriate and whether they positively impact worker safety and health.	OSHA is proposing requirements in this section, based in part on feedback, which will allow more flexibility for workplaces. Employers of only indoor workplaces will be required to create written or electronic records of on-site temperature measurements and retain these records for a minimum of six months. Employers have flexibility on how they can comply with the recordkeeping requirement by using monitoring devices with sufficient storage capability, or employers could comply by creating and maintaining written records based on monitoring devices that do not have digital recording capabilities. OSHA has determined that this provision would have a positive impact on worker safety and health by assisting OSHA in determining conditions at the worksite, and aiding employers to identify trends in indoor temperatures and their effect on employee health and safety. In part based on feedback, OSHA is not requiring documentation of rest breaks.

TABLE VIII.F.7—OSHA'S RESPONSES TO THE SBAR PANEL RECOMMENDATIONS—Continued

Number	Finding	Recommendation	OSHA's response
4	SERs raised concerns about recordkeeping of heat related injuries and illnesses requiring only first aid. Other SERs asked why OSHA is considering requiring records of first-aid-only injuries and illnesses that are heat-related while not requiring records of first-aid-only injuries and illnesses that are not heat-related. Some SERs stated it was unclear what first aid means regarding heat illness with one SER wondering whether asking workers to take a break and hydrate because they appear to be hot would need to be captured as a first-aid incident.	The Panel recommends that OSHA not include a requirement for recording first-aid-only heat-related illnesses or injuries unless the agency can demonstrate some particular circumstances where such a requirement is necessary or appropriate to protect workers when such records are not required under OSHA's general injury and illness recordkeeping regulation.	OSHA is not proposing to require additional injury and illness reporting beyond what is required by the existing Recordkeeping standard (29 CFR 1904.7). The only proposed recordkeeping requirement applies to monitoring data collected for indoor work areas.
5	Many SERs reported already monitoring the temperature at their facility or job sites. SERs relied on various heat assessment methods including the OSHA/NIOSH Heat Safety Tool App, local weather forecasts, the National Weather Service's online calculator or measuring temperature with standard thermometers, heat index monitors, or wet bulb globe thermometers. Some SERs thought terms like "wet/dry bulb temperature" and "heat index" would be confusing while other SERs thought that measurements with a WBGT was complicated and may be difficult for some employers to use. SERs told the Panel about some difficulties they have with measuring temperature at their locations. SERs with indoor worksites said that the temperature can vary across different parts of their facility. SERs with workers who are mobile and work at many different locations or elevations throughout the day said that temperature monitoring was a challenge for them because of various complicating factors.	The Panel recommends that OSHA allow flexibility in monitoring methods and not mandate a single method that employers must use to measure heat in their workplace or on their worksite. The Panel also recommends that OSHA clarify how and when temperature monitoring must occur for all employers but especially for those with indoor settings and those with mobile workforces.	The agency has drafted a proposed standard that would provide flexibility to employers in both what heat metric they can use and how they are required to monitor the worksite (including allowing outdoor employers to use the forecast instead of on-site monitoring). OSHA provides guidance on how and when monitoring must occur.
6	The majority of the SERs said that they allowed their employees to take rest breaks when they needed to, but many objected to OSHA including a specific frequency or duration of breaks in a rule. Some SERs said that shorter, more frequent breaks might be ideal sometimes, while others said that the intensity of the job or other personal, physiological characteristics may make more frequent breaks necessary. Some SERs thought that giving 15-minute breaks every two hours would be unworkable in their situation. SERs in construction and manufacturing reported that there were times that work could not simply stop while workers took breaks (e.g., while pouring concrete, during certain industrial processes). In these cases, SERs reported that they rotated workers between more and less strenuous tasks. SERs with workers who wear complex PPE (e.g., construction, tree care, electric power) reported that their employees sometimes prefer to finish their work rather than stop for a break which would require removing and redonning their PPE. SERs whose employees worked at heights (e.g., roofing, telecommunications towers) expressed concern that these employees could be put in more danger if they were required to climb down from their working position for a break and back up afterwards. These SERs wondered if breaks needed to occur in a certain location like a shaded area on the ground or in an air-conditioned vehicle. A number of other SERs similarly wondered whether they had to provide air-conditioned break areas and require their employees take rest breaks in those areas. Some SERs said that their workers preferred to take breaks in non-air-conditioned spaces like shaded outdoor areas. A few SERs wondered whether other activities including things like downtime while waiting for materials to be delivered, toolbox talks or job briefings, engaging in non-strenuous work tasks, or driving between jobs could be considered breaks.	The Panel recommends that OSHA consider allowing employers some flexibility, to the extent feasible within the constraints of the OSH Act, in the frequency of any rest breaks required in a rule. The Panel also recommends that OSHA clarify where workers can take breaks and provide the maximum flexibility possible to employers to determine what works best for their employees and situation. The Panel further recommends that OSHA clarify what, if any, activities employees can engage in during rest breaks.	The proposed standard only requires rest breaks at the initial heat trigger when they are needed to prevent overheating. Under the high heat trigger, a minimum of a 15-minute paid rest break would be required every two hours because of increased risk of HRI at and above the high heat trigger, but some flexibility is provided by allowing a meal break to count as a rest break. Proposed provisions under the initial heat trigger specify the requirements for indoor and outdoor break areas and provide flexibility by allowing employers to choose from different options of cooling methods in the break area (e.g., shade OR air conditioning for outdoor break areas; air conditioning OR increased air movement and, if appropriate, de-humidification for indoor break areas). The summary and explanation for rest breaks under the high heat triggers clarifies that no work activities would be allowed during rest breaks.

7
SERs universally reported supplying drinking water to their employees generally with reusable bottles and water coolers, single use water bottles, or plumbed fountains or faucets. While SERs acknowledged the necessity of supplying drinking water, some objected to some of the specified potential requirements in the regulatory framework. One SER felt that the amount of water specified as required was too much. Some SERs thought that the phrase "suitably cool" was vague and did not take into account employee preferences for their water temperature.

8
Many SERs objected to OSHA's option in the regulatory framework for gradual acclimatization to heat, requiring employees to gradually ramp up their exposure to heat over the course of a few days. Several SERs said that if they force employees to work fewer hours due to acclimatization requirements, these workers might just quit and look elsewhere for work. Other SERs reported that they must pay their union laborers for a minimum of four hours regardless of whether they worked that full time meaning that the SERs would be paying for time not worked during the acclimatization period. Other SERs said it would not be possible to move workers to light duty jobs during the acclimatization period either because they did not have enough of that type of work or because light duty tasks were not available at their workplaces. Some SERs thought that strictly prescribed acclimatization requirements were unnecessary because new workers they hired were either from the area and used to the weather, were coming from jobs where they performed similar tasks in similar conditions, or only those who were fit and able to work in hot weather would "self-select" into the types of jobs they offered. Many SERs reported having some form of enhanced supervision or "buddy system" for workers who were acclimatizing to the hot working conditions. Some said that new workers worked alongside supervisors during their first weeks on the job which allowed for supervision of their heat tolerance. Others said that the training process where new employees are learning and working up to doing the jobs fully and on their own serves as an acclimatization process.

9
SERs raised a number of concerns about applying a heat standard to workers who work alone and workers who move between job locations throughout the day. SERs mentioned that they were not sure how they would have to monitor the temperature when workers were working at multiple locations since employees could cover a large range with varying climate conditions throughout their workday. One SER said it was not clear what areas need to be routinely monitored if the work site is not fixed while others were concerned that tracking the temperature forecasts and relevant heat triggers for the worksite that each worker or crew is visiting that day would be difficult. SERs said that such tracking becomes a greater challenge if each worker or crew visits multiple worksites within a day. SERs were also concerned that it would be difficult to monitor workers who work alone. SERs mentioned that it would be difficult to ensure that employees are taking required breaks with one SER saying that they believed this would become more difficult if mandated rest break durations depend on whether the temperatures were at or above the initial heat trigger or high heat trigger. Other SERs mentioned the difficulty of monitoring employees for signs and symptoms of heat injury and illness when employees are working alone. While some had equipment that monitored an employee's movement and reported to the employer if that movement stopped or procedures for regular check-ins via phone or tablet applications, other SERs said that they would not be able to implement a buddy system or close supervision of employees given the work arrangements.

OSHA is including the term "suitably cool" in the proposed standard to provide flexibility to employers and maintain consistency with the field sanitation standard (29 CFR 1928.110), which has incorporated a "suitably cool" requirement since it was promulgated in 1987. The phrase is also used in California's heat standard for outdoor workplaces (Cal. Code Regs. tit. 8, section 3395). As discussed in Risk Reduction, Section V.C., the temperature of drinking water impacts hydration levels, as cool or cold water has been found to be more palatable than warm water, thus leading to higher consumption of cool water and decreased risk of dehydration. Additional evidence highlighted in Section V.C., Risk Reduction, shows that cool fluid ingestion has beneficial effects for reducing heat strain. OSHA provides additional guidance on what it considers "suitably cool" in the Explanation of Proposed Requirements section of the proposed provision. OSHA is specifying the amount of water that employers need to provide to employees, not an amount that employees need to drink. OSHA provides guidance for how employers can comply with the provision of 1 quart of cool water every hour.

OSHA preliminarily finds that acclimatization is an effective preventative measure for preventing HRI and fatalities in unacclimatized workers. The proposed standard provides options for how to protect unacclimatized workers. The proposed standard provides a gradual exposure option as well as an option for employers to implement the requirements at the high heat trigger during an employee's first week of work. OSHA requests further comment on the proposed acclimatization provision and on a number of topics relating to acclimatization, including acclimatization during heat waves, acclimatization following illness, requests for examples of existing acclimatization programs and the clarity of the explanation of "similar heat conditions."

OSHA is proposing to establish heat triggers using a measurement of the Heat Index which is more readily available through local forecast data or heat monitoring apps. As discussed in this preamble, employers do not need to monitor all work locations continuously and are only required to verify whether the temperature exceeds the triggers in order to implement the applicable protective measures. OSHA recognizes that employees working alone can be at a greater risk for HRI due to the lack of immediate assistance or interventions. Therefore, OSHA has proposed that the employer maintain a form of two-way communication and regularly communicate with employees. When the high heat trigger is met or exceeded, the proposed standard would further require employers to stay in contact at least every two hours with employees working alone. Requirements for safety and health procedures when employees are working alone are not unique to this rule. OSHA believes that the employer responsibilities outlined under the proposal are necessary to ensure the safety of workers.

The Panel recommends that OSHA consider eliminating or better defining the term "suitably cool" to provide clarity and take employee needs and preferences into account. The Panel also recommends that OSHA provide clarity on methods for complying with any potential requirements related to the provision of water and allow for flexibility, when appropriate, in the amount of water required to be provided.

The Panel recommends that OSHA provide multiple options for acclimatization in the rule to allow employers flexibility in determining the best method for acclimatizing their workers.

The Panel recommends that OSHA address the unique situations of employers whose employees work alone and/or travel to many worksites each day and offer flexibility to these employers and clarify the employer's responsibilities for employees in these circumstances.

TABLE VIII.F.7—OSHA'S RESPONSES TO THE SBAR PANEL RECOMMENDATIONS—Continued

Number	Finding	Recommendation	OSHA's response
10	Almost all SERs agreed that training is one of the most important steps an employer can take to prevent heat injury and illness in their workers. SERs mentioned that they already provide some form of training on heat injury and illness prevention including recognition of signs and symptoms and how to respond and other topics including the importance of staying hydrated (electrolytes or water); working at a comfortable pace; contacting a supervisor to get an extra break or water; accessing and locations of cool down areas; sleeping well and being well rested; acclimatizing; and medical treatment of heat-related illnesses and injury. Training was reported to be provided in both formal and informal settings including regular training classes and tailgate or toolbox talks. Several SERs felt that a heat standard be centered around training; one SER thought that a heat standard should mandate training while questioning the necessity and usefulness of other potential requirements. SERs reported a mix of informal and formal heat injury and illness prevention programs. Some said that they do not have a program that is in written form; while others said they have a written program that is relatively short in length (i.e., in bullet points). SERs were largely supportive of the idea of a written program or plan. SERs said that they believe a written plan could be beneficial and one SER said that their heat plan reduced the number of first-aid and more serious safety incidents, reduced workers' compensation costs, and maybe improved absenteeism. SERs said that employers should have flexibility to develop and implement such plans. Some SERs supported the potential exemption in the regulatory framework for very small employers (e.g., those with 10 or fewer employees) from the requirement for the plan to be in writing; one SER stated that requiring a written plan would place significant burden on these employers. Most SERs agreed that, if the standard required updates of a written plan, that requirement should be for annual reviews and updates. One SER commented that they believed option to review and update "whenever necessary to ensure ongoing effectiveness" or "whenever a heat-related illness or injury occurs" were vague and/or unclear.	The Panel recommends that OSHA include a robust training provision in a heat standard. The Panel also recommends that OSHA continue to provide support for employer training efforts by providing training materials, sample curriculum, videos, and/or other methods.	OSHA preliminarily finds that it is necessary to train employees so they can recognize heat-related hazards and understand the appropriate steps they can take to minimize potential health effects in themselves and coworkers. Training on the employer's policies and procedures to address heat hazards would be an essential part of this proposed standard because it would help to ensure that employees understand heat hazards, the workplace-specific control measures that would be implemented to address the hazard, and the requirements of the proposed standard. OSHA has provided guidance on how employers can comply with the training provision and expects to provide sample training materials and other compliance assistance products to assist employers in implementing the requirements of the proposed standard if promulgated.
11	SERs reported a mix of informal and formal heat injury and illness prevention programs. Some said that they do not have a program that is in written form; while others said they have a written program that is relatively short in length (i.e., in bullet points). SERs were largely supportive of the idea of a written program or plan. SERs said that they believe a written plan could be beneficial and one SER said that their heat plan reduced the number of first-aid and more serious safety incidents, reduced workers' compensation costs, and maybe improved absenteeism. SERs said that employers should have flexibility to develop and implement such plans. Some SERs supported the potential exemption in the regulatory framework for very small employers (e.g., those with 10 or fewer employees) from the requirement for the plan to be in writing; one SER stated that requiring a written plan would place significant burden on these employers. Most SERs agreed that, if the standard required updates of a written plan, that requirement should be for annual reviews and updates. One SER commented that they believed option to review and update "whenever necessary to ensure ongoing effectiveness" or "whenever a heat-related illness or injury occurs" were vague and/or unclear.	The Panel recommends that OSHA include a requirement for a written heat injury and illness prevention program that allows employers the flexibility to tailor their plans to their specific industry, location, and activities. The Panel also recommends that OSHA consider an exemption for very small employers from the requirement for the plan to be in writing. The Panel further determines that it is appropriate to do otherwise, review and update of the plan be required annually and if updates are required in additional situations that those situations be clearly delineated to reduce confusion and ambiguity.	OSHA is proposing a requirement for a heat injury and illness prevention plan (HIPLP) as a provision of the standard. The proposed HIPLP requirement allows employers the flexibility to tailor their plans to their specific industry location and work activities. OSHA understands that a HIPLP must be adaptable to the physical characteristics of the work site and the job tasks performed by employees, as well as the hazards identified by the employer when designing their HIPLP. To increase flexibility, in cases where employers have multiple work sites that are substantially similar, the HIPLP may be developed by work site type rather than by individual work sites so long as any site-specific information is included in the plan (e.g., phone numbers and addresses). The proposed HIPLP requirement is consistent with the SBAR Panel's recommendation and requires that only employers with more than 10 employees need to have a written plan. For employers with 10 or fewer employees, the agency does not believe that there is a high likelihood of misunderstanding when employers communicate their HIPLPs to employees verbally. Employers with existing plans would be required to modify and/or update their current HIPLP plans to incorporate any missing required elements and provide training on these new updates or modifications to all employees. Furthermore, to delineate requirements surrounding HIPLP reviews and updates more clearly, OSHA is proposing to require the employer to review and evaluate the effectiveness of the HIPLP whenever a heat-related injury or illness occurs that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness, but at least annually. Following each review, the employer would be required to update the HIPLP as necessary. OSHA preliminarily finds that a heat-related injury that results in death, days away from work, medical treatment beyond first aid or loss of consciousness warrants an evaluation of the HIPLP because it could potentially indicate a deficiency of the HIPLP. OSHA provides more information in Section VII.C., Explanation of Proposed Requirements, of the HIPLP requirement. All time and cost estimates provided in the SER background document were reviewed and revised for the NPRM where appropriate with consideration for SERs feedback and experience. As a result, travel time (time spent going to and from the break area) is added to the rest break costs. OSHA is not proposing additional requirements for recordkeeping for heat-related illnesses or injuries in the proposed standard, so it no longer requires a cost estimate. For some estimates, OSHA's review determined that the estimates in the SER background document were appropriate (e.g., outdoor monitoring costs). In other cases, OSHA determined that the estimates in the SER background document overestimated costs or did not account for overlap between provisions and therefore reduces the estimates (e.g., indoor hazard assessment).
12	SERs disagreed with some specific time and cost estimates that were provided in the SER background document. SERs thought that OSHA's estimates for the amount of time it would take to develop the written plan and to conduct the hazard analysis were both too low as were the estimates related to monitoring of employees, measuring or calculating the heat index or temperature, and recording heat-related illnesses or injuries. One SER said that OSHA's estimate of breaks was too low because it only counted the break time but did not account for the time spent going to and from the break area.	The Panel recommends that OSHA review time and cost estimates in the economic analysis and revise where appropriate to take the experience and feedback of the SERs into account.	

13	Most SERs with indoor settings reported using some form of ventilation and air movement to cool their facilities. However, many of these SERs said it would be infeasible to lower the temperature using air-conditioning because their buildings were too large to do this effectively. A few SERs said they are limited in where they can place fans due to work processes or risk of contamination of materials or the air. Some SERs also said that they could not use some of the engineering controls discussed in the background documents such as misting fans (which could introduce slipping hazards or damage materials) or portable shelters (which cannot be used on work surfaces such as roofs). Other SERs discussed the difficulties of implementing engineering controls in buildings they do not own or when working on in-progress construction projects. SERs also questioned whether some administrative controls suggested in the background materials would work for their setting. While some SERs said they adjusted work start and stop times to avoid working during the hottest part of the day, some SERs said they were unable to do so, for example, because they could not work too early in residential areas or because employees preferred a later start time. Some SERs said they used text messages or other electronic communications to remind employees of or alert them to heat hazards. Some SERs whose employees spend a significant part of their day driving worried that sending their employees electronic notifications would distract them and put them at risk of motor vehicle accidents. Many SERs were, however, supportive of the idea of monitoring employees for signs and symptoms of heat illness and injury. Some SERs reported that they utilized a "buddy system" where employees monitored each other, or supervisors monitored employees, for signs and symptoms of heat illness or injury. Some SERs said they have found this practice very useful in reducing illnesses and injuries related to heat. Some SERs reported that they use technology like electronic monitors or check-ins via cell phone or tablet although SERs whose employees are mobile reported that that can be difficult if the employee is in a location with limited cell service. SERs suggested that biometric monitors or self-monitoring of urine color to determine hydration levels could be useful as well.	The Panel recommends that OSHA offer as much flexibility as possible to allow employers to implement engineering and administrative controls that are feasible and appropriate for their workplace and activities.	OSHA has drafted the rule to allow maximum flexibility in implementing engineering controls while still protecting workers. The agency has attempted to minimize feasibility issues by providing employers with multiple engineering control options for compliance, allowing them to select the controls that can be most effectively implemented. OSHA believes that the proposed control options are important and needed to adequately protect workers from HRTs as discussed in the <i>Explanation of Proposed Requirements</i>.

G. Distributional Analysis

I. Impact of Heat on Underserved Populations

Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities through the Federal Government,” directs Federal agencies to conduct an equity assessment on a subset of the agencies’ programs and policies. OSHA has chosen to include an equity assessment regarding the proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings and the potential impact on economically or historically underserved populations. The purpose of an equity assessment is to analyze the distribution of regulatory impacts across individuals, households, and businesses/industries, with particular attention to economically or historically underserved or vulnerable groups. This assessment, which is entirely separate from OSHA’s legal findings and rationale supporting the proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, concludes that the proposed standard would have a positive impact on underserved populations (e.g., low-income and Hispanic workers) by providing workplace protections from extreme temperatures that have a disproportionate impact on occupations held by individuals from underserved communities.

A. Heat Exposure of Workers by Socioeconomic Status

Extreme temperatures affect the entire economy and pose a significant risk to individuals employed in workplaces (see Section II.B., Need for Proposal and Section II.C., Events Leading to the Proposal). This threat is unevenly distributed across demographic and socioeconomic groups, exacerbating inequalities. Individuals from underserved populations are more likely to work in occupations with heat-related risks (Ndugga et al., 2023). Evidence from the American Community Survey covering 2018–2022 (Ruggles et al., 2024) suggests that workers from historically underserved groups in core industries (see Section VIII.B.II.A., Potentially Affected Industries) have greater exposure to occupational heat-

related hazards, with more severe outcomes that impact their ability to work. That includes, for example, exposure to high outdoor temperatures, radiant heat sources, or insufficient temperature control or ventilation in indoor work settings. The methodology to estimate exposure by demographic group is outlined in detail in appendix C.

Figure VIII.G.1 shows that workers from low-income households are disproportionately exposed to heat-related hazards in (1) indoor work settings that emit heat during the production process, (2) indoor work settings that have inadequate climate control, or (3) outdoor work settings (see exposure definitions in Section VIII.B., Profile of Affected Industries). This is non-trivial as occupational injuries and illnesses cost the average worker \$35,000 with wide-reaching health impacts including the threat of death (Leigh, 2011; Ndugga and Artiga, 2023; Park et al., 2021).¹⁰⁴ Thus, workers from low-income households who are often challenged with affording in-home air conditioning (Mann and Schuetz, 2022) face a concurrent burden: threat of costly workplace heat hazards.

Workers from low-income households are most vulnerable to occupational heat exposure across all phases of their careers. For example, workers aged 16 to 64 from households in the lowest income deciles face elevated indoor and outdoor exposure to heat-hazards (see Figure VIII.G.2.). The highest levels of exposure occur among workers aged 35–54 earning less than \$60,000 (approximately 15 percent in indoor and outdoor workplaces). This high level of exposure occurs during these workers’ peak earning years, posing a threat to not only health but also lifetime earnings which can facilitate socioeconomic mobility (see Figure VIII.G.2., Panels B and C).

Figures VIII.G.3. and VIII.G.4. show that there is variation in exposure

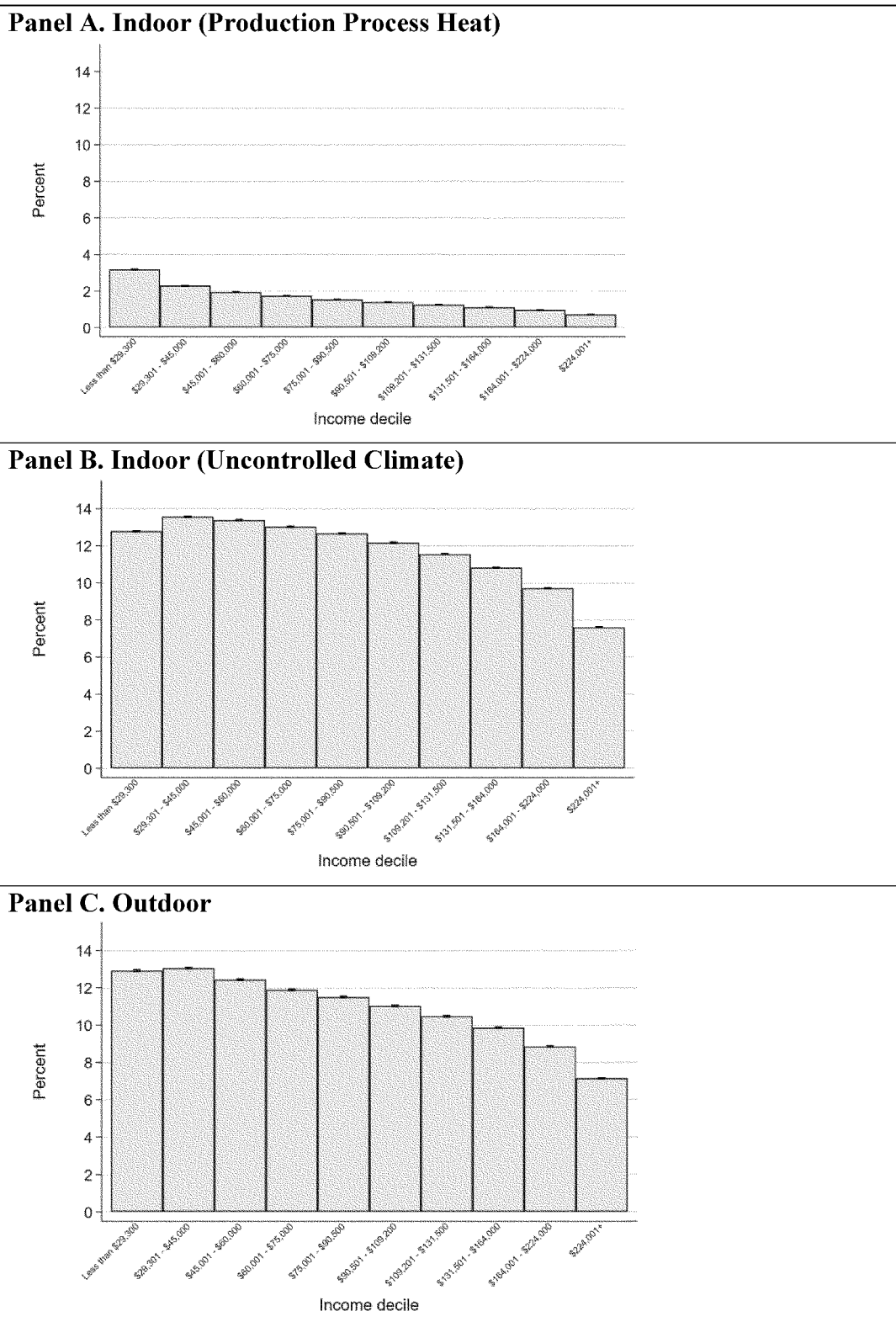
¹⁰⁴ Note that this estimated cost to workers is different from the Value of a Statistical Injury (VSI) used to estimate benefits in Section VIII.E., Benefits. The VSI is an estimate of individuals’ desire to avoid an illness or injury and calculates the willingness to pay to avoid said illness or injury. The \$35,000 quoted reflects the average social cost of a workplace injury reported to workers compensation in 2021\$.

among low-income workers by sex, ethnicity, and race. While low-income individuals from some underserved backgrounds have heat hazard exposure levels exceeding 10 percent of the worker population (e.g. workers identifying as female, Black, multi-racial), male and Hispanic workers have the highest level of exposure to workplace heat hazards. Men earning less than \$60,000 are nearly twice as likely to be exposed to workplace heat-related hazards than women, peaking at 17 percent for men working in non-climate controlled indoor settings and 19 percent for men working in outdoor settings.¹⁰⁵ Similarly, respective exposure to workplace heat hazards ranges from 16 percent to 19 percent in non-climate controlled indoor and outdoor settings among low-income Hispanic workers.

Despite evidence of elevated exposure along the socioeconomic gradient, research finds that many of the most vulnerable workers have minimal to no workplace protections to manage occupational heat stress (Morrissey-Basler et al., 2024; Luque et al., 2019; Flocks et al., 2013). Although workers are aware of the health consequences of exposure to occupational heat stress, they report a feeling of lack of control over the condition of their work setting (Flocks et al., 2013). In the absence of formal workplace protections, some vulnerable workers assume responsibility for and implement heat stress management practices to preserve their well-being rather than view the employer as the arbitrator for protection against occupational heat hazards (Luque et al., 2019). Some of these worker-initiated heat stress prevention strategies may not be grounded in evidence-based science. Lack of employer safeguards against elevated temperature can, in turn, reinforce disparities in occupational heat exposure that leave the most vulnerable workers overexposed to preventable heat-induced injuries, illnesses, and fatalities.

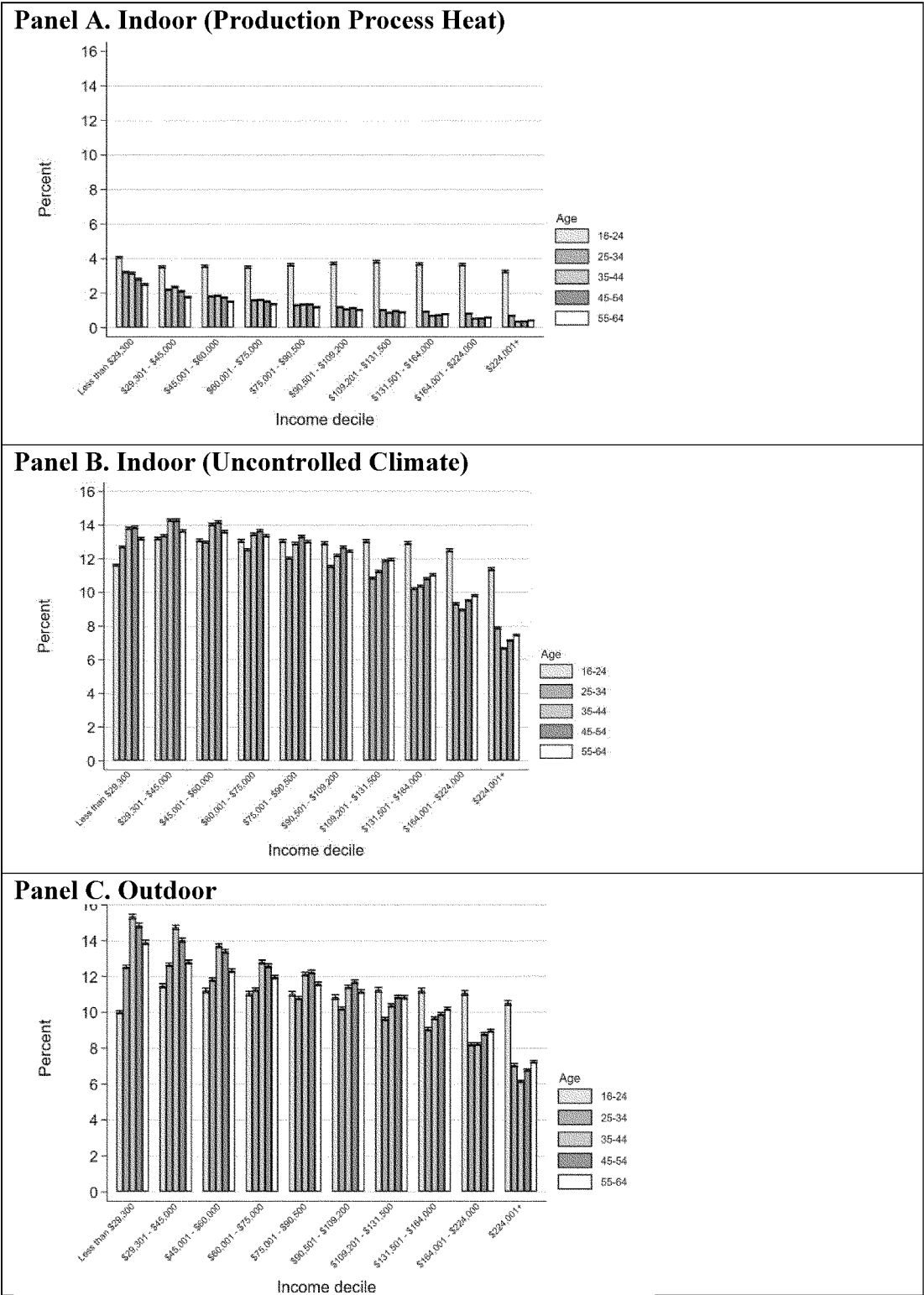
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¹⁰⁵ For context, in 2022, the median annual earnings of men in the United States was \$62,350 (Ruggles et al., 2024).

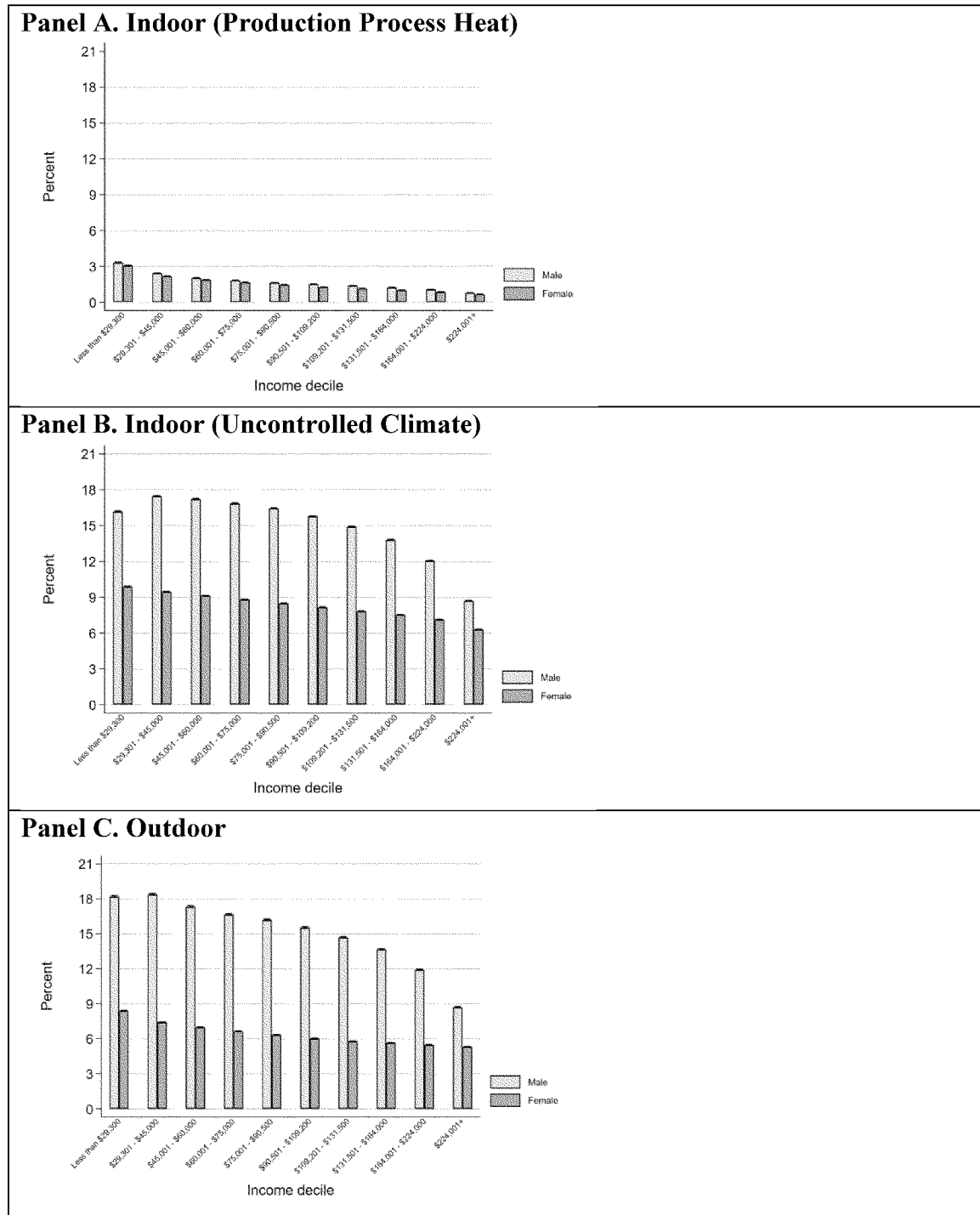
Figure VIII.G.1. Workplace Heat Hazard Exposure by Income, 2018 - 2022

Source: OSHA calculations based on U.S. Census Bureau's American Community Survey (ACS) from 2018-2022 (Ruggles et al., 2024).

Figure VIII.G.2. Workplace Heat Hazard Exposure by Income and Age, 2018 – 2022

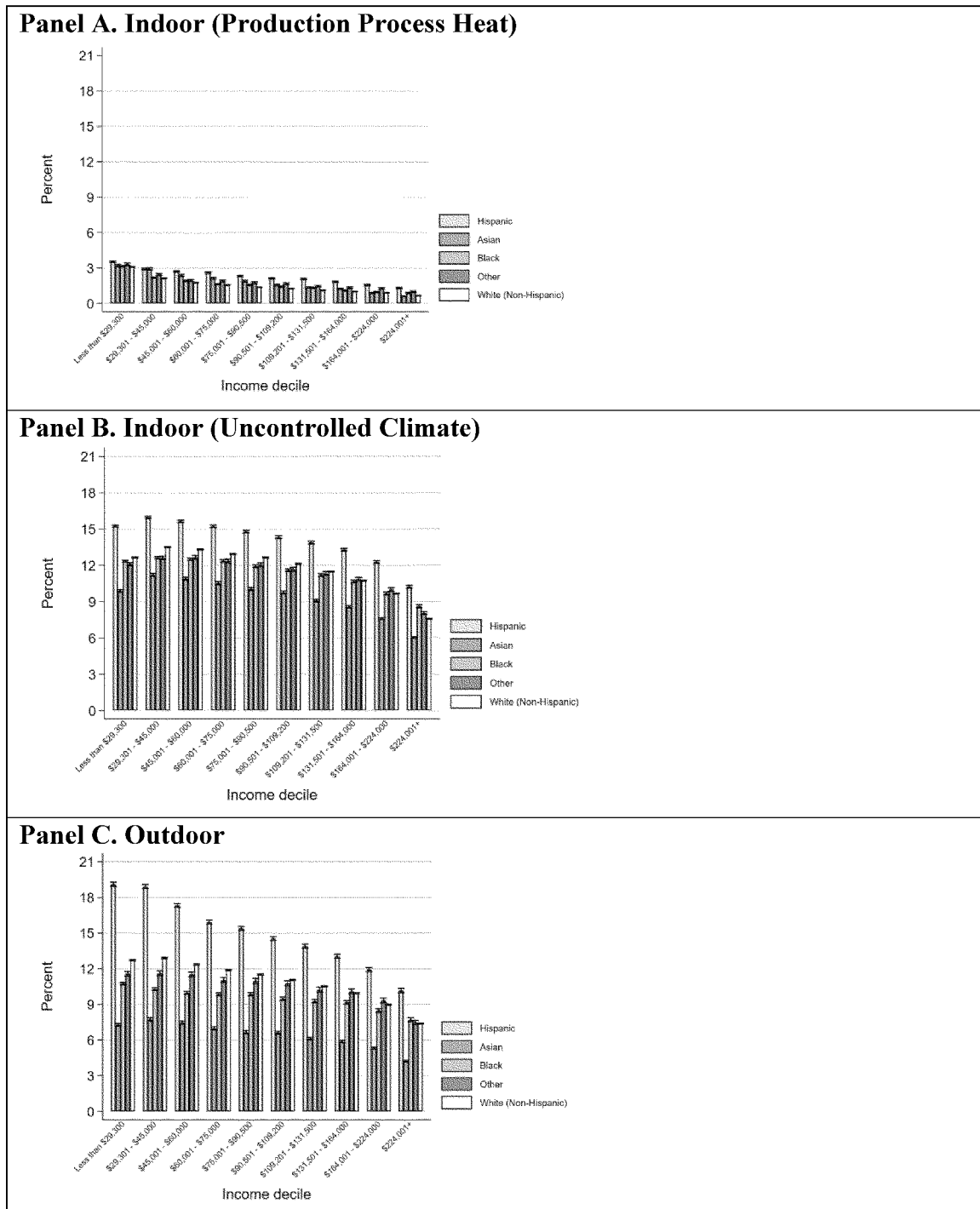


Source: OSHA calculations based on U.S. Census Bureau’s American Community Survey (ACS) from 2018-2022 (Ruggles et al., 2024).

Figure VIII.G.3. Workplace Heat-Related Hazard Exposure by Income and Sex, 2018 – 2022

Source: OSHA calculations based on U.S. Census Bureau's American Community Survey (ACS) from 2018-2022 (Ruggles et al., 2024).

Figure VIII.G.4. Workplace Heat Hazard Exposure by Income, Ethnicity, and Race [a] (2018 – 2022)



Source: OSHA calculations based on U.S. Census Bureau's American Community Survey (ACS) from 2018-2022 (Ruggles et al., 2024).

[a] Other group is composed of individuals with multi-race ancestry or those reporting a race other than Hispanic, Black, Asian, or White (non-Hispanic).

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B. Productivity and Health Effects

The figures above show the fraction of workers who are exposed to workplace

heat-related hazards and therefore likely to be covered by the proposed standard. Under an assumption that benefits of the standard correspond 1-for-1 to

coverage, this fraction can be translated into the fraction of workers benefiting from the standard. In other words, translating the results from the figures

into benefits from the standard in terms of increased productivity, improved health, or other outcomes makes the assumption that all work-related exposure to heat is explained by industry and occupation. This assumption could over- or under-state the exposure to heat on the job that workers face. As a recent study of heat and occupational injuries discusses (Park et al., 2021), if there are compensating differentials for the risk associated with heat exposure, then workers exposed to the risk would be paid higher wages. This could be the case even within industry and occupation categories. Alternatively, if workers and employers negotiate over total compensation from income and amenities, then a worker could receive both lower wages and higher heat exposure (a workplace disamenity) due to imperfectly competitive labor markets¹⁰⁶ (Burdett and Mortensen, 1998; Sorkin, 2018).

Existing studies on workplace-related heat exposure do not currently say which of these two possibilities holds within industry and occupation groups. A recent review summarizes research on the effect of temperature on labor productivity (Lai et al., 2023). The focus of the literature has been on educational outcomes, cross-country comparisons, or cross-industry effects. Recent work on intensive-margin labor supply (i.e., hours worked) and heat exposure in the U.S. shows that whether or not the industry of workers is controlled for in the statistical model does not largely change the estimated effect of heat exposure on time spent working (Neidell et al., 2021). This result indicates that industry-level differences in exposure to heat do not fully capture the effect of heat on labor supply. The study does not control for occupation group, so exposure within versus across occupations cannot be parsed.

An analysis of workplace injuries and heat exposure in California examines the distribution of heat-related occupational injuries (Park et al., 2021). The analysis is done using California

Department of Workers' Compensation data, and the injuries are geocoded at the zip code of the worksite. In an analysis that controls for zip code-by-month and county-by-month-by-year fixed effects (as well as precipitation), the authors find that for the average worker, injuries go up on days with temperature above 90 °F. The increase in injuries is 36 percent larger for workers in the lowest income quintile compared to workers in the highest income quintile.¹⁰⁷ The analysis also examines effects by worker age and sex. It finds that workers younger than 30 years of age are 3 times more likely to experience a workplace injury on a day about 90 °F compared to a worker older than 60.¹⁰⁸ Male workers are 2.3 times more likely to experience injury compared to female workers.¹⁰⁹

If the controls in the statistical model substantially account for differences in heat exposure due to industry and occupation (for instance, because industries and occupations are segmented across zip codes), then the effect would suggest that the distribution of exposure percentages could be a lower bound on the distribution of realized benefits from the proposed standard stemming from reduced workplace injuries. Further analysis that explicitly accounts for industry and occupation-based exposure to heat would be useful to determining the extent to which workers within industry and occupation groups are differentially affected by heat-related occupational injuries.

II. Averted Injuries, Illnesses, and Fatalities by Socioeconomic Status

Table VIII.G.1. shows the estimated number of workplace heat-related injuries and illnesses (HRI) as well as heat-related fatalities averted by the proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings.¹¹⁰ Table VIII.G.1., columns 1 and 3, present the pre-standard estimate of HRI and heat-

related fatalities. HRI and heat-related fatalities are concentrated among workers who are low-income, in peak earning years (aged 35–54), male, or Hispanic. These vulnerable populations averaged 1,066 HRI and 7 heat-related fatalities each year.

The Agency provides an example of the downstream impact of these consequential health events on firm costs in table VIII.G.2. The estimated cost to the employer of an HRI, such as heat prostration (or exhaustion), is \$79,081 assuming a 3 percent profit margin.^{111 112} Thus populations with more HRI elevate firm cost (see table VIII.G.2., column 2). The extent to which the employer bears the full costs depends on the nature of their workers' compensation insurance policy. Nonetheless, the demographically disaggregated cost of projected HRI suggests that concentrated efforts to reduce events among the most vulnerable populations can serve as a meaningful mechanism to reduce firm cost.

The Agency estimates that the proposed standard will reduce HRI and heat-related fatalities among exposed workers by 65 and 95 percent, respectively (for more discussion, see Section VIII.E., Benefits). Table VIII.G.1., columns 2 and 4, present the projected average number of HRI and heat-related fatalities averted by demographic group. The largest benefits are accrued to populations with heightened exposure: low-income, in peak earning years (aged 35–54), male, and Hispanic workers. This, in the case of heat prostration (or exhaustion), translates into an approximate 34 percent reduction in total firm costs among the respective demographic groups with heightened exposure (see table VIII.G.2., column 5).

¹¹¹ Total costs include a direct cost of \$37,658 and indirect costs of \$41,423.

¹¹² The estimate is derived using OSHA's Safety Pays Program's "Estimated Costs of Occupational Injuries and Illnesses and Estimated Impact on Company's Profitability Worksheet" <https://www.osha.gov/safetypays/estimator>. The tool projects and estimates of how injuries and illnesses may impact company's profitability. The above example assumes a 3 percent profit margin for heat prostration (or exhaustion) that cost \$79,081 (i.e., includes a direct cost of \$37,658 and indirect costs of \$41,423).

¹⁰⁶ The existence of jobs with different working conditions, in conjunction with variation in worker preferences, could in effect be the source of firms' power in the labor market that allows them to lower wages in the first place (Card et al., 2018).

¹⁰⁷ The point estimate for workers in the lowest quintile indicates a 0.0735 increase in injuries per day above 90 °F for the lowest quintile and a 0.0541 increase for workers in the highest quintile.

¹⁰⁸ A point estimate of 0.0773 versus 0.0257.

¹⁰⁹ A point estimate of 0.0837 versus 0.0359.

¹¹⁰ The methodology to derive exposure is detailed in appendix C.

TABLE VIII.G.1—PROJECTED ANNUAL AVERAGE NUMBER OF HRIS & FATALITIES AVERTED BY DEMOGRAPHIC GROUP
2011–2022

	HRIs	Averted HRIs(1)	Fatalities	Averted fatalities
	(1)	(2)	(3)	(4)
Income decile:				
Less than \$29,300	1002.73	651.78	28.66	27.23
\$29,301–\$45,000	1061.66	690.08	31.63	30.05
\$45,001–\$60,000	1036.34	673.62	30.60	29.07
\$60,001–\$75,000	1012.83	658.34	29.56	28.08
\$75,001–\$90,500	988.55	642.55	28.70	27.26
\$90,501–\$109,200	959.71	623.81	27.66	26.27
\$109,201–\$131,500	921.58	599.03	26.16	24.86
\$131,501–\$164,000	884.51	574.93	24.82	23.58
\$164,001–\$224,000	830.46	539.80	22.68	21.54
Age:				
16–24	882.46	573.60	23.88	22.69
25–34	931.32	605.36	26.52	25.19
35–44	974.79	633.61	28.89	27.45
45–54	980.33	637.21	28.52	27.09
55–64	971.74	631.63	27.52	26.14
Sex:				
Male	1191.81	774.68	38.77	36.83
Female	679.87	441.91	14.30	13.59
Ethnicity & Race:				
Hispanic	1214.52	789.44	39.98	37.98
Asian/Native American	753.23	489.60	16.49	15.67
Black/African American	879.14	571.44	21.89	20.79
Other	907.34	589.77	25.26	23.99
White (Non-Hispanic)	931.37	605.39	26.76	25.42

TABLE VIII.G.2—PROJECTED COSTS SAVINGS OF ANNUAL HRI CASES BY DEMOGRAPHIC GROUP
[2011–2022]

	Pre-standard		# Cases post-standard		Savings
	HRIs	Total costs	HRIs	Total costs	
	(1)	(2)	(3)	(4)	
Income decile:					
Less than \$29,300	1002.73	79,296,891.13	350.95	27,753,476.95	51,543,414.18
\$29,301–\$45,000	1061.66	83,957,134.46	371.58	29,384,917.98	54,572,216.48
\$45,001–\$60,000	1036.34	81,954,803.54	362.72	28,684,260.32	53,270,543.22
\$60,001–\$75,000	1012.83	80,095,609.23	354.49	28,033,423.69	52,062,185.54
\$75,001–\$90,500	988.55	78,175,522.55	346	27,362,026.00	50,813,496.55
\$90,501–\$109,200	959.71	75,894,826.51	335.9	26,563,307.90	49,331,518.61
\$109,201–\$131,500	921.58	72,879,467.98	322.55	25,507,576.55	47,371,891.43
\$131,501–\$164,000	884.51	69,947,935.31	309.58	24,481,895.98	45,466,039.33
\$164,001–\$224,000	830.46	65,673,607.26	290.66	22,985,683.46	42,687,923.80
Age:					
16–24	882.46	69,785,819.26	308.86	24,424,957.66	45,360,861.60
25–34	931.32	73,649,716.92	325.96	25,777,242.76	47,872,474.16
35–44	974.79	77,087,367.99	341.18	26,980,855.58	50,106,512.41
45–54	980.33	77,525,476.73	343.12	27,134,272.72	50,391,204.01
55–64	971.74	76,846,170.94	340.11	26,896,238.91	49,949,932.03
Sex:					
Male	1191.81	94,249,526.61	417.13	32,987,057.53	61,262,469.08
Female	679.87	53,764,799.47	237.96	18,818,114.76	34,946,684.71
Ethnicity & Race:					
Hispanic	1214.52	96,045,456.12	425.08	33,615,751.48	62,429,704.64
Asian/Native American	753.23	59,566,181.63	263.63	20,848,124.03	38,718,057.60
Black/African American	879.14	69,523,270.34	307.7	24,333,223.70	45,190,046.64
Other	907.34	71,753,354.54	317.57	25,113,753.17	46,639,601.37
White (Non-Hispanic)	931.37	73,653,670.97	325.98	25,778,824.38	47,874,846.59

Source: OSHA calculations using OSHA's Safety Pays Program's "Estimated Costs of Occupational Injuries and Illnesses and Estimated Impact on Company's Profitability Worksheet" <https://www.osha.gov/safetypays/estimator>.

Note: OSHA's Safety Pays tool projects how injuries and illnesses may impact company's profitability. The above example assumes a 3 percent profit margin for heat prostration (or exhaustion) that cost \$79,081 (i.e., includes a direct cost of \$37,658 and indirect costs of \$41,423). The extent to which the employer pays the direct costs depends on the nature of the employer's workers' compensation insurance policy. The employer always pays the indirect costs.

III. Which business owners are impacted by the proposed standard?

Figure VIII.G.5 shows, for owner-operated firms in industries affected by the proposed standard, ownership by demographic group in 2022. The analysis focuses on owner-operated firms because they are recorded in ACS data along with owner characteristics. As such, analysis of owner-operated firms cannot be generalized to the entire set of affected industries, but sheds light on an important subset of these affected industries.

In general, the distribution of costs (see Section VIII.C., Costs of Compliance) are expected to have differential effects on firms in industries with different characteristics. In a highly competitive product market with many competitor suppliers of nearly identical goods or services, there will be limited pass-through of regulatory costs assessed on only a subset of firms to consumers in the form of higher prices, as individual firms lack the market power to shift prices. If firms raised prices, consumers would simply shift consumption to other firms not burdened by similar costs (e.g., because they operate in temperate climate) that do not raise prices. Were firms earning almost zero profits prior to the imposition of these regulatory costs, it would be possible that these firms would shut down (and other producers would likely expand operations, as demand shifted to them). However, evidence on firm revenues in these industries indicates that firms will largely be able to bear these costs

without shutting down (see Section VIII.D., Economic Feasibility).

However, the assumption of perfectly competitive markets is not realized in the actual economy. To the extent that markets are less competitive, costs will be passed through in some combination to both consumers and firm owners, depending on the price elasticity of demand and the price elasticity of supply. In addition, frictions in the labor market will dictate how much of the costs are borne by workers, e.g., in the form of reduced pay or benefits. The difference in VSL for individuals who change and those that maintain the same job can inform estimates of the share of costs passed through to firm owners, workers, and consumers across industries in scope of this standard (see for example, Kniesner et al.'s 2012). Kniesner et al (2012) estimates a job switcher-derived VSL between \$6.1 million and \$10 million (in 2001 dollars) with a weighted average across job switchers and non-switchers is between \$4.4 million and \$5.5 million; the difference between these paired VSL estimates may approximate the average, over the first eight post-implementation years, of the portion of per-avoided-fatality benefits that accrues to workers without being offset by wage reductions. The benefits of the proposed standard could partially accrue in the form of increased productivity from workers less affected by heat. If firms are currently not offering the privately optimal level of workplace heat safety protection (e.g., due to principal-agent problems), these productivity gains could even theoretically exceed the

increased costs borne by the firm. The magnitude of this effect determines whether firms are net better-off or worse-off, given both costs and increased productivity, as a result of the proposed standard (see sections VIII.G.I., and VIII.G.II.).

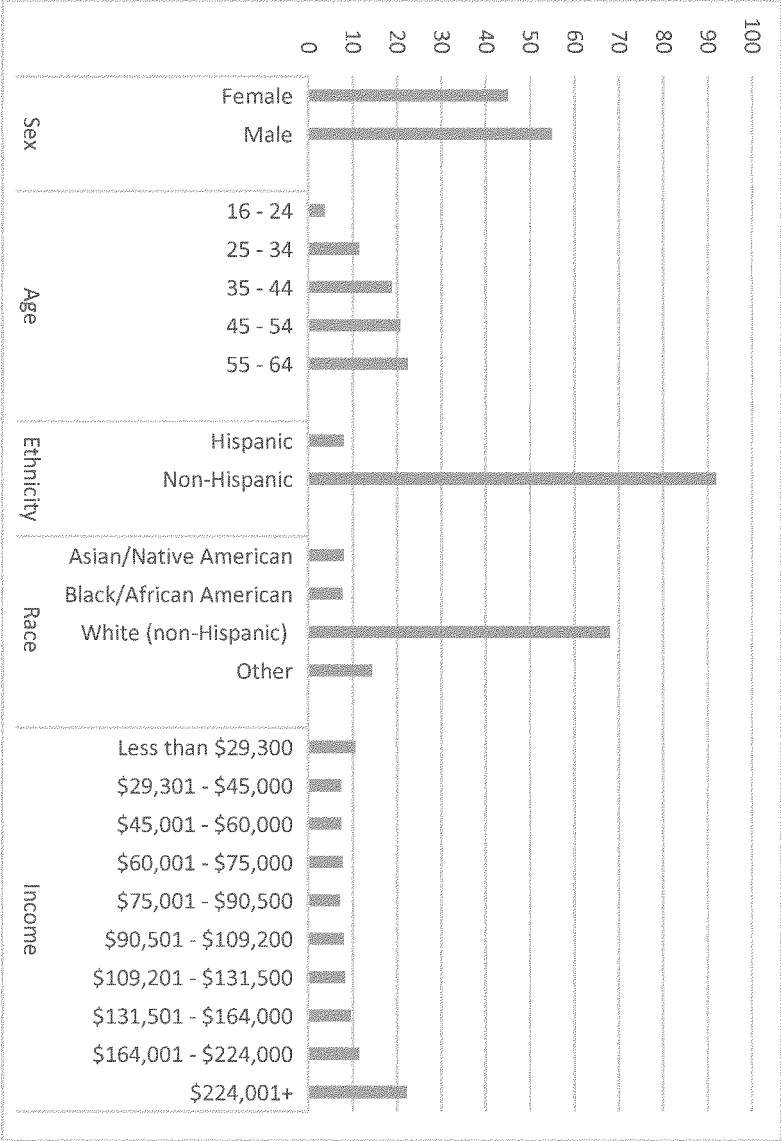
The Census Bureau's 2022 American Business Survey (Census Bureau and National Center for Science and Engineering Statistics, 2023) covers economic and demographic characteristics for businesses and business owners by sex, ethnicity, race, and veteran status. Tables VIII.G.3. and VIII.G.4., derived from the survey, show that owners from historically underrepresented populations (e.g., women and racial minorities) tend to be less profitable and have heightened concerns about the financial viability of their business (see tables VIII.G.3. and VIII.G.4.). These firms command 30–45 percent of the market.¹¹³ Most owners were high-earning, non-Hispanic White males over the age of 34.

Taken together, this evidence suggests that the net benefits of the proposed standard for different groups (e.g., high-income and low-income populations) depend on how market competitiveness, elasticities of supply and demand, and the composition of groups affected by the standard's costs compare to the distribution of the standard's benefits for those groups (as discussed in sections VIII.G.I. and VIII.G.II.).

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¹¹³ Tables VIII.G.3. and VIII.G.4. reflect a representative sample of all U.S. industries.

Figure VIII.G.5. Market Share by Demographic Group, 2022



Source: OSHA calculations based on U.S. Census Bureau's 2022 Community Survey (ACS) (Ruggles et al., 2024).

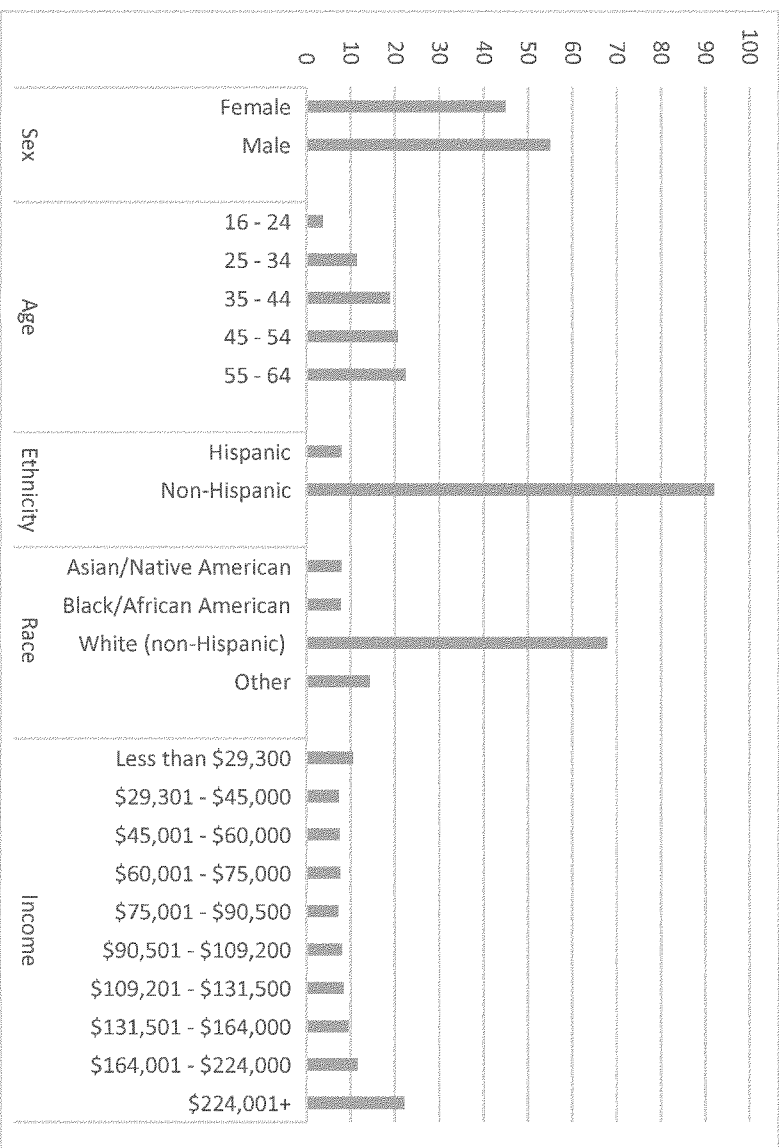
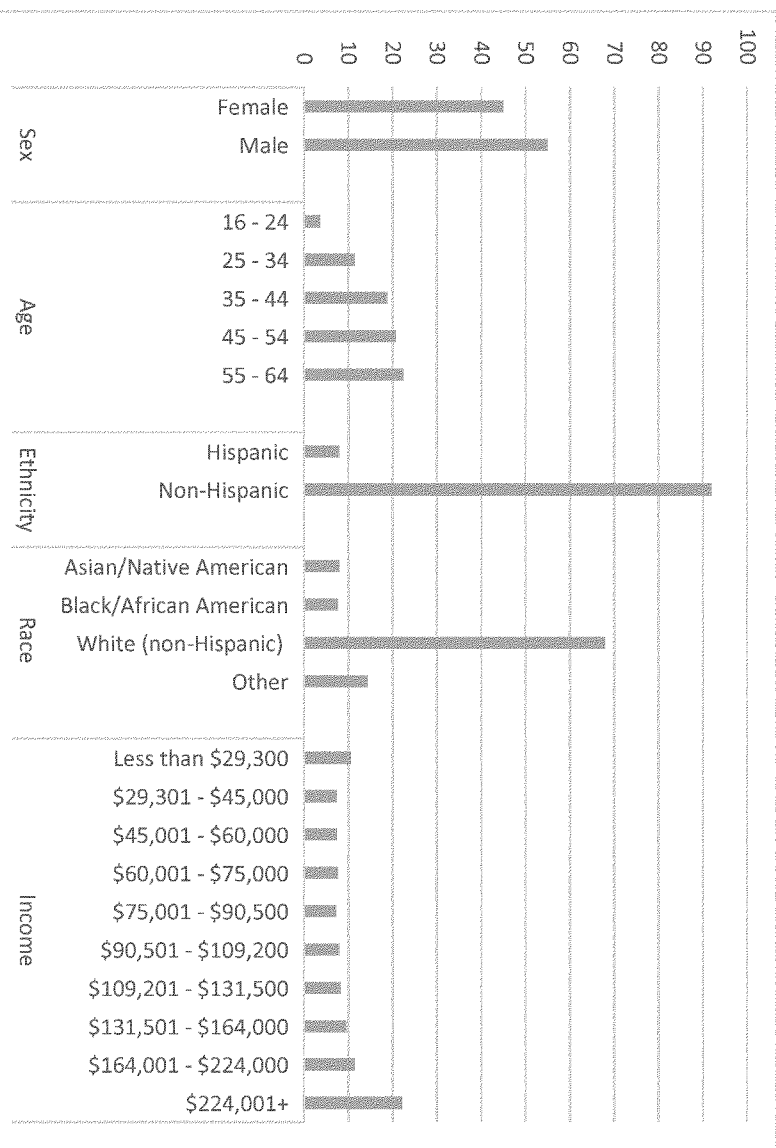


Table VIII.G.3. Financial Health of The Business In 2022 By Sex, Race, Ethnicity, Minority Status, and Veteran Status

	Level of concern about the financial health of the business in 2022			
	Percent of employer firms			
	Not that concerned	Somewhat concerned	Very concerned	Total
Total	41.9	39.4	18.7	100.0
Sex				
Female	38.7	39.9	21.4	100.0
Male	42.7	39.4	17.9	100.0
Equally male/female	41.7	39.6	18.7	100.0
Race				
White	44.0	38.5	17.4	100.0
Black or African American	26.9	41.5	31.6	100.0
American Indian and Alaska Native	30.1	42.1	27.8	100.0
Asian	27.0	47.2	25.8	100.0
Native Hawaiian and Other Pacific Islander	30.1	37.5	32.4	100.0
Ethnicity				
Hispanic	28.1	43.8	28.1	100.0
Equally Hispanic/non-Hispanic	34.1	40.5	25.5	100.0
Non-Hispanic	42.7	39.2	18.1	100.0
Minority Status				
Minority	27.6	45.2	27.2	100.0
Equally minority/nonminority	36.4	40.6	22.9	100.0
Nonminority	45.3	38.1	16.6	100.0
Veteran Status				
Veteran	44.5	37.1	18.4	100.0
Equally veteran/nonveteran	44.3	37.7	18.0	100.0
Nonveteran	41.4	39.7	18.8	100.0

Source: Census Bureau and National Center for Science and Engineering Statistics, 2023.

Note: Data are preliminary and will be revised when the final 2023 Annual Business Survey results are published. Firms were asked to report the percentage of ownership, sex, ethnicity, and race, for up to four persons owning the largest percentages in the business. A firm could be tabulated in more than one racial group for the following reasons: the sole owner was reported to be of more than one race; the majority owner was reported to be of more than one race; or a majority combination of owners was reported to be of more than one race. Firms classified as minority are those classified as any race and ethnicity combination other than non-Hispanic and White. For more information about the survey, visit <https://www.census.gov/programs-surveys/abs.html>. Unpublished estimates derived from this table by subtraction are subject to these same limitations and should not be attributed to the Census Bureau.

Table VIII.G.4. Business Profitability in 2022 By Sex, Race, Ethnicity, Minority Status and Veteran Status

	Business had profits, losses, or broke even			
	Percent of employer firms			
	Profits	Losses	Break even	Total
Total	65.6	19.6	14.8	100.0
Sex				
Female	63.2	21.3	15.5	100.0
Male	66.7	18.6	14.7	100.0
Equally male/female	65.1	20.1	14.8	100.0
Race				
White	66.9	18.9	14.2	100.0
Black or African American	49.5	30.2	20.3	100.0
American Indian and Alaska Native	59.1	22.1	18.9	100.0
Asian	60.7	21.3	18.0	100.0
Native Hawaiian and Other Pacific Islander	55.0	20.7	24.3	100.0
Ethnicity				
Hispanic	59.9	21.8	18.4	100.0
Equally Hispanic/non-Hispanic	60.9	23.5	15.6	100.0
Non-Hispanic	66.2	19.2	14.6	100.0
Minority Status				
Minority	59.1	22.6	18.3	100.0
Equally minority/nonminority	62.8	22.3	14.8	100.0
Nonminority	67.4	18.6	14.0	100.0
Veteran Status				
Veteran	62.3	21.9	15.9	100.0
Equally veteran/nonveteran	63.5	21.3	15.2	100.0
Nonveteran	65.9	19.3	14.8	100.0

Source: Census Bureau and National Center for Science and Engineering Statistics, 2023.

Note: Data are preliminary and will be revised when the final 2023 Annual Business Survey results are published. Firms were asked to report the percentage of ownership, sex, ethnicity, and race, for up to four persons owning the largest percentages in the business. A firm could be tabulated in more than one racial group for the following reasons: the sole owner was reported to be of more than one race; the majority owner was reported to be of more than one race; or a majority combination of owners was reported to be of more than one race. Firms classified as minority are those classified as any race and ethnicity combination other than non-Hispanic and White. For more information about the survey, visit <https://www.census.gov/programs-surveys/abs.html>. Unpublished estimates derived from this table by subtraction are subject to these same limitations and should not be attributed to the Census Bureau.

IV. Conclusion

The proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings is well-positioned to protect the most at-risk workers, across the socioeconomic gradient. In response to the advance notice of proposed rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, members of Congress emphasized that “jobs at the highest risk of heat stress illness and death are disproportionately held by workers of color” and occupational risk from heat is the “greatest for low-income workers” (OSHA–2021–0009–0266; 0270), a concern that was echoed by other commenters, including legal experts (see, e.g., OSHA–2021–0009–0524), employee representatives (see, e.g., OSHA–2021–0009–0661), and advocacy groups (see, e.g., OSHA–2021–0009–0655; 0712). Commenters also called for a heat standard that minimizes risks of “. . . compounding language, social service access, and wealth-building barriers” (OSHA–2021–0009–0522). The proposed standard reinforces occupational heat hazard protections for all workers through the adoption of agile and culturally attunable provisions. For example, the provisions:

- Requiring training on occupational heat-related risks and protections covered by this standard (e.g., rest breaks, water) to employees upon hire and each year can enhance knowledge of heat safe work practices, reducing risk of HRIs among less experienced or vulnerable workers;
- Requiring the provision of training in a language and literacy level appropriate for staff along with the opportunities for questions and answers ensures heat protections (e.g., paid rest breaks, cool drinking water) are understood and accessible to all; and
- Requiring an acclimatization protocol along with paid rest breaks that include adequate drinking water, shade (or air conditioning), and medical attention (if necessary) at initial and high heat triggers foster non-exploitive treatment of non-salaried vulnerable workers (e.g., farmworkers).

The provisions have economic effects extending beyond the direct benefits to workers in affected industries. Heat is the leading cause of weather-related deaths, estimated to cost the U.S. \$1 billion in excess health care costs each year with a projection to potentially reach \$14.5 trillion in economic damages via factors impacting the economic production over the next fifty years (Woolf et al., 2023; Deloitte, 2022). The standard is projected to reduce

occupational heat-induced deaths which can offset the estimated health costs due to weather. The proposed standard is primed for responsiveness to workers of all levels of social vulnerability while counteracting the broader economic costs of extreme temperatures.

H. Appendix A. Description of the Cost Savings Approach

I. Introduction

This appendix details the underlying calculations of the potential cost savings from the proposed standard as a result of requiring employers to provide employees if-needed or scheduled rest breaks. The best available evidence indicates that when employees are exposed to heat and are not allowed to take rest breaks or adjust their work hours, they must pace themselves (i.e., work more slowly) to counteract the effects of heat exposure. OSHA has preliminarily determined that when employees are offered rest breaks, cost savings will accrue to employers currently noncompliant with the rest break requirement because employees will work more efficiently during the work time not spent on rest breaks (i.e., pace less), effectively replacing pacing with if-needed or scheduled rest breaks. First, for the three groups defined below, OSHA estimated the percentage of productivity loss at the initial heat trigger using the Heat Index (HI) option (i.e., (HI) at or above 80 °F) and above the high heat trigger (i.e., HI at or above 90 °F). These estimates were then translated to equivalent lost minutes of work time in an 8-hour work shift.

When working in hot conditions, OSHA assumes that employees can take three different measures to avoid overheating:

- (1) *Measure #1: Employees pace themselves*; for example, an employee shovels gravel at a slower pace in hot conditions than they would in cooler conditions.
- (2) *Measure #2: Employees take rest breaks if needed*; for example, an employee leans on their shovel for a few minutes at a time whenever they feel overwhelmed by the heat, which they otherwise would not do in cooler conditions.
- (3) *Measure #3: Employees take scheduled rest breaks*; for example, twice a day, for 15 minutes at a time, an employee sits in a cool or shaded area to drink water and recover from the heat.

Depending on what is allowed by their employers, employees can take multiple measures to avoid overheating (i.e., they are not mutually exclusive).

Three groups of employees were defined based on possible combinations of measures:

(1) *Group #1: Employees who only use pacing* (Measure #1). These employees do not take any rest breaks, possibly because their employer does not allow them to take breaks.

(2) *Group #2: Employees who take rest breaks if needed* (Measure #2) and use *pacing* (Measure #1). These employees are allowed to take brief, unscheduled breaks by their employer. However, these rest breaks may not be long or frequent enough to allow for a full recovery from the heat exposure (return to normal body temperature of 98.6°F (37°C)). Therefore, these employees still display residual pacing while they work.

(3) *Group #3: Employees who take scheduled rest breaks* (Measure #3), may take *rest breaks if needed* (Measure #2), and use *pacing* (Measure #1). These employees are allowed to take scheduled rest breaks, which may allow them to rehydrate and rest in a cool or shaded area, as well as rest breaks if needed. However, these rest breaks do not entirely eliminate productivity loss, as these employees also display residual pacing, though it is expected to be to a lesser extent than employees in Group #2.

II. Primary Approach

This section describes the method that OSHA used to estimate labor productivity losses that result from pacing due to heat exposure. First, the general approach is summarized, next the general assumptions of the analysis are outlined, and then the calculations are detailed for Groups 1, 2, and 3.

A. Summary of Approach

For the primary approach, OSHA searched for studies that examined how working in hot vs. cool conditions affect employee productivity. Eastern Research Group (ERG) performed several literature searches (ERG, 2022a; ERG, 2022b; ERG, 2022c) and identified a total of 71 unique studies that could inform the relationship between heat and various outcomes (e.g., labor productivity, heat strain). OSHA also reviewed the reference lists of these studies and identified an additional 37 studies that were potentially relevant to this topic. This yielded a total of 108 studies considered for inclusion for the purposes of estimating the impact of rest breaks on labor productivity at the initial heat and high heat triggers. Generally, studies were excluded if they did not meet the inclusion criteria listed below (more detailed reasons for exclusion are listed in table VIII.H.A.3.).

- Measured labor productivity over a range of temperatures, so that a comparison could be made between a cool (REF) condition below the initial heat trigger (*i.e.*, HI at or above 80 °F), and a HOT condition(s) above the high heat trigger (*i.e.*, HI at or above 90 °F).

- Provided enough information on weather conditions so that HI could be estimated, even if based on historical weather data.

- Collected labor productivity data.
- Reported labor productivity as output per worker, per hour, or per day.
- Provided information as to whether breaks were offered, and if so, how long and frequent the breaks were.

Once studies were identified for inclusion, each included study was

evaluated for four key pieces of information:

(1) Which measure(s) employees took to avoid overheating (Measures #1, #2, and/or #3), allowing the assignment of employees to Groups #1, #2, or #3.

(2) Weather data that describe the cool condition, or the referent (REF) condition. This could be when the HI was lowest, or when output was highest (*i.e.*, 100% productivity). The HI was calculated based on the ambient or dry bulb temperature (T_a or T_d , respectively) and the relative humidity (RH).

(3) Weather data that describe the HOT condition(s). This could be when the HI was highest, or at which output was lowest (*i.e.*, 50% lower output means 50% productivity). Again, HI was calculated to ensure that the HOT

condition(s) exceeded both the initial and high heat triggers.

(4) Labor productivity at both the REF and HOT conditions, so that the loss in labor productivity (%) could be divided by the difference in HI (°F) and expressed as a rate of lost labor productivity per 1°F HI.

After calculating the rate of labor productivity loss per 1 °F HI, OSHA calculated the (cumulative) labor productivity loss as a percentage relative to the REF condition at the initial heat trigger (HI of 80 °F) and high heat trigger (HI of 90 °F). This labor productivity loss was then translated into equivalent minutes of lost work time by multiplying by an 8-hour work shift (480 minutes).

TABLE VIII.H.A.1—SUMMARY TABLE

Group	Study	HI at REF	HI at HOT	Productivity loss per 1 °F HI above REF (%)	Productivity loss at initial heat trigger	Productivity loss at high heat trigger
1	LoPalo, 2023	66.1 °F	105.2 °F	0.35	23.4 min (4.9%)	40.2 min (8.4%)
	Foster et al., 2021	76.8 °F	161.4 °F	0.73	11.3 min (2.4%)	46.4 min (9.7%)
	Hanna, 2004	79.2 °F	122.3 °F	0.86	3.3 min (0.7%)	44.5 min (9.3%)
	Somanathan et al., 2021	63.4–82 °F	90–105.8 °F	0.29	18.0 min (3.8%)	31.3 min (6.5%)
	Group Mean: 0.56%				14.0 min	40.6 min
2	Ioannou et al., 2017	72.1–75.6 °F	96.9–103.1 °F	0.73	22.3 min (4.6%)	57.4 min (12.0%)
	Sahu et al., 2013	85.5 °F	116.6 °F	1.00	0 min (0%)	21.6 min (4.2%)
	Group Mean: 0.865%				11.2 min	39.5 min
3	Dally et al., 2018	88.3 °F	102.6 °F	1.03	0 min (0%)	8.4 min (1.8%)
	Group Mean: 1.03%				0 min	8.4 min

B. General Assumptions

When estimating labor productivity loss in each study, OSHA made the following assumptions:

a. Unless otherwise specified, productivity at or below the REF condition is 100%.

b. Above the REF condition, the relationship between HI and labor productivity loss is linear, *i.e.*, the rate of loss (per 1 °F HI) is a constant. Therefore, the productivity loss function for any firm can be fully characterized by two parameters: the REF condition and the rate of loss.

c. Employees in Group 2 are allowed to take up to 10 minutes of rest breaks if needed (with 2–4 minutes of travel time to/from break areas).

d. Employees in Group 3 are allowed to take 30 minutes of scheduled rest breaks, along with 5 minutes of rest breaks if needed (with 2–4 minutes of travel time to/from break areas for each break).

e. An employee's expected productivity loss from pacing, given a specific temperature and the employer's rest break policy, can be estimated by the average productivity loss measured in studies where that rest break policy is in effect. In other words, the set of studies with each group fully characterizes the productivity loss that would be experienced by employees at a firm that offered the associated rest break policy, regardless of what rest break policy it currently offers.

f. An employee's expected productivity gains from taking new or newly scheduled rest breaks (versus not taking breaks or taking only if-needed breaks) can be estimated by differences in productivity losses due to pacing, as measured at the initial temperature (*i.e.*, trigger) at which the rest break policy goes into effect.¹¹⁴

¹¹⁴ All else equal, using the initial temperature (*i.e.*, trigger) rather than the temperature inputs used elsewhere in this PEA will yield underestimates of the effects reported in table VIII.H.A.1. When subsequently performing subtraction (for expressing productivity differences across Groups), there is ambiguity about the direction of misestimation—because the difference between two underestimated amounts may be over- or underestimated.

C. Productivity Loss Estimates by Group

I. Group 1 Studies

LoPalo (2023) assessed the effects of temperature on the productivity of 9,000 Demographic and Health Surveys interviewers in 46 countries. Interviewers were paid an hourly wage and were assumed to be acclimatized because they were “recruited within a region of a country as much as possible so that the interviewer [did] not seem foreign to the respondent” (p. 197). The author concluded that “high temperatures are detrimental to productivity, with interviewers experiencing a 13.6 percent loss in interviews per hour on days over 85 °F wet bulb” (pp. 208–209).

The author clarifies, “more specifically, I estimate the effect of daily average wet bulb temperature falling into a certain bin on my outcome variable of interest, relative to an excluded bin of 50–60 °F (50–60 °F wet bulb corresponds with a median dry bulb temperature of 66 °F in my sample)” (p. 205). Thus, a dry bulb temperature (T_d) of 66 °F was selected for the calculation of the heat index (HI) for the REF condition. Per Figure 1 (p. 203), in this sample, a T_d of 66 °F yields a wet bulb temperature of 55 °F when RH is 80%. Therefore, OSHA used 80% RH for the calculation of HI. A T_d of 66 °F and 80% RH yielded an HI of 66.1 °F for the REF condition.

The author created bins of both T_d and wet bulb temperature; the highest bin for T_d was ‘≤95 °F’. Therefore, a T_d of 95 °F was used to calculate the HI for the HOT condition. The author states, “the highest daily average wet bulb temperature in my sample is 87.7 °F, while the highest daily average dry bulb temperature is 102.6 °F” (p. 206). Per Figure 1 (p. 203), in this sample, a T_d of 102.6 °F yields a wet bulb temperature of 87.7 °F when RH is 50%. Therefore, OSHA used 50% RH for the calculation of HI. A T_d of 95 °F and 50% RH yielded an HI of 105.2 °F for the HOT condition.

Finally, the productivity loss from the REF condition to the HOT condition was estimated. In table 2. (p. 209), the author provides a regression estimate for each bin of dry bulb temperature to indicate its effect on the number of interviews completed per hour. The estimate in Column 2 (–0.135, or 13.5% loss) accounted for both T_d and high humidity and most closely matched the estimate in Column 4 for wet bulb temperature (–0.136, or 13.6% loss). Therefore, OSHA selected the estimate for T_d and high humidity, which yielded a rate of productivity loss of 0.35% per 1 °F HI.

Relative to the REF condition (66.1 °F HI), the productivity loss at the initial heat trigger (80 °F HI) is 4.87%. For an 8-hour work shift (480 minutes), this translates to a loss of 23.4 minutes.

Relative to the REF condition (66.1 °F HI), the productivity loss at the high heat trigger (90 °F HI) is 8.37%. For an 8-hour work shift (480 minutes), this translates to a loss of 40.2 minutes.

Foster et al. (2021) assessed the effects of temperature on physical work capacity (PWC) of 40 unacclimatized young adult males at 22 different combinations of air temperature (T_a) and relative humidity (RH). First, the authors measured maximal PWC (i.e., 100% productivity) at a T_a of 59 °F and RH of 50%. Then, the authors assessed PWC under various conditions, with T_a ranging from 77 °F to 122 °F and RH ranging from 20% to 80%.

To determine an appropriate REF condition, OSHA plotted the low-clothing coverage estimates from table 2. (p. 1222) and found a sigmoidal curve. That is, as T_a increased from 59 °F to 77 °F, the curve was nearly flat, indicating minimal productivity decline. Then, at a T_a of 77 °F (and 50% RH), productivity began to decline in a nearly perfect linear fashion ($R^2 = 0.99$). Therefore, the REF condition was selected as a T_a of 77 °F and RH of 50%. This combination yielded an HI of 76.8 °F for the REF condition.

The combination of temperature and humidity that corresponded the greatest productivity loss (66%) along the linear portion of the curve was a T_a of 104 °F and RH of 70%. This combination yielded an HI of 161.4 °F for the HOT condition.

The productivity loss from the REF condition to the HOT condition was estimated. In table 2. (p. 1222), the authors reported that at the REF condition (T_a 77 °F, RH 50%), PWC was 96%, and at the HOT condition (T_a 104 °F, RH 70%), PWC was 34%. This yielded a rate of productivity loss of 0.73% per 1 °F HI.

Relative to the REF condition (76.8 °F HI), the productivity loss at the initial heat trigger (80 °F HI) is 2.35%. For an 8-hour work shift (480 minutes), this translates to a loss of 11.3 minutes.

Relative to the REF condition (76.8 °F HI), the productivity loss at the high heat trigger (90 °F HI) is 9.67%. For an 8-hour work shift (480 minutes), this translates to a loss of 46.4 minutes.

Hanna (2004) assessed the effects of temperature on the productivity of two electrical journeymen in a climatic chamber at various combinations of T_a (ranging from –10 °F to 110 °F, in increments of 10 °F) and RH (ranging from 40% to 80%, in increments of 10%). The journeymen were assessed for their performance of a routine work task (installing duplex receptacles) over a total of 6 days of testing. The author stated that “for the purpose of this study, the average number of receptacles installed in one hour during the first day of work measurement at 70 °F and 60% RH is expressed as 100% productivity.”

However, per Chart 2–1 (p. 15), productivity clearly only began to decline at a T_a of 80 °F and RH of 30%. Therefore, the REF condition was selected as a T_a of 80 °F and RH of 30%. This combination yielded an HI of 79.2 °F for the REF condition.

$$\frac{(96 - 34)\%}{|76.8 - 161.4|^\circ\text{F}} = 0.73\% \text{ per } 1^\circ\text{F HI}$$

$$\frac{0.73\%}{1^\circ\text{F HI}} * (80 - 76.8)^\circ\text{F HI} = 2.35\% \quad 2.35\% * 480 \text{ minutes} = 11.3 \text{ minutes}$$

$$\frac{0.73\%}{1^\circ\text{F HI}} * (90 - 76.8)^\circ\text{F HI} = 9.67\% \quad 9.67\% * 480 \text{ minutes} = 46.4 \text{ minutes}$$

According to table 2.3. (p. 11), the combination of temperature and humidity that corresponded the greatest productivity loss (38%) was a T_a of 110 °F and RH of 30%. This combination

yielded an HI of 122.3 °F for the HOT condition.

The productivity loss from the REF condition to the HOT condition was estimated. In table 2.3. (p. 11), the authors reported that at the REF

condition (T_a 80 °F, RH 30%), productivity was 99%, and at the HOT condition (T_a 110 °F, RH 30%), productivity was 62%. This yielded a rate of productivity loss of 0.86% per 1 °F HI.

$$\frac{(99 - 62)\%}{|79.2 - 122.3|^\circ\text{F}} = 0.86\% \text{ per } 1^\circ\text{F HI}$$

Relative to the REF condition (79.2 °F HI), the productivity loss at the initial heat trigger (80 °F HI) is 0.69%. For an

8-hour work shift (480 minutes), this translates to a loss of 3.3 minutes.

$$\frac{0.86\%}{1^\circ\text{F HI}} * (80 - 79.2)^\circ\text{F HI} = 0.69\%$$

$$0.69\% * 480 \text{ minutes} = 3.3 \text{ minutes}$$

Relative to the REF condition (79.2 °F HI), the productivity loss at the high heat trigger (90 °F HI) is 9.27%. For an

8-hour work shift (480 minutes), this translates to a loss of 44.5 minutes.

$$\frac{0.86\%}{1^\circ\text{F HI}} * (90 - 79.2)^\circ\text{F HI} = 9.27\%$$

$$9.27\% * 480 \text{ minutes} = 44.5 \text{ minutes}$$

Somanathan et al. (2021) assessed the productivity of indoor workers in cloth-weaving, garment-sewing, and steel mill industries in India. OSHA only analyzed garment-sewing workers, who were “paid monthly wages” (p. 1803), and their productivity was assessed as “actual hourly output, when controlled for the target [output]” from “103 sewing lines over a period of 730 days during the calendar years of 2012 and 2013” (p. 1804). OSHA excluded

workers from the cloth weaving industry because productivity was not reported for the full range of temperatures (Figure 1C, p. 1808). OSHA also excluded certain garment plants and the steel mill, as these facilities were climate-controlled (p. 1806), and workers experienced limited variations in temperature.

The authors reported productivity as a function of daily maximum temperature (T_a) in Figure 1 (p. 1808).

Temperature data came from “recordings from public weather stations within the cities where . . . garment-sewing factories are located” (p. 1806), *i.e.*, the National Capital Region (NCR), Hyderabad, and Chhindwara. The authors created temperature bins for each industry, as well as the equivalent bins based on wet-bulb temperature (WBT), which accounts for both T_a and RH (appendix, p. 3).

	Garment-sewing (inside NCR)		Garment-sewing (outside NCR)	
	Temperature bin	Equivalent WBT bin	Temperature bin	Equivalent WBT bin
REF	<19 °C	<15 °C	<27 °C	<23 °C.
HOT	>33 °C	>25.5 °C	>33 °C	>29 °C.
Max	>35 °C	>27 °C	>35 °C	>31 °C.

To calculate the HI for the REF condition in the garment-sewing industry, the T_a for the lowest bin was used and RH was calculated using the

equation below (provided by the authors). Inside the NCR, the T_a was 66.2 °F (19 °C) and RH was calculated at 18%, yielding an HI of 63.4 °F for the

REF condition. Outside the NCR, the T_a was 80.6 °F (27 °C) and RH was calculated as 56%, yielding an HI of 82 °F for the REF condition.

$$WBT = 0.567T_a + 0.216 \left(\frac{RH}{100} * 6.105 * \exp \left(\frac{17.27T_a}{237.7 + T_a} \right) \right) + 3.38$$

To calculate the HI for the HOT condition in the garment-sewing industry, the T_a for the second highest bin was used because this is where

productivity losses reached a maximum and plateaued (Figure 1A–B, p. 1808). RH was again calculated using the equation above. Inside the NCR, the T_a

was 91.4 °F (33 °C) and RH was calculated at 31%, yielding an HI of 90 °F for the HOT condition. Outside the NCR, the T_a was also 91.4 °F (33 °C) and

RH was calculated as 64%, yielding an HI of 105.8 °F for the HOT condition.
The productivity losses from the REF conditions to the HOT conditions were estimated using data from Figure A.3

(appendix, p. 6). For garment workers inside the NCR, the authors reported that at the HOT condition, there was a 12% loss in productivity, which yields a rate of 0.45% per 1 °F HI. Outside the

NCR, the authors reported that at the HOT condition, there was a 3% loss in productivity, which yields a rate of 0.13% per 1 °F HI.

Inside NCR: $\frac{(100-88)\%}{|63.4-90|^{\circ}\text{F}} = 0.45\% \text{ per } 1^{\circ}\text{F HI}$ Outside NCR: $\frac{(100-97)\%}{|82-105.8|^{\circ}\text{F}} = 0.13\% \text{ per } 1^{\circ}\text{F HI}$

Mean: $\frac{(0.45+0.13)\% \text{ per } 1^{\circ}\text{F HI}}{2} = 0.29\% \text{ per } 1^{\circ}\text{F HI}$

Relative to the REF condition, inside the NCR, productivity loss at the initial heat trigger (80 °F HI) was 7.49%. For

an 8-hour work shift (480 minutes), this translates to a loss of 35.9 minutes. Outside the NCR, productivity loss is

assumed to be 0% because the REF (82 °F HI) was above the initial heat trigger. The mean loss is 18.0 minutes.

Inside NCR: $\frac{0.45\%}{1^{\circ}\text{F HI}} * (80 - 63.4)^{\circ}\text{F HI} = 7.49\%$ $7.49\% * 480 \text{ minutes} = 35.9 \text{ minutes}$

Outside NCR: 0 minutes

Mean: $\frac{(35.9+0) \text{ minutes}}{2} = 18.0 \text{ minutes}$

Relative to the REF condition, inside the NCR, productivity loss at the high heat trigger (90 °F HI) was 12.0%. For

an 8-hour work shift (480 minutes), this translates to a loss of 57.6 minutes. Outside the NCR, productivity loss at

the high heat trigger was 1.0%, or a loss of 4.8 minutes. The mean loss is 31.3 minutes.

Inside NCR: $\frac{0.45\%}{1^{\circ}\text{F HI}} * (90 - 63.4)^{\circ}\text{F HI} = 12.0\%$ $12.0\% * 480 \text{ minutes} = 57.6 \text{ minutes}$

Outside NCR: $\frac{0.13\%}{1^{\circ}\text{F HI}} * (90 - 82)^{\circ}\text{F HI} = 1.04\%$ $1.04\% * 480 \text{ minutes} = 5.0 \text{ minutes}$

Mean: $\frac{(57.6+5.0) \text{ minutes}}{2} = 31.3 \text{ minutes}$

Ioannou et al. (2017) assessed the effects of temperature on the productivity of 7 grape-picking workers in Cyprus over 4 study days: two in the summer (August 17–18, 2016) and two in the autumn (October 11–12, 2016). The workers were “healthy and heat-acclimatized” (p. 332), and their pay system was not specified. They were “officially not provided with any breaks other than the lunch break” (p. 338) but did take “irregular work breaks . . . defined as any unprescribed work cessation determined by workers’ own

judgment, and not based on specific time intervals or instructions” (p. 333). Productivity was assessed as “the number of boxes full of grapes picked by the entire group in each hour divided by the number of workers” (p. 333).
The authors reported hourly productivity as a function of wet bulb globe temperature (WBGT). The calculation of WBGT was based on weather data (including *T_a* and RH) from the Paphos International Airport in Cyprus. OSHA accessed the same historical weather data

(wunderground.com) for the 4 study days and calculated the hourly HI (based on *T_a* and RH) for each study day. On October 11 and 12, the highest HI was still below the high heat trigger (83.8 °F and 85.6 °F, respectively) and would have required extrapolation to estimate the rate of productivity loss. Therefore, only weather and productivity data from August 17 and 18 was considered. The lowest HI for each day served as the REF condition for that day; the REF HI for August 17 was 75.6 °F (based on a *T_a* of 75 °F and

73% RH), and the REF HI for August 18 was 72.1 °F (based on a T_a of 72 °F and 69% RH).

The highest HI for each day served as the HOT condition. The HOT HI for August 17 was 96.9 °F (based on a T_a of 86 °F and 74% RH), and the HOT HI

for August 18 was 103.1 °F (based on a T_a of 88 °F and 75% RH).

The productivity loss from the REF condition to the HOT condition for the 2 study days (August 17–18) was estimated by plotting the hourly HI against the productivity data (boxes per

hour) in Figure 6 (p. 337). The rate of productivity loss was 0.65% per 1 °F HI for August 17, and 0.81% per 1 °F HI on August 18, which yielded a mean rate of 0.73% per 1 °F HI.

$$\text{August 17: } \frac{(100-86.1)\%}{|75.6-96.9|^\circ\text{F}} = 0.65\% \text{ per } 1^\circ\text{F HI} \quad \text{August 18: } \frac{(100-74.9)\%}{|72.1-103.1|^\circ\text{F}} =$$

$$0.81\% \text{ per } 1^\circ\text{F HI}$$

$$\text{Mean: } \frac{(0.65+0.81)\% \text{ per } 1^\circ\text{F HI}}{2} = 0.73\% \text{ per } 1^\circ\text{F HI}$$

Relative to the REF conditions, the productivity loss at the initial heat trigger (80 °F HI) was 2.87% for August

17 and 6.40% for August 18. For an 8-hour work shift (480 minutes), this translates to a loss of 13.8 and 30.7

minutes, respectively, and a mean loss of 22.3 minutes.

$$\text{August 17: } \frac{0.65\%}{1^\circ\text{F HI}} * (80 - 75.6)^\circ\text{F HI} = 2.87\% \quad 2.87\% * 480 \text{ minutes} =$$

$$13.8 \text{ minutes}$$

$$\text{August 18: } \frac{0.81\%}{1^\circ\text{F HI}} * (80 - 72.1)^\circ\text{F HI} = 6.40\% \quad 6.40\% * 480 \text{ minutes} =$$

$$30.7 \text{ minutes}$$

$$\text{Mean: } \frac{(13.7+30.7) \text{ minutes}}{2} = 22.3 \text{ minutes}$$

Relative to the REF conditions, the productivity loss at the high heat trigger (90 °F HI) was 9.40% for August 17 and

14.5% for August 18. For an 8-hour work shift (480 minutes), this translates to a loss of 45.1 and 69.6 minutes,

respectively, and a mean loss of 57.4 minutes.

$$\text{August 17: } \frac{0.65\%}{1^\circ\text{F HI}} * (90 - 75.6)^\circ\text{F HI} = 9.40\% \quad 9.40\% * 480 \text{ minutes} =$$

$$45.1 \text{ minutes}$$

$$\text{August 18: } \frac{0.81\%}{1^\circ\text{F HI}} * (90 - 72.1)^\circ\text{F HI} = 14.5\% \quad 14.5\% * 480 \text{ minutes} =$$

$$69.6 \text{ minutes}$$

$$\text{Mean: } \frac{(45.1+69.6) \text{ minutes}}{2} = 57.4 \text{ minutes}$$

Sahu et al. (2013) assessed the effects of temperature on the productivity of 48 male rice harvesters in Bengal, India from April to June in 2011. Workers were paid on a piece-rate system, and their acclimatization status was not specified. They were allowed to take

“small breaks (3–6 min) between work tasks [that] were included as part of the normal work time management” (p. 426). Productivity was assessed as the “hourly number of bundles divided by the number of workers to calculate the average hourly productivity per worker”

(p. 426). The authors measured both T_a and WBGT in the farm fields and estimated the relationship between them (Figure 1, p. 427).

The authors only reported productivity as a function of WBGT (Figure 4, p. 428). First, the WBGT when

productivity was highest (25.7 °C) and lowest (30.9 °C) was identified. Then the regression equation from Figure 1 was used to estimate T_a based on WBGT. Finally, to estimate RH, historical weather data “from the nearby weather station at Kolkata Dum-Dum airport” (p. 426) was used, upon which the authors had also relied. OSHA identified the days from April through June 2011 that matched the T_a for

highest productivity (80.6 °F) and lowest productivity (97.4 °F) at 6 a.m. (when T_a was measured for the first hour of work), and then used the corresponding level of RH. This yielded an HI of 85.5 °F for the REF condition (based on a T_a of 80.6 °F and 80% RH), and an HI of 116.6 °F for the HOT condition (based on a T_a of 97.4 °F and 56% RH).

OSHA estimated productivity loss from the REF condition to the HOT condition based on the productivity data (rice bundles per hour) for the first hour of work in Figure 4 (p. 428). Workers harvested 92 rice bundles per hour at the REF condition (i.e., 100% productivity), and 63.8 bundles per hour at the HOT condition (i.e., 69% productivity). This yielded a rate of productivity loss of 1.00% per 1 °F HI.

$$\frac{(100 - 69)\%}{|85.5 - 116.6|^\circ\text{F}} = 1.00\% \text{ per } 1^\circ\text{F HI}$$

The productivity loss at the initial heat trigger (80 °F HI) is assumed to be 0% because the REF condition, at which

productivity was assumed to be 100%, is higher than the initial heat trigger. Relative to the REF condition (85.5 °F HI), the productivity loss at the high

heat trigger (90 °F HI) is 4.50%. For an 8-hour work shift (480 minutes), this translates to a loss of 21.6 minutes.

$$\frac{1.00\%}{1^\circ\text{F HI}} * (90 - 85.5)^\circ\text{F HI} = 4.50\% \quad 4.50\% * 480 \text{ minutes} = 21.6 \text{ minutes}$$

III. Group 3 Studies

Dally et al. (2018) assessed the effects of temperature on the productivity of 4,095 sugarcane cutters in Guatemala from November 2015 to May 2016. Workers received “a base wage regardless of the amount of sugarcane harvested” (p. 3) and were acclimatized (i.e., they completed a “one week acclimatization period in November” (p. 3). They worked a “ten-hour shift (p. 3) and were allowed to “take three 20-minute breaks and one 60-minute lunch break in the provided shade during the work shift” (p. 4). The authors reported

daily productivity as the “average daily tons cut per workday” (p. 4). The authors collected data on T_a , RH, and WBGT using the Cengicaña weather station located close to the sugarcane fields.

Using historical weather data (collected at 15-minute intervals) from the Cengicaña weather station, T_a and RH were used to calculate HI for each day of the harvest season. OSHA identified the days with the highest and lowest HI based on the 75th percentile of each day, which provided the range of temperatures that most closely

corresponded to the extreme values of daily productivity (as compared with mean HI or max HI). This yielded an HI of 88.3 °F for the REF condition and an HI of 102.6 °F for the HOT condition.

The productivity loss from the REF condition to the HOT condition was estimated based on the productivity data (tons of sugarcane per day) in Figure 2 (p. 7). Workers harvested 6.0 tons per day at the REF condition (i.e., 100% productivity), and 5.42 tons per day at the HOT condition (i.e., 90.3% productivity). This yielded a rate of productivity loss of 0.68% per 1 °F HI.

$$\frac{(100 - 90.3)\%}{|88.3 - 102.6|^\circ\text{F}} = 0.68\% \text{ per } 1^\circ\text{F HI}$$

However, the sugarcane cutters were given a total of 60 minutes of rest breaks (3x20 minutes) over the course of a 9-hour work shift, while the proposed rule would require a total of 35 minutes of rest breaks (2x15-minute scheduled rest

breaks and 5 minutes of rest breaks if needed) over the course of an 8-hour work shift at the high heat trigger. Therefore, OSHA assumed that the rate of productivity loss should be multiplied by 1.52, or the ratio of the

percentages of the work shift spent in breaks for these two scenarios. This yielded an adjusted rate of productivity loss of 1.03% per 1 °F HI.

$$\text{Dally et al. (2018): } \frac{60 \text{ min}}{540 \text{ min}} = 11.1\% \quad \text{Proposed Rule: } \frac{35 \text{ min}}{480 \text{ min}} = 7.3\%$$

$$\frac{11.1\%}{7.3\%} = 1.52$$

$$0.68\% * 1.52 = 1.03\% \text{ per } 1^\circ\text{F HI}$$

Relative to the REF condition (88.3 °F HI), the productivity loss at the high heat trigger (90 °F HI) is 1.75%. For an

8-hour work shift (480 minutes), this translates to a loss of 8.4 minutes.

$$\frac{1.03\%}{1^{\circ}\text{F HI}} * (90 - 88.3)^{\circ}\text{F HI} = 1.75\%$$

$$1.75\% * 480 \text{ minutes} = 8.4 \text{ minutes}$$

III. Findings of Primary Approach

This appendix presents OSHA's estimates of the labor productivity loss resulting from pacing (*i.e.*, working slowly during the work time not spent on breaks) when the heat index is equal to the initial and high heat triggers. This appendix also presents OSHA's estimates of the decrease in pacing with the introduction of if-needed and scheduled breaks—the findings of the primary approach suggest that employees pace less (*i.e.*, work more efficiently) with if-needed rest breaks, and that scheduled rest breaks further reduce pacing (*i.e.*, employees become even more efficient). These estimated labor productivity losses from pacing were translated to and presented as equivalent lost minutes of work time in an 8-hour work shift.

At the initial heat trigger, employees given if-needed rest breaks are estimated to pace less (*i.e.*, work more efficiently) by an average of 2.8 minutes (per 8-hour shift) compared to those not given if-needed rest breaks. At the high heat trigger, employees given both scheduled and if-needed rest breaks are estimated to pace less (*i.e.*, work more efficiently) by an average of 32.2 minutes (per 8-hour shift) compared to those not given neither if-needed nor scheduled rest breaks and by an average of 31.1 minutes (per 8-hour shift) compared to those given only if-needed rest breaks.

IV. Alternate Approaches Under Consideration

OSHA has preliminarily determined that the assumptions made in the

primary approach are plausible and appropriate. However, OSHA recognizes that the limited scope of available evidence affects the extent to which these key assumptions can be tested. For example, none of the available studies directly compared rest break policies in the same setting, so the estimates of cost savings are based on differences in productivity losses across settings. OSHA is considering alternate approaches with varying assumptions, such as the extent to which productivity losses in one setting, given a certain rest break policy, may be representative of such losses in other settings.

One alternate approach modifies some of the key assumptions made in the primary approach, while still relying on the same set of studies. Specifically, this approach retains Assumptions (a) through (d) and Assumption (f), but it replaces Assumption (e) with the following:

e.1. An employee's expected productivity loss from pacing, given a specific temperature and the employer's break policy, is estimated by taking the average REF condition observed in studies where that break policy is in effect, along with the average productivity loss per degree observed across all studies.

e.2. An employee's expected productivity gains from taking rest breaks do not exceed the productivity losses that are observed when they work at a slower pace and do not take rest breaks. In other words, if a rest break policy yielded an overall net increase in productivity, employers would already

offer these rest breaks. Gains can be estimated by differences in productivity losses due to pacing, as measured at the initial temperature (*i.e.*, trigger) at which the rest break policy goes into effect.

Compared with those of the primary approach, the above alternate assumptions are more relaxed in some ways and stronger in others. In particular, the assumption that productivity losses per degree are estimated in a pooled fashion, but REF conditions are not, implies that all productivity gains associated from reduced pacing come in the form of a shift in the productivity loss function. This assumption addresses the potential concern that differences in work conditions other than temperature (such as sun exposure or work demands) limit the applicability of any findings on productivity loss to other work settings.

Under this alternate approach, OSHA expects that productivity losses at the initial and high heat triggers will be larger for employees in Group 1, and they will be smaller for employees in Groups 2 and 3 (see table VIII.H.A.2).¹¹⁵ This means that under these assumptions, even greater cost savings could accrue to employers if they offered rest breaks if needed at the initial heat trigger, and scheduled rest breaks as well as if-needed rest breaks at the high heat trigger. OSHA welcomes feedback on this alternate approach and has not yet calculated how it would impact the total cost of the proposed standard.

TABLE VIII.H.A.2—SUMMARY TABLE OF ALTERNATE APPROACH

Group	HI at REF (average within group)	Productivity loss per 1°F HI above REF (pooled average for all groups) (%)	Productivity loss at initial heat trigger (min.)	Productivity loss at high heat trigger (min.)
1	73.7 °F	0.71	21.5	55.6
2	79.7 °F	0.71	1.0	35.1
3	88.3 °F	0.71	0	5.8

The average HI at REF uses the midpoint for each study in cases where a range was specified. The average productivity loss is the pooled average from table VIII.H.A.1.

¹¹⁵ Not reflected in table VIII.H.A.2 is the possibility that the exclusion criteria listed in table

VIII.H.A.3 may need to be reconsidered if the cost savings estimation approach is revised.

In both the primary approach and the secondary approach (immediately above), the REF condition—which is, loosely, the minimum temperature at which heat begins to cause productivity loss—is assumed to differ across Groups. The two estimation approaches diverge in that the per-degree rate of loss in conditions above REF is always 0.71% in the secondary approach but is allowed to differ by Group in the primary.¹¹⁶ A tertiary approach would reverse which parameter is estimated in a pooled manner; the REF condition would be the same across Groups, while the per-degree rate of loss would differ. As shown in table VIII.H.A.1., however,

the per-degree rate of loss is estimated to increase with amounts of rest, so this approach would yield an estimate of productivity-related costs, rather than cost savings. Although this result is not plausible, it illustrates some of the uncertainties about data and quantitative methods used in this appendix.

A pooled regression could address some of these challenges by producing a single estimate representing the relationship between temperature and productivity loss that does not differ by break policy, then separately producing estimates as to how each rest break policy might improve productivity. OSHA is considering an additional

alternate approach that would incorporate regression analysis and might, as part of such analysis, relax the assumption regarding the linearity of the relationship between temperature and productivity loss. That is, a nonlinear specification could address the potential concern that productivity losses may become increasingly severe as the temperature exceeds the initial heat and high heat triggers.

In sum, OSHA welcomes feedback on the primary cost savings approach and the alternate approaches. OSHA also welcomes suggestions for other approaches to estimate cost savings related to the provision of rest breaks.

TABLE VIII.H.A.3—STUDIES EXCLUDED FROM PACING ESTIMATES, GROUPED BY REASON FOR EXCLUSION

Study, listed as author(s) and year	Study identified by
Did not measure temperature conditions (n=2):	
Hostler et al., 2016	ERG 2022b.
O'Neill et al., 2013	ERG 2022a.
Assumed outdoor (forecasted) conditions applied to indoor workers (n=2):	
Cai et al., 2018	OSHA.
Adhvaryu et al., 2020	ERG 2022c.
Temperature conditions did not vary (n=5):	
Schlader et al., 2011	OSHA.
Uchiyama et al., 2022	OSHA.
Schranner et al., 2017	ERG 2022a.
Constable et al., 1994	ERG 2022a.
Morrissey-Bassler et al., 2024	OSHA.
Temperature range was entirely below the initial heat trigger (n=3):	
Van Cutsem et al., 2015 (HI of 77°F for HOT condition)	OSHA.
Federspiel et al., 2004 (HI of 78.8°F for HOT condition)	ERG 2022c.
Niemelä et al., 2002 (HI of 77.2°F for HOT condition)	ERG 2022a.
Temperature range was entirely above the high heat trigger (n=3):	
Meegahapola and Prabodanie, 2018 (HI of 90.1°F for REF condition)	ERG 2022c.
Wyndham, 1969 (HI of 97.5°F for REF condition)	OSHA.
Ismail, 2009 (HI of 92°F for REF condition)	ERG 2022c.
Unable to reproduce temperature data (n=2):	
Masuda et al., 2021	ERG 2022c.
Sett and Sahu, 2014	ERG 2022c.
Review studies, no empirical productivity data (n=15):	
Ioannou et al., 2022	ERG 2022a.
Borg et al., 2021	ERG 2022a.
Dasgupta et al., 2021	ERG 2022a.
Morrissey et al., 2021a	ERG 2022a.
Morrissey et al., 2021b	ERG 2022a.
Foster et al., 2020	OSHA.
Morris et al., 2020a	ERG 2022a.
Morris et al., 2020b	ERG 2022b.
Day et al., 2019	ERG 2022a.
Flouris et al., 2018	ERG 2022a.
Lundgren et al., 2013	ERG 2022c.
Seppänen et al., 2006	ERG 2022c.
Pilcher et al., 2002	ERG 2022c.
Hancock et al., 2007	OSHA.
Lai et al., 2023	OSHA.
Modelling studies, no empirical productivity data (n=19):	
Casey et al., 2021	OSHA.
Szewczyk et al., 2021	ERG 2022a.
Atlantic Council/Vivid Economics 2021a	OSHA.
Atlantic Council/Vivid Economics 2021b	OSHA.
Atlantic Council/Vivid Economics 2017	OSHA.
Bröde et al., 2018	ERG 2022c.
Takakura et al., 2017	ERG 2022a.

¹¹⁶ However, allowing heterogeneity in the reference temperature has support in the literature; see Heutel et al. (2021).

TABLE VIII.H.A.3—STUDIES EXCLUDED FROM PACING ESTIMATES, GROUPED BY REASON FOR EXCLUSION—Continued

Study, listed as author(s) and year	Study identified by
Carleton and Hsiang, 2016	ERG 2022a.
Costa et al., 2016	OSHA.
Yi and Chan, 2015	ERG 2022b.
House et al., 2003	ERG 2022b.
Kjellstrom et al., 2009a	ERG 2022a.
Koehn and Brown, 1985	ERG 2022c.
Srinavin and Mohamed, 2003	ERG 2022c.
International Labour Organization, 2019	OSHA.
Kjellstrom et al., 2016a	OSHA.
Kjellstrom et al., 2009b	OSHA.
Kjellstrom et al., 2017	OSHA.
Kjellstrom et al., 2016b	OSHA.
Outcome was heat strain (n=5):	
Wyndham, 1965	OSHA.
Kalkowsky and Kampmann, 2006	OSHA.
Miller et al., 2011	OSHA.
Ioannou et al., 2021a	ERG 2022a.
Kaltsatou et al., 2020	ERG 2022b.
Outcome was physical activity or maximum work capacity (n=2):	
Mix et al., 2019	OSHA.
Maresh et al., 2014	OSHA.
Outcome was cognitive performance (n=3):	
Fine and Kobrick, 1987	ERG 2022c.
Mazlomi et al., 2017	ERG 2022c.
Spector et al., 2018	ERG 2022c.
Outcome was heat-related injuries (n=1):	
Park et al., 2021	ERG 2022a.
Outcome was loss of labor supply (including missed work hours) (n=2):	
Neidell et al., 2021 (ATUS)	ERG 2022a.
Graff-Zivin and Neidell, 2014 (ATUS)	ERG 2022a.
Outcome was non-working time (n=5):	
Flouris et al., 2020 (unplanned break time)	ERG 2022a.
Ioannou et al., 2021b (unplanned break time)	ERG 2022c.
Yi and Chan, 2017 (non-productive time)	ERG 2022c.
Li et al., 2016 (idle time)	ERG 2022c.
Zhao et al., 2009 (heat tolerance time)	OSHA.
Outcome was payroll or income data (n=3):	
Deryugina and Hsiang, 2014	ERG 2022c.
Park, 2016	ERG 2022c.
Heal and Park, 2013	OSHA.
Outcome was crop yields (n=1):	
Houser et al., 2014	OSHA.
Outcome was firm-level output (no worker-level data available) (n=1):	
Cachon et al., 2012	ERG 2022c.
Productivity losses were self-reported (e.g., surveys, focus groups) (n=9):	
Krishnamurthy et al., 2017	ERG 2022c.
Zander et al., 2015	ERG 2022c.
Langkelsen et al., 2010	ERG 2022c.
Fahed et al., 2018	ERG 2022c.
Budhathoki and Zander, 2019	ERG 2022c.
Singh et al., 2015	ERG 2022c.
Pogačar et al., 2019	ERG 2022c.
Morera et al., 2020	ERG 2022a.
Wadsworth et al., 2019	ERG 2022a.
Provided single productivity estimate for a range of temperatures (n=6):	
Sadiq et al., 2019	ERG 2022c.
Hansson et al., 2024	OSHA.
Glaser et al., 2022	ERG 2022b.
Prince et al., 2020	ERG 2022b.
Wegman et al., 2018	ERG 2022b.
Bodin et al., 2016	ERG 2022b.
Provided single productivity estimate for multiple worksites with different conditions (n=2):	
Stevens, 2017	OSHA.
Gun and Budd, 1995	ERG 2022c.
Productivity data not comparable; workers observed or total work time varied (n=3):	
Sawka et al., 2015	OSHA.
Nag et al., 2006	OSHA.
Morrison, 1969	OSHA.
Productivity data for firefighting tasks only (n=2):	
Larsen et al., 2015	ERG 2022c.
Sol et al., 2021	ERG 2022c.

TABLE VIII.H.A.3—STUDIES EXCLUDED FROM PACING ESTIMATES, GROUPED BY REASON FOR EXCLUSION—Continued

Study, listed as author(s) and year	Study identified by
Provided breaks but did not specify type (scheduled vs. if-needed) or duration/frequency (n=4):	
Mitchell et al., 2018	ERG 2022c.
Quiller et al., 2017	ERG 2022c.
Ciuha et al., 2019	ERG 2022c.
Pan et al., 2021	ERG 2022a.
Used work-time shifting instead of breaks (n=1):	
Morabito et al., 2020	OSHA.

I. Appendix B. Review of Literature on Effects of Heat Exposure on Non-Health Outcomes

I. Introduction

A large literature from multiple disciplines (economics, occupational health, physiology) documents the negative effects of heat exposure on human health, such as mortality, injuries, and illnesses (for detailed discussion, see Section IV., Health Effects and Section V.A., Risk Assessment).

There is also a large literature that documents the negative effects of heat exposure on a broad range of non-health outcomes with potential economic implications (Heal and Park, 2016; Lai et al., 2023).

This document serves several purposes. First, this document synthesizes and summarizes the findings from multiple disciplines regarding the effects of heat exposure on non-health outcomes with potential economic implications. In particular, this document aims to examine a broad set of non-health outcomes that are potentially relevant to OSHA’s economic analysis for the proposed standard for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings. Although the discussion centers around labor productivity, other outcomes are also discussed, including but not limited to labor supply, mental performance, economic output, and worker utility. This document also aims to clarify terminology, given that different terms have been used interchangeably in the existing literature (Dasgupta et al., 2021, p. e457).¹¹⁷

¹¹⁷ For example, Burke et al. (2023) conducted a meta-analysis of 22 studies as part of their literature review of existing evidence of “labor productivity response to temperature.” Some of these studies reported effects on mental performance or effects on economic output without clearly delineating the contribution of labor productivity. Changes in mental performance (e.g., error rates) may not directly reflect the magnitude of changes in labor productivity; for example, a 50% decrease in the error rate does not necessarily mean a 50% increase in labor productivity (Fisk, 2000, pp. 555–556). Flouris et al. (2018) conducted a meta-analysis of 111 studies on the effects of heat exposure on

Studies summarized in this document were identified as follows. Eastern Research Group (ERG) performed several literature searches (ERG, 2022a; ERG, 2022b; ERG, 2022c) that could inform the relationship between heat and various outcomes (e.g., labor productivity, heat strain). Among these studies, studies reporting non-health outcomes were considered relevant. Studies reporting health outcomes like heat strain and work-related HRIs were not considered relevant, and readers are referred to relevant sections of the preamble for more detail. OSHA also independently identified additional studies pertaining to non-health outcomes. During this process, studies about general population-related outcomes (e.g., heat-related mortality for general population beyond workers) were considered irrelevant.

This document is organized as follows. Section VIII.I.II. summarizes the literature’s findings on the negative effects of heat exposure on non-health outcomes with potential economic implications, especially labor productivity. Section VIII.I.III. summarizes the literature’s findings on the role of workplace characteristics in the labor productivity effects of heat exposure. Section VIII.I.IV. concludes.

II. Effect of Heat Exposure on Non-Health Outcomes

This section summarizes the literature’s findings on the negative effects of heat exposure on non-health outcomes that could translate into economic costs: labor supply, labor productivity, mental performance, economic output, and worker utility.¹¹⁸

workers’ outcomes, 11 of which were related to “productivity loss.” Some of these studies reported effects on self-perceived labor productivity or labor supply.

¹¹⁸ In general, the findings in this appendix (and other PEA sections that discuss benefits that are excluded from the primary benefits quantification) may be interrelated, such that simply summing the effects identified could lead to some amount of double-counting or other mis-counting.

A. Labor Supply

Literature has documented the negative effects of heat exposure on labor supply (hours worked), by increasing absenteeism due to illness or injury (Ioannou et al., 2022, p. 80) or increasing disutility of labor (working in the heat causes discomfort so workers increasingly avoid spending time at work at higher temperatures) (Lai et al., 2023, p. 222).

Many studies found that heat exposure increased absenteeism due to illness or injury in their evaluation of multiple types of health information datasets, such as workers’ compensations claims data, emergency department visits and hospital discharge datasets (for more detail, see Section IV., Health Effects and Section V.A., Risk Assessment).

Many studies in the economics literature found evidence that heat exposure led workers to allocate less hours to work (potentially due to absenteeism from illness or injury, increased disutility of work, or both). Graff Zivin and Neidell (2014) used data from the American Time Use Survey (ATUS) to find that workers in “high-risk industries” (agriculture, forestry, fishing, hunting, mining, construction, manufacturing, transportation, utilities) reduced their time allocated to labor by one hour when daily maximum ambient temperatures exceeded 85 °F (29.4 °C) compared to the 76 °F–80 °F (24.4 °C–26.7°C) range. Almost all the decrease in the time allocated to labor happened at the end of the day when fatigue from prolonged exposure to heat has likely set in. They also found that that most of the decreased time allocated to labor was diverted to indoor leisure. They did not find evidence that workers worked longer during cooler days to make up for reduced work hours during hot days. Rode et al. (2022) compiled time use and labor force survey data from seven countries (Brazil, France, India, Mexico, Spain, UK, USA) and found that a day at daily maximum ambient temperature 104 °F (40 °C) lead to 28.65 fewer minutes worked per worker compared to a day at 80.6 °F (27 °C) for “high-risk

industries” (agriculture, mining, construction, manufacturing); the corresponding decline was insignificant for workers in “low-risk industries” (p. 21). Garg et al. (2020a) found in Chinese time use survey data that an additional day with an average ambient temperature above 80 °F (26.7 °C) reduced weekly work time by 1.2 hours. They also found limited evidence for this reduced work time being substituted by increased non-work time such as time spent on childcare and household chores.¹¹⁹

The effect of heat exposure on labor supply likely depends on the incentive structures¹²⁰ for these workers and their economic dependence on the income arising from their work (Lai et al., 2023). Using daily attendance records from selected manufacturing firms in India, Somanathan et al. (2021) found that elevated temperatures in the current or preceding week reduced labor supply¹²¹ (which the authors interpreted as possibly both increased absenteeism from illness or injury and increased disutility of labor), and the effect was stronger for workers with paid leave. Such dependence on specific incentive structures might explain the differences in results across studies. For example, Cai et al. (2018) examined worker attendance data from administrative records and found that neither the attendance decision nor the working hours of workers in a manufacturing facility in China were affected by temperature, likely because the workers were paid by piece-rate. Neidell et al. (2021) found in ATUS data that the relationship between hours worked and temperature depended on overall economic conditions. They found that during economic expansions, each additional degree above daily maximum ambient temperature 90 °F (32.2 °C) reduced the average workday by 2.6 minutes. On the other hand, no significant relationship was found between temperature and hours worked during economic recessions. Such lack of evidence of reduction in work hours on hotter days during weak labor market conditions suggests that the negative

relationship between temperature and work hours is likely driven by changes in labor supply (from worker) rather than labor demand (from employer).

There are several reasons for the need for caution in interpreting the studies reporting effects of heat exposure on labor supply (or employment in general).

First, the results presented in most of these studies could be driven by changes in labor demand as well as labor supply (Graff Zivin and Neidell, 2014, p. 4). Some studies did try to differentiate labor supply and demand, such as estimating the effect across business cycles (Neidell et al., 2021) or estimating wage effects as well as employment effects (e.g., Colmer, 2021; Jessoe et al., 2018).

Second, most economics studies reporting the negative effect of heat exposure on labor supply using data on hours worked did not disentangle the contribution of absenteeism due to illness or injury from the contribution of disutility from working in the heat. The distinction is important because improving workplace conditions may increase labor supply beyond reducing time lost to illness or injury.

Third, it is not very clear if reduced work time always has negative implications for worker welfare. Reduced work time on hot days such as cessation of work might be beneficial for workers if fewer workers are exposed to high temperatures that put their health at risk (Ireland et al., 2024, p. 18). However, if the lost work time is not compensated, workers face a tradeoff between health risk and earnings risk, both of which negatively affects the workers’ welfare (EPA, 2021, p. F–3). Rode et al. (2022)’s theoretical framework also presented a similar tradeoff facing workers between decreased earnings and increased disutility of labor in face of higher temperatures. Their theoretical framework is based on their interpretation of their empirically-estimated decline in labor supply due to higher temperatures (discussed above) as uncompensated lost work time—workers choose to work less due to increased disutility of labor but at the cost of foregoing earnings. Based on this theoretical framework, they derived the willingness-to-pay to avoid the increased disutility of labor from higher temperatures (defined as the increase in the wage rate that is needed to offset the increased disutility of labor).

Fourth, the definition of work hours varies by dataset. Some datasets include, for example, paid or unpaid leave (Somanathan et al., 2021) or while other datasets include time spent on job

search¹²² (studies that use the ATUS such as Graff Zivin and Neidell, 2014; Neidell et al., 2021; Rode et al., 2022). How work hours are defined has implications for the worker welfare effects of heat exposure. For example, as discussed above, worker welfare could depend on whether the reduced work hours from heat exposure are compensated (e.g., worker leaves work early forgoing pay versus using paid leave). See Eldridge et al. (2022) for more examples of various definitions of work hours across datasets.

B. Labor Productivity

Numerous studies have documented the negative effects of heat exposure on labor productivity. Using direct measures of labor productivity (units of output produced per hour) and proxies of labor productivity (physical work capacity, physical activity, and self-perceived labor productivity), studies across various disciplines (e.g., physiology, occupational health, and economics) have found that heat exposure reduces labor productivity (Ioannou et al., 2022; Morrissey et al., 2021a; Mattke et al., 2007).

This section focuses on micro-level evidence across various disciplines based on laboratory or occupational settings. Studies reporting potential macro-level evidence on labor productivity based on macroeconomic proxies of labor productivity (e.g., per capita value added, revenue, payroll) are discussed in section VIII.II.D.

Overall, studies reported varying estimates of effects of heat exposure on labor productivity depending on the specific sectors and heat conditions (e.g., presence of indoor radiant heat, differences in regional climate between the U.S. and non-U.S. countries). Section VIII.I.III. discusses in more detail workplace factors that affect the literature’s estimates of the effect of heat exposure on labor productivity, such as contractual structures and adaptation measures that affect workers’ incentives and ability to be productive in the heat.

¹¹⁹ The authors found that higher temperatures reduce time spent on childcare by households without cooling technology (insignificant effect on households with cooling technology). They also found that higher temperatures reduce time spent on childcare by women (insignificant effect for men).

¹²⁰ The role of workplace incentives in the labor productivity effects of heat exposure is discussed later in section VIII.I.III.B.

¹²¹ This study’s worker attendance data technically measures only whether the worker is present or absent that day (Somanathan et al., 2021, p. 1811). It is unclear if and how their attendance data captures cases where the worker is only partially present, and leaves work early that day.

¹²² Using the ATUS and following the “same methodology employed by” Graff Zivin and Neidell (2014). Neidell et al. (2021) defined “work” as “all activities under the ‘work and work-related activities’ major category,” which “in addition to time spent at the workplace, [. . .] also includes time devoted to other income-generating activities as well as job searching” (p. 2). Rode et al. (2022) also uses the same category to calculate time spent on work: “Total work is calculated as the sum of all time spent engaged in sub-activities listed under Category 5, Work and Work-Related Activities. Relevant sub-categories include time spent in work itself, income-generating activities, socializing as a part of work, job searching, and other miscellaneous work-related activities” (p. 52).

I. Direct Measures of Labor Productivity

Labor productivity is a “measure of economic performance that compares the amount of goods and services produced (output) with the amount of labor hours worked to produce that output” and is a “ratio of output to hours worked” (BLS, 2020a). Changes in labor productivity “reflect the changes in output that is not explained by the change in hours worked” (BLS, 2020a). Studies have documented the effects of heat exposure on labor productivity in different work settings in both U.S. and non-U.S. countries. Most of these studies are occupational studies with the exception of one laboratory-based study involving simulated work.

Some studies discussed in this section technically reported changes in an average worker’s output per day or week, not output per hour. These studies are discussed in this section in the context of labor productivity based on their evidence that changes in their reported outcomes are likely being driven by changes in worker output per hour, not by changes in daily or weekly hours worked.

a. Agriculture.

Many studies analyzing the labor productivity effects of heat exposure are based on agricultural work settings, given the agricultural sector’s high level of heat exposure and the feasibility of tracking individual production levels.

Using daily production data of Indian rice harvesters, Sahu et al. (2013) reported a 5% decline in labor productivity (rice bundles per worker per hour) for each additional degree above 26 °C WBGT. Using daily production data of sugarcane cutters in Nicaragua, Hansson et al. (2024) reported that relative to below 82.4 °F (28 °C) WBGT, labor productivity (bundles per worker per day) decreased by 2.5% at 82.4 °F–84.2 °F (28 °C–29 °C) WBGT, by 5% at 86 °F–87.8 °F (30 °C–31 °C) WBGT, and by 8.3% at above 87.8 °F (31 °C) WBGT. Using daily production data of maize farmers in Nigeria, Sadiq et al. (2019) reported that for every 1.8 °F (1 °C) increase in WBGT, labor productivity (ridges tilled or hoed per worker per hectare) decreased by 23% although their reported labor productivity effects of higher temperature could be confounded by the effects of fatigue over the workday. Using daily production data of sheep shearers and retrospective temperature records of a “Bureau of Meteorology recording station” in Australia, Gun and Budd (1995) reported that the labor productivity (number of sheep shorn per worker per

hour) declined by approximately 7% per 1.8 °F (1 °C) increase in ambient temperature¹²³ although the estimated effect was not statistically significant. Using daily production data of Guatemalan sugarcane workers, Dally et al. (2018) reported that a day with 95th percentile WBGT of 34 °C was associated with an estimated cumulative loss in labor productivity of 0.59 tons of cut sugarcane per worker per day over the following five days compared to a day with 95th percentile WBGT of 29 °C (approximately 0.59/5.7=10.35% of the average production per worker per day).

Based on data from tree fruit harvesters in Washington State, Quiller et al. (2017) found that increasing daily maximum WBGT was associated with decreasing labor productivity (weight of fruit bins collected per worker per hour). However, this association became statistically insignificant after controlling for potential confounders such as price paid per bin and shift duration. The lack of evidence could also be due to relatively cool climate of Washington State—the time-weighted average WBGT was 72.1 °F (22.3 °C) and 60.6 °F (15.9 °C) in each of the months studied.

b. Manufacturing

Several studies that directly measure labor productivity are based on manufacturing settings, likely due to feasibility of tracking individual production levels.

Using daily production data from a non-climate-controlled paper cup manufacturing setting in China, Cai et al. (2018) reported that daily maximum ambient temperatures above 95 °F (35 °C) resulted in an approximately 8.5% decrease in labor productivity (output per worker per day) relative to the baseline range of 75 °F–79 °F (23.9 °C–26.1 °C). Using daily production data from a rubber compound manufacturing plant in Sri Lanka, Meegahapola and Prabodanie (2018) reported that high temperature ranges, 105.8 °F–113 °F (41 °C–45 °C) and 96.8 °F–104 °F (36 °C–40 °C), reduced labor productivity (kilogram per worker per hour), by 22% and 18% respectively, relative to the baseline temperature range of 89.6 °F–95 °F (32 °C–35 °C). Using weekly production data of brick molders and carriers in India, Sett and Sahu (2014) found that for each 1.8 °F (1 °C) increase in ambient temperature, labor productivity (number of bricks molded or carried per worker per week) declined by 0.8%. Using daily worker-level production data from selected

manufacturing firms in India, Somanathan et al. (2021) found that labor productivity (output per worker per day) declines in higher outdoor temperatures, falling 2.7% per 1.8 °F (1 °C) increase in daily maximum ambient temperature above 77 °F (25 °C).

c. Other Sectors

Direct units of output are harder to measure in most other sectors, so comparatively fewer studies have been produced in other industries.

Observing call center workers in California, Federspiel et al. (2004) found that time to finish tasks (post-talk wrap-up to process information) increased by 16% when the ambient temperature increased from 73.4 °F to 77.7 °F (23 °C to 25.4 °C). Niemelä et al. (2002) also analyzed workers at two call centers. In one call center, they compared labor productivity (number of calls per hour) between two different temperature zones in the building. In another cell center, they introduced an intervention (installation of air-conditioning) and compared labor productivity before and after the intervention. They reported that labor productivity in both call centers decreased by 5% to 7% at ambient temperatures over 77 °F (25 °C), although other seasonal changes likely confounded their results. From data on Demographic and Health Surveys (DHS) interviewers from 46 developing countries, LoPalo (2023) estimated the effects of heat exposure on DHS interviewers’ labor productivity (number of surveys completed per hour). Exploiting variation in weather within a region of a country, survey waves, and interviewers, they found interviews per hour were fewer by 13.6% on days over 85 °F (29.4 °C) wet bulb relative to days between 50 °F (10 °C) and 60 °F (15.6 °C) wet bulb. Hanna (2004) conducted an experiment in an environmental test chamber with journeymen electricians installing duplex receptacles on work panels. While their laboratory setting did not allow effects of real-world workplace factors that affect labor productivity, the controlled environment tracked heat exposure in detail by ambient temperature and humidity level. The study found that maximum labor productivity (number of receptacles installed per hour) was achieved at ambient temperature between 40 °F (4.4 °C) and 70 °F (21.1 °C) with relative humidity below 80%. At 70% relative humidity, labor productivity decreased by 10% when ambient temperature increased from 70 °F (21.1 °C) to 90 °F (32.2 °C) (and by 23% when ambient temperature increased to 100 °F (37.8 °C)). They also found that higher

¹²³ This corresponds to a linear approximation of the results presented in Figure 5 of the study.

relative humidity reduced labor productivity further at elevated ambient temperatures.

II. Proxies for Labor Productivity

This section summarizes findings of studies that report “alternative” measures of labor productivity, such as physical work capacity, physical activity, and self-perceived labor productivity.

a. Physical Work Capacity, Exposure-Response Functions

Work capacity or physical work capacity is the potential to perform work under specified set of environmental conditions (*e.g.*, WBGT) and physical condition of the worker (*e.g.*, core body temperature, heart rate) (Ioannou et al., 2022, p. 75; Bröde et al., 2018, p. 332). Loss of work capacity occurs as a physiological response to heat exposure where the worker reduces physical activity to avoid negative health effects (*e.g.*, increases in core body temperature or heart rate beyond the safe limit) (Kjellstrom et al., 2014).

Several studies have derived exposure-response functions that represent the relationship between heat exposure and work capacity. Exposure-response functions in the occupational health literature fall into two groups (Borg et al., 2021). The first group of exposure-response functions are based on empirical data (*e.g.*, Kjellstrom et al., 2014; Foster et al., 2021). The second group are based on recommended work-rest ratios in existing work-rest guidelines by NIOSH, ACGIH, and ISO (*e.g.*, Kjellstrom et al., 2009b; Dunne et al., 2013).

b. Empirically-Derived Exposure-Response Functions

As part of the High Occupational Temperature Health and Productivity Suppression (Hothaps) Programme, Kjellstrom et al. (2014) derived an exposure-response function (henceforth “Hothaps function”) linking WBGT to work capacity for three levels of work intensity (200 W, 300 W, 400 W) based on the empirical data involving acclimatized male workers in Wyndham (1969) (miners in South Africa) and Sahu et al. (2013) (rice harvesters in India).

Foster et al. (2021) derived an exposure-response function (henceforth “PWC function”) linking varying environmental conditions to work capacity based on empirical data collected from one-hour trials involving young, unacclimatized males performing physical work in climatic chambers. In this study, work capacity is defined as the “maximum physical

work output that can be reasonably expected from an individual performing moderate to heavy work over an entire shift.” More specifically, Foster et al. (2021) aimed to measure the amount of work that can be performed across varying environmental conditions (*e.g.*, combinations of air temperature and relative humidity) while maintaining a fixed heart rate at a maximally acceptable level (*e.g.*, 130 beats per minute) as a “surrogate for self-paced physical workloads.” Smallcombe et al. (2022) replicated the environmental conditions of Foster et al. (2021) and computed work capacity during 6 work-rest cycles of 50-minute work/10-minute rest, with a 1-hour break after the first 3 cycles.

There are some benefits of evaluating the work capacity effects of heat exposure. Heat exposure-work capacity response functions (exposure-response) could be applied to macroeconomic data and models to estimate the economic impact of heat exposure (more examples of studies that borrow these exposure-response functions are discussed more detail below in section VIII.I.II.D.II.). Like Foster et al. (2021) and Smallcombe et al. (2022), work capacity could also be measured through laboratory experiments in controlled environments, reducing the influence of confounders and making their results generalizable across various environmental conditions.

However, there are caveats with interpreting the effects of heat exposure on work capacity reported in the studies above.

First, they may underestimate the labor productivity effects observed in actual work settings for several reasons (Ioannou et al., 2022). Heat exposure could reduce labor productivity not only through reduced work capacity but also other factors such as increased central fatigue and reduced cognitive performance. Also, as discussed more below in section VIII.I.II.B., workplace factors such as wage structure may not always incentivize workers to sustain high levels of effort at the maximum capacity every day throughout the entire shift.

Second, these studies may also overestimate the labor productivity effects observed in actual work settings where self-pacing is more limited. Although self-pacing is observed in most workplaces, there are some workplaces where ability to self-pace is limited, such as emergency response activities or work performed on commission (Ioannou et al., 2022).

Third, some studies assume what is the physically maximally acceptable level (*e.g.*, 130 beats per minute) which

may not be appropriate for every worker. From the perspective of applying their findings to actual work settings, “it is not clear how various physiological (dehydration, cardiac fatigue, poor sleep quantity/quality) and psychological (motivation, anxiety) states impact upon what a worker deems as an acceptable working heart rate” (Ioannou et al., 2022).

c. Guideline-Based Exposure-Response Functions

The second group of exposure-response functions are based on recommended work-rest ratios in existing work-rest guidelines set by NIOSH, ACGIH, and ISO (*e.g.*, Kjellstrom et al., 2009b; Dunne et al., 2013).

There are several reasons for the need for caution when interpreting the guideline-based exposure-response functions.

First, work-rest guidelines represent the “the proportions of work hours during which workers need to take rest periods, depending on work intensity and WBGT, in order to avoid the core body temperature exceeding 38 °C for an average worker” (Kjellstrom et al., 2009a). Exposure-response functions based on work-rest guidelines are “highly conservative because their objective is to minimize the risk of core body temperature of the average worker exceeding 38 °C” (Foster et al., 2021). Guideline-based exposure-response functions therefore show greater declines in work capacity in higher temperatures than the empirically-derived functions (Kjellstrom et al., 2014, p. 17; Morrissey et al., 2021a, Figure 3).

Second, work-rest guidelines prescribe how much a worker should reduce their work capacity at different levels of heat exposure. They do not represent the causal effect of heat exposure on work capacity (Foster et al., 2021, p. 1216).

d. Physical Activity

Some studies tracked the participants’ level of physical activity, based on methods such as direct observation of work activities (that are then categorized into direct work, indirect work, and idle time), time-motion analysis (video recording movements that are then paired with metabolic equivalents) and accelerometers tracking data (step counts per minute which are also paired with metabolic equivalents). Although these methods do not directly track any effects on output, they measure changes in levels of labor input. A major advantage of these methods is that study participants are monitored in their

actual working conditions, reflecting behavioral thermo-regulation (*e.g.*, self-pacing and varying clothing insulation) and endogenous changes in effort in response to workplace incentives like piece-rate pay (Ioannou et al., 2022).

Li et al. (2016) and Yi and Chan (2017) directly observed rebar construction workers whose activities are categorized into direct work (activities that directly and productively contribute to task completion, *i.e.*, steel bar reinforcement), indirect work (support activities that do not directly or productively contribute to task completion, such as walking with tools/materials or empty-handed, waiting for materials to be lifted, discussing tasks with foreman/coworkers), or idle time (personal time and non-utilization time due to work stoppage from any cause). Observing the activities of rebar construction workers in Hong Kong, Yi and Chan (2017) found that a 1.8 °F (1 °C) increase in hourly average WBGT was associated with an approximately 2.8 percentage-point (%p) decrease in the share of direct work time (corresponding to $2.8/64 = 4.38\%$ of the average share of direct work time;¹²⁴ effects on the rest of the categories were not reported). Observing the activities of rebar construction workers in China, Li et al. (2016) reported that a 1.8 °F (1 °C) increase in hourly average WBGT was associated with a 0.57 %p decrease in the share of direct work time (corresponding to $0.57/74 = 0.77\%$ of the average share of direct work time) and a 0.74 %p increase in the share of idle time (corresponding to $0.74/11 = 6.72\%$ of the average share of idle time) (0.18 %p decrease was also observed in the share of indirect work time, but the effects were not significant). Unlike Yi and Chan (2017) that controlled for when the temperature was measured during the workday, a caveat with Li et al. (2016) is that their reported effects of higher temperatures could be confounded by effects of fatigue over the workday.

Using time-motion analysis on a sample of construction workers in Spain over two days, Flouris et al. (2020) found that the workers take longer irregular breaks during the hotter day, Day 1 with a WBGT range 71.2 °F–99.1 °F (21.8 °C–37.3 °C). They found a 4.7-fold difference between the time lost

due to irregular work breaks on a hot day (Day 1) compared to a cool day (Day 2), with a WBGT range 71.4 °F–88.9 °F (21.9 °C–31.6 °C). Moreover, they also found that a planned break intervention providing hydration to workers could partially offset these irregular breaks.

Mitchell et al. (2018) used accelerometer data to track the physical activity of Californian farmworkers for one work shift each in the summers of 2014 and 2015. They found that an 18 °F (10 °C) increase in median WBGT reduced physical activity by 135 counts per minute compared to an average of 347 counts per minute across all participants (equivalent to a 3.9% decrease per 1.8 °F (1 °C) WBGT).

There are some caveats with using physical activity as a measure of labor productivity.

First, physical activity measures the amount of labor inputs instead of actual output. Some studies such as Ioannou et al. (2022) considered the focus on labor inputs rather than production output as an advantage; for instance, expressing labor productivity as the amount of crop produced implies constant availability and equal distribution of crops across the tested piece of land. However, changes such as unequal crop availability are not problematic unless they are systematically correlated with changes in heat exposure.

Second, for studies based on accelerometer data, without information if other production inputs exist and how they affect output (*e.g.*, capital), the relationship between physical activity (counts per minute) and labor productivity is uncertain. For example, suppose there are two workplaces exposed to the same temperature and workers display the same level of physical activity but one workplace has machines that assist the workers. Given the same level of temperature and physical activity, the workplace that has machines available could achieve higher labor productivity.

e. Self-Perceived Labor Productivity

Based on worker surveys, some studies document effects of heat on self-perceived labor productivity, partly due to the comparative ease of obtaining such measurements. Compared to actual production data, the self-perceived measures are a less accurate measure of output and can be affected by other factors that impact an individual's self-perceived labor productivity, such as individual's level of awareness of heat stress.

Krishnamurthy et al. (2017) administered a standardized high occupational temperature health and productivity suppression questionnaire

to 84 steel factory workers in India. Overall, 1% reported taking sick leave due to heat, 10.6% reported being less productive due to heat, and 27% reported that it took longer to complete the same tasks during summer compared to cooler seasons. Of the 27% who reported labor productivity losses, 91% were exposed to direct radiational heat during steel melting. This reduction in labor productivity occurred due to high heat and heavy workload despite taking rest breaks allowed by the management after the hot job was performed (work-rest regimen: 75% work, 25% rest, each hour). Workers reported drinking high quantities of water and rested in shade, but these actions did not abate the effects of heat due to the high ambient humidity which limits sweat evaporation and evaporative cooling. This study did not have a direct control group to compare the actual efficacy of these cooling mechanisms.

Zander et al. (2015) conducted an online survey of 1,726 Australian workers and found that 70% of all surveyed workers reported productivity losses due to heat, corresponding to the majority (93%) of those that reported being stressed by heat at work. In comparison, 7% of respondents reported being absent from work at least one day in the previous 12 months due to heat, being absent for 4.4 days on average. Also focusing on understanding the impact of heat on Australian workers, Singh et al. (2015) interviewed key stakeholders (representatives for occupational safety and health, unions, industry, and government organizations) that reported labor productivity loss due to heat exposure, but the results were mostly qualitative and based on a small sample of 20 stakeholders.

Pogačar et al. (2019) surveyed 70 workers in Greece and 216 workers in Slovenia and found that most workers in both Greece (69%) and Slovenia (71%) reported that they felt heat stress during heat waves had a “significant impact” on their productivity. Additionally, 60% of workers in Greece and 74% in Slovenia reported that heat stress significantly impacts their “well-being.”¹²⁵ These two studies did not directly track the actual temperature exposure of these workers and instead relied on the workers' own recollection of the workplace temperatures (*e.g.*, “warm,” “hot,” “very hot”).

Langkulsen et al. (2010) analyzed a total of 21 Thai workers from four industrial sites and one agricultural site. Onsite measurements found that the

¹²⁴ The study's abstract reported the share of direct work time “decreasing by 0.33%” per 1.8 °F (1 °C) WBGT increase—OSHA conjectures that this statement meant that the estimated 2.8 %p decrease is 3.3% of the predicted average share of direct work time at 22.28 °C WBGT (lowest observed WBGT in their data) according to their regression model where the covariates are held at their sample average values (some of which are not reported in the study).

¹²⁵ Authors are not specific what “well-being” means.

workers were exposed to WBGT ranging from 78.8 °F to 94.3 °F (25.6 °C to 34.6 °C). For 4 of the 5 sites, the study assessed the workers' self-perceived labor productivity, which revealed large differences between sectors. While workers in 2 of the 4 sites that assessed self-perceived labor productivity reported losses of self-perceived labor productivity ranging from 10% to 60%, workers in the other two sites reported no losses when exposed to similar heat (e.g., agriculture). In general, the largest losses in self-perceived labor productivity were from sites that had access to shade and indoors, even sites with air-conditioning in some cases. The small sample size across diverse sites may limit the ability to generalize these results.

Surveying farmers in Nepal, Budhathoki and Zander (2019) reported that perceived labor productivity loss was strongly associated with the perceived levels of heat stress. Moreover, respondents with "access to actual weather information"¹²⁶ were more likely to perceive labor productivity losses from heat than those without this information, indicating that level of individuals' awareness potentially affects their self-reported assessments of labor productivity.

III. Occupational Versus Laboratory Settings

Studies discussed above in sections VIII.I.II.B.I. and VIII.I.II.B.II. were conducted either in occupational settings or laboratory settings. Both settings have advantages and disadvantages.

Laboratory settings grant a high degree of internal validity because the experiments are more easily reproducible and represent a direct causal effect of heat that removes the influence of confounders (Ioannou et al., 2022). While laboratory-based studies provide a relevant benchmark for the effects of heat on productivity observed in actual work settings, they are limited in the generalizability of their findings to different settings (Somanathan et al., 2021). In occupational settings, labor productivity effects of heat would depend on the physical and behavioral aspects of employment, such as the wage contract, particularities of production processes, management techniques, and mechanization, which are not accounted for by laboratory studies (Somanathan et al., 2021).

¹²⁶ Authors are not specific what "access to actual weather information" means.

C. Mental Performance (Cognitive Function, Decision-Making).

The literature has documented the effect of heat exposure on mental performance in academic, athletic, and work settings.¹²⁷ These studies often use the term "performance" with the intent to "include a broader range of effects [such as test scores] than would be indicated by [labor] productivity" (Heal and Park, 2013, p. 10).

In a meta-analysis of 22 studies categorized into reaction time, attention/perceptual tasks, mathematical processing, or "reasoning, learning, memory," Pilcher et al. (2002) reported that a WBGT of 90 °F (32.2 °C) or greater was associated with a 14.9% decrease in performance compared to "neutral temperature conditions" defined as WBGT from 60 °F to 69 °F (15.6 °C to 20.6 °C). Moreover, they also report that these estimates are also affected by the duration of exposure to the heat conditions, the duration of exposure prior to the task onset, the type of task, and the task duration, which can explain the variability of results in the literature discussed below (test scores, athletic performance, workplace performance).

I. Test Scores

Several studies found negative effects of heat exposure on cognitive test performance.¹²⁸ Using student-exam level panel data of high school exit exam scores from New York City high schools (Regents Exams) from 1998 to 2011, Park (2022) found that a 1°F (0.56 °C) higher average exam-time ambient temperature reduces performance by 0.9% of a standard deviation. Using panel data of individual-level cognitive test scores administered at respondents' homes for children as part of the National Longitudinal Survey of Youth (NLSY79), Graff Zivin et al. (2018) found that an additional 1.8°F (1 °C) of average daily ambient temperature

¹²⁷ Reduced mental performance due to heat exposure (e.g., mistakes, inattention, long reaction time) is also linked to increased heat-related injuries—for a detailed discussion, see Section IV.P., Heat-Related Injuries.

¹²⁸ Literature has also found evidence of heat exposure on longer-term outcomes such as student learning and adult earnings. Cho (2017) reported effects of summertime heat exposure on national college entrance exam scores in South Korea (administered nationwide in November). Park et al. (2020) reported effects of cumulative heat exposure from hotter days during the prior school year on PSAT exam scores of U.S. high school students. Garg et al. (2020b) reported effects of hotter days during the prior school year on academic achievement for Indian children in primary and secondary school. Isen et al. (2017) reported effects of heat exposure in utero on adult earnings in U.S. employer-employee matched longitudinal data from the Census Bureau's Longitudinal Employer-Household Dynamics (LEHD) program.

above 69.8 °F (21 °C) reduced math performance by 0.219 percentile point (no significant effects found for reading). Using student-exam level panel data of national college entrance exam scores in China, Graff Zivin et al. (2020) found that a 1.8 °F (1 °C) higher average exam-period (2 days) ambient temperature reduced performance by 0.34%. Using panel data of individual-level cognitive test scores administered at respondents' homes for adults as well as children as part of a nationally representative biennial longitudinal survey in China, Zhang et al. (2024) found that a test day with an average ambient temperature above 89.6 °F (32 °C), relative to a day in the 71.6 °F–75.2 °F (22 °C–24 °C) range, leads to a reduction in math performance by 6.6% of a standard deviation (no significant effects found for reading).

II. Athletic Performance

Several studies found negative effects of heat exposure on athletic performance, despite this discussion being grouped with studies on mental performance, athletic performance is likely related to both mental and physical performance (Burke et al., 2023, p. 11).

Using athlete-contest level panel data of 3,196 professional archers in China from 2010 to 2016, Qiu and Zhao (2022) found a negative effect of higher daily heat index on performance. Relative to the baseline heat index range of 64.4 °F–71.6 °F (18 °C–22 °C),¹²⁹ the study found that at sample average wind speed of 2.35 meters per second, average score decreased by approximately 3% when the heat index was 78.8 °F–93.2 °F (26 °C–34 °C) and by 10.4% when the heat index exceeded 93.2 °F (34 °C). They also found that the effect of higher heat index on performance was less negative for top performers (defined as athletes whose performance index, defined as their average scores in all contests in previous competitions, exceeds the 90th percentile).

Using athlete-competition level panel data on 3.5 million collegiate track and field performances from 2005 to 2019, Sexton et al. (2022) found a nonlinear relationship between daily average ambient temperature and performance. Performance of sprint and strength events improved with increasing temperatures up to 75 °F (23.9 °C), after which decline in performance was

¹²⁹ To compute heat indices below 80 °F (26.7 °C), Qiu and Zhao (2022) used the following formula: $HI = 0.5 * (T + 61.0 + [(T - 68.0) * 1.2] + RH * 0.094)$, where HI is heat index in Fahrenheit, T is ambient temperature in Fahrenheit, and RH is relative humidity in percentage (p. 1159, footnote 18).

insignificant; on the other hand, performances in endurance events declined significantly when temperatures were above 60 °F (15.6 °C), by 5 percentage points for each 5 °F (2.78 °C) increase in daily average ambient temperature relative to the baseline temperature range of 55 °F–60 °F (12.8 °C–15.6 °C).

Using player-match level panel data on 177,000 tennis matches from 2002 to 2017, Burke et al. (2023) found negative effects of heat exposure on the performance of professional tennis players (e.g., more double faults, more match retirement, shorter rallies, less total distance run). They reported a “roughly 0.5% decline” in player performance per 1.8 °F (1 °C) increase in average ambient temperature of the day of the match. They also found that the effects of heat exposure on performance were less negative for players ranked in the top 10. They also noted that their estimated effect of heat exposure on professional tennis players, which the authors considered as “high-wage settings,” is about “half of the roughly 1.0%” decline in labor productivity per 1.8 °F (1 °C) increase in ambient temperature that they estimated from their meta-analysis of 22 studies. The authors conducted the meta-analysis as part of their literature review of existing evidence of labor productivity effects of heat exposure, which focused on “lower-wage settings.”

III. Workplace Performance

Focusing on studies based on actual office work or laboratory experiments that resemble office work, Seppänen et al. (2006) conducted a meta-analysis of 24 published studies, concluding that performance decreased with a temperature above 73.4 °F to 75.2 °F (23 °C to 24 °C). The tasks analyzed include text processing, simple calculations (addition, multiplication), length of telephone customer service time, and total handling time per customer for call center workers, making them comparable to cognitive tasks conducted in other studies. They estimated a non-linear relationship between performance and heat: performance decreased by 9% at 86 °F (30 °C) compared to an optimal level of 69.8 °F to 71.6 °F (21 °C to 22 °C).

Some studies found evidence that heat exposure affects the mental performance of outdoor workers. Bendak et al. (2022) conducted a longitudinal empirical study to assess how high ambient temperatures affect construction workers’ performance on a variety of tasks measuring reaction time,

finding that task performance was lower in high ambient temperatures.

However, their analysis compared summer and winter months; therefore, the results are possibly confounded by seasonality effects. Similarly, Mazlomi et al. (2017) reported that workplace heat conditions measured by WBGT were negatively correlated with foundry plant workers’ performance in cognitive tests. In contrast, Spector et al. (2018) found no association between maximum work-shift WBGT and post-shift reaction time or postural sway for 46 tree fruit harvesters in Washington State.

D. Economic Output

Studies that documented the economic output effects of heat exposure fall into two groups. The first group of studies directly estimated the effect on heat exposure using plant/firm-level and region-level output data. The second group of studies borrowed heat exposure-work capacity response functions from the occupational health literature (which are derived from empirical data or existing ACGIH/NIOSH/ISO work-rest guidelines) and assumed workers are behaving according to these exposure-response functions.

I. Studies Directly Estimating the Effect on Heat Exposure Using Economic Output Data

Numerous studies in the economics literature found evidence of negative output effects of heat exposure at the plant/firm-level and region-level.

This section does not focus on studies about the effects of higher temperatures on economic output through other channels such as agricultural yield, productivity of capital (e.g., faster depreciation of infrastructure), labor reallocation, energy demand, and international trade.

This section focuses on studies that used panel data to analyze changes (e.g., daily, weekly, quarterly, yearly) in temperature and outcomes of interest across space (e.g., plant/firm, region) and time. By controlling for time-invariant differences across space that may be confounded with temperature, the panel data approach helps to address some concerns over omitted variable bias associated with cross-sectional studies (Auffhammer, 2018, p. 43; Massetti and Mendelsohn, 2018, p. 327).

a. Plant/Firm-Level Output Effects

Several studies found economic output effects of heat exposure using plant/firm-level panel data. Cachon et al. (2012) followed 64 automobile manufacturing plants in the U.S. from

1994 to 2005 and found that a week with six or more days with a daily maximum ambient temperature exceeding 90 °F (32.2 °C) reduced weekly production by 8%. The findings control for potential confounders such as changes in national demand and seasonality in demand for specific types of automobiles. However, the data did not allow the study to distinguish the contribution of labor productivity and labor supply. Information on the extent of indoor climate controls in these manufacturing plants was also not available.

Somanathan et al. (2021) estimated the output effects of heat exposure at different levels of aggregation (worker, plant, district) and found that their estimated effects are all of similar magnitude. Using daily worker-level production data from selected manufacturing firms in India, they found that daily output per worker declined in higher outdoor temperatures, falling 2.7% per 1.8 °F (1 °C) increase in daily maximum ambient temperature above 77 °F (25 °C) (this study was also mentioned above in section VIII.I.II.B.1.). Using annual plant-level output data from a nationally representative panel of manufacturing plants in India, they found that annual plant-level output (measured by value added, defined as the difference between total output and the value of intermediate inputs) decreased by 2.1% per 1.8 °F (1 °C) increase in the annual average of the daily maximum ambient temperature. Under the specification of the Cobb-Douglas function, they reported that changes in labor input as opposed to capital input explains these declines in plant-level output.¹³⁰ Using annual district-level manufacturing sector GDP data from a sample of 438 districts in India, they found that annual district-level manufacturing output decreased by 3.5% per 1.8 °F (1 °C) increase in the annual average of the daily maximum ambient temperature. The authors further noted that the magnitude of their estimated effects mirrored the country-level estimates of output effects in the literature (country-level studies are described in more detail in section VIII.I.II.D.1.b., below), which they interpreted as evidence heat exposure affects output through labor productivity.

¹³⁰ Assuming the specification of the Cobb-Douglas production function, Somanathan et al. (2021) also found that changes in labor input (measured by number of full-time workers) as opposed to capital input (measured by net value of equipment of machinery at the start of each year) explained the negative effect of higher temperature on plant-level output.

Using daily production line-level data from garment factories around Bangalore, India, Adhvaryu et al. (2020) found that production line efficiency (measured as ratio of realized output to target output) decreased in higher outdoor temperatures, by 2.1% for per 1.8 °F (1 °C) increase in daily average WBGT above 66.2 °F (19 °C). They did not find significant effects of higher temperatures on worker attendance, providing further support that labor productivity effects were likely the reason behind the observed relationship. Using annual firm-level data from the annual survey of industrial firms that are “above-scale” (with sales over a certain threshold) in China from 1998 to 2007 and assuming the specification of the Cobb-Douglas function, Zhang et al. (2018) found an inverted U-shaped relationship between temperature and total factor productivity (TFP) and output in the Chinese manufacturing sector. They found that, relative to a year with an extra day of average ambient temperature of 50 °F–60 °F (10 °C–15.6 °C), a year with an extra day over 90 °F (32.2 °C) had lower annual firm-level TFP by 0.56% and lower firm-level output (measured by value added, defined as the difference between total output and the value of intermediate inputs) by 0.45%. They also found that the TFP effects and output effects of temperature are of similar magnitude for both labor-intensive and capital-intensive firms, suggesting that both labor productivity and capital productivity were affected by heat exposure.

Using the same dataset as Zhang et al. (2018), Chen and Yang (2019) found that a 1.8°F (1°C) increase in the average summer temperature (3-month average of daily average ambient temperatures for months June through August) decreased value added per worker by 3.4% to 4.5%. They also found two potential channels through which higher temperatures reduce output: decrease in firm investment and increase in inventory levels.

Using annual firm-level data on revenue per worker in the manufacturing and services sectors from 15 developed and developing countries, Nath (2020) found a stronger negative effect of an extra hot day (a day with maximum ambient temperature of 104 °F (40 °C) relative to a day of 86 °F (30 °C)) on annual revenue per worker for poorer countries (*i.e.*, lower purchasing power parity (PPP)-adjusted GDP per capita). They also found that the decline in revenue per worker was driven by changes in both the numerator (annual revenue) and denominator (annual

employment), where the change in the numerator was greater than that of the denominator.

There are several caveats with studies reporting plant/firm-level output effects of heat exposure. First, although some studies identified labor productivity as the main mechanism for their findings (Somanathan et al., 2021; Adhvaryu et al., 2020; Nath, 2020), the literature overall is inconclusive regarding the extent to which the effects are driven by labor productivity (versus other channels such as labor supply and capital).

Second, some studies used outdoor heat conditions as a proxy for indoor heat conditions to estimate the labor productivity effects of heat exposure in indoor work settings. However, indoor heat conditions may not be perfectly correlated with outdoor heat conditions, especially with the presence of heat-generating lighting and machines and the unknown extent of indoor climate controls (Cachon et al., 2012; Adhvaryu et al., 2020).¹³¹

b. Region-Level Output Effects

Several studies found economic output effects of heat exposure using region-level panel data. Some studies used county-level or State-level panel data to estimate the effects of heat on economic output. Deryugina and Hsiang (2014) used U.S. county-level panel data of annual total personal income per capita and daily weather from 1969 to 2011 to find that average per-day personal income per capita declines 1.68% per 1.8 °F (1 °C) increase in daily average ambient temperature above 59 °F (15 °C). Behrer and Park (2017) used U.S. county-level panel data of annual non-agricultural payroll per capita and daily weather from 1986 to 2011 to find that an additional hot day (a day of daily maximum ambient temperature above 95 °F (35 °C) relative to a day of 70 °F–79 °F (21.1 °C–26.1 °C)) reduced annual payroll per capita by 0.04%. Colacito et al. (2019) used U.S. State-level panel data of State GDP (*i.e.*, gross State product) and daily weather to find that annual growth rate of a State's output declined by 0.15–0.25 percentage point per 1 °F (0.56 °C) increase in the average summer ambient temperature (three-month average of daily average ambient temperatures for months July through September).

¹³¹ Using indoor temperature data that was not available during the period when labor productivity effects were analyzed and was available only afterwards, Adhvaryu et al. (2020) reported a high but imperfect pass-through of 79% of outdoor ambient temperature to indoor ambient temperature.

Some studies used country-level panel data to estimate the effects of heat on economic output. Hsiang (2010) found for a panel of 28 Caribbean-Basin countries from 1970 to 2006 that annual output decreased by 2.4% per 1.8 °F (1 °C) increase in the average annual ambient temperature and the effects were driven by temperature changes during the hottest season (September through November). Furthermore, the study highlighted the similarity between their estimated output effects of temperature and the worker productivity effects of temperature reported in the “ergonomics and physiology” literature as evidence for labor productivity being an important channel underlying the economic effects of heat exposure. Dell et al. (2012) found for a panel of 124 countries from 1950 to 2003 that higher temperatures affected growth rates as well as level of output, but only in poor countries, defined as “having below-median PPP-adjusted per capita GDP in the first year the country enters the dataset.” They found that 1.8 °F (1 °C) higher annual average ambient temperature in poor countries was associated with 2.04% lower annual average growth in industrial output (growth in value added in mining, manufacturing, construction, electricity, water, and gas sectors). Some studies also found a nonlinear effect of temperature on economic output, implying that higher temperature negatively affects poor countries that tend to be hot and positively affects rich countries that tend to be cold (Heal and Park, 2016, p. 356). Heal and Park (2013) found for a panel of 134 countries from 1950 to 2006 that the response of annual real GDP per capita to annual average ambient temperature is nonlinear, that is, an inverted U-shaped response peaking at around 59 °F–68 °F (15 °C–20 °C). Burke et al. (2015) found for a panel of 166 countries from 1960 to 2010 an inverted U-shaped response of annual average GDP per capita to annual average temperature peaking at 55.4 °F (13 °C).

There are several caveats with studies reporting region-level output effects of heat exposure.

First, there is uncertainty regarding the extent to which labor productivity alone can explain the decline in output due to heat exposure (Lai et al., 2023). On the one hand, several studies highlighted labor productivity as an important if not the main channel through which heat exposure negatively affects output (*e.g.*, Hsiang, 2010; Somanathan et al., 2021; Dell et al., 2014). On the other hand, due to the less frequent measurements of output (*e.g.*,

weekly, monthly, yearly), it is unclear if the results were driven by reductions in labor supply, labor productivity, labor demand, capital productivity, firm investment, increase in firm costs, or “some combination of all of these” (Behrer et al., 2021). For example, the estimated changes in output could be capturing demand-side factors either positively or negatively correlated with temperature (e.g., demand for ice cream increases with temperature; demand for outdoor recreation decreases with temperature) (Behrer and Park, 2017, p. 16). Changes in payroll may also not necessarily capture only changes in labor productivity but also capture changes in labor supply and increased firm costs (e.g., increased costs due to higher utilization of air-conditioning reducing firm profits or net income) (Behrer and Park, 2017, p. 13).

Second, although some of these studies found effects of heat-exposure on nonagricultural output, these observed associations may be in part due to the non-agricultural sectors facing less demand as a spillover effect of agricultural yield reductions from the agricultural sector (Dell et al., 2012, p. 85; Heal and Park, 2016, p. 9).

II. Studies Borrowing Exposure-Response Functions From Occupational Health Literature

Section VIII.I.II.D.II. discussed studies that directly estimated the relationship between heat exposure and economic output and tried to uncover the underlying the potential mechanisms such as labor productivity.

This section discusses other studies that borrowed heat exposure-work capacity response (exposure-response) functions that were derived by existing studies in the occupational health literature. Applying these functions to the worker population of interest (e.g., outdoor workers nationwide), these studies derived economy-wide labor productivity loss and the associated economic cost in terms of lost wages or lost output.

As discussed in the section VIII.I.II.B.I.a., exposure-response functions in the occupational health literature fall into two groups. The first group of exposure-response functions are based on empirical data (e.g., Hothaps function derived in Kjellstrom et al., 2014; PWC function derived in Foster et al., 2021). The second group of exposure-response functions are based on recommended work-rest ratios in existing work-rest guidelines by NIOSH, ACGIH, and ISO (e.g., Kjellstrom et al., 2009b; Dunne et al., 2013).

These empirically-derived or guideline-based exposure-response

functions from the occupational health literature were applied by several studies to macroeconomic data and models to estimate the economic impact of heat exposure. These studies fall into three groups: the first group of studies (e.g., Orlov et al., 2019; Morabito et al., 2020; Nelson et al., 2024) borrowed the empirically-derived functions; the second group of studies (e.g., DARA, 2012; Vanos et al., 2019; Takakura et al., 2017; Atlantic Council, 2022; de Lima et al., 2021) borrowed the guideline-based functions; and the third group of studies (e.g., Kjellstrom et al., 2018; ILO, 2019; Atlantic Council, 2021; Romanello et al., 2023; Dasgupta et al., 2021) borrowed and combined empirically-derived functions with the guideline-based functions.

There are some caveats with studies relying on existing exposure-response functions to estimate the economic impact of heat exposure. First, empirically-derived exposure-response functions are context-specific (e.g., the Hothaps function is based on data from acclimatized outdoor workers in hotter regions; the PWC function is based on data from unacclimatized young adults in indoor climatic chambers). Studies relying on empirically-derived functions are effectively assuming that the average worker behaves as predicted by these context-specific functions.

Second, existing work-rest guidelines were designed to increase work-rest ratios to minimize heat-related illnesses (Borg et al., 2021, p. 12) and were never intended to estimate the casual effect of heat exposure on work capacity (Foster et al., 2021, p. 1216). Studies relying on guideline-based exposure-response functions effectively assumed that the average worker behaves according to the recommended work-rest ratios. Therefore, these studies reported larger economic costs associated with lost work capacity from heat than what is reported by empirical studies (Borg et al., 2021, p. 12).

E. Worker Utility

Higher temperatures not only reduce labor supply and labor productivity, but also “cause discomfort” (Graff Zivin and Neidell, 2014, p. 1) or “make work more arduous” for those able to work (Rode et al., 2022, p. 3). Several studies have indeed found evidence that workers dislike working in the heat, suggesting the negative effects of heat exposure on worker utility.

Some studies found evidence of the negative effect of heat exposure on worker utility based on worker surveys. Krishnamurthy et al. (2017) reported that about a quarter of surveyed steel factory workers in India reported social

impacts on their personal lives attributable to occupational heat stress. Reported impacts include the time and resources spent coping with the heat and the excessive exhaustion impeding the engagement in family and social interactions outside work. Such responses highlight a potential mechanism through which heat increases disutility of labor. LoPalo (2023) also found that in higher temperatures, household survey interviewers worked longer hours (by starting earlier in the day and spending more time on each interview) to avoid working during hotter times of the day and to also meet their daily target number of completed interviews, suggesting a loss in the welfare of the interviewer through a loss of leisure hours.

Some workers even reported intentions to change jobs due to heat exposure, as expressed in an online survey conducted by Zander et al. (2015), showing that 27% of the surveyed Australian workers exposed to heat said they would eventually change jobs because of heat at their workplace. In contrast, only 8% of the surveyed workers who are sometimes exposed to heat said they considered this option, and those rarely exposed only expressed this 2% of the time. On the other hand, Kahn (2016) highlighted an example of market failure where employers having monopsony power in local labor markets can still hire workers at low wages for “unpleasant” jobs exposed to heat without adequate worker protection measures in place, such as large warehouses without air-conditioning (p. 171).

Interpreting their empirically-estimated decline in labor supply in higher temperatures as workers choosing to work less in the heat at the cost of foregoing pay (discussed above in section VIII.I.II.A.), Rode et al. (2022) derived the willingness-to-pay to avoid the increased disutility of working in higher temperatures (defined as the increase in the wage rate that is needed to offset the increased disutility of labor).

F. Summary of Section VIII.I.II

The literature documents effects of heat exposure on outcomes with economic consequences. Effects are observed in a variety of occupational settings, suggesting that the effects of heat exposure are widespread across a broad range of tasks that rely on physical or cognitive skills and that heat exposure affects workers in both indoor and outdoor settings. In particular, the literature recognizes labor productivity as a potential channel through which

heat exposure affects economic outcomes.

III. Workplace Characteristics and Labor Productivity Effects of Heat Exposure

The literature's varying estimates of the effect of heat exposure on labor productivity could be attributed to differences in workplace characteristics, such as incentive structures and availability of adaptation measures (Park et al., 2021, p. 8, footnote 13). These workplace characteristics should be considered when interpreting the variation in estimates of the labor productivity-related effects of heat exposure in the literature (Heal and Park, 2016, p. 350). This section focuses on studies that reported labor productivity (discussed in section VIII.I.II.B., above) but also includes some studies that are potentially related to labor productivity, such as studies on mental performance (discussed in section VIII.I.II.C., above) or studies on economic output effects that are potentially linked to labor productivity (discussed in section VIII.I.II.D.I., above).

A. Incentive Structures

Depending on the physical and behavioral aspects of the workplace, workers and management could be incentivized to change the level of effort, affecting the estimated labor productivity effect of heat exposure. Workplace factors that affect incentives include wage structure (e.g., piece-rate, hourly rate, annual salary), management techniques, mechanization, and other factors not accounted for by laboratory studies (Somanathan et al., 2021).

One of the most analyzed workplace factors in the literature is piece-rate pay. Quiller et al. (2017) found null effects of heat on labor productivity (measure by weight of fruit bins collected per hour) for a sample of piece-rate paid tree fruit harvesters in Washington State, after adjusting for confounders such as price paid per bin and shift duration. Mitchell et al. (2018) used accelerometer data from farm workers in California to find, even after adjusting for confounders, negative effects of heat on labor productivity (measured by physical activity intensity, *i.e.*, step counts per minute, converted into metabolic equivalents) and that the effects were less negative for male workers paid by piece-rate. Such small or zero labor productivity effects could reflect compensatory effort on part of workers incentivized to be as productive as possible, the health and safety consequences of which should not be overlooked (Park et al., 2021, p. 8, footnote 13). Piece-rate workers being

incentivized to work fast and take few rest breaks even under heat exposure have been evidenced in focus group discussions with U.S. farmworkers (Wadsworth et al., 2019; Lam et al., 2013).

Several studies also found that, due to physiological constraints, piece-rate workers cannot increase their effort infinitely in the heat. Stevens (2017) found that higher piece-rates induced increases in labor productivity of blueberry pickers in California at ambient temperatures below 60 °F but not at higher temperatures. Masuda et al. (2021) also found in a field experiment in Indonesia that increasing the piece-rate did not increase effort, as measured by the proportion of time spent in moderate and vigorous activity through an accelerometer. This evidence is consistent with workers facing binding physiological constraints that prevent them from exerting additional effort in response to higher piece-rates at high temperatures.

In their findings of the labor productivity effects of environmental conditions, some studies also addressed the possibility that piece-rate workers' labor productivity could decline further if they are subject to State minimum wage laws (e.g., Stevens, 2017 in the context of heat; Graff Zivin and Neidell, 2012 in the context of ozone pollution). Hypothetically, compared to when not guaranteed a minimum wage, higher temperatures could lead piece-rate workers to exert less effort and therefore result in greater decline in labor productivity.

From data on Demographic and Health Surveys (DHS) interviewers from 46 developing countries, LoPalo (2023) found nuanced adjustments in effort by DHS interviewers. DHS interviewers are paid a fixed daily wage (*i.e.*, not piece-rate) but are still monitored by supervisors to ensure they meet the target number of completed interviews. Under this contractual structure, higher temperatures result in lower labor productivity in terms of number of completed interviews per hour—interviewers are able to maintain the same daily number of completed interviews but at the cost of a longer shift from trying to avoid working in the heat (by starting work earlier and spending more time on each interview). They also found that data quality problems (e.g., missing responses) become more frequent on hotter days, suggesting that workers shift effort away from production quality, which is less noticeable to supervisors, to production quantity, which is more noticeable.

B. Adaptation

Regarding adaptation measures¹³² alleviating the negative labor productivity-related effects of heat exposure, the most analyzed in the literature are the adoption of engineering controls. Using microdata from selected manufacturing plants in India, Somanathan et al. (2021) found that climate controls in the workplace eliminated declines in labor productivity due to elevated temperatures but did not eliminate declines in labor supply (based on worker attendance records). The authors conjectured declines in labor supply persisted despite climate-controlled conditions at work because workers presumably continued to be exposed to high temperature at home and outside. Adhvaryu et al. (2020) found in line-level production data from Indian garment factories that the introduction of LED lighting (that replaced compact fluorescent lighting which generates more heat) helped to alleviate the negative effect of high outdoor temperatures on production line efficiency. Using panel data of individual-level cognitive test scores administered at respondents' homes for adults as well as children as part of a

¹³² Some studies reporting economic output effects (discussed above in section VIII.I.II.D.I.) found heterogeneous effects of temperature depending on regional climate. They found that hotter regions displayed smaller declines in output to higher temperatures, suggesting that their findings could reflect adaptation in these regions. For example, Chen and Yang (2019) found lower sensitivity in the response of value added per worker to higher temperatures among plants associated with a single firm in warmer locations in China and raised the possibility of adaptation measures such as avoiding work during hottest times of the day playing a role. Zhang et al. (2023) used Chinese province-level panel data of construction labor productivity (defined as the ratio of the total value of output to the number of laborers in construction enterprises) and quarterly weather to find an inverted U-shaped relationship between quarterly construction labor productivity and quarterly average ambient temperature that peaked at higher temperatures in hotter regions (79.25 °F (26.25 °C) in eastern regions versus 68 °F (20 °C) for central and western regions). They conjectured that workers in hotter regions are more adapted to high temperatures so that the peak temperature after which their labor productivity started to decline was higher. Behrer and Park (2017) used U.S. county-level panel data of annual non-agricultural payroll per capita and daily weather to find that the negative effect of an additional hot day on annual payroll per capita was smaller in hotter counties (in the top quartile of the U.S. average ambient temperature distribution). They suggested that such attenuated effects of heat exposure in hotter regions can be explained by the larger presence of air-conditioning in these regions, as evidenced by region-level data on percentage of households and commercial buildings with air-conditioning. Heal and Park (2013) also found in country-level panel data that annual real GDP per capita was less negatively affected by heat exposure in hot countries where air-conditioning was more prevalent.

nationally representative biennial longitudinal survey in China, Zhang et al. (2024) found that their estimated effect of higher temperatures on math test scores was less negative by 36.6% for households with air-conditioning.

Some studies that found negative effects of heat exposure on athletic performance also evaluated the effects of acclimatization.¹³³ Using athlete-competition level panel data on collegiate track and field performances, Sexton et al. (2022) found that hotter average ambient temperatures at the home institution in the week prior to the competition (“precompetition temperatures”) mitigated performance loss from high competition temperatures. They reported that for hot competitions with daily average ambient temperatures exceeding 70 °F (21.1 °C), performance loss from high competition temperature decreases by 1.6%–3.5% per 1.8 °F (1 °C) increase in temperature difference between the precompetition and competition temperatures. On the other hand, using athlete-contest level panel data of Chinese professional archers, Qiu and Zhao (2022) did not find evidence that heat exposure within several months prior to a competition improved competition performance in the heat. Qiu and Zhao (2022) however found evidence of benefits of “longer-term acclimatization”; athletes that trained in the southern provinces of China, where hot days are more common, were less affected by heat exposure than those trained in the northern provinces. From player-match level panel data of professional tennis players, Burke et al. (2023) also did not find evidence of benefits of acclimatization; players who played their previous match in higher temperatures did worse in their current match. Burke et al. (2023) also did not find evidence of benefits of “long-term exposure to heat”; players born or residing in locations of higher temperatures did not appear to be less affected by higher temperatures during the match. Burke et al. (2023) conjectured that their lack of evidence of benefits of acclimatization compared to Sexton et al. (2022) could be because their proxy of acclimatization captured players playing an actual match in high temperatures, while acclimatization could be “more effective during

repeated episodes of more restrained effort, as emphasized in most sports heat acclimatization protocols (p. 12).”

C. Summary of Section VIII.I.III

To summarize, workplace incentives and availability of adaptation measures affect the estimated labor productivity-related effects of heat exposure documented in the literature.

IV. Conclusion

The available literature on the effects of heat exposure on non-health outcomes suggests that heat exposure can lead to decreased labor productivity as well as to reduced labor supply, mental performance, economic output, and worker utility. It also indicates that existing workplace characteristics such as incentive structures and adoption of adaptation measures should be considered when evaluating these negative non-health consequences of heat exposure.

J. Appendix C. Heat Exposure Methodology Used in Distributional Analysis

The following steps were taken to quantify the fraction of workers benefiting from the proposed standard in different demographic and economic categories.

I. ACS Data Processing

The analysis uses data from the Census Bureau’s American Community Survey (ACS) from 2018 to 2022 (Ruggles et al., 2024). 2022 is the most recent available year of ACS data. ACS data provide worker-level information on demographic and economic characteristics. The following demographic and economic characteristics are recorded in the ACS: age; race and ethnicity; sex; total family income; industry; occupation; the presence of a disability related to cognition, physical activity, mobility, self-care, vision, or hearing; and U.S. citizenship. In addition, LGBTQ+ status was inferred from cases where an individual was living (married or unmarried) with a same-sex partner.

Only data for employed workers 16 years or older was used. The ACS variables were processed as follows. Age was grouped into 10-year bins (with age 65+ as the top bin). Race and ethnicity variables were coded into the groups

Hispanic, Black, Asian (including Pacific Islander), White (non-Hispanic), and other groups. Total family income was converted into deciles. Presence of a disability was coded into a single indicator variable for the presence of any disability. Sex and the presence of a same-sex partner required no further processing.

II. Merging ACS Data With Heat Exposure Measures

Calculations of workers likely to be affected by the proposed standard from Section VIII.B., Profile of Affected Industries were next merged with the ACS data. Fractions of workers exposed to heat by industry and occupation was used. In Section VIII.B., Profile of Affected Industries, exposure was calculated at the 4-digit NAICS level and with detailed (6-digit) SOC codes. To consistently merge with the ACS, these affected workers were aggregated to the 2-digit NAICS code by 4-digit SOC code level.¹³⁴ The aggregation was done by calculating weighted average fraction of workers exposed to heat in outdoor settings and indoor settings (separately due to process heat or inadequate climate control) in each industry-occupation pair. The weights were number of workers in each 4-digit by 6-digit category, as calculated in Section VIII.B., Profile of Affected Industries. The worker-level ACS data were then merged with the industry-by-occupation exposure fractions.

III. Calculate Exposure by Demographic and Economic Group

For each dimension of heterogeneity described above, the average share of exposed workers was calculated. The average exposure was weighted by the person-weights in the ACS to generate representative values for the U.S.

The result is a figure like figure VIII.J.1. shown below. The figure shows the percent of workers exposed to outdoor heat across total family income deciles. The deciles are given on the x-axis along with the range of income they represent, and the y-axis is the percentage of workers. The figure VIII.J.1. shows that about 13 percent of workers in low-income deciles are exposed to outdoor heat on the job while about 7 percent of workers in the highest income decile are exposed.

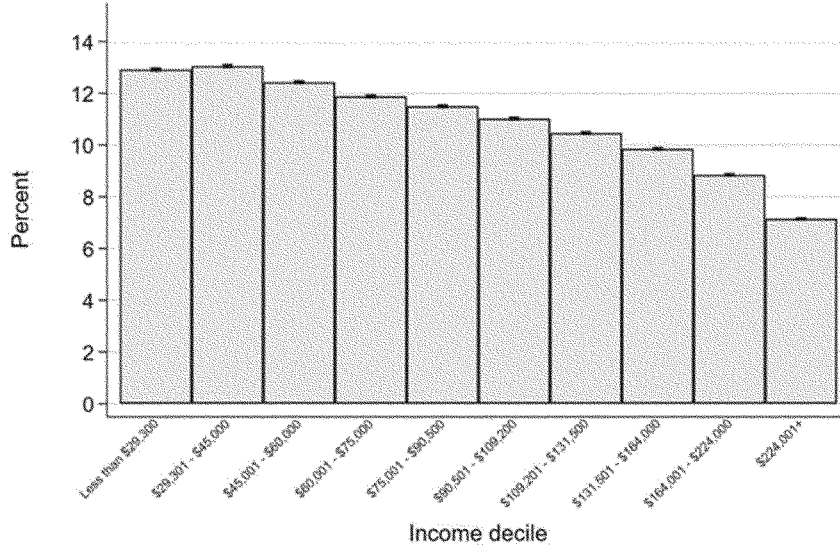
¹³³ In the context of labor supply, Graff Zivin and Neidell (2014) found that their estimated negative effect of heat exposure on labor supply was smaller in August compared to June, suggesting that workers became less sensitive to heat exposure as higher temperatures became more common. As another test for effects of acclimatization, they also found that the negative effect of heat exposure on labor supply was smaller in “warm counties”

compared to “cool counties” (defined as counties in the highest and lowest third of historical July–August temperatures, respectively), although the estimated difference was not statistically significant.

¹³⁴ ACS includes 4-digit NAICS codes and detailed (6-digit) SOC codes for some industries and occupations. However, given that ACS uses

different industry and occupation definitions than NAICS and SOC, many industries and occupations are only consistently coded at the 2- or 4-digit level respectively. For example, in the ACS, all construction workers are only classified at the 2-digit NAICS level (NAICS 23). Aggregation to the 2-digit NAICS code and 4-digit SOC code level ensures consistency across workers.

Figure VIII.J.1. Example of Workers with Heat Exposure in Outdoor Work Settings by Total Family Income Decile



K. Appendix D. Definitions of Core Industry Categories Used in Cost Analysis

TABLE VIII.K.1—IN-SCOPE CORE INDUSTRIES BY CORE INDUSTRY CATEGORIES

Core industry category	4-Digit NAICS	NAICS title
Agriculture, Forestry, and Fishing	111100	Oilseed and Grain Farming.
Agriculture, Forestry, and Fishing	111200	Vegetable and Melon Farming.
Agriculture, Forestry, and Fishing	111300	Fruit and Tree Nut Farming.
Agriculture, Forestry, and Fishing	111400	Greenhouse, Nursery, and Floriculture Production.
Agriculture, Forestry, and Fishing	111900	Other Crop Farming.
Agriculture, Forestry, and Fishing	112100	Cattle Ranching and Farming.
Agriculture, Forestry, and Fishing	112200	Hog and Pig Farming.
Agriculture, Forestry, and Fishing	112300	Poultry and Egg Production.
Agriculture, Forestry, and Fishing	112400	Sheep and Goat Farming.
Agriculture, Forestry, and Fishing	112500	Aquaculture.
Agriculture, Forestry, and Fishing	112900	Other Animal Production.
Agriculture, Forestry, and Fishing	113100	Timber Tract Operations.
Agriculture, Forestry, and Fishing	113200	Forest Nurseries and Gathering of Forest Products.
Agriculture, Forestry, and Fishing	113300	Logging.
Agriculture, Forestry, and Fishing	114100	Fishing.
Agriculture, Forestry, and Fishing	114200	Hunting and Trapping.
Agriculture, Forestry, and Fishing	115100	Support Activities for Crop Production.
Agriculture, Forestry, and Fishing	115200	Support Activities for Animal Production.
Agriculture, Forestry, and Fishing	115300	Support Activities for Forestry.
Building Materials and Equipment Suppliers	423300	Lumber and Other Construction Materials Merchant Wholesalers.
Building Materials and Equipment Suppliers	423700	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers.
Building Materials and Equipment Suppliers	423900	Miscellaneous Durable Goods Merchant Wholesalers.
Building Materials and Equipment Suppliers	444100	Building Material and Supplies Dealers.
Building Materials and Equipment Suppliers	532400	Commercial and Industrial Machinery and Equipment Rental and Leasing.
Commercial Kitchens	311800	Bakeries and Tortilla Manufacturing.
Commercial Kitchens	722300	Special Food Services.
Commercial Kitchens	722400	Drinking Places (Alcoholic Beverages).
Commercial Kitchens	722500	Restaurants and Other Eating Places.
Construction	236100	Residential Building Construction.
Construction	236200	Nonresidential Building Construction.
Construction	237100	Utility System Construction.
Construction	237200	Land Subdivision.
Construction	237300	Highway, Street, and Bridge Construction.
Construction	237900	Other Heavy and Civil Engineering Construction.
Construction	238100	Foundation, Structure, and Building Exterior Contractors.
Construction	238200	Building Equipment Contractors.
Construction	238300	Building Finishing Contractors.

TABLE VIII.K.1—IN-SCOPE CORE INDUSTRIES BY CORE INDUSTRY CATEGORIES—Continued

Core industry category	4-Digit NAICS	NAICS title
Construction	238900	Other Specialty Trade Contractors.
Construction	541300	Architectural, Engineering, and Related Services.
Drycleaning and Commercial Laundries	812300	Drycleaning and Laundry Services.
Landscaping and Facilities Support	561200	Facilities Support Services.
Landscaping and Facilities Support	561700	Services to Buildings and Dwellings.
Landscaping and Facilities Support	561900	Other Support Services.
Landscaping and Facilities Support	812200	Death Care Services.
Landscaping and Facilities Support	812900	Other Personal Services.
Maintenance and Repair	811100	Automotive Repair and Maintenance.
Maintenance and Repair	811300	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.
Maintenance and Repair	811400	Personal and Household Goods Repair and Maintenance.
Manufacturing	311100	Animal Food Manufacturing.
Manufacturing	311200	Grain and Oilseed Milling.
Manufacturing	311300	Sugar and Confectionery Product Manufacturing.
Manufacturing	311400	Fruit and Vegetable Preserving and Specialty Food Manufacturing.
Manufacturing	311500	Dairy Product Manufacturing.
Manufacturing	311600	Animal Slaughtering and Processing.
Manufacturing	311700	Seafood Product Preparation and Packaging.
Manufacturing	311900	Other Food Manufacturing.
Manufacturing	312100	Beverage Manufacturing.
Manufacturing	312200	Tobacco Manufacturing.
Manufacturing	313100	Fiber, Yarn, and Thread Mills.
Manufacturing	313200	Fabric Mills.
Manufacturing	313300	Textile and Fabric Finishing and Fabric Coating Mills.
Manufacturing	314100	Textile Furnishings Mills.
Manufacturing	314900	Other Textile Product Mills.
Manufacturing	315100	Apparel Knitting Mills.
Manufacturing	315200	Cut and Sew Apparel Manufacturing.
Manufacturing	315900	Apparel Accessories and Other Apparel Manufacturing.
Manufacturing	316100	Leather and Hide Tanning and Finishing.
Manufacturing	316200	Footwear Manufacturing.
Manufacturing	316900	Other Leather and Allied Product Manufacturing.
Manufacturing	321100	Sawmills and Wood Preservation.
Manufacturing	321200	Veneer, Plywood, and Engineered Wood Product Manufacturing.
Manufacturing	321900	Other Wood Product Manufacturing.
Manufacturing	322100	Pulp, Paper, and Paperboard Mills.
Manufacturing	322200	Converted Paper Product Manufacturing.
Manufacturing	323100	Printing and Related Support Activities.
Manufacturing	324100	Petroleum and Coal Products Manufacturing.
Manufacturing	325100	Basic Chemical Manufacturing.
Manufacturing	325200	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing.
Manufacturing	325300	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing.
Manufacturing	325400	Pharmaceutical and Medicine Manufacturing.
Manufacturing	325500	Paint, Coating, and Adhesive Manufacturing.
Manufacturing	325600	Soap, Cleaning Compound, and Toilet Preparation Manufacturing.
Manufacturing	325900	Other Chemical Product and Preparation Manufacturing.
Manufacturing	326100	Plastics Product Manufacturing.
Manufacturing	326200	Rubber Product Manufacturing.
Manufacturing	327100	Clay Product and Refractory Manufacturing.
Manufacturing	327200	Glass and Glass Product Manufacturing.
Manufacturing	327300	Cement and Concrete Product Manufacturing.
Manufacturing	327400	Lime and Gypsum Product Manufacturing.
Manufacturing	327900	Other Nonmetallic Mineral Product Manufacturing.
Manufacturing	331100	Iron and Steel Mills and Ferroalloy Manufacturing.
Manufacturing	331200	Steel Product Manufacturing from Purchased Steel.
Manufacturing	331300	Alumina and Aluminum Production and Processing.
Manufacturing	331400	Nonferrous Metal (except Aluminum) Production and Processing.
Manufacturing	331500	Foundries.
Manufacturing	332100	Forging and Stamping.
Manufacturing	332200	Cutlery and Handtool Manufacturing.
Manufacturing	332300	Architectural and Structural Metals Manufacturing.
Manufacturing	332400	Boiler, Tank, and Shipping Container Manufacturing.
Manufacturing	332500	Hardware Manufacturing.
Manufacturing	332600	Spring and Wire Product Manufacturing.
Manufacturing	332700	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing.
Manufacturing	332800	Coating, Engraving, Heat Treating, and Allied Activities.
Manufacturing	332900	Other Fabricated Metal Product Manufacturing.
Manufacturing	333100	Agriculture, Construction, and Mining Machinery Manufacturing.
Manufacturing	333200	Industrial Machinery Manufacturing.

TABLE VIII.K.1—IN-SCOPE CORE INDUSTRIES BY CORE INDUSTRY CATEGORIES—Continued

Core industry category	4-Digit NAICS	NAICS title
Manufacturing	333300	Commercial and Service Industry Machinery Manufacturing.
Manufacturing	333400	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing.
Manufacturing	333500	Metalworking Machinery Manufacturing.
Manufacturing	333600	Engine, Turbine, and Power Transmission Equipment Manufacturing.
Manufacturing	333900	Other General Purpose Machinery Manufacturing.
Manufacturing	335100	Electric Lighting Equipment Manufacturing.
Manufacturing	335200	Household Appliance Manufacturing.
Manufacturing	335300	Electrical Equipment Manufacturing.
Manufacturing	335900	Other Electrical Equipment and Component Manufacturing.
Manufacturing	336100	Motor Vehicle Manufacturing.
Manufacturing	336200	Motor Vehicle Body and Trailer Manufacturing.
Manufacturing	336300	Motor Vehicle Parts Manufacturing.
Manufacturing	336400	Aerospace Product and Parts Manufacturing.
Manufacturing	336500	Railroad Rolling Stock Manufacturing.
Manufacturing	336600	Ship and Boat Building.
Manufacturing	336900	Other Transportation Equipment Manufacturing.
Manufacturing	337100	Household and Institutional Furniture and Kitchen Cabinet Manufacturing.
Manufacturing	337200	Office Furniture (including Fixtures) Manufacturing.
Manufacturing	337900	Other Furniture Related Product Manufacturing.
Manufacturing	339100	Medical Equipment and Supplies Manufacturing.
Manufacturing	339900	Other Miscellaneous Manufacturing.
Oil and Gas	211100	Oil and Gas Extraction.
Oil and Gas	213100	Support Activities for Mining.
Oil and Gas	486100	Pipeline Transportation of Crude Oil.
Oil and Gas	486200	Pipeline Transportation of Natural Gas.
Oil and Gas	486900	Other Pipeline Transportation.
Postal and Delivery Services	491100	Postal Service.
Postal and Delivery Services	492100	Couriers and Express Delivery Services.
Postal and Delivery Services	492200	Local Messengers and Local Delivery.
Recreation and Amusement	711200	Spectator Sports.
Recreation and Amusement	713100	Amusement Parks and Arcades.
Recreation and Amusement	713900	Other Amusement and Recreation Industries.
Recreation and Amusement	721200	RV (Recreational Vehicle) Parks and Recreational Camps.
Sanitation and Waste Removal	562100	Waste Collection.
Sanitation and Waste Removal	562200	Waste Treatment and Disposal.
Sanitation and Waste Removal	562900	Remediation and Other Waste Management Services.
Telecommunications	517100	Wired and Wireless Telecommunications (except Satellite).
Telecommunications	517400	Satellite Telecommunications.
Telecommunications	517800	All Other Telecommunications.
Temporary Help Services	561300	Employment Services.
Transportation	481100	Scheduled Air Transportation.
Transportation	481200	Nonscheduled Air Transportation.
Transportation	482100	Rail Transportation.
Transportation	483100	Deep Sea, Coastal, and Great Lakes Water Transportation.
Transportation	483200	Inland Water Transportation.
Transportation	484100	General Freight Trucking.
Transportation	484200	Specialized Freight Trucking.
Transportation	485100	Urban Transit Systems.
Transportation	485900	Other Transit and Ground Passenger Transportation.
Transportation	488100	Support Activities for Air Transportation.
Transportation	488200	Support Activities for Rail Transportation.
Transportation	488300	Support Activities for Water Transportation.
Transportation	488400	Support Activities for Road Transportation.
Transportation	488900	Other Support Activities for Transportation.
Utilities	221100	Electric Power Generation, Transmission and Distribution.
Utilities	221200	Natural Gas Distribution.
Utilities	221300	Water, Sewage and Other Systems.
Warehousing	493100	Warehousing and Storage.

TABLE VIII.K.2—IN-SCOPE NON-CORE INDUSTRIES USED IN COST ANALYSIS

4-Digit NAICS	NAICS title
334100	Computer and Peripheral Equipment Manufacturing.
334200	Communications Equipment Manufacturing.
334300	Audio and Video Equipment Manufacturing.
334400	Semiconductor and Other Electronic Component Manufacturing.
334500	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing.
334600	Manufacturing and Reproducing Magnetic and Optical Media.

TABLE VIII.K.2—IN-SCOPE NON-CORE INDUSTRIES USED IN COST ANALYSIS—Continued

4-Digit NAICS	NAICS title
423100	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers.
423200	Furniture and Home Furnishing Merchant Wholesalers.
423400	Professional and Commercial Equipment and Supplies Merchant Wholesalers.
423500	Metal and Mineral (except Petroleum) Merchant Wholesalers.
423600	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.
423800	Machinery, Equipment, and Supplies Merchant Wholesalers.
424100	Paper and Paper Product Merchant Wholesalers.
424200	Drugs and Druggists' Sundries Merchant Wholesalers.
424300	Apparel, Piece Goods, and Notions Merchant Wholesalers.
424400	Grocery and Related Product Merchant Wholesalers.
424500	Farm Product Raw Material Merchant Wholesalers.
424600	Chemical and Allied Products Merchant Wholesalers.
424700	Petroleum and Petroleum Products Merchant Wholesalers.
424800	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers.
424900	Miscellaneous Nondurable Goods Merchant Wholesalers.
425100	Wholesale Trade Agents and Brokers.
441100	Automobile Dealers.
441200	Other Motor Vehicle Dealers.
441300	Automotive Parts, Accessories, and Tire Retailers.
444200	Lawn and Garden Equipment and Supplies Retailers.
445100	Grocery and Convenience Retailers.
445200	Specialty Food Retailers.
445300	Beer, Wine, and Liquor Retailers.
449100	Furniture and Home Furnishings Retailers.
449200	Electronics and Appliance Retailers.
455100	Department Stores.
455200	Warehouse Clubs, Supercenters, and Other General Merchandise Retailers.
456100	Health and Personal Care Retailers.
457100	Gasoline Stations.
457200	Fuel Dealers.
458100	Clothing and Clothing Accessories Retailers.
458200	Shoe Retailers.
458300	Jewelry, Luggage, and Leather Goods Retailers.
459100	Sporting Goods, Hobby, and Musical Instrument Retailers.
459200	Book Retailers and News Dealers.
459300	Florists.
459400	Office Supplies, Stationery, and Gift Retailers.
459500	Used Merchandise Retailers.
459900	Other Miscellaneous Retailers.
485200	Interurban and Rural Bus Transportation.
485300	Taxi and Limousine Service.
485400	School and Employee Bus Transportation.
485500	Charter Bus Industry.
487100	Scenic and Sightseeing Transportation, Land.
487200	Scenic and Sightseeing Transportation, Water.
487900	Scenic and Sightseeing Transportation, Other.
488500	Freight Transportation Arrangement.
512100	Motion Picture and Video Industries.
512200	Sound Recording Industries.
513100	Newspaper, Periodical, Book, and Directory Publishers.
513200	Software Publishers.
516100	Radio and Television Broadcasting Stations.
516200	Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.
518200	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services.
519200	Web Search Portals, Libraries, Archives, and Other Information Services.
521100	Monetary Authorities-Central Bank.
522100	Depository Credit Intermediation.
522200	Nondepository Credit Intermediation.
522300	Activities Related to Credit Intermediation.
523100	Securities and Commodity Contracts Intermediation and Brokerage.
523200	Securities and Commodity Exchanges.
523900	Other Financial Investment Activities.
524100	Insurance Carriers.
524200	Agencies, Brokerages, and Other Insurance Related Activities.
525100	Insurance and Employee Benefit Funds.
525900	Other Investment Pools and Funds.
531100	Lessors of Real Estate.
531200	Offices of Real Estate Agents and Brokers.
531300	Activities Related to Real Estate.
532100	Automotive Equipment Rental and Leasing.
532200	Consumer Goods Rental.
532300	General Rental Centers.

TABLE VIII.K.2—IN-SCOPE NON-CORE INDUSTRIES USED IN COST ANALYSIS—Continued

4-Digit NAICS	NAICS title
533100	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
541100	Legal Services.
541200	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
541400	Specialized Design Services.
541500	Computer Systems Design and Related Services.
541600	Management, Scientific, and Technical Consulting Services.
541700	Scientific Research and Development Services.
541800	Advertising, Public Relations, and Related Services.
541900	Other Professional, Scientific, and Technical Services.
551100	Management of Companies and Enterprises.
561100	Office Administrative Services.
561400	Business Support Services.
561500	Travel Arrangement and Reservation Services.
561600	Investigation and Security Services.
611100	Elementary and Secondary Schools.
611200	Junior Colleges.
611300	Colleges, Universities, and Professional Schools.
611400	Business Schools and Computer and Management Training.
611500	Technical and Trade Schools.
611600	Other Schools and Instruction.
611700	Educational Support Services.
621100	Offices of Physicians.
621200	Offices of Dentists.
621300	Offices of Other Health Practitioners.
621400	Outpatient Care Centers.
621500	Medical and Diagnostic Laboratories.
621600	Home Health Care Services.
621900	Other Ambulatory Health Care Services.
622100	General Medical and Surgical Hospitals.
622200	Psychiatric and Substance Abuse Hospitals.
622300	Specialty (except Psychiatric and Substance Abuse) Hospitals.
623100	Nursing Care Facilities (Skilled Nursing Facilities).
623200	Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.
623300	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.
623900	Other Residential Care Facilities.
624100	Individual and Family Services.
624200	Community Food and Housing, and Emergency and Other Relief Services.
624300	Vocational Rehabilitation Services.
624400	Child Care Services.
711100	Performing Arts Companies.
711300	Promoters of Performing Arts, Sports, and Similar Events.
711400	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
711500	Independent Artists, Writers, and Performers.
712100	Museums, Historical Sites, and Similar Institutions.
713200	Gambling Industries.
721100	Traveler Accommodation.
721300	Rooming and Boarding Houses, Dormitories, and Workers' Camps.
811200	Electronic and Precision Equipment Repair and Maintenance.
812100	Personal Care Services.
813100	Religious Organizations.
813200	Grantmaking and Giving Services.
813300	Social Advocacy Organizations.
813400	Civic and Social Organizations.
813900	Business, Professional, Labor, Political, and Similar Organizations.
999200	State Government.
999300	Local Government.

IX. Technological Feasibility

A. Introduction

The Occupational Safety and Health Administration (OSHA) is proposing a *Heat Injury and Illness Prevention* standard that will require employers, whose employees are occupationally exposed to hazardous heat, to develop and implement a heat injury and illness prevention plan. As part of the plan,

this proposed standard will require employers to implement control measures to mitigate the risk to workers from occupational exposure to heat when temperatures exceed specified triggers.

As discussed in Section II., Pertinent Legal Authority, OSHA must prove, by substantial evidence in the rulemaking record, that its standards are technologically and economically

feasible, which the Supreme Court has defined as “capable of being done, executed, or effected” (*American Textile Mfrs. Inst. v. Donovan (Cotton Dust)*, 452 U.S. 490, 508–09 (1981)). A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be expected to be developed

(*United Steelworkers v. Marshall (Lead I)*, 647 F.2d 1189, 1272 (D.C. Cir. 1980), *cert. denied*, 453 U.S. 913 (1981); *Am. Iron & Steel Inst. v. Occupational Safety & Health Admin. (Lead II)*, 939 F.2d 975, 980 (D.C. Cir. 1991)). OSHA has reviewed the requirements that would be imposed by the proposed Heat Injury and Illness Prevention standard and assessed the technological feasibility of complying with its requirements. As a result of this review, OSHA has preliminarily determined that achieving compliance with the proposed standard is technologically feasible.

B. Methodology

For this proposed standard, OSHA evaluated the provisions to identify which requirements proposed the implementation of engineering control measures or would address facility and equipment related aspects of heat illness prevention, as opposed to those that would establish programs, processes, or procedures. OSHA also reviewed the workplace control practices currently in place across the affected industries as well as the recommended practices of

industry trade associations and standards-setting organizations.

For this technological feasibility analysis, OSHA grouped establishments by indoor work settings based on the similarity of worker exposure sources (*i.e.*, equipment or processes that generate heat versus ambient heat) and outdoor work settings, including mobile or transient sites, with exposure primarily to ambient heat and heat-generating processes. These work settings, and examples of occupations found in these settings, are outlined in table IX–1 below.

TABLE IX–1—FACILITY TYPES ANALYZED IN OSHA’S PRELIMINARY TECHNOLOGICAL FEASIBILITY ANALYSIS

Work setting	Heat source	Example facility types/occupations
Indoors	Heat Generating Processes	• Commercial Laundry and Drycleaning • Commercial Kitchens • Foundries • Manufacturing (Paper Mills, Wood Processing, Chemical Processing) • Maintenance and Repair Service • Warehouses
	Ambient Heat	
Outdoors	Ambient Heat at Fixed Locations	• Sales Related Industries • Airline Ground Workers • Building Material and Equipment Suppliers • Maintenance and Repair Service • Recreation and Amusement • Sales Related Industries
	Ambient Heat at Transient and Mobile Work Sites	• Agriculture, Forestry, and Fishing • Construction • Landscaping and Facilities Support • Logging/Forestry • Oil and Gas Extraction and Support Service • Postal and Delivery Services • Sanitation and Waste Removal • Transportation (Land, Water, and Rail), including Scenic and Sightseeing • Telecommunications and Utility Workers
	Heat Generating Processes	• Asphalt Paving • Cement Kilns

C. Environmental Monitoring

The proposed rule includes requirements for employers to monitor environmental conditions in order to determine whether certain controls to protect employees exposed to heat at or above the trigger level, expressed in terms of heat index or wet bulb globe temperature (WBGT), need to be implemented. The proposed rule also requires employers utilizing fans in indoor work areas or break areas to identify any such areas where the ambient temperature (AT) exceeds 102 °F in order to evaluate whether fan use may be harmful. As part of OSHA’s assessment of the technological feasibility of these proposed requirements, the agency must determine whether available methods exist for measuring heat index, WBGT, and AT. As explained below, all three

metrics can be monitored via instruments currently on the market.

I. Heat Index

Heat Index (HI) is meant to reflect the temperature that the body “feels,” by combining ambient temperature and either dew point temperature, or more commonly relative humidity (RH) (Anderson et al., 2013; NWS, 2024c; Steadman, 1979). The underlying formula for heat index is complex and uses several assumptions, including human body mass and height, clothing, amount of physical activity, individual heat tolerance, sunlight and ultraviolet radiation exposure, and wind speed. In the HI formula, the coefficients have been determined through empirical studies and mathematical modeling to approximate how humidity influences the effect of temperature. Different coefficients can vary depending on the

unit of temperature and the formula might differ slightly between regions or meteorological agencies.

While calculating HI involves a fairly complex equation, methods for determining the HI using the ambient temperature (AT) and RH are widely available and simple to use. The most accurate way to determine the HI at work sites is through the use of direct read monitoring devices. These types of devices are readily available on the market (ERG, 2024b). The handheld devices, commonly called heat-stress monitors or heat index monitors, measure the AT, RH, and dew point, and provide the HI. These devices provide real-time, on-site measurements and can be used both indoors and outdoors. Conversely employers could use psychrometers and thermometers to measure AT and RH, then calculate the HI using any of the tools described

below. Both psychrometers and thermometers are available in digital and analog versions. For outdoor work sites, employers could also use local forecast weather data to obtain the AT and RH. This information can then be used to estimate the HI for a particular location using available charts and calculators. However, because local forecast conditions may not reflect actual working conditions indoors, OSHA is not proposing to permit the use of forecast data to determine indoor HI.

The National Weather Service (NWS) has two charts available on their website which employers can use to determine the HI, the Heat Index Chart and the Heat Index Chart for Low Humidity Locations.¹³⁵ The Heat Index Charts can be used for environments with RH ranging from 5% to 100%. To find the HI using the chart the employer must first determine the AT and RH. The HI is located in the cell where the two values meet on the chart. The National Weather Service (NWS) also has a calculator available on their website that allows users to calculate HI by entering in the temperature and humidity or dew point.¹³⁶ However, this calculator notes that results using temperatures and RH outside of the range of the NWS heat index chart may not be accurate.

Another way employers can determine the HI is through the OSHA–NIOSH Heat Safety Tool,¹³⁷ which allows users to access HI data from a mobile phone. The Heat Safety Tool pulls hourly forecasts specific to the inputted outdoor location from the NWS to estimate the local heat index. This tool is available for both Android and Apple mobile devices and can be downloaded from the app stores, as well as the OSHA website. As previously mentioned, while the tool is useful for outdoor work environments, local weather data may not accurately reflect indoor working conditions or situations where heat is also generated as part of the work process.

OSHA has preliminarily concluded that conducting exposure assessments to determine the HI is technologically feasible for most operations, most of the time.¹³⁸ HI is simple, easy-to-understand, and easily accessible. For

indoor workplaces employers will need to take on-site measurements to determine the HI. This can be done using either direct reading instruments currently on the market or by measuring AT and RH with psychrometers and thermometers and using charts or online calculators to calculate the HI. OSHA seeks additional information and comments on the feasibility of measuring HI in different environments, including indoor environments and where heat-generating processes occur.

II. Wet Bulb Globe Temperature (WBGT)

WBGT is a measure of heat exposure that incorporates the impact of sunlight and wind, in addition to temperature and humidity. It was derived in the 1950s to track exposure and limit heat-related illness (HRI) among the U.S. Armed Services (Budd, 2008). WBGT is calculated as the weighted average of globe temperature, wet bulb temperature, and dry bulb temperature, and accounts for AT, RH, wind speed, and solar radiation. WBGTs are measured with specialized equipment currently available on the market.

Indeed, both NIOSH REL's and ACGIH TLV's for heat stress are based on WBGT readings. Also, OSHA currently collects WBGT readings during inspections to evaluate the potential hazard from exposure to heat in accordance with procedures for performing workplace assessments in the OSHA Technical Manual (OTM), section III., chapter 4.

A standard WBGT instrument has a 0.15-meter, or 6-inch, black globe to measure globe temperature and a wetted thermometer to measure the natural wet bulb temperature (Budd, 2008). Various WBGT monitors have been developed, many of which use a smaller black globe and/or a relative humidity sensor in place of a wetted thermometer. Relative humidity measurements are used to calculate wet bulb temperature based on psychometric principles. Some well-known WBGT monitors include the QUESTemp series by TSI and smaller handheld devices such as that made by Kestrel (ERG, 2024b).

Although several accurate WBGT monitoring devices are available, OSHA notes that some lower-cost devices may not be sufficient to accurately measure employees' heat exposure. Non-standard monitors can be found for a lower cost, but they may not fully align with traditional WBGT thermometer measurements. Some devices may be designed to be more conservative in their measurements than others. In a review of WBGT, Budd (2008) identified key limitations of this standard equipment to measure WBGT. Four of

the main concerns were inconsistent equilibration times, insufficiently robust calibration procedures, and the use of non-standard globe thermometers and natural wet bulb thermometers. Smaller bulbs typically result in shorter equilibration times, which make readings more sensitive to short-term changes in environmental conditions than larger bulbs. However, few peer-reviewed studies have been published evaluating these potential sources of error and OSHA anticipates technology has likely improved since Budd's evaluation in 2008. Given these technical considerations—including equilibration times and the need for robust calibration procedures—the use of WBGT on-site will require training to properly operate. The extent of the training would vary depending on the type of monitor.

OSHA has preliminarily determined that instruments to accurately monitor WBGT are commercially available. OSHA seeks additional comments on the use of WBGT and to identify situations in which WBGT would or would not be practical or pose challenges for employers to measure.

III. Ambient Temperature (AT)

AT is the air temperature measured using a thermometer. The primary types of thermometers used for measuring AT are liquid-in-glass thermometers, electrical thermocouples, and resistance thermometers (thermistors). Each of these types of thermometers are commercially available in a wide variety of designs. The States with permanent outdoor occupational heat standards, California and Washington, currently use fixed value thresholds of AT, further indicating the feasibility of this metric (California Occupational Safety & Health Administration, 8 CCR 3395; Washington Division of Occupational Safety and Health, WA Admin. Code 296–62–095). Based on the widespread public availability of thermometers to measure AT, OSHA has preliminarily determined that it is technologically feasible for employers to assess AT in their workplace.

IV. Preliminary Findings on Environmental Monitoring

Several different types of instruments and methods to determine the Heat Index and WBGT are commercially available. These include the Kestrel and QuesTemp currently used by OSHA, in addition to various mobile device applications supported by NWS and NIOSH. At outdoor work sites, employers have the option of tracking local heat index forecasts provided by the NWS or other reputable sources in

¹³⁵ The NWS charts contain risk categories that may not align with the proposed rule as OSHA is not relying on the risk categories noted in the chart.

¹³⁶ <https://www.wpc.ncep.noaa.gov/html/heatindex.shtml>.

¹³⁷ <https://www.osha.gov/heat/heat-app>.

¹³⁸ OSHA notes that Oregon currently uses HI thresholds in its state standard, which is further evidence that the measurements are feasible. OR Admin. Code 437–002–0156 (indoor and outdoor) and 437–004–1131 (agriculture).

lieu of measuring for Heat Index or WBGT. In addition, thermometers to measure AT are widely available. Because the technology necessary to comply with the proposed standard currently exists and is commercially available, OSHA preliminarily concludes that the proposed standard's monitoring requirements are technologically feasible.

D. Engineering Controls

Engineering controls are measures that reduce, isolate, or remove a hazard from the workplace. These engineering controls can be used to reduce exposure to heat without relying on changes in employee behavior. Therefore, engineering controls are often the most effective type of control to address workplace hazards and can also be a cost-effective layer of protection. The following are some examples of engineering controls that may reduce heat stress:

- Use air-conditioning,
- Increase general ventilation,
- Provide cooling fans,¹³⁹
- Run local exhaust ventilation where heat is produced (e.g., laundry vents),
- Use reflective shields to block radiant heat,
- Insulate hot surfaces (e.g., furnace walls),
- Stop leaking steam,
- Provide shade for outdoor work sites.

Under the proposed standard, when exposures to heat exceed specified triggers, employers must implement feasible controls to reduce employee's exposures to heat. The requirements for the use of engineering controls differ based on the location of work, whether indoors or outdoors. For indoor work sites, employers are required to provide a break area and ensure that work areas exceeding the trigger are equipped with air-conditioning, fans and ventilation, or in the case of radiant heat, other controls to reduce heat exposure. For outdoor work sites, employers are required to provide a break area with either shade or air-conditioning.

I. Workers Exposed to Heat Generating Process

As shown in Table IX-1—Facility Types Analyzed in OSHA's Preliminary Technological Feasibility Analysis, employees in both indoor and outdoor work operations can be exposed to heat from work processes. Radiant heat can be generated by equipment and processes such as, but not limited to, cement kilns, asphalt paving equipment,

commercial laundry machines, ovens in kitchen and bakery operations, foundries and other furnaces, and steam pipes. Under the proposed rule, OSHA is requiring employers to cool each indoor work area using either controls that increase evaporative heat loss from the worker (such as air-conditioning or fans) or through controls that remove the worker's exposure to radiant heat in the workspace. Because OSHA anticipates that the use of fans, dehumidifiers, and air-conditioning to control exposures from heat generating processes will be implemented in a similar manner to those controlling for ambient temperature exposures, the discussion on feasibility of those controls is contained in Section IX.D.II.A, Indoor Workspaces. OSHA requests comments on the appropriateness of this determination and seeks information on situations where the use of fans and air-conditioning would differ.

The engineering approaches to controlling radiant heat gain to the worker can be divided into two categories, those that reduce the amount of radiant heat in the workspace or those that shield the worker from the radiant heat source itself. Researchers suggest the following actions for reducing radiant heat exposures: interpose line-of-sight barriers; insulation, reflective shield and/or metallic reflecting screen, heat reflective clothing; mechanical ventilation (fans, blowers, chillers, etc.), air-conditioning where possible, and locating hot process away from work areas (NIOSH, 2016; Chesson, 2012).

Reducing radiant heat in the workspaces typically requires at least one of the following actions: lowering the process temperature, which may not be compatible with the temperature requirement of the manufacturing processes; relocating or isolating the heat source; insulating or cooling the heat source; or changing the emissivity of the hot surface by coating the material. Engineering controls for shielding the work from the radiant heat requires placing line-of-sight radiant reflective barriers or shielding between the heat source and the worker.

Of these control methods, radiant reflective shielding is generally the easiest to install. NIOSH notes that radiant reflective shielding can reduce the radiant heat load by as much as 80% to 85% (NIOSH, 2016). Employers who choose to install shielding will need to consider work process flows so that

placement does not interfere with the work. Remotely operated tongs, metal chain screens, or air or hydraulically activated doors that are opened only as needed are some of the possibilities.

Isolating the source could involve construction of walls or other containment around hot equipment or process such as erecting barriers around a kiln that control heat transfer to nearby work areas (NIOSH, 2016). Morris et al. noted that "investigations into reducing the solar (radiative) heat load on workers is promising, revealing that work capacity can be more than doubled with the removal of an external radiative load," and further explained that radiation screens can be used within manufacturing shops to shield workers from heat originating from hot machinery (Morris et al., 2020). Another example of isolating the source would be installing insulation around pipes and similar equipment in the workplace that emits heat. Similarly, because leaks from steam valves and steam lines in manufacturing processes can contribute to heat stress by increasing water vapor in the air, eliminating these sources of water vapor can help reduce the overall vapor pressure in the air and thereby increase evaporative heat loss by facilitating the rate of evaporation of sweat from the skin (NIOSH, 2016). OSHA requests comments and data on other methods employers have utilized to isolate radiant heat from heat-generating processes.

Examples of waste heat recovery technology include recovery of heat from steam through condensation that would otherwise be released into the workspace. Heat recovery systems improve energy efficiency by utilizing heat transfer from hot liquids or gases and recover heat that would otherwise go to waste. Some commercial building ventilation systems use heat exchangers to transfer heat from exhaust air to the fresh intake air (NIOSH, 2016).

With regards to modifying the process or operation, OSHA notes that lowering the process temperature may not be compatible with process requirements. However, there might be ways of using materials with lower melting points or chemicals with faster curing times thereby reducing overall radiant heat production. This might also include modifying the process and work practices by limiting the time required to complete certain tasks or automating certain tasks, such as collecting samples.

¹³⁹It should be noted that under certain conditions the use of fans may contribute to heat

strain (Morris, 2021). See further discussion in the

Explanation of Proposed Requirements for paragraph (e)(6), Evaluation of fan use.

TABLE IX–2—HEAT GENERATING PROCESS CONTROLS

Controls	Examples
Local exhaust ventilation (LEV) at heat-generating sources.	• LEV designed and installed at points of high heat or moisture production (such as exhaust hoods in laundry rooms or steam presses, commercial kitchen exhaust hoods). • Similar to LEV used to capture air contaminants. Dampeners and hood vary depending on moisture level of air.
Installation of waste heat recovery technology	• Used with LEV to convert heat to energy that is fed back into the system. ○ <i>Regenerative and recuperative burners</i>: Capture and use the waste heat from the hot flue gas from the combustion process. ○ <i>Tube heat exchangers</i>: Recover low to medium waste heat are mainly used for heating liquids.
Isolating the source of radiant heat	• Process enclosures around heat producing components. • Containment of heat producing equipment in rooms without workers.
Shielding or barriers that are radiant-reflecting or heat-absorbing.	• Shielding to stop radiant heat from reaching workstations. ○ <i>Reflective Shield</i>: Stainless steel, aluminum or other bright metal surfaces reflect heat back towards the source. ○ <i>Absorbent shields</i>: Water-cooled jackets made of black-surfaced aluminum absorb and carry away heat.
Thermal insulation on hot surfaces (e.g., steam pipes)	• Reducing the radiant heat emission from hot surfaces. ○ Covering hot surfaces with sheets of low emissivity material or paint that reduces the amount of heat radiated from this hot surface into the workplace. • Insulating Hot Surfaces. ○ Insulation reduces the heat exchange between the source of heat and the work environment.
Increasing the distance between workers and the heat source.	• Moving the workstation further away from the heat source. • Repositioning controls a cooler location.

A. Preliminary Feasibility Finding for Heat Generating Processes.

The proposed rule does not specify which of the engineering controls must be used for indoor workplaces. It only requires that employers implement other measures that reduce employee exposure to radiant heat in the work area as an alternative option to the use of fans or air-conditioning. OSHA has preliminarily determined that there are a number of technologically feasible engineering controls available to employers. Employers are free to choose any combination that effectively reduces exposures. Based on the discussion above, OSHA has preliminarily determined that there are no technological hurdles to compliance with this requirement for indoor workplaces.

OSHA acknowledges the limited information available on working outdoors near heat generating processes. OSHA seeks information and data on whether and under what circumstances the control options used to reduce exposure to radiant heat in indoor work areas might also be feasible for outdoor work settings.

II. Workers Exposed to Ambient Heat

A. Indoor Workplaces

Employees in indoor workplaces, such as maintenance facilities, and warehousing, can be exposed to HRIs when ambient temperatures increase.

See Table IX–1—Facility Types Analyzed in OSHA’s Preliminary Technological Feasibility Analysis. Due to factors such as building materials, insulation, and reduced air movement, the air temperatures in indoor workplaces without air-conditioning can in some cases exceed the temperature outdoors. The proposed rule would require that employers reduce these exposures by utilizing controls to cool the work area and provide a break area that is air-conditioned or has an alternate means of providing air movement and, if appropriate, humidity control to promote evaporative and convective cooling.

In response to the advance notice of proposed rulemaking (ANPRM) and previous Requests for Information (RFI), OSHA received numerous comments on the use of engineering controls for preventing heat-related injury and illness in both indoor and outdoor work settings. The most mentioned engineering controls were the provision of air-conditioning, fans, swamp coolers (i.e., evaporative coolers), portable air-conditioners, access to air-conditioned zones, air-conditioned tents/trailers and shaded areas. (e.g., Document ID 0094; 0206; 0278, Att. 1; 0392; 0448, Att. 1; 0523, Att. 1; 0551; 0562; 0588; 0610, Att. 1; 0637, Att. 1; 0679, Att. 1). Some commenters mentioned specific types of devices that could be used, such as portable air-conditioning units and

evaporative coolers. (e.g., Document ID 0445; 0595, Att. 1; 0612, Att. 1). For preventing humid working conditions, commenters suggested the use of dehumidifiers. (Document ID 0661, Att. 1). OSHA discusses the feasibility of these controls below.

Some commenters suggested other controls, such as architectural controls like altering roofs to reflect solar radiation using reflective materials, green roofs, rooftop sprinklers, or painting roofs white. Also suggested was the use of light-colored building material, green infrastructure, pervious pavements, external awnings, and window coverings to aid in mitigating indoor heat. While OSHA understands that the use of these controls may assist an employer in reducing ambient heat exposures in the workplace, this analysis focuses on the engineering controls outlined specifically in the regulatory text of the proposed rule. OSHA notes, however, that the proposed standard does not prohibit the use of other controls in addition those specified in the standard.

I. Air-Conditioning

Air-conditioning is one of the options to control heat in the workplace and is the most effective way to reduce heat strain because it reduces the heat exposure directly (Day et al., 2019; Jay et al., 2019; Morris et al., 2020; Morrissey et al., 2021b). Air-conditioning technology is widely

available and currently in use in many workplaces. However, OSHA understands that the use of air-conditioning to address heat hazards may not be practical in all occupational settings, such as outdoors or in large factories, and alternative control strategies need to be implemented (Foster et al., 2020; Mekjavic et al., n.d.; Morris et al., 2020).

HEAT-SHIELD, a research program funded by the European Union, evaluated strategies for the reduction of heat illness in the manufacturing industry (Mekjavic et al., n.d.). Researchers from the Heat Shield project successfully implemented several heat stress mitigating strategies within a manufacturing plant producing automobile rear lights. To aid in enhanced evaporative heat loss by the workers, the production hall was fitted with a system of ducts to increase the cooling air flow to the production hall and local workstations. The ducts were installed so that the air flow in the plant could be individually adjusted at the local workstations; alternatively, individual workers could also use an electrical fan in proximity to their workstation to increase the air flow (Mekjavic et al., n.d.). The study does not indicate what method of cooling was used to cool the air provided (conditioned, evaporative cooling, etc.). However, OSHA believes that similar designs could be implemented in manufacturing facilities using conditioned air.

In response to the ANPRM, some commenters stated that temperature controls or air-conditioning systems are not feasible in many industrial settings and in large industrial plants that include tens of thousands of square feet of floor space, specifically foundries, forge shops, and other workplaces with hot work processes (e.g., Document ID 0277). Bakeries and dairy product manufacturers were specifically mentioned as having unique circumstances because of the need to offset carbon monoxide and heat emitted during the baking or production process for employee safety, and due to food safety concerns (Document ID 0699, Att. 1). Another commenter added that environmental temperature controls may not be feasible in some areas that are designed to be open or partially open to the outside. Installing air-conditioning in all work areas would not be physically possible and could be cost prohibitive (Document ID 0657, Att. 1; 0684, Att. 1; 710, Att. 1; 0724, Att. 1). This sentiment was also echoed in available literature. Mekjavic et al. noted that due to design elements of some manufacturing facilities, such as

minimal insulation, the economic burden renders the installation of facility wide air-conditioning as not possible (Mekjavic et al., n.d.). OSHA understands this concern and is therefore not requiring all employers to install air-conditioning throughout their facility.

However, OSHA recognizes that air-conditioning can be installed in some indoor locations and is effective at reducing the exposure to ambient heat in the workplace. A feasibility study presented at the 10th International Livestock Environment Symposium compared the costs and benefits of air-conditioning to an evaporative cooling system in a large dairy barn (measuring 43.3m by 25.6m) (Li et al., 2018). The researchers simulated summer conditions in barns across Tampa, FL; Sacramento, CA; Syracuse, NY; and Madison, WI. They determined that air-conditioning was capable of maintaining maximum indoor temperatures of 23 °C to 27.4 °C (74.3 °F to 81.3 °F) (Li et al., 2018).

Another study conducted by Morrissey et al. (2021b) provided a flow chart for selecting appropriate heat controls and included air-conditioning as a recommended option for all work sites with access to power. Anderson and Souza (2017) specifically identify air-conditioning (*i.e.*, bulk air cooling, spot air coolers, and air-conditioned cabins) as a heat management strategy for underground mines. In addition, several commenters on the ANPRM noted that some indoor facilities do provide areas for employees to take breaks in temperature-controlled environments, indicating that an air-conditioned break area is capable of being installed for cooling in indoor work environments (Document ID 0612, p. 2; 0680, p. 10; 0691, pp. 10–11; 0777, Att. 2, p. 33; 1071, p. 2; 1072, pp. 1, 4).

Despite common statements of its efficacy in review articles and studies, air-conditioning as a control to reduce heat exposure at the workplace is not commonly evaluated in the occupational setting. It is unclear if the very definition of air-conditioning (an approach that directly removes heat) or feasibility limitations might explain the limited nature of this body of literature. Therefore, OSHA is seeking information regarding the current use of air-conditioning in the industries covered under the scope of the rulemaking.

II. Humidity Control

For indoor work sites, OSHA is proposing to require employers who do not provide air-conditioned break areas or workspaces to implement humidity control (when appropriate) in

conjunction with some form of air movement in those spaces. An article by D. Jeff Burton, P.E. CIH, published in the Occupational Health and Safety magazine reviewed the use of dehumidification to maintain acceptable indoor air quality in occupational settings (Burton, 2006). In addition to dehumidification approaches utilizing existing HVAC systems, the article noted that stand-alone dehumidifiers are commercially available and can be used where HVAC systems do not effectively control humidity (Burton, 2006). Indeed, OSHA expects that in most cases employers will use one of the many stand-alone dehumidifier models on the market to achieve the humidity control required by the proposed standard. In addition, in facilities with processes that produce moisture, exhaust systems can often be used to remove moist air and eliminate humidity gain.

III. Fans

Another engineering control identified by OSHA is the use of fans to help circulate air. Fans do not necessarily lower temperature but can make it easier for the body to dissipate heat. Depending on the work setting, fans can be used before work, during work, or during rest breaks. Information contained in the rulemaking docket indicates fans can be easily implemented in a variety of work environments. Large ceiling fans can be installed to increase air movement. In certain facilities, pedestal fans can be used to provide air movement at workstations. Some commenters mentioned that they use fans for air circulation in indoor facilities (e.g., Document ID 0277, 0283). During the SBREFA hearings, one SER reported that they open the doors in the mornings and use large ceiling fans to draw cooler air into the building, and then shut the doors in the afternoons to reduce the infiltration of hot outside air into the building. (Document ID 1081, p. 29).

Several studies evaluated by OSHA indicate that fan usage in industrial settings is prevalent. A recent J.J. Keller Center for Market Insights Pulse Poll indicates that 65% of employers provide fans, ventilation, or reflective shields to help control exposures to heat stress (JJ Keller, 2022).

As mentioned above, HEAT-SHIELD evaluated strategies for the reduction of heat illness in the manufacturing industry (Mekjavic et al., n.d.). To aid in enhanced evaporative heat loss by the workers, the production hall was fitted with a system of ducts to increase the cooling air flow to the production hall

and local workstations. In addition, some workers utilized electrical fans in proximity to their individual workstations to increase the air flow (Mekjavic et al., n.d.).

A 2021 study by Morris et al. determined that facilitated ventilation, through the use of electric fans, supports convective and/or evaporative heat loss and lowers occupational heat strain at a considerably lower operation and production cost compared to air-conditioning. The authors noted that fans were also easier to personalize cooling by directing air flow towards specific workers, rather than cooling an entire area; they could be transported to remote workspaces and could be used both during work and at specific cooling areas where workers take intermittent cooling breaks (Morris et al., 2021).

Fans have even been incorporated into chairs as demonstrated by Watanabe et al. (2009). In this study, researchers evaluated thermal comfort using chairs with attached fans under various climactic conditions, while participants performed light office tasks such as word processing. One control chair and two “fan chair” designs were assessed; each “fan chair” had a fan under the seat and behind the backrest and received a positive response from the worker. Morris et al. (2020) also noted the relevance of chair fans, stating that “miniature electrical fans could be incorporated into chairs, for seated workers, to deliver effective cooling while minimizing disturbances to the work environment” (Morris et al., 2020).

There is an additional body of research investigating fans as a heat control in large dairy barns due to the sensitivity of cow productivity to heat stress. Although not directly applicable to HRI reduction in humans, as with air-conditioning described above, this research provides insight into the extent to which industrial fans can be installed in large barn or warehouse-like structures (Calegari et al., 2012; Correa-Calderon et al., 2004; Davidson et al., 2021; Drwencke et al., 2020; Ortiz et al., 2010; Shiao et al., 2011; Urdaz et al., 2006).

Evidence of the existing use of fans in occupational settings can be seen in existing State requirements and in some collective bargaining agreements. For example, Minnesota’s standard governing indoor ventilation and temperature includes a provision for providing indoor ventilation and acceptable temperature ranges in places of employment to prevent employee exposure to indoor environmental heat conditions (MN Admin. Code 5205.0110). In addition, comments from the Teamsters in response to the

ANPRM included examples of collective bargaining agreements that demonstrate steps employers have taken to address occupational HRIs (Document ID 0707, pp. 14–17). Items included provisions for work area ventilation when the plant is hot and the installation of fans to reduce excess heat or humidity in work rooms. Employers covered under these agreements may already be in compliance with some of the requirements of the proposal.

Although fan use can be effective at reducing heat stress, fans may introduce additional hazards in some workplaces due to the increase in air movement. In indoor settings where air contamination is a concern, the use of fans may interfere with existing ventilation and increase worker exposure to hazards. OSHA acknowledges that in some cases, the work site may need to be evaluated to ensure that the use of fans does not interfere with existing ventilation designed for the control of dust and other air contaminants. OSHA seeks comments on work settings where the use of fans is not feasible due to contamination concerns and requests additional information on what controls, including the use of air-conditioning, employers use to prevent heat-related illnesses in these settings.

In addition, research has shown that under certain conditions (e.g., high temperatures), fan use can increase the hazard of heat strain. See Section V.C., Risk Reduction for a more detailed discussion of fan use alone during elevated temperature events. OSHA requests comments on indoor work settings that may experience temperatures above 102°F and seeks information on what controls employers implement when fan use is contraindicated or when temperatures exceed 102°F.

IV. Evaporative Coolers

Another engineering control, evaporative coolers, work by using a fan to pass air over a pad or ceramic surface saturated with water. The evaporation of the water reduces the air temperature. In warm dry climates, evaporative coolers can be used to lower air temperatures as much as 20°F (USGS). They consume much less energy than air-conditioning and can be used in buildings with openings to the outside. However, because evaporative coolers cool through increasing air humidity, they are not as effective at relative humidity above 60%.

A NIOSH Health Hazard Evaluation (HHE) conducted in September 2006 demonstrates the feasibility of evaporative cooler use in indoor workspaces. The evaluation was

conducted at a glass manufacturing facility in Indiana. In the hot end of the glass-making process, raw materials (recycled glass, sand, soda ash, and limestone) were melted together in a gas furnace at temperatures of 2,300 °F to 2,800 °F (Dowell & Tapp, 2007). The company used various controls in the hot end of the plant during the hot summer months to reduce the risk of heat-related illness. The controls included fans which supplied cooler air from the basement of the facility (man coolers), and evaporative cooling fans (swamp coolers) (Dowell & Tapp, 2007).

Furthermore, portable evaporative coolers are also commercially available for use expanding the ability for implementation in various work settings. These coolers can lower air temperatures by up to 18 °C (33 °F) and cover up to 6,500 sq ft area, requiring only a power outlet and water supply.

V. Preliminary Feasibility Finding for Indoor Workplaces

OSHA has determined that requirements for the use of engineering controls indoors under the proposed standard are technologically feasible for most operations, most of the time. For break areas, the proposed rule allows employers to utilize available air-conditioning systems or a combination of air movement and humidity control to promote evaporative cooling. The latter can be achieved with widely available fans and humidity control devices. For indoor work areas, OSHA has provided the employer with multiple control options for compliance with the proposed rule, allowing them to tailor the controls to the individual workplaces. Information obtained through the SBREFA process, comments, and research into existing control use indicate that many employers are already utilizing some combination of the required control options. OSHA seeks additional comments on its assumptions and other control options for these workers. Based on the discussion above, OSHA has determined that there are no technological hurdles to compliance with this requirement in the proposed rule.

B. Outdoor Workplaces

For outdoor workplaces, the primary sources of exposure to heat hazards are ambient heat and direct sunlight. Under the proposed rule, OSHA is requiring employers to provide a break area with shade or air-conditioning.

I. Shade

As discussed in Section V., Risk Assessment, access to shade can reduce

the risk of HRI by decreasing exposure to solar radiation and, in turn, reducing overall heat load. Research has found that total heat exchange is greater in shaded conditions than sunny conditions (Otani et al., 2021), indicating that access to shaded areas may reduce HRI. For outdoor workers exposed to direct sunlight, a commonly used engineering control is the use of a shelter or canopy to provide a shaded area for rest breaks. A wide variety of portable pop-up canopies are commercially available that can be easily set up and moved around for mobile work sites. Note that the proposed rule would not allow mobile equipment or machinery to be used to provide shade for rest breaks due to the potential safety hazards from unintended or accidental start up and movement of the equipment and the potential for equipment to release radiant heat.

Working or resting in the shade can reduce the risk of HRI by decreasing exposure to solar radiation and reducing overall heat load. This control is applicable to all outdoor industries and is a key component of OSHA's "Water. Rest. Shade." Heat Campaign guidance. The feasibility of providing shade for rest periods is demonstrated by OSHA enforcement data. During inspections conducted under the 2023 Heat National Emphasis Program, OSHA Compliance Officers completed a questionnaire regarding work site conditions. Over 1,300 responses were received indicating that 96% of employers inspected provided access to cool shaded areas (OSHA, 2023b). Several States, including California, Oregon, Colorado and Washington, have also incorporated requirements to provide shade into their heat-specific standards.¹⁴⁰ While the scope of coverage varies by State, these standards require employers to provide workers with shade structures for rest breaks to recover from the heat. In addition, Maryland and Nevada proposed rules that would also require employers to provide access to shade.¹⁴¹

The addition of shaded break areas has been demonstrated as an integral part of a heat health plan to improve worker performance in the agricultural sector (Bodin et al., 2016; Morris et al., 2020; Glaser et al., 2022). Bodin et al. (2016) implemented a water, rest, and shade campaign with 56 Salvadoran sugarcane workers two months into the

harvest season. Workers were provided a canopy for shaded breaks, insulated water bladders, and fixed break times. A qualitative study of the intervention reported consistent use of the shaded canopies and high worker satisfaction. A similar study of sugar cane workers conducted in 2022 indicated that workers were provided with break periods under adequate natural shade or tents that were designed to be moved easily to accompany the mobile workforce throughout each day. Tents were constructed from a netted fabric, open on two sides to provide adequate ventilation, and provided with stools for seated, shaded rest (Glaser et al., 2022).

OSHA acknowledges that providing stationary shading outdoors may be difficult in some settings, particularly where work crews are highly mobile, such as in agricultural work. Even so, several studies indicate the widespread use of shade among agricultural workers. Fleischer et al. (2013) conducted a cross-sectional survey on HRI symptoms and working conditions in Georgia in 2011. Of the 405 farmworkers who completed the survey, 27% reported not having access to shade, indicating that some form of shade is available in the majority of these work environments. A study by Bethel et al. (2017) comparing conditions for outdoor agricultural workers in Oregon and Washington found that workers in Oregon more frequently reported the presence of shade structures¹⁴² and workers in Washington more often reported access to shade from trees.¹⁴³ In Oregon, workers more frequently reported using shade structures and cars with air-conditioning compared with workers in Washington.¹⁴⁴ However, the study was subject to several limitations. First, different methods of data collection were used in Oregon and Washington, which could have led to information bias. Participants in Washington completed a self-administered survey on touchscreen tablets at the work site, whereas participants in Oregon completed a personal interview administered by research staff at the housing facility. Second, participants were recruited differently in the two States, via outreach workers in Oregon and via employers and supervisors in Washington. Next, the conditions in which participants in the two States worked were vastly different.

Specifically, participants in Washington primarily picked tree fruit in orchard settings, which provided a natural form of shade, whereas participants in Oregon primarily harvested blueberries with little shade (Bethel et al., 2017).

The Fair Food Program is a partnership between growers and agriculture workers that includes safety and health standards which require participating employers to provide shade, water, bathrooms, and rest breaks. According to their 2021 report, 100% of Participating Growers have purchased and distributed shade structures to their crews, and they have observed steady increases in the quality of shade units at many growers' operations, including custom designs built to withstand field conditions. (Fair Foods Standards Council, 2021)

During the SBREFA hearings, some SERs with outdoor settings reported using engineering controls such as natural shade (e.g., trees and dense vegetation), pop-up canopies, umbrellas, and portable shades. Some SERs with outdoor settings said they believed some engineering controls including shade and fans were infeasible for their workplace. (Document ID 1081, p. 30).

II. Air-Conditioning for Outdoor Workers

Access to air-conditioning for outdoor work settings is primarily provided through the use of vehicles, trailers, and near-by buildings. OSHA understands that the use of air-conditioning has limited applications for outdoor workplaces. However, evidence in the docket indicates that it is feasible for a variety of outdoor situations.

A 2018 study by Methner and Eisenberg evaluated the risk of HRI for employees engaged in strenuous work in an extremely hot outdoor environment, a park during summer months. Worker tasks included landscaping, demolition, and bricklaying. Park policy included the use of motor vehicles with air-conditioning as a cool-down area for breaks in remote locations where access to cooled buildings was limited (Methner and Eisenberg, 2018). As mentioned above Bethel et al. (2017) found that some workers in Oregon and Washington have access to cars with air-conditioning (14% vs. 3%).

The use of portable air-conditioning units and vehicles with air-conditioning for cooling is also supported by multiple ANPRM commentors. In response to OSHA's request for information on control options for outdoor work, the City of Phoenix commented that portable air-conditioning units are available and have received positive

¹⁴⁰ (CA 8 CCR 3395; OR Admin. Code 437-002-0156 and 437-004-1131; CO 7 CCR 1103-15.3; and WA Admin. Code 296-62-09535).

¹⁴¹ Maryland COMAR 09.12.32; and Nevada Proposed Regulation LCB File No. R053-20.

¹⁴² 29% use in Oregon vs. 5% in Washington.

¹⁴³ 92% in Washington vs. 47% in Oregon.

¹⁴⁴ In Oregon, 26% of workers reported using shade structures and 14% used cars with air conditioning, compared to 3% and 6% (respectively) in Washington.

responses from employees. The International Brotherhood of Electrical Workers (IBEW), AFL–CIO also indicated that employees in the utilities industry use a wide variety of cooling methods including air-conditioning in trucks or trailers.

During the SBREFA hearings, many SERs with outdoor work settings reported having air-conditioned vehicles or trailers on site that workers can use to cool down. When SERs were polled at two sessions, September 12th and 13th, on the types of engineering controls that are used “to mitigate the impact of heat exposure to employees that work outdoors,” two-thirds (66.7%) of the 30 responders reported using an “air-conditioned space.” (Document ID 1081, p. 30).

OSHA requests comments on additional ways employers have utilized air-conditioning for outdoor workers and obstacles encountered, if any.

III. Preliminary Feasibility Finding for Outdoor Workplaces

OSHA has preliminarily determined that requirements for the use of engineering controls for outdoor break areas under the proposed standard are technologically feasible for most operations, most of the time. Information obtained through the SBREFA process, comments, and research into existing control use indicate that many employers are already utilizing some form of shade or air-conditioned space for employee cooling. For those remaining employers, OSHA anticipates they can quickly come into compliance through the implementation of shade or air-conditioned vehicles, trailers and other spaces, as described above. OSHA seeks additional comments on its assumptions and other control options for these workers. Based on the discussion above, OSHA has determined that there are no technological hurdles to compliance with this requirement.

C. Mobile Workplaces

Options for the use of engineering controls for mobile work sites where the work is not performed at a fixed location are similar to other outdoor work sites. Portable canopies can be used to provide a shaded area for breaks. Where electricity is available, trailers with air-conditioning can be used as cool-down areas for rest breaks. Air-conditioned vehicle cabs can also be used.

OSHA found several examples in which employers agreed to provide shade for outdoor workers as part of contract negotiations around working conditions. As previously mentioned,

the Teamsters submitted comments on the ANPRM that included examples of language from collective bargaining agreements demonstrating steps employers have taken to address occupational HRIs. Language included requirements for construction drivers, employees suffering from heat illness believing a preventative recovery period is needed or feeling the need to protect themselves from overheating, are required to be provided access to an area with shade that is either open to the air or provided with ventilation for a period of no less than five minutes (Document ID 0707, p. 16).

I. Preliminary Feasibility Finding for Mobile Workplaces

OSHA has preliminarily determined that there are no technological hurdles for the implementation of controls for workers with mobile work sites. Based on the discussion above, OSHA has preliminarily determined that it is technologically feasible, using commercially available products and technology, for employers with mobile work sites to provide workers with shaded or air-conditioned break areas. OSHA seeks comment on this determination and additional data and information on other feasible control options available for these mobile work sites.

E. Preliminary Feasibility Findings

OSHA has reviewed the requirements that would be imposed by the proposed standard and has determined that achieving compliance with the proposed standard is technologically feasible most of the time, in most of the establishments and operations covered by the standard. As discussed above, the proposed rule is largely programmatic and offers the employer several control options. Under the proposed rule, employers can determine the controls best suited for their unique work environment in order to comply with the requirements for controls at break areas and work areas. Not all practices, procedures, or controls identified in this technological feasibility analysis will be necessary at all establishments: the proposed standard provides flexibility for employers to tailor their procedures, practices, and controls to the needs of their facility based on an assessment specific to that facility. Moreover, readily available and currently used technology is capable of meeting these requirements.

As part of this analysis, OSHA reviewed the heat injury and illness prevention practices currently in place across the affected industries as well as the recommended practices of industry

trade associations and standards-setting organizations. On the basis of current compliance found by OSHA, widespread familiarity with the concepts and procedures contained in the proposed rule, and the availability of control options, OSHA has determined the requirements of the proposed rule are capable of being done by most employers, most of the time and therefore preliminarily determined that compliance with the proposed rule is technologically feasible.

F. Requests for Comments

OSHA requests comments on the appropriateness of the preliminary determinations contained in this analysis.

Regarding the feasibility of monitoring, OSHA seeks additional comments and information regarding:

- The feasibility of measuring HI in indoor environments and where heat-generating processes occur.
- The use of WBGT including the identification of situations in which WBGT would or would not be practical or pose challenges for employers to measure.

Regarding the feasibility of controls, OSHA seeks additional comments and information on the following:

- Whether there are other controls or technologies that may be available to protect workers against heat hazards.
- The technological feasibility of other engineering control options not discussed here for indoor, outdoor, and mobile work sites.
- The feasibility of dehumidification as a control option for indoor workplaces.
- Areas where employers have determined that isolation of heat producing equipment is not feasible and alternatives employers have utilized to reduce employee exposures.
- The current use of air-conditioning in the industries covered under the scope of the rulemaking.
- Additional ways employers have utilized air-conditioning for outdoor workers and obstacles encountered, if any.
- The current use and application of fans in both indoor and outdoor settings.
- Work settings where the use of fans is not feasible due to contamination concerns and information on what controls, including the use of air-conditioning, employers use to prevent HRIs in these settings.
- Indoor work settings without heat-generating processes that may experience temperatures above 102 °F and information on what controls employers implement when fan use is

contraindicated or when temperatures exceed 102 °F.

X. Additional Requirements

A. Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

OSHA reviewed this proposed rule according to the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (58 FR 58093). Section 202 of the UMRA, 2 U.S.C. 1532, requires agencies to assess the anticipated costs and benefits of a rule that includes a Federal mandate that may result in expenditures in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector, of at least \$100 million, adjusted annually for inflation. In 2024, that threshold is \$183 million.

Although OSHA may include compliance costs for affected State Plan governmental entities in its analysis of the expected impacts associated with a proposal, this proposed rule does not place a mandate on State or local government, for purposes of the UMRA. See the discussion below in Section X.H., Federalism.

The OSH Act does not cover Tribal governments in the performance of traditional governmental functions, but it does cover Tribal governments when they engage in activities of a commercial or service character (see *Menominee Tribal Enters. v. Solis*, 601 F.3d 669 (7th Cir. 2010); *Reich v. Mashantucket Sand & Gravel*, 95 F.3d 174, 180 (2nd Cir. 1996)). However, the cost of the proposed rule for these covered activities by a Tribal government would not meet the threshold established in the UMRA. As noted below, OSHA also reviewed this rulemaking in accordance with Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments (65 FR 67249 (November 9, 2000)) and determined that it does not have “tribal implications” as defined in that Executive Order.

Based on the analysis presented in the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis, Section VIII. of this preamble, OSHA concludes that the proposed rule would impose a Federal mandate on the private sector of \$100 million or more annually, adjusted for inflation. The Preliminary Economic Analysis constitutes the written statement containing a qualitative and quantitative assessment of the anticipated costs and benefits required under section 202(a) of the UMRA (2 U.S.C. 1532(a)).

B. Consultation and Coordination With Indian Tribal Governments/Executive Order 13175

OSHA reviewed this proposed rule in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000), and determined that it does not have “tribal implications” as defined in that order. As explained above, the OSH Act does not cover Tribal governments in the performance of traditional governmental functions, so except to the extent a tribe is engaged in activities covered by this proposed rule that would fall outside of a traditional government function (*i.e.*, activities of a commercial or service character), the proposed rule would not have substantial direct effects on one or more Indian tribes in their sovereign capacity, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes (see E.O. 13175 section 1(a)).

Section 5 of the Executive Order requires agencies to consult with Tribal officials early in the process of developing regulations that: (1) have Tribal implications, impose substantial direct compliance costs on Indian governments, and are not required by statute; or (2) have Tribal implications and preempt Tribal law (E.O. 13175 section 5(b), (c)). The Executive Order requires that such consultation occur to the extent practicable.

On May 15, 2024, OSHA held a listening session with Tribal representatives regarding this Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings rulemaking. OSHA provided an overview of the rulemaking effort and sought comment on what, if any, Tribal implications would result from the rulemaking. A summary of the meeting and list of attendees can be viewed in the docket (DOL, 2024a).

C. Consultation With the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (ACCSH), established pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704), in setting standards for construction work. Specifically, 29 CFR 1911.10(a) requires the Assistant Secretary to provide ACCSH with any proposal (along with pertinent factual information) and give ACCSH an opportunity to submit

recommendations. See also 29 CFR 1912.3(a).

At a public meeting on April 24, 2024, OSHA presented to ACCSH its framework for a proposed rule for heat injury and illness prevention in outdoor and indoor work settings. The Committee then passed unanimously a motion recommending that OSHA proceed expeditiously with proposing a standard on heat injury and illness prevention. The Committee also recommended that OSHA consider the feedback and questions discussed by Committee members during the meeting in formulating the proposed rule (see the minutes from the meeting, Docket No. 2024–0002). OSHA has considered the Committee’s feedback in the development of this proposal.

D. Environmental Impacts

OSHA reviewed the proposed rule according to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (CEQ) (40 CFR chapter V, subchapter A), and the Department of Labor’s NEPA procedures (29 CFR part 11). Pursuant to 29 CFR 11.10 and consistent with CEQ regulations, the promulgation, modification, or revocation of any safety standard is categorically excluded from the requirement to prepare an environmental assessment under NEPA absent extraordinary circumstances indicating the need for such an assessment. OSHA finds that this proposed rule presents no such extraordinary circumstances.

E. Consensus Standards

OSHA must consider adopting existing national consensus standards that differ substantially from OSHA’s proposed standard if the consensus standard would better effectuate the purposes of the Act (see 29 U.S.C. 655(b)(8); see also National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, section 12(d), 15 U.S.C. 272 Note). Whenever an OSHA rule differs substantially from a national consensus standard, OSHA must publish in the **Federal Register** a statement of the reasons why the rule will better effectuate the purposes of the Act than the national consensus standard (29 U.S.C. 655(b)(8)). In the development of the proposed rule, OSHA reviewed the ANSI/ASSP national consensus Standard for Heat Stress Management in Construction and Demolition Operations, A10.50–2024. Many of the proposed provisions are consistent with the ANSI/ASSP standard, although there are some

differences in the details of the provisions, particularly in the scope of the standard, as well as requirements for measurements, heat trigger levels, hydration, rest breaks, medical surveillance, PPE, recordkeeping, and a qualified person.

Regarding the scope of the standard, while the ANSI/ASSP standard applies only to employers in construction and demolition operations, the OSHA proposed standard applies to all employers in general industry, construction, maritime, and agriculture, with some exceptions (as discussed in Section VII.A., Paragraph (a) Scope and application, in Section VII., Explanation of Proposed Requirements). While both the ANSI/ASSP standard and the OSHA proposed standard would require employers to develop a written heat stress management program and acclimatization plan, the ANSI/ASSP standard requires a competent person to perform a heat stress task hazard analysis and indicates that workers' heat exposure should be assessed by use of the WBGT index or other heat stress index that accounts for climatic and metabolic heat sources and modification of heat transfer from the worker by extra clothing or PPE. The OSHA proposed standard requires that employers monitor heat conditions but allows employers more flexibility to determine workers' heat exposure. For example, in outdoor work areas, the OSHA proposed standard allows employers to track local heat index forecasts or measure heat index or WBGT, while for indoor work areas the OSHA proposed standard requires the employer to identify work areas with hazardous heat exposure and develop and implement a monitoring plan that includes measurement of heat index or WBGT. For workplaces in which employees wear vapor-impermeable clothing, the employer's HIHP must specify procedures to protect employees while wearing vapor-impermeable clothing. OSHA is allowing employers this additional flexibility to determine workers' heat exposure through multiple options based on feedback from public commenters and small entity representatives that WBGT can be technically challenging to measure accurately and that, for outdoor work areas, weather forecasts are readily available and easy to monitor (see Section IX., Technological Feasibility). In addition, with the exception of Minnesota, none of the current or proposed heat-specific State regulations rely on WBGT.

With respect to the heat trigger levels at which certain control measures are specified, the ANSI/ASSP standard and

OSHA proposed standard also deviate slightly. While the ANSI/ASSP standard sets an action level of WBGT adjusted for clothing type (clothing-adjusted WBGT) of 70 °F or heat index adjusted for radiant heat (adjusted heat index) of 80 °F, the OSHA proposed standard specifies an initial heat trigger of WBGT equal to the NIOSH RAL or a heat index (unadjusted) of 80 °F. The ANSI/ASSP standard's moderate hazard action level is a clothing-adjusted WBGT of 80 °F or an adjusted heat index of 95 °F, while the OSHA proposed standard specifies a high heat trigger of WBGT equal to NIOSH REL or a heat index (unadjusted) of 90 °F. Additionally, the ANSI/ASSP standard has an extreme hazard action level of a clothing-adjusted WBGT of 87 °F or an adjusted heat index of 110 °F, at which point ANSI/ASSP recommends stopping work that requires high strenuous workload. While the ANSI/ASSP and OSHA initial and high heat triggers are similar, OSHA is not specifying a third trigger in its proposed standard. This decision is in line with recommendations from the SBAR Panel to keep the heat triggers simple to understand (see SBAR Panel findings and recommendations, Section VIII., Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis). Adding a third trigger could also add considerable costs. As explained in Section V.B., Basis for Initial and High Heat Trigger, OSHA's proposed triggers are based on observational and laboratory evidence and, the agency believes, represent a highly sensitive and appropriate screening threshold for heat stress controls in the workplace. OSHA has preliminarily determined that these thresholds are protective for workers and achievable for employers.

With regards to hydration, both the ANSI/ASSP standard and the OSHA proposed standard would require that employees have access to suitably cool water that is free of charge, in close proximity to working areas, and of sufficient quantity. The ANSI/ASSP standard, however, additionally requires that employees shall have access to electrolyte replenishment beverages when they are involved with heavy work activities for greater than two hours. The OSHA proposed standard does not have this requirement, as the agency heard from an ACCSH member that electrolyte replenishment beverages can contain sugar that cannot be consumed by all workers. NIOSH, in its hydration fact sheet, recognizes that sports drinks with balanced electrolytes can replace salt lost in sweat, but similarly notes that heavy consumption will add calories due to the added sugar.

NIOSH also points out, "In general, eating regular meals with adequate water is sufficient to maintain water and electrolyte balance" (NIOSH, 2017a). As a result, the OSHA proposed rule does not require employers to provide electrolyte replenishment beverages but OSHA notes in this preamble that employers may provide electrolyte replenishment beverages in addition to water if they choose to do so (see Section VII., Explanation of Proposed Requirements). OSHA also requests comment on whether the agency should require the provision of electrolyte supplements/solutions in addition to water.

Another deviation between the ANSI/ASSP standard and the OSHA proposed standard exists in the requirement for rest breaks. While both the ANSI/ASSP standard and the OSHA proposed standard require employers to provide shaded rest and hydration break areas at or above the action level or initial heat trigger, respectively, the ANSI/ASSP standard recommends, but does not require, scheduled rest breaks at the moderate hazard action level (a clothing-adjusted WBGT or 80 °F or an adjusted heat index of 95 °F). OSHA's proposed standard requires employers to provide a rest break if needed to prevent overheating at or above the initial heat trigger, as well as a rest break of at least 15 minutes every two hours at or above the high heat trigger. Rest breaks, particularly in combination with water and shade, have been shown in multiple scientific studies to reduce the risk of heat-related fatality and HRI (see Section V.C., Risk Reduction) and therefore OSHA is requiring rest breaks in the proposed standard.

Regarding medical surveillance, the ANSI/ASSP standard indicates that a medical surveillance program (e.g., a comprehensive work and medical history, a comprehensive physical exam, an assessment of any personal risk factors, and the ability to wear PPE) should be established for all workers covered by the standard, while the OSHA proposed standard does not have a medical surveillance requirement. Similarly, while both the ANSI/ASSP standard and the OSHA proposed standard require that an employee exhibiting signs or symptoms of heat illness be monitored and not left alone or sent home without being offered on-site first aid and, if necessary, emergency medical services, the ANSI/ASSP standard further requires that a supervisor or team member be trained in first aid and certified in cardiopulmonary resuscitation (CPR) and the use of the automated external defibrillator (AED) when a medical

professional is not available on-site. Due to the widespread scope of the OSHA proposed standard, the agency believes that a requirement for medical surveillance or for certification of supervisors or team members in CPR and AED would be impractical and could add considerable costs. In addition, OSHA also heard a comment from a construction industry representative during the ACCSH consultation that requiring medical surveillance would also be logistically difficult (see the minutes from the meeting, Docket No. 2024-0002).

With respect to PPE, the ANSI/ASSP standard requires the implementation of heat stress controls following the hierarchy of controls, with engineering controls implemented first, followed by administrative controls, and then cooling PPE. While the OSHA proposed standard specifies the use of engineering controls and administrative controls, it does not require the use of cooling PPE. OSHA believes that cooling PPE—such as a cooling vest—has the potential to become hazardous as the cooling properties dissipate. As a result, the OSHA proposed standard requires that employers who choose to provide cooling PPE to their employees ensure that the cooling properties of the PPE are maintained at all times during use (see Section VII.E., Paragraph (e) Requirements at or above the Initial Heat Trigger).

With regards to recordkeeping, the ANSI/ASSP standard requires employers to keep a written inventory of local conditions at the work site that affect or increase the potential for heat stress only as long as the hazard exists or as required by law. The OSHA proposed standard is more specific, requiring that employers maintain written or electronic records of indoor work area measurements for 6 months (see Section VII.I., Paragraph (i) Recordkeeping). OSHA believes this specificity increases clarity for employers.

Finally, the ANSI/ASSP standard requires a qualified person “who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.” The ANSI/ASSP standard requires that the qualified person assist with the development and review of the heat stress management program, the use and interpretation of the WBGT, and the development and review of the first aid and emergency action plan, as well as providing guidance or in-person support

to the competent person on implementation of the program as needed. The OSHA proposed standard does not have a requirement for a qualified person. Due to the widespread scope of the proposed standard, OSHA does not believe that it would be feasible to require all covered employers to hire a qualified person as contemplated by the ANSI/ASSP standard. Instead, the proposed standard requires the designation of one or more heat safety coordinators who are trained in and responsible for ensuring compliance with all requirements of the employer’s HIIPP. OSHA also plans to provide compliance assistance materials such as a model HIIPP and other materials.

OSHA also notes that there are some requirements in its proposed standard that are not required by the ANSI/ASSP standard. Specifically, the OSHA proposed standard contains a hazard alert provision that requires employers to notify employees that the high heat trigger has been met or exceeded (see Section VII.F., Paragraph (f) Requirements at or above the High Heat Trigger). The OSHA proposed standard also requires that employers place warning signs at indoor areas with ambient temperatures that regularly exceed 120°F (see Section VII.F., Paragraph (f) Requirements at or above the High Heat Trigger). OSHA believes that these additional requirements are important for the protection of workers from heat hazards in the workplace.

OSHA has preliminarily determined that the proposed standard would be highly effective at addressing the risk of occupational heat exposure while remaining workable across the many different work contexts covered by the proposal. As such, OSHA believes that the standard as proposed will best effectuate the OSH Act’s purpose of ensuring safe and healthful working conditions.

F. Incorporation by Reference

OSHA is proposing to incorporate by reference NIOSH Publication No. 2016-106. Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments, February 2016. In this publication, NIOSH provides recommendations for an occupational standard for workers exposed to heat, including the NIOSH Recommended Alert Limit (RAL) and Recommended Exposure Limit (REL). OSHA is proposing the RAL as an option for the initial heat trigger and the REL as an option for the high heat trigger (see Section VII.B., Paragraph (b) Definitions).

NIOSH Publication No. 2016-106 is available to download for free on NIOSH’s website (<https://www.cdc.gov/niosh/docs/2016-106>) and linked from OSHA’s website (<https://www.osha.gov/heat-exposure/standards>). It is also available in the rulemaking docket for this proposed standard (Docket ID OSHA-2021-0009-0050).

G. Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, on Protection of Children from Environmental Health Risks and Safety Risks, as amended by Executive Orders 13229 and 13296, requires that Federal agencies provide additional evaluation of economically significant regulatory actions that concern an environmental health or safety risk that an agency has reason to believe may disproportionately affect children. This proposed rule is intended to protect United States workers from occupational hazards. OSHA has preliminarily determined that the proposed rule will not disproportionately affect children or have any adverse impact on children. Because workers in the industries covered by this proposed rule may include older children, the proposed rule could have a protective effect on these older children in the workforce by reducing the possibility of heat-related injury or illness. Accordingly, E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires no further agency action or analysis.

H. Federalism

The agency reviewed this proposed rule in accordance with Executive Order 13132 on Federalism (64 FR 43255, (August 10, 1999)), which, among other things, is intended to “ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies.” The E.O. generally allows Federal agencies to preempt State law only as provided by Congress or where State law conflicts with Federal law. In such cases, Federal agencies must limit preemption of State law to the extent possible. The E.O. also requires that agencies consult with States on rules that have “federalism implications,” which are those that 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.”

This proposed rule complies with E.O. 13132. The hazards addressed by this proposed rule and its goal of protecting workers from exposure to hazardous heat are national in scope and the proposed rule does not include “federalism implications” as defined in the E.O. Under section 18 of the OSH Act (29 U.S.C. 667), Congress expressly provided that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards. OSHA refers to the occupational safety and health plans that have been submitted by States and approved by OSHA as “State Plans.” Occupational safety and health standards developed by States with OSHA-approved State Plans must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, these States are free to develop and enforce their own occupational safety and health standards. The choice to adopt a State Plan is part of the statutory scheme and is not mandatory, so there are no federalism implications for States that choose to do so.

In States without OSHA-approved State Plans, the States are not employers under to the OSH Act and the proposed rule would therefore not have a substantial direct effect on them (29 U.S.C. 652(5)). The following section addresses the effect of the proposed rule on States with OSHA-approved State Plans.

I. Requirements for States With OSHA-Approved State Plans

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, States and U.S. Territories with OSHA-approved State Plans must either amend their standards to be identical to or “at least as effective as” the new standard or amendment or show that an existing State Plan standard covering this area is already “at least as effective” as the new Federal standard or amendment (29 CFR 1953.5(b)). State Plan adoption must be completed within six months of the promulgation date of the final Federal rule.

Of the 29 States and Territories with OSHA-approved State Plans, 22 cover both public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The remaining seven States and Territories

cover only State and local government employees: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and the Virgin Islands.

OSHA preliminarily concludes that this proposed rule would increase protections beyond those provided by most current standards in State Plans. Therefore, within six months of any final rule’s promulgation date, States with OSHA-approved State Plans would be required to adopt standards that are identical to or “at least as effective” as this rule, unless they demonstrate that such amendments are not necessary because their existing permanent standards are already “at least as effective” in protecting workers. OSHA seeks comment on this assessment of its proposal.

J. OMB Review Under the Paperwork Reduction Act of 1995

A. Overview

The proposed Heat Injury and Illness Prevention Standard contains collection-of-information requirements that are subject to the Office of Management and Budget (OMB) review and approval under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. and its implementing regulations at 5 CFR part 1320. The PRA defines a collection-of-information as the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format. (See 44 U.S.C. 3502(3)(A)). The collection of information requirements specified in the proposal would reduce the risk of death, serious injury, and illness by ensuring that employers develop and implement a worksite heat injury and illness prevention plan (HIIPP), review and evaluate the effectiveness of the HIIPP, designate one or more heat safety coordinators to implement and monitor the HIIPP, and develop and implement a heat illness emergency response plan to respond to employees experiencing signs and symptoms of heat related illnesses for indoor and outdoor conditions. OSHA is requesting OMB approval of the proposed Information Collection Request (ICR) and a new OMB Control Number for this ICR currently under OMB Control Number 1218–0NEW.

Under the PRA, a Federal agency cannot conduct or sponsor a collection of information unless OMB approves it, and the agency displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provision of law, no employer shall be subject to penalty for failing to comply

with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

B. Solicitation of Comments

In accordance with the PRA (44 U.S.C. 3506(c)(2) and 3507(d)), OSHA submitted the collection-of-information requirements identified in the NPRM to OMB for review. The agency solicits comments on the collection-of-information requirements and estimated burden hours associated with these requirements, including comments on the following items:

- Whether the proposed collections of information are necessary for the proper performance of the agency’s functions, including whether the information is useful;
- The accuracy of OSHA’s estimate of the burden (time and cost) of the proposed collections of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the compliance burden on employers, for example, by using automated or other technological techniques for collecting and transmitting information (78 FR 56438).

C. Proposed Collection of Information Requirements

As required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(1), the following paragraphs provide information about this ICR.

1. *Title:* Heat Injury and Illness Prevention Standard (29 CFR 1910.148).

2. *Description of the ICR:* The proposal would add new collection-of-information requirements to protect indoor and outdoor workers from hazardous heat.

3. *Brief Summary of the Collection of Information Requirements:* The proposed Heat Injury and Illness Prevention Standard ICR adds new collection-of-information requirements that would ensure that employers develop and implement a worksite heat injury and illness prevention plan, review and evaluate the effectiveness of the HIIPP, designate one or more heat safety coordinators to implement and monitor the HIIPP, and develop and implement a heat illness emergency response plan for employees experiencing signs and symptoms of heat related illnesses for indoor and outdoor workers. Specifically, the proposed collection-of-information requirements contained in the proposed rule for the Heat Injury and Illness Prevention Standard are listed in table X.J–1.

TABLE X.J-1—PROPOSED COLLECTION-OF-INFORMATION REQUIREMENTS FOR HEAT INJURY AND ILLNESS PREVENTION

	Section	Collection-of-information requirements
1	§ 1910.148(c)(1) through (4).	Paragraphs (c)(1) through (4) would require employers to develop and implement a heat injury and illness prevention plan (HIIPP), which must include a list of covered activities, the policies and procedures necessary to comply with the proposed standard, the heat metric the employer will use to comply with paragraph (d), and policies and procedures related to the use of vapor-impermeable clothing, if applicable. For employers with more than 10 employees, the HIIPP must be in writing.
2	§ 1910.148(c)(5)	Paragraph (c)(5) would require the employer to designate one or more heat safety coordinators to implement and monitor the HIIPP.
3	§ 1910.148(c)(6) and (7)	Paragraphs (c)(6) and (7) would require the employer to seek the input and involvement of non-managerial employees in the development and implementation of the HIIPP, and to review and evaluate the effectiveness of the HIIPP at least annually and whenever a heat-related illness or injury occurs that results in days away from work, medical treatment beyond first aid, or loss of consciousness.
4	§ 1910.148(c)(8) and (9)	Paragraphs (c)(8) and (9) would require the employer to make the HIIPP readily available at the work site in a language each employee, supervisor, and heat safety coordinator understands.
5	§ 1910.148(d)(3)	Paragraph (d)(3) would require the employer, at indoor work sites, to identify each work area(s) where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger. For each work area identified, the employer would be required to develop and implement a monitoring plan that includes measuring heat index or wet bulb globe temperature. Employers would also be required to evaluate any affected work area(s) and update their monitoring plan whenever there is a change in production, processes, equipment, controls, or a substantial increase in outdoor temperature which has the potential to increase heat exposure indoors. The employer would be required to seek the input and involvement of non-managerial employees when identifying work areas with a reasonable expectation of exposure at or above the initial heat trigger and in developing and updating monitoring plans.
6	§ 1910.148(e)(7)	Paragraph (e)(7) would require the employer, when the initial heat trigger is met or exceeded, to implement an acclimatization protocol for each new employee and each returning employee (i.e., who has been away from work for more than 14 days) during their first week on the job. Employers would be required to choose either a plan that would incorporate the control measures required when the high heat trigger is met or exceeded, or a gradual acclimatization plan that would slowly increase the employee's exposure to heat each day. The requirement would not apply if the employer can demonstrate that the employee consistently worked under the same or similar conditions within the past 14 days.
7	§ 1910.148(e)(9)	Paragraph (e)(9) would require the employer, when the initial heat trigger is met or exceeded, to maintain a means of effective, two-way communication with employees and regularly communicate with employees.
8	§ 1910.148(f)(4)	Paragraph (f)(4) would require the employer, prior to the work shift or upon determining that the high heat trigger is met or exceeded, to notify employees of the importance of drinking plenty of water, employees' right to take rest breaks if needed and required rest breaks, how to seek help and the procedures to take in a heat emergency, and, for mobile work sites, the location of break area(s) and drinking water.
9	§ 1910.148(f)(5)	Paragraph (f)(5) would require the employer to place a legible, visible, and understandable warning sign at indoor work areas with ambient temperatures that regularly exceed 120 °F.
10	§ 1910.148(g)(1)	Paragraph (g)(1) would require employers, as part of their HIIPP, to develop and implement a heat emergency response plan that includes a list of emergency phone numbers, a description of how employees can contact a supervisor and emergency medical services, individual(s) designated to ensure that heat emergency procedures are invoked when appropriate, a description of how to transport employees to a place where they can be reached by emergency medical services, clear and precise directions to the work site, and procedures for responding to an employee experiencing signs and symptoms of heat-related illness or a heat emergency.
11	§ 1910.148(g)(3)	Paragraph (g)(3) would require the employer, if an employee is experiencing signs and symptoms of a heat emergency, to take immediate actions to reduce the employee's body temperature and immediately contact emergency medical services, as well as relieving them from duty, monitoring them, ensuring they are not left alone, and offering them on-site first aid and medical services.
12	§ 1910.148(i)(1)	Paragraph (i)(1) would require employers to have written or electronic records of on-site measurements at indoor work areas, and to retain those records for 6 months.

4. OMB Control Number: 1218–ONEW.

5. Affected Public: Business or other for-profit.

6. Number of Respondents: 2,535,775.

7. Frequency of Responses: On occasion, annually.

8. Number of Responses: 1,699,783,434.

9. Average Time per Response: Varies.

10. Estimated Total Burden Hours: 27,803,599.

11. Estimated Costs (capital-operation and maintenance): \$24,040,064.

D. Submitting Comments

Members of the public may comment on the collection of information requirements in this proposed standard by sending their comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, OSHA Regulation Identifier Number (RIN) (1218–AD39), by email: OIRA_submission@omb.eop.gov. Please limit the comments to only those addressing the collection of information requirements in the proposed Heat Injury and Illness Prevention standard (i.e., proposed § 1910.148). OSHA encourages

commenters also to submit their comments on these collection of information requirements to the rulemaking docket (OSHA–2021–0009), along with their comments on other parts of the proposed standard. For instructions on submitting these comments to the docket, see the sections of this **Federal Register** document titled **DATES** and **ADDRESSES**. Comments submitted in response to this document are public records; therefore, OSHA cautions commenters about submitting personal information, such as Social Security numbers and dates of birth.

E. Docket and Inquiries

To access the docket to read or download comments and other materials related to this paperwork determination, including the complete ICR, use the procedures described under the section of this document titled **ADDRESSES**. You may obtain an electronic copy of the complete ICR by going to the website at <https://www.reginfo.gov/public/do/PRAMain>, then select “Department of Labor” under “Currently Under Review”, then click on “submit”. This will show all of the Department’s ICRs currently under review, including the ICRs submitted for proposed rulemakings. To make inquiries, or to request other information, contact Ms. Seleda Perryman, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–4131; email perryman.seleda.m@dol.gov.

XI. Authority and Signature

This document was prepared under the direction of Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC 20210. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); 5 U.S.C. 553, Secretary of Labor’s Order No. 8–2020 (85 FR 58383), and 29 CFR part 1911.

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List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928

Heat-related injuries and illnesses, Heat stress, Incorporation by reference, Occupational safety and health, Safety.

Signed at Washington, DC.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons set forth in the preamble, OSHA proposes to amend 29 CFR parts 1910, 1915, 1917, 1918, 1926, and 1928 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—General

■ 1. The authority citation for part 1910, subpart A, is revised to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), or 8–2020 (85 FR

58393), as applicable. Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701; 29 U.S.C. 9a; 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Public Law 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.6 to subpart A by revising the introductory text of paragraph (z) and adding paragraph (z)(4) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(z) National Institute for Occupational Safety and Health (NIOSH), 1600 Clifton Road, Atlanta, GA 30329; website: www.cdc.gov/niosh.

* * * * *

(4) NIOSH Publication No. 2016–106. Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments, February 2016; IBR approved for § 1910.148(b).

* * * * *

Subpart J—General Environmental Controls

■ 3. The authority citation for part 1910, subpart J, is revised to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912) or 8–2020 (85 FR 58393), as applicable.

Sections 1910.141, 1910.142, 1910.145, 1910.146, 1910.147, and 1910.148 also issued under 29 CFR part 1911.

■ 4. Add § 1910.148 to subpart J to read as follows:

§ 1910.148 Heat Injury and Illness Prevention.

(a) *Scope and application.* (1) Except as otherwise provided in this paragraph (a), this standard applies to all employers.

(2) This standard does not apply to the following:

(i) Work activities for which there is no reasonable expectation of exposure at or above the initial heat trigger;

(ii) Short duration employee exposures at or above the initial heat trigger of 15 minutes or less in any 60-minute period;

(iii) Organizations whose primary function is the performance of firefighting; emergency response activities of workplace emergency response teams, emergency medical services, or technical search and rescue; and any emergency response activities already covered under 29 CFR 1910.120, 1910.146, 1910.156, part 1915, subpart P, 1926.65, and 1926.1211;

(iv) Work activities performed in indoor work areas or vehicles where air-conditioning consistently keeps the ambient temperature below 80 °F;

(v) Telework (*i.e.*, work done from home or another remote location of the employee's choosing); and

(vi) Sedentary work activities at indoor work areas that only involve some combination of the following: sitting, occasional standing and walking for brief periods of time, and occasional lifting of objects weighing less than 10 pounds.

(3) Employers whose employees all exclusively perform activities described in paragraphs (a)(2)(i) through (vi) of this section are exempt from this standard.

(b) *Definitions.* The following definitions apply to this standard:

Acclimatization means the body's adaptation to work in the heat as a person is exposed to heat gradually over time, which reduces the strain caused by heat stress and enables a person to work with less chance of heat illness or injury.

Ambient temperature means the temperature of the air surrounding a body. It is also called "air temperature" or "dry bulb temperature."

Cooling personal protective equipment (PPE) means equipment worn to protect the user against heat injury or illness.

Heat index means the National Weather Service heat index, which combines ambient temperature and humidity.

High heat trigger means a heat index of 90 °F or a wet bulb globe temperature equal to the National Institute for Occupational Safety and Health (NIOSH) Recommended Exposure Limit (REL).

Indoor/indoors means an area under a ceiling or overhead covering that restricts airflow and has along its entire perimeter walls, doors, windows, dividers, or other physical barriers that restrict airflow, whether open or closed.

Initial heat trigger means a heat index of 80 °F or a wet bulb globe temperature equal to the NIOSH Recommended Alert Limit (RAL).

Outdoor/outdoors means an area that is not indoors. For purposes of this standard, vehicles operated outdoors are considered outdoor work areas unless exempted by paragraph (a)(2) of this section.

Radiant heat means heat transferred by electromagnetic waves between surfaces. Sources of radiant heat include the sun, hot objects, hot liquids, hot surfaces, and fire.

Recommended Alert Limit (RAL) means the NIOSH-recommended heat

stress alert limits for unacclimatized workers, see NIOSH Publication No. 2016–106 (incorporated by reference, see § 1910.6).

Recommended Exposure Limit (REL) means the NIOSH-recommended heat stress exposure limits for acclimatized workers, see NIOSH Publication No. 2016–106 (incorporated by reference, see § 1910.6).

Shade means the blockage of direct sunlight, such that objects do not cast a shadow in the area of blocked sunlight.

Signs and symptoms of a heat emergency means the physiological manifestations of a heat-related illness that requires emergency response and includes loss of consciousness (*i.e.*, fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate.

Signs and symptoms of heat-related illness means the physiological manifestations of a heat-related illness and includes headache, nausea, weakness, dizziness, elevated body temperature, muscle cramps, and muscle pain or spasms.

Vapor-impermeable clothing means full-body clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. Examples include encapsulating suits, various forms of chemical resistant suits, and other forms of nonbreathable PPE.

Vehicle means a car, truck, van, or other motorized means of transporting people or goods.

Wet bulb globe temperature (WBGT) means a heat metric that takes into account ambient temperature, humidity, radiant heat from sunlight or artificial heat sources, and air movement.

Work area means an area where one or more employees are working within a work site.

Work site means a physical location (*e.g.*, fixed, mobile) where the employer's work or operations are performed.

(c) *Heat injury and illness prevention plan.* (1) The employer must develop and implement a work site heat injury and illness prevention plan (HIIPP) with site-specific information.

(2) The HIIPP must include:

(i) A comprehensive list of the types of work activities covered by the plan;

(ii) All policies and procedures necessary to comply with the requirements of this standard; and

(iii) An identification of the heat metric (*i.e.*, heat index or wet bulb globe temperature) the employer will monitor to comply with paragraph (d) of this section.

(3) If the employer has employees who wear vapor-impermeable clothing, the employer must evaluate heat stress hazards resulting from these clothing and implement policies and procedures based on reputable sources to protect employees while wearing these clothing. The employer must include these policies and procedures and document the evaluation in the HIIPP.

(4) If the employer has more than 10 employees, the HIIPP must be written.

(5) The employer must designate one or more heat safety coordinators to implement and monitor the HIIPP. The identity of the heat safety coordinator(s) must be documented in any written HIIPP. The heat safety coordinator(s) must have the authority to ensure compliance with all aspects of the HIIPP.

(6) The employer must seek the input and involvement of non-managerial employees and their representatives, if any, in the development and implementation of the HIIPP.

(7) The employer must review and evaluate the effectiveness of the HIIPP whenever a heat-related illness or injury occurs that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness, but at least annually. Following each review, the employer must update the HIIPP as necessary. The employer must seek input and involvement of non-managerial employees and their representatives, if any, during any reviews and updates.

(8) The employer must make the HIIPP readily available at the work site to all employees performing work at the work site.

(9) The HIIPP must be available in a language each employee, supervisor, and heat safety coordinator understands.

(d) *Identifying heat hazards*—(1) *Outdoor work.* The employer must monitor heat conditions at outdoor work areas by:

(i) Tracking local heat index forecasts provided by the National Weather Service or other reputable sources; or

(ii) At or as close as possible to the work area(s), measuring the following:

(A) Heat index, or ambient temperature and humidity measured separately to calculate heat index; or

(B) Wet bulb globe temperature.

(2) *Frequency of outdoor monitoring.* The employer must monitor with sufficient frequency to determine with

reasonable accuracy employees' exposure to heat.

(3) *Indoor work.* (i) At indoor work sites, the employer must identify each work area(s) where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger.

(ii) The employer must develop and implement a monitoring plan covering each work area identified in paragraph (d)(3)(i) of this section to determine when employees are exposed to heat at or above the initial and high heat triggers. The employer must include the monitoring plan in the HIIPP and the monitoring plan must include measuring one of the following at or as close as possible to the work area(s) identified in paragraph (d)(3)(i) of this section:

(A) Heat index, or ambient temperature and humidity measured separately to calculate heat index; or

(B) Wet bulb globe temperature.

(iii) Whenever there is a change in production, processes, equipment, controls, or a substantial increase in outdoor temperature which has the potential to increase heat exposure indoors, the employer must evaluate any affected work area(s) to identify where there is reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger. The employer must update their monitoring plan or develop and implement a monitoring plan, in accordance with paragraph (d)(3)(ii) of this section, to account for any increases in heat exposure.

(iv) The employer must seek the input and involvement of non-managerial employees and their representatives, if any, when evaluating the work site to identify work areas with a reasonable expectation of exposures at or above the initial heat trigger and in developing and updating monitoring plans in accordance with paragraphs (d)(3)(i) through (iii) of this section.

(4) *Heat metric.* The heat metric the employer chooses to monitor will determine the applicable initial and high heat triggers for purposes of this standard. If the employer does not identify their choice of heat metric in the HIIPP or monitor as required by paragraph (d) of this section, the initial and high heat triggers will be the heat index values identified in the definitions.

(5) *Exemption from monitoring.* The employer can assume that the temperature at a work area is at or above both the initial heat and high heat triggers instead of conducting on-site measurements or tracking local forecasts. In such cases, the employer

must provide all control measures outlined in paragraphs (e) and (f) of this section.

(e) *Requirements at or above the initial heat trigger*—(1) *Timing.* The employer must implement the controls described in this paragraph (e) when employees are exposed to heat at or above the initial heat trigger.

(2) *Drinking water.* The employer must provide access to potable water for drinking that is:

(i) Placed in locations readily accessible to the employee;

(ii) Suitably cool; and

(iii) Of sufficient quantity to provide access to 1 quart of drinking water per employee per hour.

Note 1 to paragraph (e)(2). The requirements of this paragraph (e)(2) are in addition to the requirements in the sanitation standard applicable to the employer (29 CFR 1910.141, 1915.88, 1917.127, 1918.95, 1926.51, 1928.110) and the temporary labor camps standard (29 CFR 1910.142).

(3) *Break area(s) at outdoor work sites.* The employer must provide one or more area(s) for employees to take breaks that can accommodate the number of employees on break, is readily accessible to the work area(s), and has at least one of the following:

(i) Artificial shade (*e.g.*, tent, pavilion) or natural shade (*e.g.*, trees), but not shade from equipment, that provides blockage of direct sunlight and is open to the outside air; or

(ii) Air-conditioning, if in an enclosed space like a trailer, vehicle, or structure.

(4) *Break area(s) at indoor work sites.* The employer must provide one or more area(s) for employees to take breaks (*e.g.*, break room) that is air-conditioned or has increased air movement and, if appropriate, de-humidification, can accommodate the number of employees on break, and is readily accessible to the work area(s).

(5) *Indoor work area controls.* The employer must provide one of the following at each work area identified in paragraph (d)(3)(i) of this section:

(i) Increased air movement, such as fans or comparable natural ventilation, and, if appropriate, de-humidification;

(ii) Air-conditioned work area; or

(iii) In cases of radiant heat sources, other measures that effectively reduce employee exposure to radiant heat in the work area (*e.g.*, shielding/barriers, isolating heat sources).

(6) *Evaluation of fan use.* At ambient temperatures above 102 °F, if the employer is providing fans to comply with paragraph (e)(4) or (5) of this section, the employer must evaluate the humidity to determine if fan use is harmful, and if the employer determines

that it is, the employer must discontinue fan use.

(7) *Acclimatization*—(i) *New employees*. The employer must implement one of the following acclimatization protocols for each employee during their first week on the job:

(A) A plan that, at minimum, incorporates the measures in paragraph (f) of this section whenever the heat index is at or above the initial heat trigger during the employee's first week of work; or

(B) Gradual acclimatization to heat in which the employee's exposure to heat is restricted to no more than: 20% of a normal work shift exposure duration on the first day of work, 40% on the second day of work, 60% of the third day of work, and 80% on the fourth day of work.

(ii) *Returning employees*. The employer must implement one of the following acclimatization protocols for each employee who has been away (e.g., on vacation or sick leave) for more than 14 days during their first week back on the job:

(A) A plan that, at minimum, incorporates the measures in paragraph (f) of this section whenever the heat index is at or above the initial heat trigger during the employee's first week upon returning to work; or

(B) Gradual acclimatization to heat in which employee exposure to heat is restricted to no more than: 50% of a normal work shift exposure duration on the first day of work, 60% on the second day of work, and 80% of the third day of work.

(iii) *Exception to acclimatization requirements*. The requirements of paragraphs (e)(7)(i) and (ii) of this section do not apply if the employer can demonstrate the employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days.

(8) *Rest breaks if needed*. The employer must allow and encourage employees to take paid rest breaks in the break area required by paragraph (e)(3) or (4) of this section if needed to prevent overheating.

(9) *Effective communication*. The employer must maintain a means of effective, two-way communication with employees (e.g., by voice or electronic means (such as a handheld transceiver, phone, or radio)) and regularly communicate with employees.

(10) *Personal protective equipment (PPE)*. If the employer provides employees with cooling PPE, the employer must ensure the cooling properties of the PPE are maintained at all times during use.

(f) *Requirements at or above the high heat trigger*—(1) *Timing*. In addition to the controls required by paragraph (e) of this section, the employer must implement the controls described in this paragraph (f) when employees are exposed to heat at or above the high heat trigger.

(2) *Rest breaks*. The employer must provide employees a minimum 15-minute paid rest break at least every two hours in the break area required by paragraph (e)(3) or (4) of this section, subject to the following:

(i) A meal break may count as a rest break, even if it is not otherwise required by law to be paid;

(ii) Periods during which employees are donning and doffing personal protective equipment (e.g., coveralls) must not count towards the total time provided for rest breaks; and

(iii) The time for employees to walk to and from the break area is not included in the time provided for rest breaks.

(3) *Observation for signs and symptoms*. The employer must implement at least one of the following methods of observing employees for signs and symptoms of heat-related illness:

(i) A mandatory buddy system in which co-workers observe each other; or

(ii) Observation by a supervisor or heat safety coordinator, with no more than 20 employees observed per supervisor or heat safety coordinator.

(iii) For employees who are alone at a work site, the employer must maintain a means of effective, two-way communication with those employees (e.g., by electronic means (such as a handheld transceiver, phone, or radio)) and make contact with the employees at least every two hours.

(4) *Hazard Alert*. Prior to the work shift or upon determining the high heat trigger is met or exceeded, the employer must notify employees of the following:

(i) The importance of drinking plenty of water;

(ii) Employees' right to, at employees' election, take rest breaks if needed and the rest breaks required by paragraph (f)(2) of this section;

(iii) How to seek help and the procedures to take in a heat emergency; and

(iv) For mobile work sites, the location of break area(s) required by paragraph (e)(3) or (4) of this section and drinking water required by paragraph (e)(2) of this section.

(5) *Excessively high heat areas*. The employer must place warning signs at indoor work areas with ambient temperatures that regularly exceed 120 °F. The warning signs must be

legible, visible, and understandable to employees entering the work areas.

(g) *Heat illness and emergency response and planning*. (1) As part of their HIIPP, the employer must develop and implement a heat emergency response plan that includes:

(i) A list of emergency phone numbers (e.g., 911, emergency services);

(ii) A description of how employees can contact a supervisor and emergency medical services;

(iii) Individual(s) designated to ensure that heat emergency procedures are invoked when appropriate;

(iv) A description of how to transport employees to a place where they can be reached by an emergency medical provider;

(v) Clear and precise directions to the work site, including the address of the work site, which can be provided to emergency dispatchers; and

(vi) Procedures for responding to an employee experiencing signs and symptoms of heat-related illness, including heat emergency procedures for responding to an employee with suspected heat stroke.

(2) If an employee is experiencing signs and symptoms of heat-related illness, the employer must:

(i) Relieve them from duty;

(ii) Monitor them;

(iii) Ensure they are not left alone;

(iv) Offer them on-site first aid or medical services before ending monitoring; and

(v) Provide them with the means to reduce their body temperature.

(3) If an employee is experiencing signs and symptoms of a heat emergency, the employer must:

(i) Take immediate actions to reduce the employee's body temperature before emergency medical services arrive;

(ii) Contact emergency medical services immediately; and

(iii) Perform activities described in paragraphs (g)(2)(i) through (iv) of this section.

(h) *Training*—(1) *Initial training*. Prior to any work at or above the initial heat trigger, the employer must ensure that each employee receives training on, and understands, the following:

(i) Heat stress hazards;

(ii) Heat-related injuries and illnesses;

(iii) Risk factors for heat-related injury or illness, including the contributions of physical exertion, clothing, personal protective equipment, a lack of acclimatization, and personal risk factors (e.g., age, health, alcohol consumption, and use of certain medications);

(iv) Signs and symptoms of heat-related illness and which ones require immediate emergency action;

(v) The importance of removing personal protective equipment that may impair cooling during rest breaks;

(vi) Importance of taking rest breaks to prevent heat-related illness or injury, and that rest breaks are paid;

(vii) Importance of drinking water to prevent heat-related illness or injury;

(viii) The location of break areas;

(ix) The location of employer-provided water;

(x) The importance of employees reporting any signs and symptoms of heat-related illness they may experience, and those they observe in co-workers;

(xi) All policies and procedures that are applicable to the employee's duties, as indicated in the work site's HIIPP;

(xii) The identity of the heat safety coordinator(s);

(xiii) The requirements of this standard;

(xiv) How the employee can access the work site's HIIPP; and

(xv) Employees have a right to the protections required by this standard (e.g., rest breaks, water) and employers are prohibited from discharging or in any manner discriminating against any employee for exercising those rights.

(xvi) If the employer is required by paragraph (f)(5) of this section to place warning signs for excessively high heat areas, they must train employees in the procedures to follow when working in these areas.

(2) *Supervisor training.* The employer must ensure that each supervisor responsible for supervising employees performing any work at or above the initial heat trigger and each heat safety coordinator receives training on, and understands, both the topics outlined in paragraph (h)(1) of this section and the following:

(i) The policies and procedures developed to comply with the applicable requirements of this standard, including the policies and procedures for monitoring heat conditions developed to comply with paragraphs (d)(1) and (d)(3)(ii) of this section; and

(ii) The procedures the supervisor or heat safety coordinator must follow if an employee exhibits signs and symptoms of heat-related illness.

(3) *Annual refresher training.* The employer must ensure that each employee receives annual training on, and understands, the subjects addressed in paragraph (h)(1) of this section. The employer must also ensure that each supervisor and heat safety coordinator additionally receives annual training on, and understands, the topics addressed in paragraph (h)(2) of this section. For employees who perform work outdoors,

the employer must conduct the annual refresher training before or at the start of heat season.

(4) *Supplemental training.* The employer must ensure that each employee promptly receives, and understands, additional training whenever:

(i) Changes occur that affect the employee's exposure to heat at work (e.g., new job tasks);

(ii) The employer changes the policies or procedures addressed in paragraph (h)(1)(xi) of this section;

(iii) There is an indication that the employee has not retained the necessary understanding; or

(iv) A heat-related injury or illness occurs at the work site that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness.

(5) *Presentation.* Training must be provided in a language and at a literacy level each employee, supervisor, and heat safety coordinator understands. The employer must provide employees with an opportunity for questions and answers about the training materials.

(i) *Recordkeeping.* If the employer conducts on-site measurements at indoor work areas pursuant to paragraph (d)(3)(ii) of this section, they must have written or electronic records of those indoor work area measurements and retain those records for 6 months.

(j) *Requirements implemented at no cost to employees.* The implementation of all requirements of this standard must be at no cost to employees, including paying employees their normal rate of pay when compliance requires employee time.

(k) *Dates—(1) Effective date.* This standard is effective [60 days after date of publication of the final rule in the **Federal Register**].

(2) *Compliance date.* Employers must comply with all requirements of this standard by [150 days after date of publication of the final rule in the **Federal Register**].

(l) *Severability.* Each provision within this standard is separate and severable from the other provisions. If any provision of this standard is held to be invalid or unenforceable on its face, or as applied to any person, entity, or circumstance, or is stayed or enjoined, that provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this standard and shall not affect the remainder of the standard.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

■ 5. The authority citation for part 1915 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), or 8–2020 (85 FR 58393); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

Subpart F—General Working Conditions

■ 6. Add § 1915.95 to subpart F to read as follows:

§ 1915.95 Heat Injury and Illness Prevention.

The requirements applicable to shipyard employment under this section are identical to the requirements set forth at 29 CFR 1910.148.

PART 1917—MARINE TERMINALS

■ 7. The authority citation for part 1917 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), or 8–2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

Sections 1917.28 and 1917.31 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart B—Marine Terminal Operations

■ 8. Add § 1917.32 to subpart B to read as follows:

§ 1917.32 Heat injury and illness prevention.

The requirements applicable to marine terminals under this section are identical to the requirements set forth at 29 CFR 1910.148.

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

■ 9. The authority citation for part 1918 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), or 8–2020 (85 FR 58393), as applicable; and 29 CFR 1911.

Sections 1918.90 and 1918.110 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 5101 *et seq.* and 5 U.S.C. 553.

■ 10. Add subpart L to read as follows:

Subpart L—Occupational Health and Environmental Controls

Sec.

1918.111 through 1918.147 [Reserved]
1918.148 Heat injury and illness prevention.

§ 1918.148 Heat injury and illness prevention.

The requirements applicable to longshoring operations and related employments under this section are identical to the requirements set forth at 29 CFR 1910.148.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

■ 11. The authority citation for part 1926 continues to read as follows:

Authority: 40 U.S.C. 3704; 29 U.S.C. 653, 655, and 657; and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), or 8–2020 (85 FR 58393), as applicable; and

29 CFR part 1911, unless otherwise noted Sections 1926.58, 1926.59, 1926.60, and 1926.65 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

Section 1926.61 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Section 1926.62 also issued under sec. 1031, Public Law 102–550, 106 Stat. 3672 (42 U.S.C. 4853).

Section 1926.65 also issued under sec. 126, Public Law 99–499, 100 Stat. 1614 (reprinted at 29 U.S.C.A. 655 Note) and 5 U.S.C. 553.

Subpart D—Occupational Health and Environmental Controls

■ 12. Add § 1926.67 to subpart D to read as follows:

§ 1926.67 Heat injury and illness prevention.

The requirements applicable to construction work under this section are identical to the requirements set forth at 29 CFR 1910.148.

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

■ 11. The authority citation for part 1928 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's

Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 4–2010 (75 FR 55355), or 8–2020 (85 FR 58393), as applicable; and 29 CFR 1911.

Section 1928.21 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

■ 12. Amend § 1928.21 by:

■ a. In paragraph (a)(8)(i), removing the word “and” at the end of the paragraph;

■ b. Revising paragraph (a)(8)(ii); and

■ c. Adding paragraph (a)(9).

The revision and addition read as follows:

§ 1928.21 Applicable standards in 29 CFR part 1910.

(a) * * *

(8) * * *

(ii) Agricultural establishments that maintain a temporary labor camp, regardless of how many employees are engaged on any given day in hand-labor operations in the field; and

(9) Heat injury and illness prevention—§ 1910.148 of this chapter with respect to requirements applicable to agricultural operations.

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Part III

Department of the Interior

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—High Pressure High Temperature Updates; Final Rule

DEPARTMENT OF THE INTERIOR**Bureau of Safety and Environmental Enforcement****30 CFR Part 250**

[Docket ID: BSEE–2021–0003; EEEE500000 245E1700D2 ET1SF0000.EAQ000]

RIN 1014–AA49

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—High Pressure High Temperature Updates

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior (DOI or Department), through the Bureau of Safety and Environmental Enforcement (BSEE), is adding requirements for new or unusual technology, including equipment used in high pressure high temperature (HPHT) environments; revising and reorganizing the information submission requirements for a project's Conceptual Plans and Deepwater Operations Plan (DWOP); and requiring independent third parties to review certain information prior to submission to BSEE. This final rule will improve operational and environmental safety and human health, while providing consistency and clarity to industry regarding the equipment and operational requirements as well as the submissions that are necessary so that BSEE can review and consider for approval proposed projects that would use new or unusual technology.

DATES: This final rule is effective on October 29, 2024. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register as of October 29, 2024.

FOR FURTHER INFORMATION CONTACT: For questions, contact Kirk Malstrom, Regulations and Standards Branch, (202) 258–1518, or by email: regs@bsee.gov.

SUPPLEMENTARY INFORMATION:

Executive Summary

This final rule will improve operational safety and human health and environmental protections, while providing industry with clarity and consistency regarding the equipment, operational requirements, and submissions that are necessary for BSEE to review and approve operations using new or unusual technology. BSEE considers new or unusual technology to include equipment or procedures that

the offshore oil and gas industry has not used previously or extensively under the anticipated operating conditions or has not used previously in a particular BSEE Outer Continental Shelf (OCS) Region, or that have operating characteristics outside the performance parameters established in 30 CFR part 250.

Currently, operations and equipment used in HPHT environments are relatively new on the United States OCS. In general, an HPHT environment is present when well conditions have pressures greater than 15,000 pounds per square inch absolute (psia) or have a temperature greater than 350 degrees Fahrenheit. Historically, most oilfield equipment has not been designed to withstand such high pressures and temperatures. Working in an HPHT environment therefore increases operational complexity because HPHT-associated operations require the use of equipment that exists at the limits of current technology and lacks a long operational history. Due to limited industry experience in HPHT environments, few industry standards directly address HPHT equipment and operations. Currently, BSEE carefully reviews HPHT projects on a case-by-case basis. To date, BSEE has received several applications for projects in HPHT environments and anticipates HPHT project interest to increase due to equipment technological advancements and industry capabilities to develop resources in these environments.

For new or unusual technology projects, including HPHT projects, BSEE regulations currently:

- Require submission of information in a sequence that is not conducive to BSEE's review and consideration for approval of new or unusual technology projects because these projects typically require a more immediate BSEE review and approval than the regulations currently allow; and
- Lack specific equipment requirements because the technology is new and there are few applicable industry standards.

To address these issues, this final rulemaking:

- Requires the submission of information in a sequence that provides both operators¹ and BSEE

¹ BSEE administers the Departmental regulations at 30 CFR part 250, which generally apply to "a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s). . . ." 30 CFR 250.105 (definition of "you"). For convenience, this preamble will refer to these regulated entities as "operators" unless otherwise indicated.

the ability to evaluate whether a new or unusual technology project is economically and operationally feasible;

- Clarifies that equipment or procedures used for operations in an HPHT environment are considered new or unusual technology.
- Adds specific equipment requirements, particularly for barriers, through new regulations and the incorporation of applicable industry standards; and
- Requires Independent Third Party (I3P) review of operator submissions, in certain cases, or provides BSEE with the ability to require I3P review, to ensure project viability and safety.

Currently, the DWOP process requires information to be submitted in two distinct phases: the Conceptual Plan phase and the DWOP phase. This final rule maintains the two phase DWOP process and adds additional requirements to each phase that will enable BSEE to thoroughly review proposed new or unusual technology projects. The final rule defines three types of Conceptual Plans: a Project Conceptual Plan, a New or Unusual Technology Conceptual Plan, and a New or Unusual Technology Barrier Equipment Conceptual Plan. A Project Conceptual Plan will be required for any project planned in water depths greater than 1000 feet or that will include the use of subsea tieback development technology, regardless of water depth. A New or Unusual Technology Conceptual Plan will be required for any project or system involving New or Unusual Technology equipment or procedures. A New or Unusual Technology Barrier Equipment Conceptual Plan will be required for any project or system involving new or unusual technology identified as a primary or secondary barrier to isolate a hydrocarbon pressure source from people and the environment. An operator must submit the applicable Conceptual Plan(s) based on the specifics of the proposed project.

The information specific to HPHT projects submitted in the applicable Conceptual Plan(s) will be evaluated for adequacy prior to approval. The final rule's establishment of three new types of Conceptual Plans and the associated new timing requirements established in § 250.226 (e.g., BSEE must approve your Conceptual Plan(s) before the Bureau will approve any associated permit) will provide both operators and BSEE with the ability to evaluate early in the project planning process, before permit approval, whether a new or unusual technology project is economically and operationally feasible. In the final rule,

the DWOP phase, during which the DWOP is reviewed, will take place after the Conceptual Plan(s) have been approved and the system design has been substantially completed.

In addition, this final rule revises 30 CFR part 250, subpart B (“Plans and Information”) and the DWOP process to incorporate BSEE’s Barrier Concept into the requirements, including for new or unusual technology projects. The Barrier Concept is a holistic approach to the barrier system based on BSEE’s determination that abnormal conditions and/or failures are potential risks in a well or pipeline system. When an abnormal condition or failure occurs, it must be detectable, and upon detection, its source must be isolated behind redundant barriers. BSEE considers a barrier or barrier system to be any engineered equipment, materials, component, or assembly that is intended to contain a hydrocarbon pressure source(s) to prevent harm to people or the environment. This final rule defines the types of equipment that BSEE considers to be sufficient barriers and how barriers must be used. The final rule also includes portions of the Barrier Concept in the DWOP process under the New or Unusual Technology Barrier Equipment Conceptual Plan as a means of ensuring that new or unusual technology projects include sufficient barriers, which will enhance protections for people and the environment. This rule incorporates into the regulations the existing BSEE policy on the Barrier Concept discussed in Notice to Lessees (NTLs) 2009–G36, *Using Alternate Compliance in Safety Systems for Subsea Production Operations*; 2019–G02, *Guidance for Information Submissions Regarding Proposed High Pressure and/or High Temperature (HPHT) Well Design, Completion, and Intervention Operations*; and 2019–G03, *Guidance for Information Submissions Regarding Site Specific and Non-Site Specific HPHT Equipment Design Verification Analysis and Design Validation Testing*.

Furthermore, this final rule revises the DWOP process to require I3P review of equipment or procedures identified in a New or Unusual Technology Barrier Equipment Conceptual Plan. This final rule also allows BSEE to require an operator to use an I3P to review certain equipment or procedures identified in a New or Unusual Technology Conceptual Plan. Independent third parties have been used as a longstanding industry practice to support verifications that ensure project viability and safety. I3P review provides an additional review in circumstances where proposed equipment or processes may be

technically complex and require a high degree of specialized engineering knowledge, expertise, and experience to evaluate.

Table of Contents

- I. Background
 - A. BSEE Statutory and Regulatory Authority and Responsibilities
 - B. Purpose and Summary of the Rulemaking
 - C. Summary of Documents Incorporated by Reference
- II. Discussion of Public Comments on the Proposed Rule
- III. Section-by-Section Summary and Responses to Comments on the Proposed Rule
- IV. Derivation Table
- V. Procedural Matters

I. Background

A. BSEE Statutory and Regulatory Authority and Responsibilities

The applicable authority for this rulemaking is the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331–1356a. OCSLA, enacted in 1953 and substantially revised it in 1978, authorizes the Secretary of the Interior (Secretary) to lease the OCS for mineral development and to regulate oil and gas exploration, development, and production operations on the OCS. The Secretary delegated authority to perform certain of these functions to BSEE.

To carry out its responsibilities, BSEE regulates offshore oil and gas operations to enhance the safety of exploration for and development of oil and gas on the OCS, ensure that those operations protect the environment, and implement advancements in technology. BSEE also conducts onsite inspections to ensure compliance with regulations, lease terms, and approved plans and permits. Detailed information concerning BSEE’s regulations and guidance to the offshore oil and gas industry may be found on BSEE’s website at: <https://www.bsee.gov/guidance-and-regulations>.

BSEE’s regulatory program covers a wide range of OCS facilities and activities, including drilling, completion, workover, production, pipeline, and decommissioning operations. This rule is applicable to operations that involve deepwater development projects, subsea tieback development technology, or projects or systems that use new or unusual technology.

B. Purpose and Summary of the Rule

The purpose of this rule is to improve the requirements and information submission process for oil and gas operations in deepwater and for operations that propose the use of new

or unusual technology equipment or procedures. The final rule achieves this purpose by adding requirements for new or unusual technology projects, including HPHT projects, reorganizing the deepwater project information submission process, and requiring I3P review of certain submissions.

Together, these regulations will better ensure that operators consider and submit sufficient information to BSEE at an early enough stage in the process so that operators and BSEE can adequately address any issues concerning equipment selection, design, and fabrication.

C. Summary of Documents Incorporated by Reference

The Office of the **Federal Register** has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble to the rule the way in which materials that the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. Additionally, the preamble to the rule must summarize the material. 1 CFR 51.5(b). The text immediately below summarizes the documents incorporated by reference in 30 CFR 250.198 and the changes to the regulatory text. This section of the preamble concludes with a discussion regarding the availability of the documents that are incorporated by reference.

API Spec. 6A, *Specification for Wellhead and Christmas Tree Equipment*, Twentieth Edition, October 2010; Addendum 1, November 2011; Errata 2, November 2011; Addendum 2, November 2012; Addendum 3, March 2013; Errata 3, June 2013; Errata 4, August 2013; Errata 5, November 2013; Errata 6, March 2014; Errata 7, December 2014; Errata 8, February 2016; Addendum 4, June 2016; Errata 9, June 2016; Errata 10, August 2016.

This specification defines requirements for the design of valves, wellheads, and Christmas tree equipment that is used during drilling and production operations. This specification includes requirements related to dimensional and functional interchangeability, design, materials, testing, inspection, welding, marking, handling, storing, shipment, purchasing, repair, and remanufacture. This document is currently incorporated by reference elsewhere in 30 CFR part 250, and BSEE is adding a reference to this standard in existing §§ 250.518 and 250.619.

American National Standards Institute (ANSI)/API Specification (Spec.) 11D1, *Packers and Bridge Plugs, Third Edition, April 2015, Errata 1, August 2019.*

This specification provides minimum requirements and guidelines for packers and bridge plugs used downhole in oil and gas operations. The performance of this equipment is often critical to maintaining well control during drilling and production operations. This specification provides requirements for the design, design verification and validation, materials, documentation and data control, repair, shipment, and storage of packers and bridge plugs. This document is currently incorporated by reference, and BSEE is updating this standard from the second to the third edition.

API Spec. 17D, *Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment*, Second Edition, *Reaffirmed November 2018, Addendum 1, September 2015; Errata, September 2011; Errata 2, January 2012; Errata 3, June 2013; Errata 4, July 2013; Errata 5, October 2013; Errata 6, August 2015; Errata 7, October 2015.*

This specification provides requirements for subsea wellheads, mudline wellheads, and drill-through mudline wellheads, as well as vertical and horizontal subsea trees. These devices are located on the seafloor, and, therefore, ensuring the safe and reliable performance of this equipment is extremely important. This specification identifies the tooling necessary to handle, test, and install the equipment. It also specifies the parameters for design, material, welding, quality control (including factory acceptance testing), marking, storing, and shipping for both individual sub-assemblies (used to build complete subsea tree assemblies) and complete subsea tree assemblies. This document is currently incorporated by reference elsewhere in 30 CFR part 250, and BSEE is adding references to this standard in existing §§ 250.518 and 250.619.

NACE Standard MR0175–2003, *Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments*, Revised January 17, 2003.

This standard describes general principles and provides requirements and recommendations for the selection and qualification of metallic materials for equipment used in oil and gas production, and in natural-gas sweetening plants, in hydrogen sulfide (H₂S)-containing environments, where the failure of such equipment can pose a risk to the health and safety of the

public and personnel or to the environment. Application of this standard can help avoid costly corrosion damage to equipment. This standard supplements, but does not replace, the material requirements contained in applicable design codes, standards, or regulations. This standard also addresses all mechanisms of cracking that can be caused by H₂S, including sulfide stress cracking, stress corrosion cracking, hydrogen-induced cracking and stepwise cracking, stress-oriented hydrogen-induced cracking, soft zone cracking, and galvanically induced hydrogen stress cracking. This standard does not include and is not intended to include design specifications. This document is currently incorporated by reference elsewhere in 30 CFR part 250, and BSEE is adding references of this standard in existing §§ 250.518 and 250.619.

The American Petroleum Institute (API) provides free online public access to view read-only copies of its key industry standards, including a broad range of technical standards. All API standards that are safety-related and that are incorporated into Federal regulations are available to the public for free viewing online in the Incorporation by Reference Reading Room on API's website at: <https://publications.api.org>. In addition to the free availability of these standards for viewing on API's website, hardcopies and printable versions are available for purchase from API. The API website address to purchase standards is: <https://www.api.org/products-and-services/standards/purchase>.

NACE International (NACE) standards can be accessed through the American National Standards Institute (ANSI). The ANSI Incorporated by Reference (IBR) Portal provides access to many standards that have been incorporated by reference in the U.S. Code of Federal Regulations (CFR). These standards incorporated by the U.S. government in rulemakings are offered at no cost in "read only" format and are presented for online reading. However, there are no print or download options. The website can be accessed at: <https://ibr.ansi.org>.

For the convenience of the viewing public who may not wish to purchase or view the incorporated documents online, the documents may be inspected at BSEE's offices at: 1919 Smith Street, Suite 14042, Houston, Texas 77002 (phone: 1–844–259–4779), or 45600 Woodland Road, Sterling, Virginia 20166 (email: regs@bsee.gov), by appointment only. An appointment is required to ensure personnel are available to accommodate the request

and to account for competing agency obligations or concerns, including those related to public health and natural disasters. Additional information about where these documents can be inspected or purchased can be found at § 250.198, *Documents incorporated by reference*, or by sending a request by email to regs@bsee.gov.

II. Discussion of Public Comments on the Proposed Rule

In response to the proposed rule, BSEE received 9 sets of submitted comments containing general statements, specific comments on the proposed provisions, and discussions of provisions not included in the proposed rule. Comments included submittals from the following entities: 1 manufacturer, 5 companies, 1 industry organization, 1 non-governmental organization, and 1 classification society. All relevant comments are posted at the *Federal eRulemaking* portal: <https://www.regulations.gov>. To access the comments at that website, enter BSEE–2021–0003 in the Search box. BSEE reviewed all comments submitted, and this section of the preamble contains brief summaries of the relevant comments, as well as BSEE's responses.

BSEE received multiple comments expressing general support for the proposed rule. Some of the commenters who expressed general support for the proposed rule also provided specific detailed comments, which we have addressed further in section III of this preamble. While these commenters voiced support broadly for certain proposed changes, some of them also disagreed with other specific proposals and provided suggested revisions. Multiple commenters also provided statements or comments that were not relevant to the proposed rule, and therefore BSEE is not addressing them in this final rule.

General Comments

Summary of comments related to incremental submission of plans: Multiple commenters suggested that BSEE clarify the regulations to allow for incremental submission of certain plans.

Response: BSEE disagrees with the commenters' suggestions to allow for incremental submission of certain plans. Incremental submission of plans would complicate the BSEE approval process and require additional BSEE time and resources to verify compliance with all requirements. This piecemeal approach increases the potential for errors or gaps within the plans, which may delay project implementation. The DWOP process is purposefully divided into

multiple plans to allow BSEE approval of certain operations as the project is developed. For example, BSEE approval of certain Conceptual Plans would allow for the wells to be completed or the installation of certain equipment, while BSEE approval of the DWOP would allow for well production. BSEE requires all pertinent information associated with the applicable plans within the DWOP process to be submitted as required in §§ 250.220 through 250.248. Furthermore, the final rule provides clarity for the appropriate timing and submission requirements for all plans covered under the DWOP process (e.g., see revisions to §§ 250.201, 250.220, 250.225, and 250.226). This final rule also clarifies that not all projects will require the submittal of each of the three Conceptual Plans and a DWOP. Specifically, certain New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans may not be required to have an associated Project Conceptual Plan or DWOP.

Comments Related to the Independent Third Party (I3P)

Summary of comments: Multiple commenters expressed concerns that the proposed rule would substantially expand the role of I3Ps beyond the scope of expected duties. The commenters also requested clarification regarding the role and expected deliverables of I3Ps, including I3P actions concerning verification, validation, and certification and how those fit in with the terms “fit for purpose” and “fit for service.”

Response: BSEE agrees with the commenters that the I3P requirements should be clarified and throughout this rulemaking has revised the roles and expected responsibilities for I3Ps. For example, BSEE has provided supplemental regulatory text that clarifies the meaning of the terms “fit for purpose” and “fit for service” and to identify that an I3P makes a “fit for purpose” determination and an operator makes a “fit for service” determination. These added definitions are consistent with the guidance of BSEE NTL Nos. 2019–G02 and 2019–G03.

In response to the comments, BSEE has also removed the term “certification” as it pertains to determining what is “fit for purpose” and “fit for service” and is clarifying that a statement from the appropriate entity is sufficient instead of a certification statement.² BSEE has also

removed the term “certification” as it pertains to I3Ps throughout Subpart B. See Section III of this preamble for a complete discussion regarding the updated I3P expectations and requirements.

Summary of comment: A commenter acknowledged that I3Ps can be a powerful tool, but stated that BSEE must ensure that the criteria for third party reviewers is sufficient.

Response: BSEE agrees with the commenter that I3Ps can be a useful tool for added review and verifications. In this final rule, BSEE has clarified the I3P qualifications and expectations to help ensure appropriately qualified entities are performing this important work and that BSEE has clear oversight of the process.

Summary of comments related to continued use of NTLs: Multiple commenters expressed concerns with consistency between existing BSEE guidance (NTL No. 2019–G02 and NTL No. 2019–G03) and the proposed rule and were unsure as to whether BSEE intended to replace or supplement the BSEE guidance.

Response: BSEE has made many revisions throughout the final rule to provide consistency with existing BSEE guidance in the NTLs. For example, BSEE has added the definitions of “fit for purpose” and “fit for service” to the final rule to provide that consistency (see Section III of this preamble for discussions on consistency and clarification of the content of the guidance documents). If the NTLs conflict with this final rule, the final rule is controlling, and BSEE will revise the NTLs, as necessary.

Summary of comments related to significance determination: A commenter asserted that the rule was incorrectly identified as a non-significant action. The commenter asserted that the rule includes several significant alterations to the DWOP process currently used by both the oil and natural gas industry and BSEE, including a substantial expansion of the circumstances that would trigger the DWOP process, as well as an expansion of the circumstances that would require review by I3Ps. The commenter requested that BSEE reevaluate the significance analysis.

Response: The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget determined that this rule is not significant for purposes of Executive Order 12866, as amended. BSEE disagrees with the commenter’s

to the government are actionable under 18 U.S.C. 1001.

assertion that the rule should be considered significant. The DWOP process that is clarified in this rule is the same process that BSEE has been using to review new and unusual technologies and new and unusual technologies barriers for more than 20 years. Under its current regulations, BSEE has established conditions of approval through the DWOP process under the authority of § 250.141, “May I ever use alternate procedures or equipment?”, to enable it to review and approve applications using new technologies. In response to the commenters request to reevaluate the significance criteria, BSEE has conducted a final analysis of the regulations, and OIRA confirmed that this final rule is not a significant regulatory action. A summary of that analysis can be found in Section V of this preamble.

Summary of comments related to grandfathering ongoing approvals and actions: Multiple commenters expressed concerns that the proposed rule would impact and significantly delay ongoing approval for projects that have already been proposed and subject to BSEE review before the effective date of the rule, or for equipment that has already been reviewed by BSEE. The commenters identified that some of the projects have already undergone years of review.

Response: BSEE agrees with the commenters and revised § 250.201 by adding new paragraph (d) to clarify that all plans covered under the DWOP process that are initially submitted after the effective date of this rule must comply with the requirements of this subpart. DWOPs that were submitted to BSEE for approval prior to the effective date of this rule, including revised or amended DWOPs, do not have to follow the new DWOP process and may continue to follow the process that was in effect before the effective date of these final regulations. BSEE considers Conceptual Plans and DWOPs to be submitted when BSEE receives the initial submittal. BSEE will work on a case-by-case basis to ensure there are no significant delays for those ongoing projects or reviews. BSEE may allow review pursuant to the new regulations if such a review is requested by the operator.

Comments Related to the Use of New or Unusual Technology

Summary of comments: A commenter requested that BSEE not classify equipment or procedures used in an HPHT environment as new or unusual technology, as the HPHT technology is expanding and maturing.

² Notwithstanding this terminology change, operators and I3Ps should be aware that willfully and knowingly making materially false statements

Response: BSEE disagrees with the commenter and does not consider HPHT equipment to be fully mature. BSEE considers HPHT equipment to be potentially high risk because it requires complex material selection, material testing, design analysis, and validation testing. BSEE understands and supports many engineering standards that are being updated to address HPHT design. However, at this point BSEE intends for operations in an HPHT environment to be fully reviewed and approved to ensure safety and environmental protection. BSEE will continue to evaluate HPHT projects, and at an appropriate time may revise the regulations to remove HPHT from being considered new or unusual technology once BSEE determines that it is fully established.

Summary of comments: Multiple commenters recommended that BSEE provide means to communicate about equipment or procedures that are or are not considered new or unusual technology and a means for equipment or procedures initially deemed to be new or unusual technology to later be deemed as falling outside the definition of “new or unusual technology.”

Response: BSEE is not developing a list of equipment or procedures considered to be new or unusual technology. It is impractical for BSEE to list every potential piece of equipment or procedure that may fall under the definition of new or unusual technology as there may be an infinite number of variations of each type of equipment or procedure. Furthermore, BSEE reviews each piece of equipment and procedure individually to ensure that the equipment or procedure is appropriate for the specific project proposed. This rule sets the parameters of what is considered new or unusual technology. BSEE anticipates that over time, consistently successful implementation of certain new or unusual technologies will lead to BSEE revising the criteria for determining what is considered new or unusual technology. After appropriate experience and analysis of data, in a future rulemaking BSEE may decide to no longer treat certain equipment or procedures used in an HPHT environment as new or unusual technology. For example, BSEE has become familiar with the freestanding hybrid riser (FSHR) systems and does not consider that equipment new or unusual technology. In 2019, BSEE removed many of the FSHR prescriptive requirements and associated certifications from the DWOP (see 84 FR 21932).

Summary of comments: Multiple commenters expressed concerns that

only operators can propose the use of new or unusual technology under the DWOP process.

Response: The current regulatory structure focuses on entities—such as lessees, operators, and grant holders—that submit permits to BSEE for review and approval; this final rule, therefore, focuses on regulation of those entities that use the permitting processes.

Summary of comments: Multiple commenters expressed concerns that the full DWOP process should not be required to facilitate review of new or unusual technology and recommended that BSEE provide clear expectations and timing for all plans covered under the DWOP process and actions or operations that can be taken during the process.

Response: In this final rule, BSEE has clarified the DWOP process and the timing associated with each Conceptual Plan and the DWOP, as applicable. BSEE has revised multiple sections to reflect the appropriate timing (including what actions or operations can be taken during the DWOP process) and submission requirements for all plans covered under the DWOP process (e.g., see revisions to §§ 250.201, 250.220, 250.225, and 250.226). BSEE has also clarified in other sections (see, e.g., § 250.220) that certain New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans (which may be used for drilling and decommissioning) may not be required to have an associated Project Conceptual Plan or DWOP. This clarification helps limit burdens on industry, as not every proposed use of new or unusual technology will require the submission of all plans defined in the DWOP process; only those plans that are applicable will be required. There is a difference between the DWOP process and submitting a DWOP. The DWOP process identifies the overarching requirements for all associated plans (i.e., the Project Conceptual Plan, New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, and the DWOP). The DWOP itself is just one plan included within the DWOP process. BSEE expects operators to follow the DWOP process as appropriate, which may only require the submittal of a certain Conceptual Plan.

Summary of comments: A commenter expressed concerns that the proposed rule is overly prescriptive when identifying new or unusual technology and barriers. This commenter expressed that the proposed rule may limit or stifle innovation.

Response: BSEE disagrees with the commenter's concerns that the rule is overly prescriptive. These regulations outline the requirements and expectations for using new or unusual technology. These regulations will not limit or stifle innovation because BSEE uses the DWOP process to evaluate and approve new or unusual technology, not to limit the type of technology that may be submitted. BSEE has worked successfully with industry for many years to implement new or unusual technology, and BSEE will continue to work with any operator on the proposed use of any new or unusual technology, even if that use is not explicitly identified in the regulations. If an operator has any questions about the applicability of the regulations to any new or unusual technology or how the process will work for a specific equipment or process, that operator may contact the appropriate Regional Supervisor for guidance and actions on a case-by-case basis.

Summary of comments related to overlap between the contents of Conceptual Plans and the DWOP: Multiple commenters expressed concerns that there is significant overlap among the Conceptual Plans and the DWOP requirements for the submission of information.

Response: BSEE agrees in part that the Conceptual Plans and the DWOP may require the submission of similar information. However, the final rule will not significantly change the contents and requirements of the Project Conceptual Plan and the DWOP. This final rule clarifies the nature of the required information submitted with each Conceptual Plan and DWOP (see revisions to §§ 250.227 through 250.242). BSEE recognizes that the New and Unusual Technology Conceptual Plan and New and Unusual Barrier Equipment Technology Conceptual Plan have potentially similar requirements relative to the Project Conceptual Plan and DWOP. However, the Conceptual Plans require the general operational concepts and basis of design while the DWOP identifies the specific design, fabrication, installation, and operational requirements for the equipment.

Summary of comments: Multiple commenters requested that BSEE provide guidance for using alternate procedures or equipment requests for using industry standards not incorporated by BSEE. A commenter also recommended BSEE make the process for granting alternate procedures or equipment and departure requests transparent to the public.

Response: Current BSEE regulations already outline the requirements for

alternate procedures or equipment and departures in accordance with §§ 250.141 and 250.142, respectively. In reference to the transparency of the alternate procedure or equipment and departure requests, BSEE posts approval information on the BSEE website at: <https://www.data.bsee.gov/Company/Approvals/Default.aspx>.

Summary of comments: A commenter requested that BSEE increase inspections, develop procedures to effectively enforce safety violations, and improve oversight measures to fulfill its mandate.

Response: This rulemaking clarifies the DWOP process to ensure BSEE receives proper information to evaluate and approve new or unusual technology. BSEE has an established inspection program independent of the DWOP process to help ensure compliance with the regulations and enforce safety requirements. The equipment approved by BSEE through the DWOP process will be inspected pursuant to the existing inspection program. This rule does not alter the existing inspection program for the actual operations. That inspection program is outside of the scope of this rulemaking. However, BSEE is always seeking to improve its regulatory oversight and enforcement and appreciates receiving relevant recommendations.

Summary of comments: A commenter expressed concern that the confidential and intellectual information submitted throughout the DWOP process should be safeguarded and not released to the public domain.

Response: BSEE agrees with the commenter's concerns about the release of confidential business information and will withhold such information from public disclosure in accordance with law (see, e.g., the Freedom of Information Act, 5 U.S.C. 552).

Summary of comment: A commenter requested that BSEE provide guidelines for how long DWOP process review is anticipated to take to better align schedules leading to first production.

Response: BSEE cannot provide timelines for DWOP process review. The review time for the DWOP process is handled on a case-by-case basis, as each process is unique to a particular project. The size of the project and complexity of the project, equipment, and processes all factor into the length of time necessary for DWOP process review.

Summary of Comments Related to Economic Data

A commenter stated that the Proposed Rule is expected to increase the cycle time by one to two years for new major

capital projects due to the magnitude of detailed information that is required to be submitted with Conceptual Plans, both for projects of a conventional nature and for projects that involve the use of "new or unusual technology" (as defined in the Proposed Rule). The commenter asserted that this increased cycle time for a project will impact the economics and delay the schedule of the project.

The commenter also stated that the scope of Supplemental DWOP is expanded well beyond the current requirements, and Table 2 of the Initial Regulatory Impact Analysis does not take this into account since it holds flat the number of Supplement DWOPs (312) to the Baseline for DWOP Revisions for Equipment Change (312). The commenter asserted that the change in scope could well cause the number of Supplement DWOPs to double over the baseline. The commenter further asserted that this would cause the 10-year cost reported in Table 7 for both industry and government to be under reported.

Response: BSEE disagrees with the assertion that the rule will lead to substantial delays in capital projects. Industry is already submitting much of the project information for BSEE approval, so the burden is not anticipated to be significant. Based on the Final Regulatory Impact Analysis (RIA), the overall reporting burden on industry is expected to be an additional 67 hours per report compared to the baseline, which is not reasonably likely to delay or increase the cycle time for HPHT investment or deployment.

BSEE also disagrees with the commenter's assertion that the rule will expand the scope and lead to large increases in the number of Supplemental DWOP Reports compared to the baseline. BSEE has clarified that certain Conceptual Plans must be submitted for each piece of equipment at an assembly level. This final rule also clarifies the scope of § 250.247 and identifies what conditions require operators to submit Supplemental DWOPs consistent with the existing longstanding practice for submittal of a Supplemental DWOP. The DWOP process clarified in this rule is the same process that BSEE has been using to review new and unusual technologies and new and unusual technologies barriers for many years. Under existing regulations, BSEE has established conditions of approval for new technologies for more than 20 years through the DWOP process under the authority of § 250.141, "May I ever use alternate procedures or equipment?" BSEE expects that the increased clarity

regarding requirements and submission expectations provided by this rule may in fact decrease the number of Supplemental DWOPs that will need to be submitted. A supplement to a DWOP is required for applicable development projects when there are certain changes or additions that have not been approved by BSEE. The Supplemental DWOP will only be as complex as the equipment or systems not covered in the approved DWOP. BSEE uses this supplemental process to ensure that all applicable equipment is properly reviewed and approved before installation, well completion, or production.

III. Section-by-Section Summary and Responses to Comments on the Proposed Rule

BSEE is finalizing revisions to the following regulations:

Subpart A—General

Definitions (§ 250.105)

Summary of Proposed Rule Revisions

BSEE proposed to add definitions for "BOP [blowout preventer] systems and related equipment" and "HPHT environment."

The proposed definition of "BOP systems and related equipment" included all pressure controlling and pressure containing well control equipment that may or will be exposed to the well's maximum anticipated surface pressure (MASP) during any phase of operation (i.e., drilling, completion, workover, intervention, or abandonment). The proposed definition also explained that well control equipment includes equipment that is installed for the purpose of pressure control and containment when it becomes necessary to physically enter a well bore during drilling, completion, workover, intervention, or abandonment modes of operation. The proposed definition of "BOP systems and related equipment" is consistent with how BSEE defined the term in NTL No. 2019-G03.

The proposed definition of HPHT environment was moved from § 250.804(b) to this section and revised to refer to well conditions: (1) that require equipment assigned a pressure rating greater than 15,000 psia or temperature rating greater than 350 degrees Fahrenheit; (2) where the MASP or shut in tubing pressure (SITP) is greater than 15,000 psia at the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead; or (3) with a flowing temperature greater than 350 degrees Fahrenheit measured at the seafloor for

a well with a subsea wellhead or at the surface for a well with a surface wellhead. The proposed definition is consistent with BSEE's current definition of HPHT environments in existing § 250.804(b) and is identical to the definition in NTL No. 2019–G03.

Summary of Final Rule Revisions

BSEE is finalizing the proposed revisions to § 250.105 with minor clarifications. BSEE is revising the proposed definition of *BOP systems and related equipment* to clarify that well control equipment includes equipment that is installed for the purpose of pressure control and “pressure” containment. This revision clarifies the original intent of the proposed definition.

BSEE is also revising the proposed definition of *HPHT environment* to clarify that the criteria for evaluating MASP, SITP, and flowing temperatures are evaluated “at” the seafloor instead of “on” the seafloor. The temperature measuring device may be several feet above the actual seafloor. The device is generally located on the subsea tree and can be as high as 25 feet above the mudline.

Summary of comments: A commenter expressed concerns that BSEE is not including in the rule all of the definitions contained in the existing BSEE NTL Nos. 2019–G02 and 2019–G03.

Response: BSEE does not agree that adding all of the definitions from the NTLs are necessary. BSEE has determined that some of the definitions in the NTL are more appropriate in the context of the associated guidance contained in the NTLs. However, as described in Section III of this preamble and in response to comments, BSEE has revised the definitions of “BOP systems and related equipment” and “HPHT environment” in the proposed rule for consistency with BSEE NTL Nos. 2019–G02 and 2019–G03. The referenced NTLs were created prior to significant BSEE HPHT reviews occurring. Now that BSEE has been reviewing HPHT projects for several years, we have identified what information is pertinent for regulation. BSEE will revise the existing NTLs, as necessary, to provide

additional guidance for HPHT operations. The content of the existing applicable NTLs may still be relevant, but they may be revised to reflect the content incorporated into these regulations and updated processes.

Summary of comments: A commenter expressed concerns that the definition of *BOP systems and related equipment* is too broad and may be interpreted to include equipment beyond what is traditionally considered a BOP system.

Response: BSEE disagrees with the commenter. BSEE considers any piece of temporary equipment used to contain or control well bore fluids and pressure during drilling, completions, workover, intervention, or abandonment operations to be part of the BOP systems or related equipment. The concept of BOP system and related equipment has been utilized for many years in the existing BSEE regulations (see previous § 250.732(c) and existing § 250.735). The definition of BOP systems and related equipment provides clarity consistent with the use of the term as identified in the regulations and is not intended to significantly alter or expand the scope of the definition. If there are any questions about what equipment is properly defined as part of a BOP system or related equipment, please contact the appropriate BSEE Regional Supervisor.

Summary of comments: A commenter stated that the definition of HPHT environment needs further clarity regarding the terms MASP and “flowing temperature” to ensure it is applied appropriately.

Response: BSEE disagrees with the commenter that the definition needs to be revised to further explain the terminology of the definition. This definition of HPHT environment is consistent with the definition of an HPHT environment in current regulations (see § 250.804(b)) and with BSEE's longstanding approach for considering HPHT environment criteria, including the use of the NTLs that further clarify applicable terms like MASP (e.g., BSEE NTL No. 2019–G03). This rule is not changing the meaning of any terms used within that definition, and their meanings will continue consistent with the current regulations

and guidance. If there are any questions about what is considered an HPHT environment, please contact the appropriate BSEE Regional Supervisor.

Service Fees (§ 250.125)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (a)(2) of § 250.125 by adding new service fees for BSEE review of submittals associated with the DWOP process. Specifically, BSEE proposed adding service fees for processing a Project Conceptual Plan, New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, revised DWOP, Combined Conceptual Plan/DWOP, and Supplemental DWOP. BSEE also proposed revising the cost recovery fee amount for DWOP approval to reflect current BSEE review and processing timeframes. These service and cost recovery fees would cover BSEE's costs for administrative and technical review of each identified submittal and processing.

Summary of Final Rule Revisions

BSEE is finalizing the service fee categories as proposed with one minor textual revision in paragraph (a)(2) of § 250.125. BSEE revised the fourth category to include the word “Equipment” to make it consistent with the title of that Conceptual Plan. BSEE is also revising all the proposed service fee amounts listed in paragraph (a)(2) to more accurately reflect the revised processes and the estimated BSEE review time for the listed services. For example, BSEE now expects a separate New or Unusual Technology Barrier Equipment Conceptual Plan for each separate piece of applicable equipment and has reduced the service fee amount accordingly. Each project may require a different number of New or Unusual Technology Barrier Equipment Conceptual Plans based on the equipment being used. Accordingly, the new fee reflects the BSEE evaluation time per plan and not per project, which was the basis of the fee initially analyzed in the proposed rule. The service fee amounts are revised as follows:

Service—processing of the following:	Proposed fee amount	Final fee amount
(2) Deepwater Operations Plan (DWOP) Process:		
(i) Project Conceptual Plan	\$2,510	\$2,697
(ii) New or Unusual Technology Conceptual Plan	32,611	7,964
(iii) New or Unusual Technology Barrier Equipment Conceptual Plan	71,570	15,104
(iv) DWOP	13,907	10,647
(v) Revised DWOP	896	963
(vi) Combined Conceptual Plan/DWOP	8,959	13,856

Service—processing of the following:	Proposed fee amount	Final fee amount
(vii) Supplemental DWOP	8,959	9,626

Summary of comments: A commenter recommended that BSEE add a fee schedule for an Original Equipment Manufacturer (OEM) to submit a generic equipment plan.

Response: BSEE disagrees with the commenter regarding requiring an OEM to submit an equipment plan and to add a service fee for such a filing. The DWOP process requires submittal of the appropriate plans and permits (see § 250.201) by those entities who are covered under the definition of “you,” which includes a lessee or designated operator. BSEE is not including the OEM as an entity to submit plans because an OEM is not the end user of the equipment. BSEE will review plans specific to each project and prefers not to review generic equipment plans in addition to the project-specific plans, as doing so would duplicate the review burden on BSEE.

Summary of comments: A commenter expressed concerns that only one service fee should apply to each Conceptual Plan covering the whole project regardless of the number of pieces of equipment or components covered by the plan.

Response: BSEE agrees in part with the commenter as only one service fee is required for each applicable Conceptual Plan (see §§ 250.227(t), 250.228(a)(15), and 250.229(j)). BSEE, however, does not agree that all Conceptual Plans can cover multiple pieces of equipment. For example, BSEE now expects a separate New or Unusual Technology Barrier Equipment Conceptual Plan for each separate piece of applicable equipment and has reduced the service fee amount accordingly (see §§ 250.226(b)(5) and 250.226(c)(5)). Because the nature of plan submittals and the number of plans may vary for each project, BSEE has determined that a service fee for BSEE review on a per-plan basis more accurately reflects the resources expended than a service fee on a per-project basis.

Documents Incorporated by Reference (§ 250.198)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (e)(82) of § 250.198, which currently incorporates ANSI/API Spec. 6A, *Specification for Wellhead and Christmas Tree Equipment*, to add new references to §§ 250.518 and 250.619,

making this standard applicable to completion and workover operations. The proposed changes to this paragraph are administrative and reflect the substantive changes made to §§ 250.518 and 250.619 that incorporate by reference this standard and are addressed further in the section-by-section discussion for these two sections.

BSEE also proposed to revise paragraph (e)(86) of § 250.198 to update the incorporation of ANSI/API Spec. 11D1 to the third edition of that standard. BSEE reviewed the new edition and the differences between the second and third editions of ANSI/API Spec. 11D1 and determined that the third edition is appropriate to incorporate into the regulations. The ANSI/API Spec. 11D1 third edition now includes an improved testing procedure for design verification and validation of packers and bridge plugs. The most significant change from the second edition to the third edition was the addition of the enhanced validation of the testing processes.

BSEE also proposed to revise paragraph (e)(91) of § 250.198, which currently incorporates ANSI/API Spec. 17D, *Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition*, to add new references to §§ 250.518 and 250.619, making this standard applicable to completion and workover operations. The proposed changes to this paragraph are administrative and reflect the substantive changes made to §§ 250.518 and 250.619 that incorporate by reference this standard and are addressed further in the section-by-section discussion for these two sections.

BSEE also proposed to revise paragraph (i)(1) of § 250.198, which currently incorporates NACE Standard MR0175–2003, *Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 17, 2003*, to add new references to §§ 250.518 and 250.619, making this standard applicable to completion and workover operations. The proposed changes to this paragraph are administrative and reflect the substantive changes made to §§ 250.518 and 250.619 that incorporate by reference this standard and are addressed further in the section-by-

section discussion for these two sections.

Summary of Final Rule Revisions

BSEE did not receive any comments on the incorporation by reference of the proposed industry standards in this section and is including the proposed language in the final rule without change.

Summary of comments: Multiple commenters expressed general support for BSEE updating out of date standards and requested BSEE to consider many additional standards to be incorporated into the regulations.

Response: BSEE supports the actions of ensuring referenced standards are not out of date and reflect the recent editions; however, BSEE cannot add new standards to this rulemaking without specifically identifying them for public comment. BSEE may consider all of the recommended standards for incorporation in future BSEE rulemaking actions.

Summary of comments: A commenter expressed concerns that reliance on industry standards undermines safety.

Response: BSEE follows the policies of OMB circular A–119, which directs agencies to use voluntary consensus standards in lieu of government-unique standards, except when they are inconsistent with law or otherwise impractical. BSEE recognizes the positive contribution of standards development and related activities. When properly conducted, standards development can increase productivity and efficiency in government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment. BSEE has reviewed the incorporated standards to ensure that they provide the necessary level of safety. BSEE also complies with the requirements to utilize standards according to the National Technology Transfer and Advancement Act (Pub. L. 104–113 (March 7, 1996)).

Subpart B—Plans and Information

This final rule will restructure Subpart B—*Plans and Information*, under the following undesignated headings to assist the reader in finding the subject matter provisions they are looking for in the regulations:

—GENERAL INFORMATION;
—BARRIER EQUIPMENT AND SYSTEMS;

—ACTIVITIES AND POST-APPROVAL REQUIREMENTS FOR THE EP, DPP, DWOP, AND DOCD;
 —DEEPWATER OPERATIONS PLAN (DWOP) PROCESS;
 —CONCEPTUAL PLANS; and
 —DWOP APPROVAL.

General Information

Definitions (§ 250.200)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (a) of § 250.200 by adding the acronym HPHT. BSEE also proposed to revise paragraph (b) of § 250.200 by adding, revising, or removing the following definitions, as noted:

—Add a definition for *Barrier categorization* to identify barriers as one of the following two categories:

Category 1 Barrier, which would mean any equipment, component, or assembly that functions as part of a primary barrier during any operational phase of its life cycle. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment; and

Category 2 Barrier, which would mean any equipment, component, or assembly that normally functions as part of a secondary barrier system in all operational phases of its life cycle, except when a primary barrier fails. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment. BSEE may consider non-barrier structural components of a barrier system as Category 2 barriers if failure of that structural component could reasonably result in a primary barrier failure.

—Add a definition for *Primary Barrier system*, which would mean the component or group of components that are designated as the principle means of isolating the source of hydrocarbons and/or pressure from people and the environment.

—Add the definition for *Secondary Barrier system*, which would mean the component or group of components that are designated as the secondary means of isolating the source of hydrocarbons and/or pressure from people and the environment.

—Revise the definition for *New or unusual technology* to include equipment or procedures used for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning,

or abandonment operation that meets any of the following criteria:

(1) Has not been approved for use or used extensively in a BSEE OCS Region;
 (2) Has not been approved for use or used extensively under the anticipated operating conditions;

(3) Has operating characteristics that are outside the performance parameters established in 30 CFR part 250;

(4) Will operate in an HPHT environment as defined in proposed § 250.105; or

(5) Is part of a primary or secondary barrier system that uses materials, design analysis techniques, validation testing methods, or manufacturing processes not addressed in existing industry standards.

—Replace the definition for *non-conventional production or completion technology with subsea tieback development technology*. The definition of *subsea tieback development technology* would still include the current examples of floating production systems, tension leg platforms, spars, Floating Production Storage and Offloading Vessel (FPSO) systems, guyed towers, compliant towers, subsea manifolds, and would add subsea wells, hybrid wells, and other subsea completion components to the list of examples.

—Remove the definitions of *modification*, *offshore vehicle*, *resubmitted OCS plan*, *revised OCS plan*, and *supplemental OCS plan*.

Summary of Final Rule Revisions

BSEE received and considered comments on this section and is finalizing the proposed § 250.200 with the following clarifying revisions:

—Adding the acronym for Independent Third Party (I3P). This addition helps provide clarity for this common term used in the regulations.

—Revising the definition of *Category 1 Barrier* to remove “system” from the term. BSEE is removing this term because it is unnecessary to define from a system level and is sufficient to define on an individual level. BSEE wants to ensure the flexibility to review the appropriately identified equipment even if only a single piece of equipment.

—Revising the definition of *Category 2 Barrier* to clarify that it means any equipment, component, or assembly that normally functions as part of a secondary barrier “during any” operational phase instead of “in all” operational phases. This revision clarifies when a Category 2 Barrier should be used. BSEE also is

clarifying that BSEE may consider non-barrier structural components of a barrier system as a Category 2 Barrier if failure of this structural component could reasonably result in a “primary” barrier failure. This revision clarifies the consideration of a Category 2 Barrier to be consistent with its definition and applicability only when there is a Primary Barrier failure instead of any barrier failure.

—Adding the definition of *Fit for Purpose* to mean a determination made by an I3P at the conclusion of I3P review that the barrier equipment design has been verified and validated in conformance with recognized engineering standards and any additional project specification requirements; that the material selection, design verification analysis, design validation testing, and quality control are appropriate to justify the technical specifications; and that the technical specifications meet or exceed a project’s site specific functional requirements. The addition of this definition provides clarity about the expectations and actions of an I3P and is consistent with the associated revisions to §§ 250.226 and 250.230 through 250.233.

—Adding the definition of *Fit for Service* to mean a determination made by the operator that the material selection, design verification analysis, design validation testing, and quality control of the barrier equipment is appropriate to justify the technical specifications and that the technical specifications meet or exceed a project’s site-specific functional requirements. This addition provides clarity about the expectations and actions of an operator when providing required determinations for a site-specific project and is consistent with the associated requirements of the DWOP process.

—Revising the definitions of *Primary Barrier* and *Secondary Barrier* by removing the terms “system”, “or group of components”, and “of hydrocarbons and/or pressure”, resulting in the defined terms meaning the equipment, material, component, or assembly that is designated as the primary or secondary means of isolating the hydrocarbon pressure source from people and the environment. These revisions provide clarity and consistency with other applicable definitions (e.g., *Category 1 Barrier* and *Category 2 Barrier*) and with how the terms are used in § 250.206. Also based on comments, BSEE clarified the applicability of the barriers encompassing those that isolate a

“hydrocarbon pressure source.” This clarification confirms the original intent of the definitions, further ensuring personnel safety and environmental protection from the potential release of hydrocarbons.

—Revising the definition of *Subsea Tieback Development Technology* by removing an unnecessary acronym and adding production risers and export risers to the list of applicable technology. These identified risers have always been an integral part of subsea tieback development technology and BSEE is adding them for clarification.

Summary of comments: Multiple commenters expressed concerns that the definition of “New or unusual technology” is too broad and would unnecessarily expand the application of the DWOP process. Commenters also expressed concerns that the language “used extensively”, which is used in the definition for “New and unusual technology”, is vague and gives no criteria as to when equipment will no longer be considered new or unusual in the context of HPHT equipment. Some commenters recommended that the definition of new or unusual technology should not include equipment covered by industry standards.

Response: BSEE disagrees in part with the commenters’ concerns. BSEE recognizes that the definition in this rule expands the scope of what is considered new or unusual technology; however, this expansion helps cover the critical projects, equipment, or procedures identified by BSEE that must follow the DWOP process. BSEE has determined that this expanded scope is necessary to ensure safe operations in HPHT environments.

To clarify the scope, BSEE has also revised other definitions in this final rule to clarify the equipment, materials, components, or assemblies that may be used (e.g., Category 1 and 2 Barriers, Primary and Secondary Barriers, and Subsea Tieback Development Technology). BSEE has also successfully used the longstanding definition of “New or unusual technology” in the current regulations in § 250.200, which already uses the language “used extensively” as part of the definition. Accordingly, BSEE does not agree that the term will be too vague for its intended purposes.

In this rule BSEE is not using industry standards as a criterion for determining new or unusual technology. Multiple standards could be used for one piece of equipment, and BSEE has not incorporated into the regulations every potential industry standard. Also, BSEE

may not have reviewed or evaluated the standards not incorporated in the regulations prior to Conceptual Plan or DWOP submittal, and standards generally do not address site specific reviews of the equipment. New technology applications are individualized even when the same idea is used in different locations. BSEE needs to ensure the equipment or procedures are appropriate for the conditions in which they will be used. Once industry and BSEE understand the full risks and mitigations from the specific application and use, then BSEE may determine that the equipment no longer needs to be categorized as new or unusual technology.

Summary of comments: Multiple commenters expressed concerns with the expectations of the I3P and operators for determining what is “fit for purpose” and “fit for service,” respectively. The commenters recommended that BSEE clarify the differences between determining what is “fit for purpose” and what is “fit for service,” consistent with BSEE guidance.

Response: BSEE agrees with the commenters, and the final rule now includes definitions for both terms. The addition of these definitions provides clarity and certain expectations for the I3P or operator conducting the relevant determinations. The added definitions are consistent with the guidance of BSEE NTL Nos. 2019–G02 and 2019–G03, with minor corresponding edits to reflect their applicability specific to the DWOP process.

Summary of comments: A commenter expressed concerns that the proposed rule extends the barrier envelope beyond the scope of isolating pressure systems from hydrocarbons.

Response: BSEE agrees with the commenter. BSEE has revised the definitions of primary and secondary barriers to clarify applicability to hydrocarbon pressure sources. These revisions to the definitions clarify BSEE’s original intent and limit the scope of the primary and secondary barriers to only hydrocarbon pressure sources.

What plans and information must I submit before I conduct any activities on my lease or unit? (§ 250.201)

Summary of Proposed Rule Revisions

BSEE proposed to revise existing paragraph (a) of § 250.201 to reflect the creation of the New or Unusual Technology Conceptual Plan, the New or Unusual Technology Barrier Conceptual Plan, and the Project Conceptual Plan. This section provides

general information about each plan and identifies when BSEE approval is necessary. BSEE proposed paragraph (a) to clarify when each plan approval is required for certain activities. An operator is only required to submit the applicable Conceptual Plan(s). Each of these Conceptual Plans are standalone plans and are not contingent upon approval of each other.

BSEE also proposed to remove existing paragraph (c), which includes the limiting information provisions. The limiting information provisions allow the Regional Director to limit the amount of information or analyses required to be included with the submitted plans or documents, covered by Subpart B of 30 CFR part 250, under certain conditions. The narrower scope of the information described in the proposed rule aligns with the Bureau’s roles, authorities, and regulations established in 2011 when BSEE separated from the Bureau of Ocean Energy Management (BOEM) (see 76 FR 64432).

Summary of Final Rule Revisions

BSEE received and considered comments on this section and is finalizing the proposed section with the following revisions based on the comments received:

- In paragraph (a), BSEE is adding “(or relevant portions thereof)” after the listed plans. This addition clarifies that certain lease activities can be conducted if the appropriate portions of the Conceptual Plans are submitted to BSEE and approved as identified in § 250.226;
- In the table under paragraph (a)(1), BSEE is revising the information under the heading “Additional information” to designate the first paragraph as (a)(1)(i) and clarifying that the New or Unusual Technology Conceptual Plan must be approved by BSEE before it will approve any associated application or permit involving the use of new or unusual technology. BSEE is also adding new paragraphs (a)(1)(ii), (iii), and (iv) to clarify that the New or Unusual Technology Conceptual Plan may be independent of a project Conceptual Plan or DWOP, that BSEE will not approve the Conceptual Plan until all associated I3P Reports (if required) are submitted and reviewed by BSEE, and that the Conceptual Plan may not contain equipment identified as a primary or secondary barrier;
- In the table under paragraph (a)(2), and throughout the rule, BSEE is revising the name of the New or Unusual Technology Barrier Conceptual Plan to New or Unusual

Technology Barrier Equipment Conceptual Plan. This revision is made based on comments received to clarify the scope of the plan and to be consistent with the terminology and use of equipment covered by the plan. BSEE is also clarifying that the New or Unusual Technology Barrier Equipment Conceptual Plan requirements apply to new or unusual technology “that is identified” as barrier equipment. The final rule also revises paragraph (a)(2)(ii) to state that this type of plan must be approved “by BSEE before it will approve any associated application or permit application (e.g., pipeline, platform, APD, APM) involving the use of new or unusual technology identified as barrier equipment as applicable for the permit scope.” The final rule also adds new paragraph (a)(2)(iii), which states that BSEE will not approve this Conceptual Plan until all associated I3P Reports are submitted and reviewed by BSEE. These additions clarify the BSEE Conceptual Plan approval process and submittal requirements associated with the applicable Conceptual Plans. These additions are based on comments received and are consistent with the relevant revisions to the associated plans covered under § 250.226 (“When and how must I submit each applicable Conceptual Plan?”);

—In the table under paragraph (a)(3), BSEE is clarifying that the Project Conceptual Plan may include certain new or unusual technology. BSEE is also revising the information under the heading “Additional information” to designate the proposed paragraph as (a)(3)(i), removing the incorrect reference to the Application for Permit to Drill (APD), and adding new paragraph (a)(3)(ii) to clarify that BSEE must approve any relevant new or unusual technology associated with completion operations before BSEE approves the Project Conceptual Plan. These additions clarify the BSEE Project Conceptual Plan approval process and submittal requirements associated with the Project Conceptual Plans. These revisions ensure proper information has been approved or is included with in the applicable Conceptual Plan for BSEE approval. These additions are based on comments received and are consistent with the relevant revisions to the Conceptual Plans covered under § 250.226 (“When and how must I submit each applicable Conceptual Plan?”). BSEE removed the incorrect reference to the APD because it is not applicable to the

Project Conceptual Plan and activities covered under that plan;

- In the table under paragraph (a)(4)(i), BSEE removed the reference to the new or unusual technology barrier equipment because it is redundant with the definition of new or unusual technology; and
- BSEE added new paragraph (d) to clarify that all DWOP process plans initially submitted after the effective date of this rule must comply with the requirements of this subpart.

Summary of comments: A commenter expressed concerns that the terms used in the table are not consistent with the definitions and requested that BSEE provide clarification on when lease activities can commence under each applicable plan.

Response: BSEE agrees with the commenter and has revised the table to reflect the additional information associated with the applicable plans. BSEE has also revised § 250.226 to further reflect the actions that may be taken at each step of each applicable plan (see the applicable discussions of § 250.226 in Section IV of this preamble). The revisions to this section and § 250.226 further clarify the original intent of the proposed rule and the ability to conduct certain lease activities associated with the applicable plans.

Summary of comments: A commenter requested that BSEE limit the request of additional information at the Conceptual Plan stage to the adequacy of the requirements included in the plan and the adequacy of the documentation or verification of details.

Response: BSEE agrees in part with the commenter and expects the request for additional information under paragraph (b) to be limited to that applicable information needed to evaluate the proposed plan or permit. However, no revisions to this paragraph are necessary as the context of the current provisions are limited already to the scope of the associated plan or permit covered under paragraph (a).

How must I protect the rights of the Federal government? (§ 250.202)

Summary of Proposed Rule Revisions

BSEE proposed to move the content of existing § 250.204 to this section without revision.

BSEE did not receive any comments on this proposed section and is including the proposed language in the final rule without change.

Are there special requirements if my well affects an adjacent property? (§ 250.203)

Summary of Proposed Rule Revisions

BSEE proposed to move the content of existing § 250.205 to this section without revision.

BSEE did not receive any comments on this proposed section and is including the proposed language in the final rule without change.

Requirements for High Pressure High Temperature (HPHT) Barrier Equipment (§ 250.204)

Summary of Proposed Rule Revisions

BSEE proposed this new section to clarify what information an operator would be required to submit to BSEE if the operator plans to install HPHT barrier equipment. This section cross-references the applicable DWOP process requirements associated with the New or Unusual Technology Barrier Equipment Conceptual Plan (e.g., §§ 250.229 and 250.242). These additions are necessary to help ensure that the equipment is fit for service in the specific HPHT environment. BSEE’s review and approval of information submitted during the DWOP process is intended to occur in conjunction with BSEE’s review and approval of associated applications or permits (e.g., APD, Application for Permit to Modify (APM), pipeline, and production safety system).

Summary of Final Rule Revisions

Based on comments received, BSEE is revising this section to reflect the sequential order of submission of the applicable plans and permits and clarify that if an operator plans to install HPHT barrier equipment, then it must submit information with its applicable Project Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, DWOP, and applicable permit(s). BSEE also clarified the last sentence of the section to include §§ 250.229 and 250.242 as examples “(e.g.,)” of the applicable DWOP Process requirements.

Summary of comments: A commenter expressed concerns that this section is inconsistent with other submittal requirements. The commenter also stated that certain uses of HPHT barrier equipment do not require every step in the DWOP Process.

Response: BSEE agrees in part with the commenter and is ensuring that this section lists all plans that would be applicable to the use of HPHT barrier equipment. BSEE disagrees with the commenter that revisions are necessary

to demonstrate that only parts of the DWOP process apply. The last sentence of this section already states that the operator must follow the applicable DWOP process requirements. This does not mean that every DWOP process step must be followed as there are situations where certain parts may not be required. For example, certain New or Unusual Technology Barrier Equipment Conceptual Plans do not require submittal of a DWOP. BSEE is revising the last sentence of the paragraph to include a general reference to §§ 250.229 and 250.242 as examples of possible DWOP process requirements.

BSEE proposed to reserve § 250.205 and this section is reserved in this regulation.

Barrier Equipment and Systems

What equipment does BSEE consider to be a barrier? (§ 250.206)

Summary of Proposed Rule Revisions

BSEE proposed that this section codify some of the barrier concepts from BSEE NTL No. 2009–G36. Many parts of existing BSEE regulations under 30 CFR part 250, subparts D, E, F, G, H, J, and Q, are dedicated to establishing barrier requirements. This section would clarify that BSEE considers a barrier or barrier system to be any engineered equipment, materials, component, or assembly that is installed to contain a hydrocarbon pressure source(s) to prevent harm to people or the environment. BSEE recognizes barriers that are either non-mechanical or mechanical in nature, permanently or temporarily installed, pressure controlling, and/or pressure containing barriers. Pressure controlling barriers must be able to be activated on demand. The proposed rule also clarified that barriers or barrier systems are required to be able to function and/or be pressure tested repeatedly to defined acceptance criteria. If the barrier or barrier system is classified as Safety and Pollution Prevention Equipment (as described under § 250.801(a)), then it must also be compliant with the leak test requirements established in Subpart H of 30 CFR part 250. Any specific engineered equipment, materials, components, or assembly that exist within a barrier system that are not tested would not be considered a barrier. This section would not alter or impact any existing regulation; it only documents a principle that is the basis of many BSEE regulations.

Summary of Final Rule Revisions

BSEE received multiple comments on this section and has revised the language in the final rule with the

following revisions based on those comments.

- BSEE is making this section consistent with the revisions to the definitions under § 250.200 and clarifying that barriers are installed to contain hydrocarbon pressure sources to prevent harm to people and the environment. This revision clarifies the purpose of barriers and provides consistent terminology;
- Removing the parenthetical that non-mechanical or mechanical in nature barriers are only recognized by BSEE as barriers. BSEE removed this parenthetical to avoid confusion and be consistent with the definitions and terms defined in Subpart B of 30 CFR part 250 and in § 250.200;
- Adding an example of activating a barrier on demand to include the parenthetical “(i.e., closed by an operator or automated safety system).” This was added to provide guidance and clarity to the intent of activation of a barrier and does not change the associated requirement;
- Revising the second to last sentence to clarify that operators must function test and pressure test any pressure controlling barriers and adding that the operator must also pressure test any pressure containing barrier to defined acceptance criteria that can be repeated. BSEE clarified these requirements to eliminate confusion about the types of testing that is applicable to only pressure controlling as opposed to pressure containing barriers. BSEE does not specify the exact testing requirements or testing timeframes in order to not limit the use of new or unusual technology, such as single use barrier technology. However, the operator must identify and demonstrate the defined acceptance criteria to ensure that the barrier or barrier system can be used as designated; and
- Removing the last proposed sentence because Safety and Pollution Prevention Equipment is already covered under 30 CFR part 250, subpart H and is unnecessary in Subpart B.

Summary of comments: A commenter recommended clarifying that the barriers discussed in this section apply to hydrocarbon sources to prevent the requirements being taken out of context for including other non-barrier pressure containing components.

Response: BSEE agrees with the commenter and removed the words “or other” to clarify that the barriers are installed to contain hydrocarbon pressure sources. BSEE has revised this section to ensure consistency with the

definitions of applicable terms and clarify that the barrier envelope covered by these definitions is limited to hydrocarbon pressure sources. These revisions to this section and corresponding edits to the definitions section clarify BSEE's original intent and limit the applicable scope of the barrier or barrier system to only hydrocarbon pressure sources.

Summary of comments: A commenter requested BSEE to clarify the term “activated on demand.”

Response: BSEE agrees with the commenter and clarified the term “activated on demand” by providing a parenthetical that includes “closed by an operator or automated safety system.” This clarification does not change the meaning or intent of the proposed requirements and only provides two examples of what is meant by the term activated on demand.

Summary of comments: Multiple commenters expressed concerns with the purpose of function testing and pressure testing of barriers and suggested that function testing and pressure testing are only used for determining failures.

Response: BSEE agrees in part with the commenters that function testing and pressure testing help determine failures; however, BSEE also uses pressure testing and function testing to help ensure that the barrier or barrier system is capable of being used as designed for the specific conditions. This section does not specify any specific function testing or pressure testing acceptance criteria. BSEE clarified these requirements to eliminate confusion about the types of testing that is applicable to only pressure controlling as opposed to pressure containing barriers. BSEE does not want to limit the use of new or unusual technology, such as single use barrier technology, by specifying the exact testing requirements or testing timeframes. However, the operator must identify and demonstrate the defined acceptance standard to ensure that the barrier or barrier system can be used as designated.

How must barrier systems be used? (§ 250.207)

Summary of Proposed Rule Revisions

BSEE proposed to require operators to install and maintain a primary and secondary barrier system to prevent a loss of containment during any operational phase of a well, flowline, pipeline, production, or riser system. It is BSEE's goal to prevent loss of containment by minimizing single point failures wherever possible. Given the

probability that any barrier may fail during its service life due to age, corrosion, wear, damage, the environment, or accidents, the best mitigation is redundancy. This section would not alter or impact any existing regulation; it only documents a principle that is the basis of many BSEE regulations.

Summary of Final Rule Revisions

BSEE did not receive any comments on this proposed section and is including the proposed language in the final rule without change.

Activities and Post-Approval Requirements for the EP (Exploration Plan), DPP (Development and Production Plan), DWOP, and DOCD (Development Operations Coordination Document)

How must I conduct activities under an approved EP, DPP, or DOCD? (§ 250.208)

Summary of Proposed Rule Revisions

BSEE proposed that this section be similar to the language in 30 CFR 550.280, *How must I conduct activities under the approved EP, DPP, or DOCD?* During the 2011 regulatory split between BSEE and BOEM, the content of this section was inadvertently removed from 30 CFR part 250; however, the content is still applicable to BSEE and should be included in 30 CFR part 250, as well as in 30 CFR part 550.

Summary of Final Rule Revisions

BSEE received and considered a comment regarding this proposed provision and includes the proposed language in the final rule with the minor wording change to paragraph (a)(2) to state that the actions “may” result in the lack of compensation and to fix an incorrect citation. BOEM removed 30 CFR 556.77 from the regulations; the new applicable regulation is 30 CFR 556.1102.

Summary of comment: A commenter expressed concerns that the proposed language does not reflect that lease cancellation and right-of-way forfeiture occur through a judicial process and that the last sentence in paragraph (a)(2) is not compatible with 30 CFR 550.185(b) and 30 CFR 556.77 because those provisions do not categorically preclude compensation in all circumstances.

Response: BSEE disagrees with the commenter in part. The language in paragraph (a)(2), like 30 CFR 550.280(a)(2), accurately reflects the language in 43 U.S.C. 1334(c) or (d), 30 CFR 550.185, and 30 CFR 556.1102.

This addition to the BSEE regulations is not intended to alter any applicable judicial process or change the longstanding requirements of the BOEM regulations. Pursuant to the commenter’s suggestion, BSEE has revised the regulation to reflect that the actions “may” result in the lack of compensation.

What must I do to conduct activities under the approved EP, DPP, or DOCD? (§ 250.209)

Summary of Proposed Rule Revisions

The content of this proposed section would be similar to the language in 30 CFR 550.281, *What must I do to conduct activities under the approved EP, DPP, or DOCD?*, paragraphs (a) and (b). During the 2011 regulatory split between BSEE and BOEM, the content of this section was inadvertently removed from this part; however, the content is still applicable to BSEE and should be included in 30 CFR part 250, as well as in 30 CFR part 550.

Summary of Final Rule Revisions

BSEE did not receive any comments on this proposed section and is including the proposed language in the final rule without change.

Do I have to conduct post-approval monitoring? (§ 250.210)

Summary of Proposed Rule Revisions

BSEE proposed to move this section from § 250.282. BSEE also proposed to add revisions to clarify that the Regional Supervisor may direct operators to conduct monitoring programs in association with their approved EP, DPP, DWOP, or DOCD.

Summary of Final Rule Revisions

BSEE received and considered a comment regarding this proposed provision and includes the proposed language in the final rule without change.

Summary of comment: A commenter stated that paragraph (b) is vague and ambiguous and fails to put industry on notice of the standards with which it must comply. The commenter recommended that BSEE revise this paragraph to clarify the requirements for preparing and submitting monitoring plans.

Response: BSEE disagrees with the commenter and has successfully used the language regarding monitoring programs as a longstanding requirement (see previous § 250.282). For example, BSEE has successfully directed the use of monitoring programs to minimize the risk of vessel strikes to protected species and provided clarifying guidance for

implementing those monitoring programs (see BSEE NTL No. 2012–G01).

What are my new or unusual technology failure reporting requirements? (§ 250.211)

Summary of Proposed Rule Revisions

BSEE proposed to clarify the new or unusual technology failure reporting requirements. Currently, BSEE does not receive new or unusual technology failure data associated with approved DWOPs; however, BSEE has recently requested new or unusual technology failure data as a condition of DWOP approval. The proposed section would require an operator to notify BSEE within 30 days of a failure and provide a written report identifying the root causes of the failure. This new section is intended to provide BSEE with a better understanding of operational limitations of equipment associated with an approved DWOP.

Existing failure and incident reporting requirements in §§ 250.188, *What incidents must I report to BSEE and when must I report them?*; 250.730, *What are the general requirements for BOP systems and system components?*; and 250.803, *What SPPE failure reporting procedures must I follow?*, may be used to help fulfill the new or unusual technology failure reporting requirements of this section. This section is not a substitute for other currently applicable failure or incident reporting requirements.

Summary of Final Rule Revisions

Based on comments received, BSEE is revising this section by clarifying the definition of a failure to include any condition that prevents the equipment from meeting its functional specification. The final rule also removes the terms “recovered and repaired or replaced” as elements the proposed rule listed as triggering a requirement to notify the Regional Supervisor. BSEE is also revising the term “written report” to “failure analysis report” and clarifies that an operator must provide the failure analysis report as soon as it is available following the notification and that the failure analysis report must include any results and potential root causes. These revisions provide consistency with the same terminology and expectations for failure reporting used throughout BSEE regulations (e.g., §§ 250.188, 250.730 and 250.803).

Summary of comments: A commenter stated that the proposed rule is too broad and would capture non-failures. For example, the commenter stated that

simply needing to recover equipment does not mean the equipment experienced a failure and does not provide a distinction between failure notification and submission of a failure report.

Response: BSEE agrees with the commenter and has revised the definition of failure in this section to mean any condition that prevents the equipment from meeting its functional specification. BSEE also removed the requirement for reporting if the new or unusual technology has to be recovered and repaired or replaced. This revision is necessary for consistency with similar terminology used throughout BSEE regulations and within the failure reporting requirements and submissions to BSEE. BSEE also revised this section to provide clarity that the failure analysis report must be submitted as soon as available following the notification. BSEE requires submittal of the failure notice first and then submittal of the failure analysis, thereby providing a clear order for submittal of failure information to BSEE.

Summary of comments: A commenter expressed concerns that a root cause analysis may not always be possible.

Response: BSEE agrees with the commenter and understands that there are circumstances where a root cause analysis may not be possible. Therefore, BSEE has revised this section to clarify that the report must include any results and potential root causes for the failure. BSEE values failure data and uses the failure information, including root causes, to identify failure trends and potential issues.

BSEE proposed to reserve §§ 250.212–250.219, and these sections are reserved in this regulation.

Deepwater Operations Plan (DWOP) Process

What is the DWOP process? (§ 250.220)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from § 250.286 to this section and include the following revisions and additions:

Proposed paragraph (a) of § 250.220 would clarify that the DWOP process is not only used for review of subsea tieback development technology, but also applies to deepwater development projects and other projects or systems that use new or unusual technology during any phase of drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. These additions clarify when the DWOP process is necessary and correspond

with the proposed additions of the new or unusual technology requirements.

Proposed paragraph (b) would add that the DWOP process does not replace other BSEE applications or permits (e.g., APD, APM, pipeline, and platform). Other minor revisions to this paragraph reflect the corresponding additions to the proposed new or unusual technology requirements for the DWOP process.

Proposed paragraph (c) would clarify that the DWOP process consists of two phases: the Conceptual Plans and the DWOP. The current DWOP regulations do not differentiate between the DWOP process and the DWOP plan itself, as they currently use the term DWOP to refer to both. This proposed section would clarify the terms and is intended to reduce confusion about the different phases of the DWOP process. The proposed DWOP requirements are not intended to require the submittal of a DWOP for operations not currently covered under the DWOP plan stage (e.g., drilling and decommissioning), but would require submittal of the appropriate Conceptual Plan. Proposed §§ 250.227 through 250.229 would identify the contents of the Conceptual Plans. Proposed §§ 250.236 through 250.242 would identify what the DWOP must contain.

Summary of Final Rule Revisions

Based on comments received, BSEE is finalizing this proposed section and including a new paragraph (d) to clarify that not all projects will require the submittal of all three Conceptual Plans and a DWOP. Specifically, this revision clarifies that projects requiring New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans may not be required to have an associated Project Conceptual Plan or DWOP.

Summary of comments: Multiple commenters expressed concerns that the proposed rule lacks clarity for how the DWOP process is fully used for all applicable types of operations and if each step of the DWOP process is required for every type of equipment or operation.

Response: BSEE agrees with the commenters and has revised this section by adding new paragraph (d) and the respective DWOP process sections to add clarity that not all projects will require the submittal of each Conceptual Plan and DWOP. There are circumstances when only a New or Unusual Technology Conceptual Plan or a New or Unusual Technology Barrier Equipment Conceptual Plan is required to be submitted to BSEE without a Project Conceptual Plan or

DWOP. For applicability requirements, see § 250.225 for each Conceptual Plan and § 250.235 for the DWOP.

When must I use the DWOP process? (§ 250.221)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from § 250.287 to this section and to clarify that the DWOP process is applicable to any project in water depths greater than 1000 feet and to any project that will include the use of subsea tieback development technology, regardless of water depth, or new or unusual technology for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. These revisions provide consistency and reflect corresponding additions to the proposed new or unusual technology and DWOP process requirements.

BSEE has always required DWOPs when a development is situated in water depths of 1000 feet or greater or when subsea tieback development technology is used in any water depth. BSEE proposes to promulgate regulations that include our existing practices regarding the expansion of new or unusual technology. BSEE also proposed to add requirements for the DWOP process when any new or unusual technology is used for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment projects. This would provide consistency for all new or unusual technology reviews.

Summary of Final Rule Revisions

BSEE received comments on this section as proposed and is finalizing it with a minor revision to paragraph (b) to remove the words “you must.” This paragraph was intended to be a suggestion for operators to contact BSEE if they have any questions about the classification of certain technology and is not a requirement.

Summary of comments: Multiple commenters requested that BSEE list or create a database that indicates what equipment, components, or procedures are considered new or unusual technology or new or unusual barrier technology.

Response: BSEE disagrees with this comment and is not developing a database to list every new or unusual technology. It is the operator’s responsibility to ensure any new or unusual technology is appropriately identified and approved by BSEE before operational use. Also, such a database may be of limited use as each OEM may

have unique equipment designs and individual components do not necessarily all work together for specific projects.

Summary of comments: A commenter expressed concerns that this section would unnecessarily expand the complete DWOP process to cover operations not previously covered by the process and would create redundant filings and impose undue burdens.

Response: BSEE disagrees with the commenter. BSEE has clarified in other sections (see § 250.220(d)) that projects requiring New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans (which may be used for drilling and decommissioning) may not be required to have an associated Project Conceptual Plan or DWOP. This clarification will eliminate any undue burden on industry by only requiring submission of the applicable plans in the DWOP process.

BSEE proposed to reserve §§ 250.222–250.224, and these sections are reserved in this regulation.

Conceptual Plans

What are the types of Conceptual Plans that I must submit? (§ 250.225)

Summary of Proposed Rule Revisions

BSEE proposed a new section that would identify the three types of proposed Conceptual Plans:

- A Project Conceptual Plan would be required for any project that is planned in water depths greater than 1000 feet or will include the use of subsea tieback development technology, regardless of water depth (see proposed § 250.221 paragraphs (a)(1) and (2));
- A New or Unusual Technology Conceptual Plan would be required for any project or system that involves equipment or systems that are considered new or unusual technology (see proposed § 250.200 for the definition of new or unusual technology); and
- A New or Unusual Technology Barrier Conceptual Plan would be required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier (see proposed § 250.200 for the definition of primary or secondary barriers).

This proposed section would add clarity by describing the proposed types of Conceptual Plans. The proposed requirements for each Conceptual Plan are discussed in the applicable corresponding sections, §§ 250.227 through 250.229. An operator must

submit the applicable Conceptual Plan(s) based on specifics of the proposed project. The operator may be required to submit multiple Conceptual Plans.

Summary of Final Rule Revisions

BSEE received comments on this section and is finalizing the proposed content with the following revisions based on the comments:

- Paragraph (a) is revised by adding clarification that a Project Conceptual Plan is also required if the project will use new or unusual technology for completion, injection, production, pipeline, or platform projects. This addition clarifies the scope of the Project Conceptual Plan and how applicable new or unusual technology fits within that plan. A Project Conceptual Plan would not be needed when new or unusual technology is being used for drilling or decommissioning operations.
- Paragraph (b) is revised by making the first sentence consistent with the definition of new or unusual technology by changing the proposed phrase “involves equipment or systems” to “involves equipment or procedures”. BSEE is also adding the clarification that the New or Unusual Technology Conceptual Plan is applicable for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. This revision clarifies the scope of operations covered under the New or Unusual Technology Conceptual Plan.
- Paragraph (c) is revised to also clarify that the New or Unusual Technology Barrier Equipment Conceptual Plan is applicable for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. This revision clarifies the scope of operations covered under the New or Unusual Technology Barrier Equipment Conceptual Plan. BSEE also added “Equipment” to the title of the plan to clarify the distinctions between this plan and the New or Unusual Technology Conceptual Plan.

Summary of comments: Multiple commenters expressed concerns that the proposed activities of drilling and decommissioning cannot be covered under a Project Conceptual Plan and is outside the scope of previous BSEE guidance and practice. The commenters also expressed concerns that, if a Project Conceptual Plan is required for drilling operations, that requirement could not be met before drilling.

Response: BSEE agrees with the commenters and has revised this section to clarify that a Project Conceptual Plan is not required for certain operations (e.g., drilling and decommissioning). This clarification is consistent with BSEE guidance and the original scope of the Project Conceptual Plan. BSEE does not share the commenters’ concerns about timing requirements prior to drilling the well because drilling operations are not covered under the Project Conceptual Plan. BSEE has also further clarified in § 250.226 when each applicable Conceptual Plan is required and the timing of conducting certain operations covered under each plan.

Summary of comments: A commenter asked if a non-site-specific voluntary equipment Conceptual Plan and the well design Conceptual Plan will still be part of the HPHT approval process (see BSEE NTL No. 2019–G02 and 2019–G03).

Response: Non-site-specific voluntary equipment Conceptual Plans are not required. Operators should plan to submit site-specific equipment qualification for their HPHT project pursuant to §§ 250.228 and 250.229 as applicable. The identified content of the Well Design Conceptual Plans is still part of the HPHT process pursuant to the applicable regulations referenced in BSEE NTL 2019–G02 (e.g., see §§ 250.420, 250.462, 250.505, 250.514, 250.518, 250.605, 250.613, 250.614, and 250.732).

Summary of comments: A commenter expressed concerns that the proposed rule is unclear regarding overlap between the proposed New or Unusual Technology Conceptual Plan and the New or Unusual Technology Barrier Conceptual Plan. The commenter requested that BSEE clarify that barrier equipment would only require the New or Unusual Technology Barrier Conceptual Plan and not the New or Unusual Technology Conceptual Plan.

Response: BSEE agrees in part with the commenter and has revised the name of the New or Unusual Technology Barrier Conceptual Plan to the New or Unusual Technology Barrier Equipment Conceptual Plan. This revision clarifies the scope of the New or Unusual Technology Barrier Equipment Conceptual Plan and uses consistent terminology and descriptions of equipment covered by the plan. If a New or Unusual Technology Barrier Equipment Conceptual Plan is required, the operator would not have to also submit a New or Unusual Technology Conceptual Plan for the same equipment (see revisions to § 250.201).

When and how must I submit each applicable Conceptual Plan? (§ 250.226)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from §§ 250.288 and 250.290 to § 250.226, with revisions to clarify that an operator must submit its Conceptual Plans to the Regional Supervisor after the operator decides on the general concept(s) for a project or system, and before it begins final engineering design of the equipment, well, well safety control system, or subsea production systems. These revisions would help ensure that the operator considers the information associated with the proposed Conceptual Plans when submitting an associated application or permit application (e.g., APD, APM, pipeline, platform). BSEE proposed to add a table to organize and clarify information associated with the three types of proposed Conceptual Plans as follows:

Proposed paragraph (a) of § 250.226 would include content from § 250.290 and would further clarify that BSEE must approve a Project Conceptual Plan before an operator may complete a production or injection well or install a tree.

Proposed paragraph (b) would add the following requirements regarding a New or Unusual Technology Conceptual Plan:

- The operator may not install any new or unusual technology until BSEE approves the New or Unusual Technology Conceptual Plan;
- BSEE must approve the New or Unusual Technology Conceptual Plan before BSEE will approve any associated application or permit (e.g., pipeline, platform, APD, APM); and
- The Regional Supervisor may require the operator to use an I3P to perform certain functions and verifications in accordance with § 250.231, as applicable. This addition would allow I3P services to assist BSEE's review of new or unusual technology that may involve technically complex engineering and require a high degree of specialized engineering knowledge, expertise, and experience to evaluate thereby helping to ensure that BSEE conducts appropriate reviews of new or unusual technology plans.

Proposed paragraph (c) would add the following requirements regarding a New or Unusual Technology Barrier Conceptual Plan:

- The operator must submit a New or Unusual Technology Barrier Conceptual Plan for any project or system involving new or unusual

technology that is also identified as a primary or secondary barrier;

- BSEE must approve the New or Unusual Technology Barrier Conceptual Plan prior to new or unusual technology barrier equipment installation;
- BSEE must approve the new or unusual technology barrier equipment before BSEE will approve any associated application or permit application (e.g., pipeline, platform, APD, APM); and
- An operator submitting a New or Unusual Technology Barrier Conceptual Plan must use an I3P to perform certain functions and verifications in accordance with proposed § 250.231,

What are the I3P review requirements for Conceptual Plan reviews?

Summary of Final Rule Revisions

Based on comments received, BSEE is finalizing the proposed content with the following revisions:

- Revising the introductory paragraph by removing the term “begin final” engineering design and replacing it with “finalize.” This revision clarifies the intent of the submittal timing requirement concerning Conceptual Plans. BSEE wants to ensure that engineering design is not complete before BSEE approves the concept in case any change is required.
- Paragraph (b)—Revising the order of content under the table heading “Additional information” and adding paragraphs (b)(1)(i), (ii), and (iii), paragraph (b)(3), and (b)(4) to read as follows: (1) Operations and approval timing requirements are as follows:
 - (i) You may not install any new or unusual technology until BSEE approves your New or Unusual Technology Conceptual Plan;
 - (ii) You may not complete any production or injection well or install a tree before BSEE has approved all New or Unusual Technology Conceptual Plans associated with all well completion equipment and the Project Conceptual Plan; and
 - (iii) BSEE must first approve your New or Unusual Technology Conceptual Plan associated with subsea production systems before the DWOP may be approved. You may install this new or unusual technology following BSEE permit approval (e.g., pipeline application) and prior to DWOP approval.
- (2) The Regional Supervisor may require the operator to use an I3P to perform certain functions and verifications in accordance with § 250.231, as applicable.

(3) BSEE will not approve a New or Unusual Technology Conceptual Plan until you submit and BSEE reviews all I3P Reports (if any required).

(4) BSEE must approve your New or Unusual Technology Conceptual Plan before approval of any associated application or permit (e.g., pipeline application, platform application, APD, APM).

(5) You must submit separate New or Unusual Technology Conceptual Plans for each piece of equipment at an assembly level (e.g., BOP, tree, wellhead system, or tubing head spool).

These revisions clarify certain expectations and timing for applicable submittals associated with the New or Unusual Technology Conceptual Plan.

—Paragraph (c)—Revising paragraphs (c)(2), (c)(3), and (c)(4) and adding paragraphs (c)(2)(i), (ii), and (iii) and paragraph (c)(5) to read as follows:

(c)(2) Operations and approval timing requirements are as follows:

(i) BSEE must approve your New or Unusual Technology Barrier Equipment Conceptual Plan prior to you installing new or unusual technology identified as barrier equipment

(ii) You may not complete any production or injection well or install the tree before BSEE has approved all the New or Unusual Technology Barrier Equipment Conceptual Plans associated with all well completion equipment and the Project Conceptual Plan, and

(iii) BSEE must first approve your New or Unusual Technology Barrier Equipment Conceptual Plan associated with subsea production systems before the DWOP may be approved. You may install this equipment with BSEE permit approval (e.g., pipeline application) and prior to DWOP approval.

(3) BSEE must first approve your New or Unusual Technology Barrier Equipment Conceptual Plan before BSEE will approval any associated application or permit application (e.g., pipeline application, platform application, APD, APM).

(4) BSEE will not approve New or Unusual Technology Barrier Equipment Conceptual Plans until you submit and BSEE reviews all required I3P Reports pursuant to § 250.231.

(5) You must submit separate New or Unusual Technology Barrier Equipment Conceptual Plans for each piece of equipment at an assembly level (e.g. BOP, tree, wellhead system, tubing head spool).

These revisions clarify certain expectations and timing for applicable submittals associated with the New or Unusual Technology Barrier Equipment Conceptual Plan.

Summary of comments: Multiple commenters expressed concerns that it is unrealistic to submit all the applicable Conceptual Plan information before beginning final engineering design.

Response: BSEE agrees in part with the commenters and has revised this section to clarify the expectation that applicable Conceptual Plans require submittal of the plans before finalizing the engineering designs. This revision clarifies the intent of the submittal timing requirement concerning Conceptual Plans. BSEE wants to ensure that engineering design is not complete before BSEE approves the concept in case any change is required. This revision also provides latitude for the operators to make the determination of what constitutes a finalized engineering design.

Summary of comments: Multiple commenters expressed concerns that the proposed rule establishes unrealistic sequencing for Conceptual Plan approvals and requested clarification to ensure certain operations (e.g., drilling) can commence as appropriate before BSEE approval of certain plans (e.g., Project Conceptual Plan and DWOP).

Response: BSEE agrees in part with the commenter and has clarified the expectations in this section and timing requirements associated with each applicable Conceptual Plan. BSEE has also revised multiple other sections to also reflect the appropriate timing and submission requirements for all plans covered under the DWOP process (e.g., see revisions to §§ 250.201, 250.220, and 250.225).

What must the Project Conceptual Plan contain? (§ 250.227)

Summary of Proposed Rule Revisions

BSEE proposed to require a Project Conceptual Plan to include the basis of design that the operator would use to develop the field. Proposed paragraphs (a), (b), (c), and (i)(1) of § 250.227 would reflect the content of existing § 250.289. In addition, BSEE proposed that the section would require the operator to include certain information in the Project Conceptual Plan, including, but not limited to, information such as facility descriptions, schedule of development activities, certain schematics, and well information.

Summary of Final Rule Revisions

Based on comments received, BSEE is finalizing the content of proposed § 250.227 with the following revisions:

—Redesignating proposed paragraphs (i)(5) as (j), (j) through (q) as (k) through (r) respectively, and (r) as (t).

—Adding new paragraph (s) to list requests for any alternate procedures or equipment or departure requests associated with the applicable Conceptual Plans needed for well completion operations.

—Revising paragraphs (c), (d), (f), (i), (j), and (q) as follows:

Paragraph (c)—clarifies that BSEE expects the “estimated” distance from each well.

Paragraph (d)—changes the requirement from a confirmation that the subsea production safety system will comply with 30 CFR part 250, subpart H to a statement that the subsea production safety system will be designed to comply with Subpart H.

Paragraph (f)—clarifies that for a subsea tieback to an existing facility the operator must submit: a description of known structural modifications needed to accommodate the tieback, including a statement about whether these may be minor or major modifications; the BSEE-approved service life of the existing facility; and a description of how modifications will be evaluated for effects on the BSEE-approved service life.

Paragraph (i)—clarifies (i)(1) to include a “proposed” well location plot; (i)(2) to include a “conceptual” subsea field schematic containing infrastructure as applicable and adds additional examples, including manifolds, subsea booster pumps, and high integrity pressure protection systems; and (i)(4) to include “proposed” wellbore and completion schematics.

Paragraph (j)—clarifies that BSEE expects only a description of the drilling and completion systems.

Paragraph (q)—removes the term “activities” because some of the listed items are not activities but are physical objects. BSEE also added risers to the list of examples applicable to new or unusual technology.

BSEE understands that certain information is not finalized at this stage of a project, and these revisions clarify the BSEE intent to reflect information that is available or that can be available for the Project Conceptual Plan.

Summary of comments: Multiple commenters requested that BSEE clarify the informational requirements for the Project Conceptual Plan. The commenters expressed concerns that specific information may not be precisely known at this stage and may be more appropriate for the DWOP.

Response: BSEE agrees with the commenters that certain types of information may not be available at this stage of a project and has revised this

section to better reflect the submission of information that is appropriate and available at the Project Conceptual Plan stage (e.g., the “estimated” distance from each well, a description of only “known” modifications to a facility, schematics including the “proposed” well locations, and a “description” of the drilling system). These revisions clarify the submission requirements and help alleviate the commenters’ concerns regarding information availability for the Project Conceptual Plan.

Summary of comments: A commenter expressed concerns that the term “Basis of Design” means different things to different operators and recommended that BSEE remove the term.

Response: BSEE agrees that the term “Basis of Design” can mean different things depending on the components in question and their application. BSEE does not agree that removing the term is necessary because it is a common conceptual term well understood in the industry. BSEE is involved with operators in the early stages of HPHT projects, and uncertainties regarding terminology can easily be addressed on a case-by-case basis to ensure submittals fulfill regulatory requirements.

What must the New or Unusual Technology Conceptual Plan contain? (§ 250.228)

Summary of Proposed Rule Revisions

BSEE proposed paragraph (a) of § 250.228 to require certain information to be included in the New or Unusual Technology Conceptual Plan including, but not limited to, how the New or Unusual Technology Conceptual Plan fits within the overall site-specific project, a description of the technology, information on inspection and testing capabilities, risk assessments and failure mode analysis, operating procedures, and schematics.

BSEE proposed paragraph (b) to allow for the Regional Supervisor to require the use of an I3P according to proposed § 250.230 if the system or equipment requires a high degree of specialized or technically complex engineering knowledge, expertise, and experience to evaluate, or is not addressed in existing industry standards. This addition would help BSEE ensure that the equipment or process is appropriate for use in the specific environmental and operating conditions. In addition, the Regional Supervisor would be able to require operators to follow I3P requirements under § 250.231, on a case-by-case basis. Finally, this section proposed to instruct operators to direct any questions about I3P requirements for New or Unusual

Technology Conceptual Plans to the Regional Supervisor.

Summary of Final Rule Revisions

Based on comments received, BSEE is finalizing the content of proposed § 250.228 with the following revisions:

- Paragraphs (a)(5) and (a)(5)(ii) add the requirement to describe not only the barrier, but also the “safety” system as applicable. Paragraph (a)(11) clarifies the detailed schematic is applicable to identifying all components. Paragraph (a)(13) clarifies that the list of alternate procedures or equipment requests and departure request required are those applicable to the new or unusual technology proposed in a New or Unusual Technology Conceptual Plan. And finally, paragraph (a)(14) removes the requirements for a “certification” and requires instead a statement that the technology is fit for service.
- Paragraphs (b) and (b)(1) fix incorrect cross references since the final rule updated the applicable section numbers, and make some grammatical improvements.

Summary of comments: A commenter suggested that BSEE should move this section and section § 250.229 outside of the DWOP process and expressed concerns that these sections expand the circumstances in which the DWOP process is required.

Response: BSEE disagrees with the commenter that this section should be moved outside of the DWOP process. However, in light of these concerns, BSEE has clarified the applicability of each Conceptual Plan to relevant operations. BSEE has clarified in other sections (e.g., see § 250.220) that projects requiring certain New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans (which may be used for drilling and decommissioning) may not be required to have an associated Project Conceptual Plan or DWOP. This clarification helps limit the burden on industry as not every project using new or unusual technology requires every plan covered under the DWOP process.

Summary of comments: Multiple commenters expressed concerns that the proposed rule inadvertently requires I3P to certify “fit for service,” a standard ostensibly outside the I3P’s expertise. The commenters also expressed concerns with the “certification” statement associated with both “fit for purpose” and “fit for service” determinations and suggested that BSEE remove the term “certification” from the requirements.

Response: BSEE agrees with the commenters that there is confusion surrounding the terminology of “fit for purpose” and “fit for service” and how the I3P provides appropriate verifications and reviews. BSEE has therefore added definitions of both “fit for purpose” and “fit for service” to clarify who is responsible for each statement. In response to the comments, BSEE has also removed the term “certification” as it pertains to fit for purpose and fit for service and is clarifying that a statement from the I3P or operator respectively is sufficient. Such a statement is within the scope of the I3P’s expertise.

Summary of comments: A commenter expressed concern with the discretion of the Regional Supervisor to require an I3P. The commenter stated that this provision does not provide any regulatory certainty when an I3P will be required. The commenter also expressed concerns that the Regional Supervisor discretion for the use of an I3P may cause setbacks or inefficiencies to the Conceptual Plan process.

Response: The existing HPHT regulation (e.g., § 250.232) and NTLs provide guidelines for I3P report requirements. BSEE has incorporated most of the I3P guidance from the existing NTLs into these regulations, which provide clarity regarding when an I3P is required. Under § 250.228(b), BSEE may require I3P reports for this type of Conceptual Plan when the operator proposes to use a “system or equipment [that] requires a high degree of specialized or technically complex engineering knowledge, expertise, and experience to evaluate, or if existing industry standards do not address the system or equipment you propose to use.” BSEE is retaining this discretion to allow it to adjust to equipment development and maturation over time. BSEE encourages operators to reach out to the Regional Supervisor early in the project development process to get additional clarity regarding when an I3P will be necessary (§ 250.228(b)(2)). BSEE will notify the operator at the earliest possible stage to help ensure there are no setbacks or delays with I3P applicability in the Conceptual Plan approval.

What must the New or Unusual Technology Barrier Equipment Conceptual Plan include? (§ 250.229)

Summary of Proposed Rule Revisions

BSEE proposed this section to require the following information to be included in the New or Unusual Technology Barrier Conceptual Plan: a description of how the New or Unusual

Technology Barrier Conceptual Plan fits within the overall site specific project; a diagram depicting the primary and secondary barriers; a list of the engineering standards that will be used in the equipment’s material selection and qualification, design verification analysis, and design validation testing; a list of the functional requirements (i.e., environmental, and physical loads (magnitude and frequency)) for which the barrier equipment is being designed; a description of the barrier equipment’s safety critical functions, (i.e., function(s) performed by or inherent to the equipment enabling it to achieve or maintain a safe state); an I3P nomination; an I3P verification plan; and I3P reports as required in proposed § 250.232.

BSEE also proposed paragraph (l) to clarify that, after BSEE receives all of the required I3P reports, the operator must submit a certification statement that the barrier equipment is fit for service in the applicable environment (for the specific project location).

Summary of Final Rule Revisions

Based on comments received, BSEE is finalizing the proposed content with the following revisions.

- Throughout the rule—renaming the New or Unusual Technology Barrier Conceptual Plan as the New or Unusual Technology Barrier Equipment Conceptual Plan. This revision clarifies that this Conceptual Plan applies only to barrier equipment.
- Paragraph (b)—requiring a detailed schematic instead of a diagram.
- Paragraph (e)—clarifying that the list of alternate procedures or equipment requests and departure requests required are those applicable to the new or unusual technology barrier equipment proposed in the New or Unusual Technology Barrier Equipment Conceptual Plan.
- Fixing incorrect cross references due to renumbering certain sections in this final rule.
- Removing the I3P reports under proposed paragraph (j) and the fit for service statement in proposed paragraph (l), then moving that information to its own new section (see § 250.230). As a result of removing the content, BSEE is also redesignating proposed paragraph (k) as (j).

Summary of comments: A commenter requested clarification that HPHT barrier equipment intended for 20K completions (for example, HPHT wellheads or production liners) can be installed during the 15K drilling phase

prior to approval of the New or Unusual Technology Barrier Equipment Conceptual Plan.

Response: An operator may install HPHT barrier equipment prior to approval of the New or Unusual Technology Barrier Equipment Conceptual Plan prior to the HPHT phase of operations, if all wellheads and casings are approved by BSEE in the applicable application or permit (for example see § 250.410 for APDs and §§ 250.465 and 250.513 for APMs). However, all 20K well construction components are subject to equipment qualification review and BSEE approval prior to entering the HPHT phase of operations (see § 250.229). If components are installed but are denied Conceptual Plan approval, the well will not be allowed to enter the HPHT phase of operation.

When are you required to submit an I3P Report? (§ 250.230)

Summary of Final Rule Revisions

This is a new section for this final rule that contains the information previously covered under proposed § 250.229 paragraphs (j) and (l). This section clarifies that submittal of the I3P reports is required in § 250.229 and when required by BSEE pursuant to § 250.228. BSEE added this section because I3P reports can be applicable to both a New or Unusual Technology Barrier Equipment Conceptual Plan, as well as a New or Unusual Technology Conceptual Plan.

Summary of Comments

BSEE did not receive any comments on the proposed content covered in this new section. BSEE did receive other I3P-related comments, and those comments are discussed in the appropriate sections (e.g., see §§ 250.228 and 250.231).

What are the requirements for the Independent Third Party (I3P) nomination? (§ 250.231)

Summary of Proposed Rule Revisions

BSEE proposed this section to outline the requirements for the operator's nomination of an I3P to be used in conjunction with applicable Conceptual Plans. Paragraph (a) would add the nomination criteria for the I3P to review the design verification and design validation classification of the OEM, including that the I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. This paragraph would also clarify that the

I3P nomination must be submitted to BSEE for approval and must include the following information:

- Previous experience in third-party verification or experience in the design, fabrication, or installation of applicable offshore oil and gas equipment;
- Technical capabilities of the individual or the primary staff for the specific project;
- Size and type of organization or corporation;
- In-house availability of, or access to, appropriate technology to review the specific project (this should include computer programs, hardware, and testing materials and equipment as applicable);
- Ability to perform the I3P functions for the specific project considering current commitments (e.g., project timelines, schedules, and personnel availability); and
- Previous experience with BSEE requirements and procedures.

This proposed section would help ensure that BSEE is informed of the I3P competencies and show that the I3P is qualified to perform the required verifications and certifications of Subpart B.

Paragraph (b) would require that operators allow the I3P to access all associated documentation and equipment related to items in proposed § 250.229(i) to perform the complete reviews in accordance with proposed § 250.231. This may include OEM documents or access to the fabrication and manufacturing locations. The operator is responsible for ensuring that the I3P has the appropriate information to complete the required verifications and certifications. This documentation is necessary for the I3P to conduct its review and verify, as appropriate, that the equipment is designed and manufactured to operate within its specified operating limits.

Multiple I3Ps may be used to conduct the applicable verifications. These proposed revisions are not intended to limit the number of I3Ps, as operators may need multiple I3Ps to cover multiple types of equipment covered under all applicable Conceptual Plans.

Summary of Final Rule Revisions

Due to the addition of new § 250.230, BSEE is renumbering this section as § 250.231. Based on comments received and after review of comments, BSEE is also revising this section as follows:

- Paragraph (a) is removing the term “when required by BSEE” because it is redundant of the requirements for I3P nominations under the applicable

Conceptual Plans. BSEE is also removing the reference to I3P “certifications” and clarifies that the I3P provides verifications and validations in line with the expectations of the I3P. BSEE is clarifying that the operator must submit the I3P nomination(s) within the applicable Conceptual Plan for separate BSEE acceptance before BSEE will approve the applicable Conceptual Plan. This clarification was added because I3P nominations can be applicable to both the New or Unusual Technology Barrier Equipment Conceptual Plan as well as the New or Unusual Technology Conceptual Plan. Lastly, BSEE is also clarifying the list of appropriate technology in paragraph (a)(4) by removing “testing materials” and that the appropriate technology is not limited to what is listed.

- Paragraph (b) is fixing certain cross references and clarifying that you must ensure the I3P has access to relevant OEM documentation, including relevant documentation and data labeled as confidential and proprietary. BSEE also wants to ensure the I3P has access to the OEM fabrication and manufacturing locations only if necessary to review the data. These revisions will help ensure the I3P has access to data necessary to provide the required verifications and validations.

- Paragraph (c) is added to clarify that an operator may propose to use an I3P previously accepted by BSEE for the same project, and not submit the items required under paragraph (a), if the BSEE-accepted I3P qualifications are still valid and applicable. The operator must also provide evidence of the previous I3P nomination acceptance. These additions help streamline the use of I3Ps within a project and reduce unnecessary submittal of duplicative information.

Summary of comments: A commenter expressed concerns with the term “when required by BSEE” and requested it to be removed. The commenter stated this change is necessary because the I3P requirements are sufficiently covered within the applicable Conceptual Plan requirements.

Response: BSEE agrees with the commenter and has removed the term “when required by BSEE” from the introductory paragraph to § 250.231. It is not necessary to include this term, as the I3P nomination requirement is sufficiently covered under the applicable Conceptual Plans.

Summary of comments: Multiple commenters requested clarification on

the BSEE expectations and actions for the I3P nominations.

Response: BSEE agrees with the commenters and has revised § 250.231(a) to clarify that operators must submit the I3P nominations before BSEE will approve the applicable Conceptual Plan.

Summary of comments: Multiple commenters expressed concerns with allowing I3Ps unrestricted access to OEM fabrication and manufacturing locations.

Response: BSEE agrees in part with the commenters' concerns over I3P access to OEM locations and has revised this section to reflect that the I3P needs access to review equipment and data, particularly with respect to the elements described in § 250.229(i) concerning the I3P verification plan. BSEE wants to ensure that the appropriate equipment and data are available to the I3Ps to conduct the required verifications and validations of the project.

Summary of comments: A commenter expressed concerns with the in-house availability of testing materials. The commenter was concerned that the I3P can require re-verification and re-testing as part of the validation at their own facilities.

Response: BSEE agrees in part with the commenter's concerns and would not expect an I3P to require re-verification or re-testing at its own facility. BSEE has removed the reference to testing materials from the list of availability of appropriate I3P technology. BSEE is removing this reference to help limit any misconceptions regarding the I3P reviews. It is BSEE's expectation that I3Ps will have the appropriate technology to be able to conduct the required verifications and validations of the specific project.

Summary of comments: Multiple commenters expressed concerns with the term "certification" associated with I3P capabilities and suggested BSEE to remove the term "certification" from the requirements.

Response: BSEE agrees with the commenters that there is confusion surrounding the terminology of certification for I3Ps. BSEE has added definitions of "fit for purpose" to clarify I3P requirements and expectations. In response to the comments, BSEE has also removed the term "certification" as it pertains to I3P qualifications.

Summary of comments: A commenter expressed concerns that the I3P nomination process is too onerous and that BSEE should streamline the requirements to be more consistent with BSEE guidance.

Response: BSEE agrees in part with the commenter and is adding § 250.231(c) to clarify that the operators may propose to use a previously accepted I3P from the same project if the qualifications are still valid. This revision will help streamline the use of existing I3Ps within a project and help limit unnecessary duplicative submissions of the nomination information. This is consistent with current practice (previous § 250.732(b)) and BSEE guidance.

Summary of comments: A commenter expressed concerns that this section implies that multiple I3Ps can be nominated and that equipment, assembly, or systems should be verified and validated by the same I3P.

Response: BSEE disagrees with the commenter's concerns regarding use of multiple I3Ps for different verifications and validations. Only one I3P is required for nomination per applicable Conceptual Plan at a time for the requirements under this section (see, e.g., § 250.229(h)). This section defines the qualifications for acceptable I3Ps. However, the operator retains the ability to propose different I3Ps for different equipment or new technologies within the same project. For example, a classification society may be a better I3P for a floating production facility, and a professional engineering firm maybe a better I3P for a riser design.

What are the I3P review requirements for Conceptual Plan reviews? (§ 250.232)

Summary of Proposed Rule Revisions

BSEE proposed to identify the requirements for the I3P review. Paragraph (a) would require the I3P to review the following information regarding the applicable equipment or system:

- Basis of design, technical specification (if known at this point in the design process), and functional requirements (i.e., environmental and physical loads (magnitude and frequency));
- Risk assessment and failure mode analysis;
- Material specification, selection, qualification, and testing;
- Design verification analysis, including a structural/strength analysis and fatigue assessment and/or analysis;
- If fatigue is identified as a potential failure mode in the required fatigue assessment and/or analysis, the plan to record and gather data (i.e., load monitoring) in order to conduct a future fatigue analysis;
- Design validation testing; and
- Fabrication, quality management system, and inspection and test

plan(s) that identifies the quality control/quality assurance process, and inspection of the final products.

Paragraph (b) would require the I3P to submit a report to BSEE documenting the review of each item covered under paragraph (a) of this section. This paragraph would also require each report to identify all OEM and operator documents used during the I3P reviews.

Paragraph (c) would require the I3P to submit a final report to BSEE that summarizes each of the review requirements covered under paragraph (a) of this section. This paragraph would also require the final report to include the equipment and/or system's technical specifications, including a certification statement that the equipment and/or system is fit for purpose for the technical specification by the I3P, and verification that the equipment's technical specifications meet or exceed the project's functional requirements, including a certification statement by the I3P that the equipment and/or system is fit for purpose for the proposed project.

Paragraph (d) would clarify that, for any subsequent I3P review of equipment and/or system's technical specification that was previously approved in the operator's New or Unusual Technology Barrier Conceptual Plan, the Regional Supervisor may accept a final report in accordance with § 250.231(c), including the existing certification covered under paragraph (c)(1) of this section, in lieu of reports required in paragraph (b). The I3P would be required to submit an updated certification statement in accordance with § 250.231(c)(2) for the specific project.

This section would require I3P review of all New or Unusual Technology Category 1 or Category 2 barrier equipment to help minimize the risk of loss of containment on new barrier equipment through reliance on the principle of qualified redundant barrier systems. The concept of using an I3P review process has been used in the regulations for various operations (e.g., §§ 250.420, 250.732, and 250.914 through 250.918). The I3P review process within § 250.231 would be the same process described in NTL 2019–G03, "Guidance for Information Submissions Regarding Site Specific and Non-Site Specific HPHT Equipment Design Verification Analysis and Design Validation Testing." The industry is currently using this NTL for the design verification and validation analysis for HPHT barrier equipment that will be used in the Gulf of Mexico. The verification processes in this section would be similar to the basic

engineering design and manufacturing methodologies found in many existing engineering standards.

Summary of Final Rule Revisions

Due to the addition of new § 250.230, BSEE is renumbering this section as § 250.232. Based on comments received and after review of comments, BSEE is also revising this section as follows:

- The introductory paragraph clarifies the applicability of I3P for the applicable Conceptual Plan. This revision is necessary to clarify that different Conceptual Plans may have I3P requirements (e.g., the New or Unusual Technology Conceptual Plan or the New or Unusual Technology Barrier Equipment Conceptual Plan);
- Paragraph (a)(1) clarifies the technical specifications are applicable to the equipment and the functional requirements are applicable to the specific project and changed the “i.e.” to an “e.g.” because the parenthetical provides examples;
- The contents under proposed paragraphs (c)(1) and (c)(2) are now located under paragraph (b), and the term “certification” was removed to clarify the I3P is required to provide statements regarding “fit for purpose” determinations; and
- The contents under proposed paragraph (d) are now redesignated as paragraph (c) and modified to clarify that for any new project, the operator may use previous I3P reviews of equipment or a system’s technical specifications that was approved in a previous Conceptual Plan. This section would also clarify the intent of the proposed rule by adding paragraphs (d)(1), (d)(2), and (d)(3) to require the operator to submit certain information to the Regional Supervisor to demonstrate the previous I3P review is still valid (i.e., a statement that the previous summaries of paragraph (a) and the previous fit for purpose statement are still valid, verification that the equipment technical specifications meet or exceed the project’s functional requirements, and a statement by the I3P that the equipment or system is fit for purpose for the proposed project).

Summary of comments: A commenter suggested that BSEE should explicitly state that equipment that has been previously verified and validated through appropriate industry standards and reviewed by an I3P should be exempted from further I3P review, unless there are substantive design changes, such as a major change to the technical specification.

Response: BSEE agrees in part with the commenter and has revised paragraph (d) to clarify the requirements for an operator to use previously approved I3P reviews for any new project. BSEE also clarified the information necessary to demonstrate that the previous I3P reviews are still valid for the project. These revisions would help streamline the use of previously approved I3Ps and limit unnecessary and duplicative submittals for I3P reviews and ensure that the proper information is submitted to demonstrate that previously approved I3P reviews are still valid.

Summary of comments: Multiple commenters expressed concerns with the “certification” statement associated with both fit for purpose and fit for service and suggested BSEE remove the term “certification” from the requirements.

Response: BSEE agrees with the commenters that there is confusion surrounding the terminology of certification for fit for purpose. In response to the comments, BSEE has removed the term “certification” as it pertains to “fit for purpose” determinations and is clarifying that a statement from the I3P is sufficient instead of a certification. This revision is consistent with the addition of the definition of “fit for purpose” and clarifies the role of the I3P for certain reviews.

Summary of comments: A commenter expressed concerns with the requirements to provide a fatigue assessment or analysis and that the requirements are ambiguous and unclear. The commenter believes that such ambiguity could lead to inefficiencies and additional work that will further delay field and lease development.

Response: BSEE views fatigue assessment or analysis as an important tool for HPHT qualification. Operators should engage early with equipment manufacturers to ensure the proper analysis is being performed. Fatigue assessment is not a new concept and is well understood by the industry. BSEE is not defining these terms because of the broad range of potential equipment or facilities covered under the project. BSEE has successfully used similar concepts for fatigue evaluation in existing regulations (see § 250.908) and does not expect the identified terms to delay field or lease development based on previous Conceptual Plan and DWOP experience.

General requirements for any I3P report. (§ 250.233)

Summary of Proposed Rule Revisions

BSEE proposed to clarify expectations for the I3P reports. The proposed rule proposed to require that an I3P report must be a standalone document that clearly summarizes the verification work performed and must contain a sufficient level of detail (i.e., quantitative information) and clarity to establish the basis of the I3P’s findings and recommendation(s). Each report would be required to identify the OEM or operator documents reviewed, the detailed I3P review, and convey the results of the I3P’s review without requiring BSEE to review any other referenced document. This section would establish basic expectations for I3P reports and provide consistency and uniformity for operator submittals and BSEE reviews. These reports are an important tool for BSEE to conduct appropriate reviews and it is imperative to ensure that these reports are comprehensive and clear. These reports also contain information necessary for audit purposes.

Summary of Final Rule Revisions

Due to the addition of new § 250.230, BSEE is renumbering this section as § 250.233 and fixing any applicable cross references. Based on comments received and after review of comments, BSEE is also revising this section to clarify that the I3P reports must clearly summarize the required verification and validation work of the I3P. BSEE is also removing the proposed requirement that the I3P reports need to include the I3P recommendations. These revisions clarify the role of the I3P and provide consistency with the expectations of the I3P actions throughout this rulemaking.

Summary of comments: Multiple commenters expressed concerns that the requirement to include I3P recommendations in the reports are beyond the scope of the I3P duties for reviewing for conformance with the specified requirements.

Response: BSEE agrees with the commenters and has removed the term “recommendations” from the regulatory requirements for I3P reports. BSEE wants to be consistent with the expectations and required actions for I3Ps when conducting required verifications and validations.

BSEE proposed to reserve § 250.234, and this section is reserved in this regulation.

DWOP Approval

When and how must I submit the DWOP? (§ 250.235)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from § 250.291 and revise the section to clarify that a DWOP must be submitted to the Regional Supervisor after BSEE has approved the operator's project Conceptual Plan and the operator has substantially completed system design and before the operator conducts post-completion installation activities for a deepwater development project or for any project that will involve the use of subsea tieback development technology in any water depth, which may include new or unusual technology or new or unusual technology barrier equipment. This section would also clarify that operators cannot begin production from the well until BSEE approves the DWOP. The revisions to this section would help ensure that there is enough time for BSEE to review a DWOP, including resolution of any potential issues, prior to DWOP approval. The operator should consider the DWOP requirements when beginning to procure or fabricate the safety and operational systems (other than a tree, because operators may install a tree after Conceptual Plan approval), production platforms, pipelines, or other parts of the production system.

Summary of Final Rule Revisions

BSEE is reorganizing this section to provide clarification for the DWOP requirements. Based on comments received and after review of comments, BSEE is revising this section as follows:

Under newly designated paragraph (a), BSEE is clarifying that the operator must submit the DWOP before conducting installation activities post-well completion. BSEE is also adding paragraph (a)(3) to clarify that an operator must submit the DWOP for an HPHT development project, any project using Category 1 or 2 new or unusual technology barrier equipment, or any project that uses new or unusual technology that may impact the safety critical function of Category 1 or 2 barrier equipment regardless of water depth. These revisions clarify what projects are applicable to the DWOP submission and are consistent with BSEE experience and approvals of DWOPs.

BSEE is also clarifying under newly designated paragraph (b) that the operator may install subsea systems and associated pipelines once they have applicable BSEE permit and Conceptual Plan approval. This clarification helps

establish the order of operations and actions that can be taken before DWOP approval.

Summary of comments: A commenter expressed concerns that this section is unclear about the use of the DWOP and the New or Unusual Technology Conceptual Plan or the New or Unusual Barrier Equipment Conceptual Plan and requested BSEE to clarify the DWOP requirements.

Response: BSEE agrees in part with the commenter and has revised this section to clarify that the DWOP submission is applicable to HPHT development projects, as well as any project that uses Category 1 or 2 new or unusual technology barrier equipment, or any project that uses new or unusual technology that may impact the safety critical function of Category 1 or 2 barrier equipment regardless of water depth. This clarification helps identify how the DWOP is applicable to certain project that use HPHT equipment and new or unusual technology barrier equipment. This revision also provides clarity and consistency with the definitions of certain barrier equipment and associated Conceptual Plan requirements.

Summary of comments: Multiple commenters expressed concerns with lack of clarity regarding which actions or operations can commence at various stages of DWOP approval.

Response: BSEE agrees with the commenters and has revised paragraph (a) of this section to clarify that the operator must submit the DWOP before conducting installation activities after well completion. BSEE is also revising paragraph (b) of this section to clarify that the operator may install subsea systems and associated pipelines once the operator has the approval of the applicable BSEE permit(s) and Conceptual Plan(s). However, the operator may not begin production from the well until BSEE approves the DWOP. These revisions provide clarity and consistency with current BSEE practices and expectations of the DWOP approval process.

What information must I submit with the DWOP? (§ 250.236)

Summary of Proposed Rule Revisions

This proposed section is organizational in nature and would identify the types of information that the operator must submit with the DWOP by adding a table that lists the applicable sections and the information to be included. In this section, BSEE would reorganize and breakout the DWOP requirements by topic, as reflected in paragraphs (a) through (f).

These revisions would improve clarity for applicable information requirements.

Summary of Final Rule Revisions

BSEE did not receive any comments on these provisions of the proposed rule and includes the proposed language in the final rule without change.

What general information must my DWOP include? (§ 250.237)

Summary of Proposed Rule Revisions

BSEE proposed to identify the general information that an operator would be required to submit in the DWOP. The content of paragraphs (a) and (b) of this proposed section would be moved from current § 250.292(o) and (q). This section would add paragraph (c) to require the submission of a list of any associated industry standards not incorporated in the regulations that the operator will use for project design or operation.

Summary of Final Rule Revisions

Based on comments received and after review of comments, BSEE is revising paragraph (a) by clarifying that the DWOP must include a list of requests for any alternate procedures or equipment or departure requests in accordance with §§ 250.141 and 250.142, respectively, and a list of any identified alternate procedures or equipment or departures that the operator may request. BSEE is also clarifying that if a Conceptual Plan was previously approved for the project that already included the alternate procedures or equipment or departure requests in accordance with §§ 250.141 and 250.142 for the specific equipment identified in a Conceptual Plan, those do not need to be listed in the DWOP unless the same alternate procedure or equipment request or departure request is needed for a different piece of equipment for post completion activities. These revisions provide clarification of the context and expectations for including requests covered under §§ 250.141 and 250.142 in the DWOP.

Summary of comments: Multiple commenters expressed concerns with submittal of duplicative information regarding the applicable alternate procedures or equipment and departure requests already identified in approved associated Conceptual Plans.

Response: BSEE agrees with the commenters and has revised this section to clarify the required submittal of alternate procedures or equipment and departure requests. BSEE has also clarified that those requests approved in the associated Conceptual Plans do not

need to be submitted in the DWOP unless the same alternate procedure or equipment or departure requests are needed for a different piece of equipment for post-completion activities. BSEE does not expect operators to submit information of which they are unaware. However, if an operator is aware that it is reasonably likely to submit such information or departure request in the future, it is beneficial to include it in the DWOP at this stage to help streamline DWOP approval.

What well or completions information must my DWOP include? (§ 250.238)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from current § 250.292 and include a revision to paragraph (c) to clarify that this section requires information in the operator's DWOP about the design and fabrication of each wellbore riser system deployed from a floating production facility or TLP. This revision would clarify that these informational requirements apply to wellbore risers as components of the well and resolve confusion regarding the general term "riser" and its applicability of multiple types of risers (e.g., pipeline risers and wellbore risers) used on the OCS.

Summary of Final Rule Revisions

BSEE did receive a comment on these provisions of the proposed rule but is including the proposed language in the final rule without change.

Summary of comments: A commenter expressed concerns that the information requested in paragraphs (a) and (b) are duplicative and unclear.

Response: BSEE disagrees with the commenter. These are longstanding requirements and have been successfully used in each applicable DWOP. Paragraph (a) is typically a summary narrative with a graphical representation of the wellbore that identifies casing and completion components, among other characteristics. Paragraph (b) provides further detail on the systems used for drilling and completion that result in the final schematic configuration. These requirements are not duplicative and have been used in existing regulations to allow for variations in well proposals and information requests. The information identified in these paragraphs is essential to ensure consistency with the activities to be addressed in the associated well permits.

What structural information must my DWOP include? (§ 250.239)

Summary of Proposed Rule Revisions

BSEE proposed to move the content from current § 250.292 to this section and would include a revision to paragraph (b) to clarify that the design, fabrication, installation, and monitoring information would be required for the tendon or mooring systems, including the turret or buoy system, as applicable. This revision would reflect current equipment and operations common to DWOP approvals.

Summary of Final Rule Revisions

BSEE did not receive any comments on the content of the proposed provisions; however, BSEE moved the phrase "including any major modifications," to the end of the introductory paragraph to clarify the intent of the paragraph.

What Production Safety System information must my DWOP include? (§ 250.240)

Summary of Proposed Rule Revisions

BSEE proposed in this section to identify the production safety system information that an operator would be required to submit in the DWOP, as applicable, to align with the activities the operator plans to address in the associated production safety systems application. The content of paragraphs (a), (b), (c), (d), and (e)(3) of this proposed section would be moved from current § 250.292. The additions to this proposed section would require submission of the following information:

- In paragraph (e)(1)—Methods, frequency, and acceptance criteria for testing the underwater safety valves (USVs), surface controlled subsurface safety valves (SCSSVs), and boarding shutdown valves;
- In paragraph (e)(2)—The function and testing of the host facility emergency shutdown device (ESD) system and its interface to the subsea system; and
- In paragraph (f)—Information on the design, operation, maintenance, personnel competency, and testing of the subsea leak detection system to protect the subsea field/infrastructure (e.g., trees, manifolds, jumpers). BSEE proposed that operators must include procedures for how to operate the system, ensure system functionality, identify a leak, and take action when a leak is identified.

Summary of Final Rule Revisions

Based on comments received and after review of comments, BSEE is removing

the statement "including a table summarizing the curtailment of production and offloading based on operational considerations" from paragraph (a) and moving it to paragraph (b). This revision is necessary because those operations are covered under paragraph (b). BSEE is also revising paragraph (e) to remove the term "certification" to be consistent with other required statements and the use of certifications.

Summary of comments: A commenter expressed concerns that the information in paragraph (a) regarding the table summarizing the curtailment of production and offloading is unclear and may not be applicable.

Response: BSEE agrees with the commenter and is removing the statement "including a table summarizing the curtailment of production and offloading based on operational considerations" from paragraph (a) and moving it to paragraph (b). This information is more applicable to the contents of paragraph (b).

Summary of comments: Multiple commenters expressed concerns with the use of a certification statement for compliance with Subpart H.

Response: BSEE agrees with the commenters and has removed the term "certification" from paragraph (e). BSEE will still require a statement that the production safety systems will comply with Subpart H. Subpart H contains the requirements for production safety systems and a certification is not necessary at this stage. BSEE wants to ensure that the safety system requirements are considered at this stage of the DWOP process.

Summary of comments: A commenter requested that BSEE clarify if a description of the leak detection system or the actual procedures are required.

Response: BSEE disagrees with the commenter that the language is unclear. The regulations in § 250.240(f) require the submittal of information concerning both the leak detection system itself and procedures for how to operate the system, ensure system functionality, identify a leak, and the actions to take when a leak is identified.

What subsea systems and pipeline information must my DWOP include? (§ 250.241)

Summary of Proposed Rule Revisions

BSEE proposed to identify the subsea systems and associated pipeline systems information that must be included in a DWOP. The content of paragraphs (c)(2)(i), (ii), and (iii) of this proposed section would be moved from current

§ 250.292. Proposed paragraph (a) would require the operator to identify the information common to the subsea system and the associated pipeline system, which constitute all or part of a single project development covered by the DWOP and is consistent with activities addressed in an associated pipeline application, and would require the submission of the following:

- A subsea field schematic depicting the planned subsea development equipment and infrastructure, including wells/trees, non-pipe subsea equipment, pipeline route(s), pipeline riser systems, umbilical(s), and platform footprint;
- A description of the subsea development project detailing the subsea and pipeline equipment design criteria and analysis procedures (including industry standards, pressure and temperature ratings, materials selection), testing methods, and general operational procedures;
- A description of the fabrication and assembly/testing location of subsea trees, pipelines, and non-pipe subsea equipment (manifold, pipeline end manifold, pipeline end termination assembly, subsea pumps, suction piles, etc.);
- A summary of the subsea tieback development technologies' Integrity Management Program, including a plan for inspection and monitoring to support assessment of system condition. This should include, but not be limited to, the in-service inspections or surveys of hull and topsides structures, tendons, moorings, and pipelines and/or wellbore riser systems to assess and analyze component condition after each significant environmental event (e.g., hurricane, earthquake, loop and eddy currents, or mudslide) impacting the system, or once every 10 years, whichever occurs first; and
- A summary of safety and environmental controls.

Proposed paragraph (b) would require submission of the following information about subsea systems that constitute all or part of a single project development covered by the DWOP, as applicable:

- System control type (i.e., direct hydraulic or electro-hydraulic);
- Well tree(s), wellhead, and non-pipe equipment general arrangement drawings and schematics, with size and valve type annotations to illustrate the tree and other equipment in operation;
- Estimated shut-in tubing pressure for the proposed well(s), including the calculations used to arrive at the

estimate, specifying true vertical depth, reservoir pressure, and the fluid gradient used, or a brief discussion of the pressure volume temperature (PVT) data used for estimation;

- Wellbore static bottomhole temperature and the estimated flowing temperature at the tree, including a description of the method used to calculate this estimate;
- A description of the umbilical(s) and umbilical connection(s), including an umbilical cross-section schematic;
- A description of the chemical or other injection systems and/or enhanced recovery systems the operator plans to use;
- A description of the corrosion monitoring and prevention/inhibition processes;
- Details of any re-furbished and/or re-certified equipment that would be used; and
- A schedule of development activities, including well completion, facility installation, and anticipated date of first oil.

Proposed paragraph (c) would require an operator to include pipeline information in its DWOP to align with the activities to be addressed in the associated pipeline application(s), including:

- Design and fabrication information for each pipeline riser system;
- For projects that will use a pipeline free standing hybrid riser (FSHR) on a permanent installation that uses a buoyancy air can suspended from the top of the riser, the operator would be required to provide the following information in its DWOP as part of the discussion required by paragraph (b)(1) and (2) of § 250.241: a detailed description and drawings of the FSHR, buoy, and the associated connection system; detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and descriptions of the monitoring system and monitoring plan for the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (e.g., corrosion) that may negatively impact the riser system's integrity; and
- Pipeline and pipeline riser installation methods.

Submission of this information is consistent with what BSEE currently requires in the DWOP (and has historically required). The proposed requirements would clarify general language in the existing regulation by adding specificity regarding scope.

Summary of Final Rule Revisions

Based on comments received and after review of comments, BSEE is revising paragraph (a)(4) to clarify that the operator must also include in the integrity management plan a description of how it will determine when a significant environmental event has occurred and how it will respond to such an event. This revision would help identify and properly account for integrity management through significant environmental events. BSEE is also revising paragraph (c)(1) to only require "general" design and fabrication information for pipelines. This revision addresses a situation where some of the specific design and fabrication information may not be available at this stage. For the purposes of the DWOP, the general design and fabrication information is sufficient.

Summary of comments: Multiple commenters expressed concerns that certain information requested in this section is duplicative with information covered under Conceptual Plans or the associated permits or applications.

Response: BSEE disagrees with this comment. This section covers the DWOP submittal, which presents information from a whole project perspective. Conversely, Conceptual Plans focus on an individual component or assembly.

Summary of comments: A commenter recommended that BSEE require that operators' integrity management plans state their process for determining significant environmental events.

Response: BSEE agrees with the commenter and has revised paragraph (a)(4) to require the operator to also provide a description in the integrity management plan of how it will determine that significant environmental events have occurred, and how it will respond to such an event. This revision clarifies the scope of the integrity management plan. It is BSEE's intent to ensure that operators discuss, plan for, and address the impacts of the significant environmental events.

Summary of comments: A commenter asked for clarification as to the source of the 10-year assessment.

Response: Based on BSEE experience with assessing facilities or equipment through their entire lifecycle, the assessment cycle of 10 years in paragraph (a)(4) of this section is an incremental approach to platform service life extension and monitoring. Often, operators ask for infinite or significant years of increased life. BSEE's approach has been to approve fewer years—either 5 or 10—and revisit

the calculations and inspection data later to ensure there are no significant changes. BSEE will remain consistent with that approach and utilize the identified assessment cycle. As BSEE gains more experience with the assessments, BSEE will evaluate the efficiency of the assessment cycle and may revise it as appropriate.

Summary of comments: A commenter asked if the NTLs help define the affected area for inspections and assessments after a significant environmental event.

Response: BSEE will continue to use the guidance of an NTL to help identify the affected area of the significant environmental event (e.g., see NTL No. 2021–G02). This information is very useful to focus the inspections and assessments to those areas potentially impacted by the significant environmental events.

Summary of comments: A commenter expressed concerns that it is not practical to directly monitor stress and fatigue in all components. The commenter also stated that the assessment for stress should be determined based on observed responses and analytical assessment.

Response: BSEE disagrees with the commenter's concerns and is not revising this section based on this comment. It is BSEE's expectations that the operator must identify how it will monitor the FSHR and associated connection system. BSEE does not want to limit how an operator conducts the appropriate monitoring to ensure riser system integrity.

What new or unusual technology information must my DWOP include? (§ 250.242)

Summary of Proposed Rule Revisions

BSEE proposed in this section to identify the new or unusual technology information that must be included in the DWOP, including the information referenced in the applicable Conceptual Plan. Proposed paragraph (a) would require the submission of a description of any new or unusual technology being used in a development project, including a reference to previously approved New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Conceptual Plans.

Proposed paragraph (b) would require submission of a description of any new or unusual technology not covered under the New or Unusual Technology Conceptual Plan or New or Unusual Technology Barrier Conceptual Plan. It would also require an operator to include the same applicable information as required in §§ 250.228 or 250.229.

Summary of Final Rule Revisions

BSEE did not receive any comments on the substance of the provision of this section and is finalizing the proposed revisions with administrative changes to reflect the revisions to the name of the New or Unusual Technology Barrier Equipment Conceptual Plan, as discussed previously in this preamble.

Summary of comments: A commenter asked what service fee would be required if an operator needed to submit the description of any new or unusual technology not previously approved in the applicable Conceptual Plan.

Response: BSEE will require the service fees listed in § 250.125 for the plans required under the DWOP Process for the specific project proposed.

BSEE proposed to reserve §§ 250.243–250.244, and these sections are reserved in this regulation.

May I combine the Project Conceptual Plan and the DWOP? (§ 250.245)

Summary of Proposed Rule Revisions

BSEE proposed to move to this section the content from current § 250.294, which addresses when an operator may submit a combined Conceptual Plan and DWOP, and proposed to include the following revisions:

The introductory paragraph would be revised to clarify that, if the operator's development project meets the criteria in proposed paragraphs (a) and (b) of this section, an operator may submit a combined Conceptual Plan and DWOP that complies with all applicable requirements for both, on or before the deadline for submitting the Conceptual Plan, as described in proposed § 250.226. Existing paragraph (a), which allows the operator to submit a combined Conceptual Plan and DWOP if the project is located in water depths of less than 400 meters (1,312 feet), would be removed.

Existing paragraph (a) would be replaced with existing paragraph (b), which allows a combined plan if the project is similar to projects involving subsea tieback development technology for which the operator has obtained approval previously. BSEE proposed to add a new paragraph (b) to allow for the submission of a combined Conceptual Plan and DWOP if the project does not involve either new or unusual technology or a new platform. As previously stated at the beginning of the paragraph, the operator must meet the criteria in paragraph (a) and (b) of proposed § 250.245 in order to be able to submit a combined Conceptual Plan and DWOP.

These revisions would provide clarity for operators to streamline the process, when appropriate, and would reflect conforming edits for new or unusual technology. These revisions would reflect current BSEE acceptance of combined submission of the Conceptual Plan and DWOP in certain situations.

Summary of Final Rule Revisions

BSEE received a comment on these provisions and is making a revision based on that comment. BSEE is changing the heading to read: “May I combine the Project Conceptual Plan and the DWOP?” and is revising the introductory paragraph accordingly. BSEE is clarifying that that the “Project” Conceptual Plan can be combined with the DWOP.

Summary of comments: A commenter suggested that BSEE add the term “project” to the reference to the Conceptual Plans.

Response: BSEE is revising this section to clarify that a Project Conceptual Plan may be combined with the DWOP if the project meets the required criteria. This revision is consistent with paragraph (b) that prohibits the combination of a Conceptual Plan and DWOP if the project involves new or unusual technology.

When must I revise my DWOP? (§ 250.246)

Summary of Proposed Rule Revisions

BSEE proposed to move to this section the content from current § 250.295 and to clarify when revision to an approved Conceptual Plan or DWOP is necessary. Revision is necessary when there are changes in the development project that alter the proposed plan or procedures, but that do not involve a physical alteration of the equipment on the platform or the seabed. As explained below, a supplement is required when changes involve a physical alteration of the equipment on the platform or the seabed. This section and the following section are intended to reduce confusion by helping operators determine when a revision or a supplement to the applicable Conceptual Plan or DWOP is necessary.

Summary of Final Rule Revisions

Based on comments received and review of the comments, BSEE is revising this section to clarify when a revision to a DWOP is necessary. BSEE removed the reference to revising the Conceptual Plan as it is not applicable to this section and clarified that revisions are necessary only to the

approved DWOP to reflect any material change to the plan.

Summary of comments: A commenter expressed concerns that requiring a revision to the plan for “any changes” is too broad and burdensome.

Response: BSEE disagrees with the commenter and wants to ensure the information contained in the DWOP is accurate and consistent with the applicable approved permit or application. BSEE has clarified the difference between a revision and supplement and has revised the service fees to adequately reflect the appropriate level of actions necessary to complete the revision or supplement. However, BSEE also clarified that any material change to the plan would require a revision. This clarification is consistent with the language of the previous regulations (see previous § 250.295).

Summary of comments: A commenter expressed concerns that revisions to the Conceptual Plans are not applicable to this section and should be removed.

Response: BSEE agrees with the commenter and is removing the reference to Conceptual Plan revisions. Revisions to the Conceptual Plans are outside the scope of this section and it is unnecessary to include them in this section.

When must I supplement my DWOP? (§ 250.247)

Summary of Proposed Rule Revisions

BSEE proposed in this section to identify when an operator must supplement the approved DWOP to reflect additions or changes in the development project.

Proposed paragraph (a) would require the operator to submit a supplement to the DWOP to reflect any additions or changes in the development project that physically alter the platform, process facilities, equipment, or systems approved in the original Conceptual Plan or DWOP. If a Supplemental DWOP proposes the addition of any wells (e.g., a new subsea field) not approved in the original DWOP, the operator may not complete or produce from the new well(s) until BSEE approves the Supplemental DWOP.

Proposed paragraph (b) would require a supplement to the DWOP for additions or changes that involve the addition of any new or unusual technology to the project that was not previously approved under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, or DWOP. This proposed paragraph would also clarify that the operator may not install any new or

unusual technology until BSEE approves the Supplemental DWOP.

This section would be added to clarify when operators must submit supplemental DWOPs. This section and the section above are intended to reduce confusion by helping operators determine when a revision or a supplement to the DWOP is necessary.

Summary of Final Rule Revisions

Based on comments received and review of the comments, BSEE is revising paragraph (a) by removing the references to “platform” and “process facilities” from the list of items that, if physically altered, would require a supplement to the DWOP and then clarifying that it applies to equipment or systems upstream of the boarding shutdown valve approved in the DWOP. BSEE is also removing the reference of supplementing the DWOP based on the equipment and systems approved in the original Conceptual Plan as it is not applicable to this section.

BSEE is also revising paragraph (b) to clarify that under the situation where there is an addition of new or unusual technology not previously covered under an applicable Conceptual Plan or DWOP, an operator may not install any new or unusual technology until BSEE approves the applicable Conceptual Plan and supplemental DWOP. This revision is necessary to ensure the new or unusual technology follows the appropriate process including the applicable Conceptual Plan approval.

Summary of comments: Multiple commenters expressed concerns that the language describing a supplement to the DWOP is too broad and needs clarification concerning when a supplement is required.

Response: BSEE agrees in part with the commenters and is revising this section to clarify when a supplement to the DWOP is required by removing the references to “platform” and “process facility” and clarifying that a supplement requirement applies only when there is a physical change to the equipment or systems upstream of the boarding shutdown valve. This clarification establishes when a supplemental DWOP is necessary based on the scope of the equipment listed. For example, BSEE would not expect a supplement of your DWOP for changing decking on a platform.

What information must I include in my Supplemental DWOP? (§ 250.248)

Summary of Proposed Rule Revisions

BSEE proposed to describe the information that must be included in the supplement to the DWOP referenced in proposed § 250.247.

Proposed paragraph (a) would require the same information for the wells or equipment as required in the applicable Conceptual Plan and DWOP requirements in Subpart B. This addition would ensure consistency between the initial and supplemental submissions.

Proposed paragraph (b) would describe information for each applicable Conceptual Plan or DWOP section that is being impacted by the addition or change.

Proposed paragraph (c) would require documents demonstrating payment of the new service fee for BSEE’s review and processing of a supplemental DWOP, as listed in the proposed revisions to § 250.125.

Summary of Final Rule Revisions

BSEE did not receive any comments on the content of this section and is finalizing the provision as proposed.

Subpart D—Oil and Gas Drilling Operations

Hydrogen sulfide (§ 250.490)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (p) of this section, which addresses metallurgical properties of equipment used in an H₂S environment. BSEE proposed revising the paragraph to state that if operating in a zone with H₂S present or when the concentration of H₂S in the produced fluid may exceed 0.05 pounds per square inch (psi) partial pressure of H₂S, the operator must use equipment that is constructed of materials with metallurgical properties that resist or prevent sulfide stress cracking (also known as hydrogen embrittlement, stress corrosion cracking, or H₂S embrittlement), chloride-stress cracking, hydrogen-induced cracking, and other failure modes.

BSEE also proposed to revise this section to be consistent with the requirements of NACE Standard MR0175–2003, “*Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments*,” Revised January 17, 2003, incorporated by reference at existing §§ 250.490 and 250.901 and NTL 2009–G31. Section 250.490 paragraph (p) currently requires that the tubing and casing be designed for NACE requirements, but incorrectly refers only to “H₂S present” as the concentration necessary to trigger this requirement. “H₂S present” is defined in existing § 250.490 paragraph (b) as “could potentially result in atmospheric concentration of 20 ppm or more of H₂S.” BSEE proposed language to clarify

that in either “H₂S present” conditions or when H₂S concentrations in the produced fluid exceed 0.05 psi partial pressure of H₂S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

Summary of Final Rule Revisions

BSEE is including the proposed language in the final rule without change.

Summary of comments: A commenter recommended that BSEE reference NACE MR0175 in the introductory text to paragraph (p).

Response: BSEE is not including the reference to NACE MR0175 in the introductory text to this paragraph in the final rule because it is currently referenced in existing paragraph (p)(2). BSEE already requires BOP system components, wellhead, pressure-control equipment, and related equipment exposed to H₂S-bearing fluids to be in conformance with NACE Standard MR0175. BSEE also requires conformance with NACE MR0175 in other subparts of the BSEE regulations as it pertains to other equipment (e.g., see §§ 250.518(a)(2) and 250.619(a)(2) for tubing requirements).

Subpart E—Oil and Gas Well-Completion Operations

Tubing and wellhead equipment (§ 250.518)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (a) of § 250.518 to include the following:

- The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases;
- The tubing string materials must be appropriate for the environment. The operator must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H₂S concentration may equal or exceed 0.05 psi partial pressure; and
- The tubing string threaded connectors must be appropriate for the loads identified in proposed paragraph (a)(1).

These revisions would reflect essential well design elements addressed in industry standards. Current regulations discuss well design specific to casing, but little is provided for tubing design, which is equally critical for well integrity. Regulations currently establish H₂S concentrations

that constitute a specific threat to personnel and establish concentrations that trigger enactment of H₂S protocols. Additional requirements added to this section would address H₂S impacts to equipment integrity, as these components must function as barriers to personnel and the environment. Section 250.490 paragraph (p) currently requires that the tubing and casing be designed for NACE requirements, but incorrectly refers only to “H₂S present” as the concentration necessary to trigger this requirement. “H₂S present” is defined in existing § 250.490 paragraph (b) as “could potentially result in atmospheric concentration of 20 ppm or more of H₂S.” BSEE proposed to clarify that, in either “H₂S present” conditions or when H₂S concentrations in the produced fluid exceed 0.05 psi partial pressure of H₂S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

BSEE also proposed to revise paragraph (c) of this section to include the design and testing of the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. The proposed rule would also add paragraphs (c)(1), (2), and (3) to clarify that:

- Newly completed dry trees (e.g., fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree;
- Newly completed subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (e.g., vertical or horizontal subsea trees); and
- Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead to ensure annular isolation.

BSEE proposed adding paragraph (c)(3) because ANSI/API Spec. 17D does not address mudline suspension conversion to a subsea tree with more than one casing tieback. The proposed revisions would also codify similar language from NTL 2006 G–20, which would establish a requirement for a

minimum of two casing strings tied back and sealed below the tubing head for a mudline suspension conversion to a subsea tree.

BSEE proposed revising paragraph (d) to clarify that both the subsurface safety equipment and surface safety equipment must comply with applicable requirements of Subpart H.

Summary of Final Rule Revisions

BSEE received a comment on this section, but is not making any revisions based on that comment. BSEE is finalizing the proposed content with a clarification in paragraph (a)(1) that the tubing string must be evaluated with appropriate safety factors and material design factors. This revision clarifies this regulation with the correct usage of terms for engineering analysis.

Summary of comments: A commenter expressed concerns that certain content in this section is redundant of the requirements of Subpart D and should be removed.

Response: BSEE disagrees with the commenter and is not removing the content. Finalizing the regulation based on the proposed language helps ensure consistency among the different subparts and considerations for operations when H₂S is present.

Subpart F—Oil and Gas Well-Workover Operations

Tubing and wellhead equipment (§ 250.619)

Summary of Proposed Rule Revisions

BSEE proposed to revise paragraph (a) of § 250.619 to include the following:

- The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases;
- The tubing string materials must be appropriate for the environment. The operator must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H₂S concentration may equal or exceed 0.05 psi partial pressure; and
- The tubing string threaded connectors must be appropriate for the loads identified in proposed paragraph (a)(1).

Additional requirements BSEE proposed to add to this section address H₂S impacts to equipment integrity, as these components must function as barriers to personnel and the environment. BSEE proposed to clarify that in either “H₂S present” conditions or when H₂S concentrations in the

produced fluid exceed 0.05 psi partial pressure of H₂S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

BSEE also proposed to revise paragraph (c) to include the design and testing of the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. This section would also add paragraphs (c)(1), (2), and (3) to clarify that:

- Newly completed dry trees (*e.g.*, fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one SSV, installed above the master valve, in the vertical run of the tree;
- Newly completed subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (for vertical or horizontal subsea trees); and
- Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

BSEE proposed to revise paragraph (d) to clarify that surface safety equipment must be installed, maintained, and tested in accordance with applicable sections of Subpart H, in addition to the subsurface safety equipment.

Summary of Final Rule Revisions

BSEE did not receive any comments on this section and is finalizing the proposed content with the same clarification identified in § 250.518 in paragraph (a)(1) that the tubing string must be evaluated with appropriate safety factors and material design factors. This revision clarifies this regulation with the correct usage of terms for engineering analysis and is consistent with similar requirements in § 250.518.

Subpart G—Well Operations and Equipment

What information must I submit for BOP systems and system components? (§ 250.731)

Summary of Proposed Rule Revisions

BSEE proposed to revise existing paragraph (c)(4) of § 250.731 to update a cross-reference to the definition of

HPHT in accordance with proposed § 250.105.

Summary of Final Rule Revisions

BSEE did not receive any comments on this provision of the proposed rule and is including the proposed language in the final rule without change.

What are the independent third party requirements for BOP systems and system components? (§ 250.732)

Summary of Proposed Rule Revisions

BSEE proposed to revise existing paragraph (c) of § 250.732 to reflect the addition of the new or unusual technology and new or unusual technology barrier requirements in Subpart B. BSEE proposed to delete the independent third-party requirements under existing paragraph (c) because that information would be covered under the new DWOP process requirements. These proposed revisions would connect the HPHT permitting (*e.g.*, APD) requirements and the DWOP process requirements and would improve BSEE's review and decision process. BSEE proposed these revisions to help ensure that the specified equipment is fit for service in the environmental conditions reasonably expected at the operation's site.

BSEE also proposed to remove duplicative requirements now covered under the DWOP new or unusual technology barrier requirements and would provide greater detail considering that the Conceptual Plan review occurs before use of HPHT equipment and would occur before application review. BSEE proposed to consolidate the language and refer to the applicable new or unusual technology barrier requirements and would specify that BSEE would require Conceptual Plan and appropriate permit approval before equipment installation. This addition would provide clarification to operators unfamiliar with the applicable DWOP requirements.

Summary of Final Rule Revisions

Based on comments received and review of the comments, BSEE is revising paragraphs (c)(4) and (c)(5) to remove the term “certification” to be consistent with other required statements and the use of certifications. BSEE is also revising paragraph (c) to clarify that the operator may not deploy the proposed BOP system and related equipment that will or may be exposed to an HPHT environment until BSEE approves the appropriate Conceptual Plan and permits (*e.g.*, APD and APM). This clarification helps ensure the correct use of terminology and

description of equipment or systems. For example, BSEE does not have a definition of “HPHT BOP system,” so that term was removed.

BSEE also fixed incorrect cross references throughout this section based on the updates to Subpart B.

Summary of comments: Multiple commenters expressed concerns with the use of the term “related equipment” as it relates to BOP systems and asserted that this section is limited to BOP equipment.

Response: BSEE disagrees with the commenters, as “BOP systems and related equipment” has been defined in § 250.105, and BSEE is not making changes to this section based on this comment. BSEE defines “BOP systems and related equipment” to be all pressure controlling and pressure containing well control equipment that may or will be exposed to the well's MASP during drilling, completion, workover, intervention, or abandonment. Well control equipment includes equipment that is installed for the purpose of pressure control and pressure containment when it becomes necessary to physically enter a well bore during drilling, completion, workover, intervention, or abandonment modes of operation. This definition makes it clear what is included in “BOP systems and related equipment.”

Summary of comments: A commenter expressed concerns that it is unclear how MASP is determined for all the stated operations and requested BSEE clarify how to determine MASP.

Response: BSEE disagrees with the commenter and is not making changes to this section based on this comment. Information regarding how to determine MASP is already identified in multiple BSEE regulations (*e.g.*, see § 250.730).

Summary of comments: Multiple commenters expressed concerns with the use of a certification statement for compliance with Subpart H.

Response: BSEE agrees with the commenters and has removed the term “certification” from paragraph (c). BSEE will still require a statement in accordance with §§ 250.230 and 250.232. BSEE wants to ensure consistency with the use of I3P statements.

Summary of comments: A commenter requested clarification about when the Conceptual Plans are required for HPHT operations discussed in this section.

Response: BSEE has determined that no clarification is needed in this section. As stated in this section, the operator cannot deploy the proposed HPHT BOP system and related equipment until BSEE approves the New or Unusual Technology Barrier

Equipment Conceptual Plan and appropriate permit. Also, BSEE requires certain actions listed in paragraph (c) before beginning any operation in an HPHT environment. If the operations are not in an HPHT environment as defined by BSEE, then paragraph (c) is not applicable. This section is only applicable to operations in an HPHT environment and all non-HPHT new or unusual technology will need to follow the New or Unusual Technology Barrier Equipment Conceptual Plan process in Subpart B.

Subpart H—Oil and Gas Production Safety Systems

Additional Requirements for Subsurface Safety Valves (SSSVs) and Related Equipment Installed in High Pressure High Temperature (HPHT) Environments (§ 250.804)

Summary of Proposed Rule Revisions

BSEE proposed to remove and reserve this section. The existing requirements from this section would be addressed under proposed §§ 250.105 and 250.204.

Summary of Final Rule Revisions

BSEE did not receive any comments on this proposed section and is finalizing the proposed removal and reservation of this section without change.

IV. Derivation Table

The following table is intended to provide information about the derivation of the requirements in Subpart B. This table provides guidance on the following:

- The destination of various existing requirements.
- The organization and content of the proposed revisions.

This table does not provide definitive or exhaustive guidance and should be used in conjunction with the section-by-section discussion and regulatory text of this proposed rule.

The proposed rule would make changes as outlined in the following table:

Current regulations section	Final rule section	Nature of change
Subpart A: 250.804	250.105	Moves the definition of HPHT to make it applicable to all operations, not just production.
Subpart B: 250.200	250.200	Adds definitions for “barrier categorization,” “primary barriers,” “secondary barriers,” and “new or unusual technology”.
250.201	250.201	Adds information about the three new Conceptual Plans and when submittal of each plan is required.
250.204	250.202	Moved without revision.
250.205	250.203	Moved without revision.
New	250.204	Clarifies what information must be submitted to BSEE if an operator plans to install HPHT barrier equipment.
New	250.206	Codifies some of the barrier concepts from existing BSEE guidance.
New	250.207	Requires the installation and maintenance of a primary and secondary barrier system to contain the source.
550.280	250.208	Includes similar content with minor formatting changes to reflect BSEE applicability.
550.281(a) and (b)	250.209	Includes similar content with minor formatting changes to reflect BSEE applicability.
250.282	250.210	Includes similar content with minor formatting changes to reflect BSEE applicability.
New	250.211	Clarifies the new or unusual technology failure reporting requirements.
250.286	250.220	Clarifies the addition of new or unusual technology, and the operations that could be covered under the DWOP Process.
250.287	250.221	Includes similar content and clarify when the DWOP Process is applicable.
New	250.225	Identifies the 3 new Conceptual Plans.
250.288 and 250.290	250.226	Includes similar content and clarify when to submit the applicable Conceptual Plans.
250.289	250.227	Includes content from existing paragraphs (a), (b), (c), (i)(1), and specify the content of the Project Conceptual Plan.
New	250.228	Specifies the content of the New or Unusual Technology Conceptual Plan.
New	250.229	Specifies the content of the New or Unusual Technology Barrier Equipment Conceptual Plan.
New	250.230	Specifies the submittal timing for I3P Reports.
New	250.231	Specifies the I3P nomination requirements.
New	250.232	Specifies the I3P requirements for applicable Conceptual Plan review.
New	250.233	Clarifies the I3P Report expectations.
250.291	250.235	Includes similar content and clarify DWOP submittals to reflect new or unusual technology additions.
New	250.236	Adds a table listing the applicable sections with corresponding information for the DWOP content.
250.292	250.237	Includes content from existing paragraphs (a), (b) and clarify the general DWOP requirements.
250.292	250.238	Includes content from existing paragraphs (a), (b), (c) and clarify the completions information DWOP requirements.
250.292	250.239	Includes content from existing paragraphs (a), (b), (c) and clarify the structural information DWOP requirements.
250.292	250.240	Includes content from existing paragraphs (a), (b), (c), (d), (e)(3) and clarify the production safety system information DWOP requirements.
250.292	250.241	Includes content from existing paragraphs (c)(2)(i), (ii), (iii) and clarify the subsea systems and pipeline information DWOP requirements.
New	250.242	Clarifies the new or unusual technology information DWOP requirements.

Current regulations section	Final rule section	Nature of change
250.294	250.245	Includes similar content and clarify when an operator can combine the Project Conceptual Plan and the DWOP.
250.295	250.246	Includes similar content and clarify when a revised DWOP is necessary.
New	250.247	Clarifies when a supplemental DWOP is necessary.
New	250.248	Clarifies the content of a supplemental DWOP.

V. Procedural Matters

Regulatory Planning and Review (Executive Orders (E.O.) 12866, 14094, and 13563).

E.O. 12866, *Regulatory Planning and Review*, as amended by E.O. 14094, provides that OMB's Office of Information and Regulatory Affairs (OIRA) will review all significant regulatory actions. A significant regulatory action is one that is likely to result in a rule that:

- Has an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities;
- Creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;
- Materially alters the budgetary impacts of entitlement grants, user fees, loan programs or the rights and obligations of recipients thereof; or
- Raises legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in E.O. 12866, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

OIRA has determined that this final rule is not significant under E.O. 12866.

In support of that conclusion, BSEE prepared a final Regulatory Impact Analysis (RIA) to assess the anticipated costs and potential benefits of the rulemaking. The RIA estimates that the increase in annualized costs, compared with the baseline in the absence of the proposed rule, is \$6.6 million per year. Over the period 2025–2034, those costs are estimated to have a total present value of \$64.0 million undiscounted, \$57.5 million discounted at 2 percent, and \$59.3 million discounted at 2

percent with a capital displacement adjustment. The RIA for this rulemaking can be found in the docket at <https://www.regulations.gov/> (Docket ID: BSEE–2021–0003).

As required by the Independent Offices Appropriation Act (IOAA), as amended (31 U.S.C. 9701), the rule will establish new fees for BSEE's review and processing of several types of operator submissions and reports. This rule will add service fees for processing a Project Conceptual Plan, New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, revised DWOP, Combined Conceptual Plan/DWOP, and Revised or Supplemental DWOP. This rule will also revise the cost recovery fee amount for DWOP review. The final rule will increase, and not adversely affect, the government's receipt of user fees. BSEE's economic analysis projects that, altogether, the fees anticipated to be collected under the proposal over a 10-year period (2025–2034) would exceed the baseline fees collected by approximately \$1.6 million (undiscounted).

The rulemaking will improve operational and environmental safety and human health for deepwater development projects and other projects or systems that use new or unusual technology, not only by providing clarity and regulatory certainty regarding the information submission process, but also by ensuring that additional regulatory requirements and that New or Unusual Technology Barrier Equipment Conceptual Plans are reviewed by I3Ps, as well as providing BSEE discretion to require I3P review of New or Unusual Technology Conceptual Plans. BSEE has not monetized or quantified the benefits of the new submission process, the new requirements for new or unusual technology projects, including HPHT projects, and I3P reviews. BSEE believes that by updating references to industry standards and giving greater clarity to requirements for submissions for new or

unusual technology and HPHT projects and plans, the final rule promotes the objectives of E.O. 13563, including a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to monetize or quantify).

Executive Order 13563, Improving Regulation and Regulatory Review, reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this final rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* (RFA), 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when there is likely to be a significant economic impact on a substantial number of small entities and allows an agency to certify a rule, in lieu of preparing an analysis, if the regulation will not have such an economic impact.

BSEE considers a rule to have an impact on a “substantial number of small entities” when the total number of small entities impacted by the rule is equal to or exceeds 10 percent of the relevant universe of small entities in a given industry. The relevant small-size criteria for affected operators and firms likely to help prepare reports are presented in Table 1 below.

TABLE 1—SMALL-ENTITY CRITERIA FOR AFFECTED FIRMS

Industry sector		Small-entity criteria
211120	Crude petroleum extraction	1,250 employees.
211130	Natural gas extraction	1,250 employees.
213111	Drilling oil and gas wells	1,000 employees.
541330	Engineering services (for the I3P or other reports)	\$16.5 million/year revenues.

Using these criteria, BSEE estimates that the final rule will affect about 23 companies over the next 10 years (2025–2034), of which approximately 12 (52 percent) of the potentially impacted businesses are considered small; the rest are considered large businesses. All of the operating businesses meeting the U.S. Small Business Administration classification are potentially impacted; therefore, BSEE expects that the rule will affect a substantial number of small entities.

As noted in the E.O. 12866 discussion, the final rule will result in increased costs to firms from HPHT and new or unusual technology reporting requirements and increased service fees, including mandatory I3P nominations and reports. The increase in cost borne by industry includes cost of submissions, preparation, and cost recovery fees. BSEE has evaluated quantifiable costs and benefits and has estimated that there are quantified costs to industry from the final provisions. BSEE has estimated the annualized

industry costs by business size in Table 2. The percent of the total industry cost impacts to small operators was estimated based on their percentage of overall revenues. These revenues were estimated by applying Census Statistics of U.S. Businesses revenue estimates by employment ranges to each impacted operator. Based on historical information, BSEE estimates that small companies will bear 8 percent of the industry costs from this rule and large companies will bear the remaining 92 percent.

TABLE 2—TOTAL 10-YEAR INDUSTRY COSTS ASSOCIATED WITH FINAL RULE (2025–2034)
[Undiscounted annualized \$]

Company size	Percent of revenues	Industry rulemaking costs
Small Companies	8	\$505,733
Large Companies	92	5,812,764
Total	100	6,318,497

Table 3 presents the average industry cost and revenue per firm and the numbers of firms classified as small or large. This is presented in Table 3, which illustrates that on a per-firm basis the new reporting costs that will be imposed on small firms by the new requirements, at \$42,123 per year, will represent approximately 0.015 percent

of revenue. BSEE uses a threshold of 1 percent of annual revenues to determine the significance of costs on entities; therefore, the new reporting costs are not deemed to be a significant impact. BSEE therefore projects that the final rule is not likely to have a significant economic impact on a substantial number of small entities. Although it is

not likely required because of this projection, BSEE has conducted a regulatory flexibility analysis (RFA), which provides information on the impact of the final rule on small entities. It is contained in the RIA, which can be found in the docket at <https://www.regulations.gov/> (Docket ID: BSEE–2021–0003).

TABLE 3—AVERAGE ANNUAL INDUSTRY COST AND REVENUE PER FIRM
[Undiscounted annualized \$]

Company size	Count	Average annualized industry cost per firm	Average annual revenue per firm	Cost as percent of revenue
Small Companies	12	\$42,123	\$283,524,338	0.015
Large Companies	11	528,456	3,555,005,441	0.015

Unfunded Mandates Reform Act of 1995

This final rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$195 million per year. The final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by Unfunded Mandates Reform

Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally

protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this final rule does not have federalism implications. This final rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role

in OCS activities, this final rule will not affect that role. A federalism assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this rule:

- (1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

BSEE strives to strengthen its government-to-government relationships with Tribal Nations and Alaska Natives through a commitment to consultation with the Tribes and recognition of their right to self-governance and Tribal sovereignty. BSEE is also respectful of its responsibilities for consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations. In 2022, BSEE notified Tribal Nations and ANCSA Corporations of multiple BSEE rulemakings in development, including this final rule, and invited further government-to-government consultations on any subjects in the regulatory agenda at a Tribe's or ANCSA Corporation's request. BSEE received written comments on the regulatory agenda from the Mashpee Wampanoag Tribe, Native Village of Kotzebue, and Choctaw Nation of Oklahoma, and held a subsequent informational meeting with the Choctaw Nation of Oklahoma. None of the Tribes submitted comments or requested further consultations pertaining to this final rule. Under the criteria in E.O. 13175 and DOI's Policies on Consultation with Indian Tribes and Consultation with Alaska Native Claims Settlement Act Corporations (512 DM 4 and 512 DM 6, respectively), we have evaluated this final rule and determined that it has no substantial direct effects on federally recognized Indian Tribes.

National Technology Transfer and Advancement Act (NTTAA)

BSEE complies with the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) requirement that an agency "use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical." (OMB Circular A-119 at p.

13). BSEE also complies with the Office of the Federal Register (OFR) regulations governing incorporation by reference. (See, 1 CFR part 51.) Those regulations also specify the process for updating an incorporated standard at 1 CFR 51.11(a), and BSEE complies with those requirements, including seeking approval by OFR for a change to a standard incorporated by reference in a final rule.

Paperwork Reduction Act (PRA) of 1995

This final rule contains existing and new information collection (IC) requirements for regulations at 30 CFR part 250, subpart B, *Plans and Information*, and submission to the OMB for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is required. Therefore, BSEE will submit an IC request to OMB for review and approval and request a new OMB control number. Once the 1014-AA49 final rule is effective, we will discontinue the hour burdens and non-hour cost burdens from current 1014-0024 (22,458 hours, \$32,391 non-hour cost burden, expiration December 31, 2024), 30 CFR part 250, subpart B, *Plans and Information*. BSEE will keep the new number associated with this rulemaking. We may not conduct or sponsor, and you are not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

The final regulations will establish new and/or revise current requirements in Subpart B, *Plans and Information*, by revising regulations regarding the Deepwater Operations Plan (DWOP) Process and information submittal and approval process, which includes Conceptual Plans and DWOPs; adding requirements for HPHT barrier equipment and systems and new or unusual technology; and requiring, or providing BSEE with the option to require, independent third-party reviews of Conceptual Plans and DWOPs.

This final rule revises all the proposed service fees listed in § 250.125(a)(2) to reflect the revised processes more accurately, as identified in the other applicable discussions in Section III of this preamble and the estimated BSEE review time for the listed services.

The following provides a breakdown of the paperwork hour burdens and non-hour cost burdens for this final rule. While some sections are being moved from existing Subpart B requirements, it is noted that the burden in proposed § 250.210 (current § 250.282) is covered under BOEM's 1010-0151. Accordingly, new burdens for BSEE are being added.

As discussed in the Section-by-Section analysis above, and in the supporting statement available at [RegInfo.gov](https://www.reginfo.gov), this rule will add/revise:

[New requirements, due to the final rule, are shown in **bold**]

250.210—This section will be revised and moved from existing § 250.282. It will include minor revisions to clarify that the Regional Supervisor may direct operators to conduct monitoring programs in association with their approved EP, DPP, DWOP, or DOCD (+12 burden hours).

250.211—This section is new and will clarify the new or unusual technology failure reporting requirements and will require notification to BSEE within 30 days of the failure and provision of a written report identifying the root causes of the failure (+400 burden hours and \$47,216 in non-hour cost burdens).

250.221(b)—This section will be revised and moved from existing § 250.287. It will clarify that the DWOP process is applicable to any project that will include the use of new or unusual technology (+6 burden hours).

250.226—This section will be revised and moved from existing §§ 250.288 and 250.290. It will add two new Conceptual Plans: New or Unusual Technology Conceptual Plan and New or Unusual Technology Barrier Equipment Conceptual Plan. There are also three new Cost Recovery Fees (§ 250.125—Service Fees) associated with each Conceptual Plan (+39 burden hours and \$297,568 non-hour cost burdens).

250.227—This section will be revised and moved from existing § 250.289. It will list additional information to be submitted with a Project Conceptual Plan and will add new Independent Third Party (I3P) costs for various reviews, certifications, verifications, etc. (+320 burden hours and \$37,776 non-hour costs burden).

250.228—This section is new and will list the various submissions required with a New or Unusual Technology Conceptual Plan and will add new I3P costs for various reviews, certifications, verifications, etc. (+3,600 burden hours and \$676,130 non-hour costs burden).

250.229—This section is new and lists the various submissions required with a New or Unusual Technology Barrier Equipment Conceptual Plan and will add new I3P costs for various reviews, certifications, verifications, etc. (+9,360 burden hours and \$2,955,719 non-hour costs burden).

250.230—This section is new and will require operators submit I3P Reports for any equipment identified in the New or Unusual Technology Barrier Equipment Conceptual Plan and when required by

Regional Supervisor (Fit for service statement) (+25 burden hours).

250.231(a)—This section is new and will outline the requirements for the operator to nominate an I3P to be used in conjunction with applicable Conceptual Plans, including that the I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications (+9 burden hours).

250.231(b)—This section is new and will add the required information that the I3P is to review (+16,660 burden hours).

250.231(c)—This section is new and will require operators to provide evidence of previous I3P nomination acceptance to utilize a previously BSEE accepted I3P from the same project (+100 burden hours).

250.232(b); 250.233—These sections are new and will require the I3P to submit a report documenting the review of each item and identify all OEM and operator documents used during the reviews (+60 burden hours).

250.232(c), (d); 250.233—These sections are new and will require the I3P to submit a final report that

summarizes each review requirement under (a) of this section and will also require the summary report to include the equipment and/or system's technical specifications, including a statement that the equipment and/or system is fit for purpose for the technical specification by the I3P, and verification that the equipment's technical specifications meet or exceed the project's functional requirements including a statement that the equipment and/or system is fit for purpose (+9 burden hours).

250.235; 250.236; 250.237; 250.238; 250.239; 250.240; 250.241; 250.242; 250.204; and 732(c)—These sections will be revised and moved from existing §§ 250.291 and 250.292. These will identify when and how to submit a DWOP; and what general information, well or completions information, structural information, production safety system information, subsea systems, and pipeline information to submit with DWOPs (+1,070 burden hours and \$756,210 non-hour costs burden).

250.245—This section will be revised and moved from existing § 250.294. It will be revised to clarify that operators may submit a combined Project

Conceptual Plan/DWOP, with all applicable requirements for both, on or before the deadline for submitting the Conceptual Plan (+428 burden hours and \$27,712 non-hour costs burden).

250.246—This section will be revised and moved from existing § 250.295. It will be revised to clarify when a revision to a Conceptual Plan or DWOP is necessary (+80 burden hours and \$1,926 non-hour costs burden).

250.247; 250.248—This section is new and will identify when an operator must supplement the DWOP to reflect additions or changes in the development project and will add the required information that must be included in the supplement to the DWOP. It will also require a supplement to the DWOP when a project change involves the addition of any new or unusual technology that was not previously covered under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, or DWOP (+3,990 burden hours and \$756,210 non-hour costs burden).

This rule also edits and updates citations to §§ 250.731(c) and 250.732(c). No burden changes are being requested.

BURDEN BREAKDOWN

Citation 30 CFR part 250, subpart B and NTLs	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses annual	Burden hours
			Non-hour cost burdens	

General Information

200 thru 248	General departure and alternative compliance requests not specifically covered elsewhere in subpart B regulations.	Burden covered under 1014–0022.	0
201 thru 248	Submission of plans, documents/information with applicable permit (New or Unusual Technology (NUT) Conceptual Plans (CPs), NUT Barrier Equipment CP, Project CP, and DWOP); any additional information required by Reg. Sup.	Burden included with specific requirements below.	0

Post-Approval Requirements for the EP (Exploration Plan), DPP (Development and Production Plan), Deep Water Operations Plan (DWOP), and DOCD (Development Operation Coordination Document) [for BSEE apps/permits which include drilling, workovers, production, pipelay, facility installation, and decommissioning, etc.]

210	Retain monitoring data/information; make available to BSEE if requested.	.5	2 retentions	1
	Submit monitoring plan for approval	.5	2 plans	1
	Submit monitoring reports and data	5	2 reports	10
211	Notify Reg. Sup. w/in 30-days of NUT failure; provide failure analysis report including and results & findings of root cause analysis.	200	2 reports	400
\$23,608 I3P × 2 reports = \$47,216.				

Deepwater Operations Plan (DWOP) Process

221(b)	Contact the Reg. Sup. for guidance if you are unsure if your project contains subsea tieback development technology or NUT.	15 min	25 inquiries	6
226	Submit Project CP for approval including additional information requested.	2	8 plans	16
			\$2,697 Fee × 8 plans = \$21,576.	
	Submit NUT CP for approval including additional information requested.	1	10 plans	10

BURDEN BREAKDOWN—Continued

Citation 30 CFR part 250, subpart B and NTLs	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses annual	Burden hours
			Non-hour cost burdens	
			\$7,964 Fee × 10 plans = \$79,640.	
	Submit NUT Barrier Equipment CP for approval including additional information requested.	1	13 plans	13
			\$15,104 Fee × 13 plans = \$196,352.	
227; 226; 201; 204	Submit w/Project Conceptual Plan, an explanation of the general design basis and philosophy, and all required information, including but not limited to: overviews, system control type, estimated distances, subsea production safety Statement, descriptions, structural modifications, installation information, modification statements, schedules, schematics, estimated pressures or discussion of PVT, temperature ratings, etc., the pay.gov confirmation receipt and any additional information required.	40	8 plans	320
			\$4,722 I3P costs × 8 plans = \$37,776.	
228 ; 226; 201; 204	Submit w/NUT CP, all required information, including but not limited to descriptions, discussions, demonstrations, inspection and testing capabilities, risk assessment, operating procedures, history of the technology, design verifications/testing, schematics, justifications, certifications, list alternative compliance procedures/departures, and any additional information required. Use of an I3P if required, Contact Reg. Sup., for questions related to I3P verifications, the pay.gov confirmation receipt and any additional information required.	360	10 plans	3,600
			\$67,613 I3P costs × 10 plans = \$676,130.	
229 ; 226; 201; 204	Submit w/NUT Barrier Equipment CP, all required information, including but not limited to: detailed schematics, lists of barriers, engineering standards, functional requirements, descriptions, I3P nominations and verification plans, I3P Reports, certification statements, the pay.gov confirmation receipt and any additional information required.	720	13 plans	9,360
			\$227,363 I3P costs × 13 plans = \$2,955,719.	
230 ; 732(c)	Submit I3P Reports required for any equipment identified in NUT Barrier Equipment CP and when required by Regional Supervisor. (Fit for service statement).	.5	50 reports	25
231(a)	Submit I3P nomination capable to certify and verify documentation, I3P must be technical class. Society, licensed PE firm, or registered PE. Make all documentation and equipment available to I3P.	30 min	17 nominations	9
231(b)	I3P must review information of the applicable equipment and/or system; including but not limited to basis of design, technical specs., & function requirements, etc., all required info.	980	17 submissions	16,660
231(c)	Provide evidence of previous I3P nomination acceptance to utilize a previously BSEE accepted I3P from the same project.	5	20 nominations	100
232(b); 233	Submit report documenting the review of each item covered under 250.232(a). Report must identify all OEM and Operator documents reviewed.	30 min	119 reports	60
232(c), (d); 233; 732(c)	Submit a final report summarizing the review requirements, including equipment and/or system's technical specifications, certification statements and verifications w/sufficient level of detail (e.g., quantitative information). (Fit for purpose statement).	30 min	17 reports	9
235; 236 ; 237; 238; 239; 240; 241, 242, 204 ; 732(c).	Submit DWOP for approval; include all required information, and the pay.gov confirmation receipt.	214	5 plans	1,070
			\$10,647 Cost Recovery Fee × 5 plans = \$53,235.	
			\$25,024 I3P costs × 5 plans = \$125,120.	
245	Submit a combined Project CP/DWOP for approval on or before deadline for submitting CP.	214	2 plans	428
			\$13,856 Cost Recovery Fee × 2 plans = \$27,712.	
246	Submit a revised DWOP	40	2 plan revisions	80
			\$963 Cost Recovery Fee × 2 plan revs. = \$1,926.	

BURDEN BREAKDOWN—Continued

Citation 30 CFR part 250, subpart B and NTLs	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses annual	Burden hours
Non-hour cost burdens				
247 248	Submit supplements to DWOP reflecting additions or changes; include same information for wells or equipment as required per CP and DWOP, descriptions for each CP or DWOP section being impacted, and the pay.gov confirmation receipt.	133	30 supp	3,990
			\$9,626 Cost Recovery Fee × 30 supp. = \$288,780.	
			\$15,581 I3P costs × 30 submissions = \$467,430.	
Total for Subpart B			374 responses	36,168 Burden hours.
			\$4,978,612 Non-hour Cost Burdens.	

Title of Collection: 30 CFR part 250, subpart B, *Plans and Information*.

OMB Control Number: 1014–0032.

Form Number: None.

Type of Review: New.

Respondents/Affected Public:

Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information at any given time, and some may submit multiple times.

Total Estimated Number of Annual Responses: 374.

Estimated Completion Time per Response: Varies from 15 minutes to 980 hours depending on activity.

Total Estimated Number of Annual Burden Hours: 36,168.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Generally, on occasion and as required in the regulations.

Total Estimated Annual Non-hour Burden Cost: \$4,978,612.

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping non-hour cost burden resulting from the collection of information, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) total capital and startup cost component; and (2) annual operation, maintenance, and purchase of service component. Your estimates should consider the cost to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost

factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: (1) before October 1, 1995; (2) to comply with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the Government; or (4) as part of customary and usual business or private practices.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether the collection of information is necessary, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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.

Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or via the *RegInfo.gov* portal (online). You may view the information collection request(s) at <http://www.reginfo.gov/public/do/PRAMain>. Please provide a copy of your comments to the BSEE Information Collection Clearance Officer (see the **ADDRESSES** section). You may contact Kye Mason, BSEE Information Collection Clearance Officer at kye.mason@bsee.gov with any

questions. Please reference Final Rule 1014–AA49, Oil and Gas and Sulfur Operations in the Outer Continental Shelf—30 CFR part 250, subpart B, *Plans and Information* (OMB Control No. 1014–0032), in your comments.

National Environmental Policy Act of 1969 (NEPA)

BSEE determined that this action is covered under a Categorical Exclusion as defined by NEPA at 43 CFR 46.205. Pursuant to 43 CFR 46.210(i) and 516 Departmental Manual 15.4(C)(1), BSEE determined that the final action is categorically excluded from detailed review under NEPA (42 U.S.C. 4321 *et seq.*). BSEE has determined that the final rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this final rule is “of an administrative, financial, legal, technical, or procedural nature. . . .” Further, BSEE has determined that the final rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The final rule is an administrative change and does not authorize any activities on the OCS. It involves the review of Conceptual Plans and specialized requirements associated with deepwater needs (*e.g.*, special moorings, fittings, production equipment, HPHT items, etc.); however, actual approval of Conceptual Plans and DWOPs is for administrative purposes and does not directly lead to OCS activity that can result in environmental impacts. The Conceptual Plans and DWOPs only lead to an action once they are included and addressed in an Exploration Plan (EP), Development Operations Coordination Document (DOCD), or Development and Production Plan (DPP) and subsequent permit applications. EPs, DOCDs, DPPs,

as well as the subsequent well and facility permit applications, are reviewed under site-specific NEPA analyses. Only EPs, DOCDs, and DPPs include the detailed information to fully assess future environmental impacts. If an operator chooses to modify their Conceptual Plans, DWOPs, or proposed technology or submit a new one for an activity that has already been reviewed and approved under the respective EP, DOCD, or DPP, then the operator must submit a revised EP, DOCD, or DPP in accordance with 30 CFR 550.283, which may trigger additional NEPA analysis.

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211 and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. A Statement of Energy Effects is not required.

Severability

If a court holds any section or paragraph of this rule or their applicability to any person or circumstance invalid, the remainder of this rule and their applicability to other persons or circumstances will not be affected.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Oil and gas exploration, Outer continental shelf—mineral resources, Outer continental shelf—rights-of-way, Penalties, Pipelines, Reporting and recordkeeping requirements, Sulfur.

This action by the Deputy Assistant Secretary is taken herein pursuant to an existing delegation of authority.

Steven H. Feldgus,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

Subpart A—General

■ 2. Amend § 250.105 by adding definitions for “BOP systems and related equipment” and “HPHT environment” in alphabetical order to read as follows:

§ 250.105 Definitions.

* * * * *

BOP systems and related equipment includes all pressure controlling and pressure containing well control equipment that may or will be exposed to the well's MASP during drilling, completion, workover, intervention, or abandonment. Well control equipment includes equipment that is installed for the purpose of pressure control and pressure containment when it becomes necessary to physically enter a well bore during drilling, completion, workover, intervention, or abandonment modes of operation.

* * * * *

HPHT environment means when one or more of the following well conditions exist:

(1) The drilling, completion, workover, intervention, injection, production, or abandonment of the well requires pressure controlling or pressure containing equipment, including well control equipment, assigned a pressure rating greater than 15,000 psia or a temperature rating greater than 350 degrees Fahrenheit;

(2) The MASP or SITP is greater than 15,000 psia at the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead; or

(3) The flowing temperature is greater than 350 degrees Fahrenheit at the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead.

* * * * *

■ 3. Amend § 250.125 by revising paragraph (a)(2) to read as follows:

§ 250.125 Service fees.

(a) * * *

Service—processing of the following:	Fee amount	30 CFR citation (§)
(2) Deepwater Operations Plan (DWOP) Process:		
(i) Project Conceptual Plan	\$2,697	250.226
(ii) New or Unusual Technology Conceptual Plan	7,964	250.226
(iii) New or Unusual Technology Barrier Equipment Conceptual Plan	15,104	250.226
(iv) DWOP	10,647	250.235
(v) Revised DWOP	963	250.246
(vi) Combined Project Conceptual Plan/DWOP	13,856	250.245
(vii) Supplemental DWOP	9,626	250.247
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■ 4. Amend § 250.198 by revising the introductory text and paragraphs (e)(82), (86), (91), and (i)(1) to read as follows:

§ 250.198 Documents incorporated by reference.

Certain material is incorporated by reference into this part with the

approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at BSEE and at the National Archives and Records Administration (NARA). Contact BSEE at: the Houston BSEE office at 1919 Smith Street Suite 14042, Houston, Texas 77002; 1–844–259–

4779. 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. The material may be obtained from the following sources:

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(e) * * *

(82) ANSI/API Spec. 6A, Specification for Wellhead and Christmas Tree Equipment, Twentieth Edition, October 2010; Addendum 1, November 2011; Errata 2, November 2011; Addendum 2, November 2012; Addendum 3, March 2013; Errata 3, June 2013; Errata 4, August 2013; Errata 5, November 2013; Errata 6, March 2014; Errata 7, December 2014; Errata 8, February 2016; Addendum 4, June 2016; Errata 9, June 2016; Errata 10, August 2016; incorporated by reference at §§ 250.518(c), 250.619(c), 250.730, 250.802(a), 250.803(a), 250.833, 250.873(b), 250.874(g); 250.1002(b).

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(86) ANSI/API Spec. 11D1, Packers and Bridge Plugs, Third Edition, April 2015; including Errata 1, August 2019; incorporated by reference at §§ 250.518(e), 250.619(e); 250.1703.

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(91) ANSI/API Spec. 17D, Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition, Reaffirmed November 2018; Addendum 1, September 2015; Errata, September 2011; Errata 2, January 2012; Errata 3, June 2013; Errata 4, July 2013; Errata 5, October 2013; Errata 6, August 2015; Errata 7, October 2015; incorporated by reference at §§ 250.518(c); 250.619(c); 250.730.

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(i) * * *

(1) NACE Standard MR0175–2003, Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 17, 2003; incorporated by reference at §§ 250.490; 250.518(a); 250.619(a); 250.901.

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■ 5. Revise subpart B to read as follows:

Subpart B—Plans and Information

General Information

Sec.

250.200 Definitions.

250.201 What plans and information must I submit before I conduct any activities on my lease or unit?

250.202 How must I protect the rights of the Federal government?

250.203 Are there special requirements if my well affects an adjacent property?

250.204 Requirements for high pressure high temperature (HPHT) barrier equipment.

250.205 [Reserved]

Barrier Equipment and Systems

250.206 What equipment does BSEE consider to be a barrier?

250.207 How must barrier systems be used?

Activities and Post-Approval Requirements for the EP, DPP, DWOP, and DOCD

250.208 How must I conduct activities under an approved EP, DPP, or DOCD?

250.209 What must I do to conduct activities under the approved EP, DPP, or DOCD?

250.210 Do I have to conduct post-approval monitoring?

250.211 What are my new or unusual technology failure reporting requirements?

250.212–250.219 [Reserved]

Deepwater Operations Plan (DWOP) Process

250.220 What is the DWOP process?

250.221 When must I use the DWOP process?

250.222–250.224 [Reserved]

Conceptual Plans

250.225 What are the types of Conceptual Plans that I must submit?

250.226 When and how must I submit each applicable Conceptual Plan?

250.227 What must the Project Conceptual Plan contain?

250.228 What must the New or Unusual Technology Conceptual Plan contain?

250.229 What must the New or Unusual Technology Barrier Equipment Conceptual Plan include?

250.230 When are you required to submit an I3P Report?

250.231 What are your requirements for the Independent Third Party (I3P) nomination?

250.232 What are the I3P review requirements for Conceptual Plan reviews?

250.233 General requirements for any I3P Report.

250.234 [Reserved]

DWOP Approval

250.235 When and how must I submit the DWOP?

250.236 What information must I submit with the DWOP?

250.237 What general information must my DWOP include?

250.238 What well or completions information must my DWOP include?

250.239 What structural information must my DWOP include?

250.240 What production safety system information must my DWOP include?

250.241 What subsea systems and pipeline information must my DWOP include?

250.242 What New or Unusual Technology information must my DWOP include?

250.243–250.244 [Reserved]

250.245 May I combine the Project Conceptual Plan and the DWOP?

250.246 When must I revise my DWOP?

250.247 When must I supplement my DWOP?

250.248 What information must I include in my Supplemental DWOP?

Subpart B—Plans and Information

General Information

§ 250.200 Definitions.

Acronyms and terms used in this subpart have the following meanings:

(a) Acronyms used frequently in this subpart are listed alphabetically below:

(1) BOEM means Bureau of Ocean Energy Management of the U.S. Department of the Interior.

(2) BSEE means Bureau of Safety and Environmental Enforcement of the U.S. Department of the Interior.

(3) CID means Conservation Information Document.

(4) CZMA means Coastal Zone Management Act.

(5) DOCD means Development Operations Coordination Document.

(6) DPP means Development and Production Plan.

(7) DWOP means Deepwater Operations Plan.

(8) EIA means Environmental Impact Analysis.

(9) EP means Exploration Plan.

(10) ESA means Endangered Species Act.

(11) HPHT means High Pressure High Temperature

(12) I3P means Independent Third Party

(13) MMPA means Marine Mammal Protection Act.

(14) NPDES means National Pollutant Discharge Elimination System.

(15) NTL means Notice to Lessees and Operators.

(16) OCS means Outer Continental Shelf.

(b) Terms used in this subpart are listed alphabetically below:

Amendment means a change you make to an EP, DPP, or DOCD that is pending before BOEM for a decision (see 30 CFR 550.232(d) and 30 CFR 550.267(d)).

Barrier categorization includes identifying barriers as one of the following two types of categories:

Category 1 Barrier means any equipment, component, or assembly that functions as part of a primary barrier during any operational phase of its life cycle. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment.

Category 2 Barrier means any equipment, component, or assembly that normally functions as part of a secondary barrier during any operational phase of its life cycle, except when a primary barrier fails. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment. BSEE may consider non-barrier structural components of a barrier system as a Category 2 Barrier if failure of this structural component could reasonably result in a Primary Barrier failure.

Fit for Purpose means a determination made by an I3P at the conclusion of I3P review that the barrier equipment design has been verified and validated in conformance with recognized engineering standards and any additional project specification requirements; that the material selection, design verification analysis, design validation testing, and quality control are appropriate to justify the technical specifications; and that the technical specifications meet or exceed a project's site specific functional requirements.

Fit for Service means a determination made by the operator that the material selection, design verification analysis, design validation testing, and quality control of the barrier equipment is appropriate to justify the technical specifications and that the technical specifications meet or exceed a project's site-specific functional requirements.

New or unusual technology means equipment or procedures used for any drilling, completion, workover, intervention, injection, production,

pipeline, platform, decommissioning, or abandonment operations that meet any of the following criteria:

- (1) Has not been approved for use or used extensively in a BSEE OCS Region;
- (2) Has not been approved for use or used extensively under the anticipated operating conditions;
- (3) Has operating characteristics that are outside the performance parameters established in this part;
- (4) Will operate in an HPHT environment as defined in § 250.105; or
- (5) Is part of a primary or secondary barrier system that uses materials, design analysis techniques, validation testing methods, or manufacturing processes not addressed in existing industry standards.

Primary Barrier means the equipment, material, component, or assembly that is designated as the principal means of isolating the hydrocarbon pressure source from people and the environment.

Secondary Barrier means the equipment, material, component, or assembly that is designated as the

secondary means of isolating the hydrocarbon pressure source from people and the environment.

Subsea tieback development technology means, but is not limited to, floating production systems, tension leg platforms, spars, Floating Production Storage and Offloading (FPSO) systems, guyed towers, compliant towers, subsea manifolds, subsea wells, hybrid wells, production risers, export risers, and other subsea completion or production components that rely on a remote site or host facility for utility and well control services.

§ 250.201 What plans and information must I submit before I conduct any activities on my lease or unit?

(a) *Plans and permits.* Before you conduct the activities on your lease or unit listed in the following table, you must submit, and BSEE must approve, the listed plans (or relevant portions thereof), and any applicable permits. Your plans and applicable permits may cover one or more leases or units.

You must have BSEE approval of a(n) . . .	Before you . . .	Additional information
(1) New or Unusual Technology Conceptual Plan.	install the new or unusual technology	(i) Must be approved by BSEE before it will approve any associated application or permit (e.g., pipeline, platform, APD, APM) involving the use of new or unusual technology. (ii) May be independent of a project Conceptual Plan or DWOP. (iii) BSEE will not approve this Conceptual Plan until all associated I3P Reports (if required) are submitted and are reviewed by BSEE. (iv) May not contain equipment identified as a primary or secondary barrier.
(2) New or Unusual Technology Barrier Equipment Conceptual Plan.	install the new or unusual technology that is identified as barrier equipment.	(i) Is required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier. (ii) Must be approved by BSEE before it will approve any associated application or permit (e.g., pipeline, platform, APD, APM) involving the use of new or unusual technology identified as barrier equipment as applicable for the permit scope. (iii) BSEE will not approve this Conceptual Plan until all associated I3P Reports are submitted and reviewed by BSEE.
(3) Project Conceptual Plan	conduct post-drilling installation or well completion activities for a deepwater development project, or for any project that will involve the use of a subsea tieback development technology in any water depth, which may include new or unusual technology.	(i) Must be approved before well completion permit approval (e.g., APM). (ii) Any relevant new or unusual technology associated with completion operations must be approved by BSEE before project Conceptual Plan approval.
(4) Deepwater Operations Plan (DWOP).	(i) conduct post-completion installation activities for a deepwater development project, or for any project that will involve the use of a subsea tieback development technology in any water depth, which may include new or unusual technology; and (ii) initiate production activities.	Must include reference to all applicable, previously approved Conceptual Plans for the associated development project.

(b) *Submitting additional information.* On a case-by-case basis, the Regional Supervisor may require you to submit additional information if the Regional Supervisor determines that it is

necessary to evaluate your proposed plan or permit.

(c) *Referencing.* In preparing your proposed plan or permit, you may reference information and data

discussed in other plans or permits you previously submitted or that are otherwise readily available to BSEE.

(d) All plans listed under paragraph (a) of this section that are initially

submitted after October 29, 2024 must comply with the requirements of this subpart.

§ 250.202 How must I protect the rights of the Federal government?

(a) To protect the rights of the Federal government, you must either:

(1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect the Federal government from loss due to production on other leases or units or from adjacent lands under the jurisdiction of other entities (e.g., State and foreign governments); or

(2) Pay a sum that the Regional Supervisor determines as adequate to compensate the Federal government for your failure to drill and produce any well.

(b) Payment under paragraph (a)(2) of this section may constitute production in paying quantities for the purpose of extending the lease term.

(c) You must complete and produce any penetrated hydrocarbon-bearing zone that the Regional Supervisor determines is necessary to conform to sound conservation practices.

§ 250.203 Are there special requirements if my well affects an adjacent property?

For wells that could intersect or drain an adjacent property, the Regional Supervisor may require special measures to protect the rights of the Federal government and objecting lessees or operators of adjacent leases or units.

§ 250.204 Requirements for high pressure high temperature (HPHT) barrier equipment.

If you plan to install HPHT barrier equipment, you must submit information with your applicable Project Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, DWOP, and applicable permit(s) that demonstrates the equipment is fit for service in the applicable HPHT environment. You must follow the applicable DWOP Process requirements (e.g., §§ 250.229 and 250.242).

§ 250.205 [Reserved]

Barrier Equipment and Systems

§ 250.206 What equipment does BSEE consider to be a barrier?

A barrier or barrier system is any engineered equipment, material, component, or assembly that is installed to contain a hydrocarbon pressure source(s) to prevent harm to people or the environment. BSEE only recognizes barriers that are either permanently or temporarily installed, pressure controlling, and/or pressure containing.

You must be able to activate pressure controlling barriers on demand (i.e., closed by an operator or automated safety system). You must function test and pressure test any pressure controlling barriers or barrier systems to defined acceptance criteria that can be repeated. You must pressure test any pressure containing barrier or barrier system to defined acceptance criteria that can be repeated.

§ 250.207 How must barrier systems be used?

You must install and maintain a primary and a secondary barrier system (redundant barriers) to prevent a loss of containment during any operational phase of a well, flowline, pipeline, production, or riser system.

Activities and Post-Approval Requirements for the EP, DPP, DWOP, and DOCD

§ 250.208 How must I conduct activities under an approved EP, DPP, or DOCD?

(a) *Compliance.* You must conduct all of your lease and unit activities according to your approved EP, DPP, or DOCD and any approval conditions. If you fail to comply with your approved EP, DPP, or DOCD:

(1) You may be subject to BSEE enforcement action, including civil penalties; and

(2) The lease(s) involved in your EP, DPP, or DOCD may be forfeited or cancelled under 43 U.S.C. 1334(c) or (d). If this happens, you may not be entitled to compensation under 30 CFR 550.185(b) and 30 CFR 556.1102.

(b) *Emergencies.* Nothing in this subpart or in your approved EP, DPP, or DOCD relieves you of or limits your responsibility to take appropriate measures to meet emergency situations. In an emergency situation, the Regional Environmental Officer may approve or require departures from your approved EP, DPP, or DOCD.

§ 250.209 What must I do to conduct activities under the approved EP, DPP, or DOCD?

(a) *Approvals and permits.* Before you conduct activities under your approved EP, DPP, or DOCD you must obtain the following approvals and or permits, as applicable, from the District Manager or BSEE Regional Supervisor:

(1) Approval of Applications for Permits to Drill (APDs) (see § 250.410);

(2) Approval of production safety systems (see § 250.800);

(3) Approval of new platforms and other structures (or major modifications to platforms and other structures) (see § 250.905);

(4) Approval of applications to install lease term pipelines (see § 250.1007); and

(5) Other permits, as required by applicable law.

(b) *Conformance.* The activities proposed in these applications and permits must conform to the activities described in detail in your approved EP, DPP, or DOCD.

§ 250.210 Do I have to conduct post-approval monitoring?

The Regional Supervisor may direct you to conduct monitoring programs, including monitoring in accordance with the ESA and the MMPA, in association with your approved EP, DPP, DWOP, or DOCD. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to BSEE upon request. The Regional Supervisor may require you to:

(a) Submit monitoring plans for approval before you begin work; and

(b) Prepare and submit reports that summarize and analyze data and information obtained or derived from your monitoring programs. The Regional Supervisor will specify requirements for preparing and submitting these reports.

§ 250.211 What are my new or unusual technology failure reporting requirements?

If you have an approved new or unusual technology and it experiences a failure (i.e., any condition that prevents the equipment from meeting its functional specification) during or post-installation, you must notify the applicable Regional Supervisor within 30 days of the failure. You must also provide a failure analysis report as soon as it is available following notification. The failure analysis report must include any results of and potential root cause(s) of the failure. You must also follow all applicable failure or incident reporting requirements associated with the failure (e.g., §§ 250.188, 250.730, and 250.803).

§§ 250.212–250.219 [Reserved]

Deepwater Operations Plan (DWOP) Process

§ 250.220 What is the DWOP process?

(a) The DWOP process consists of providing sufficient information from a total system approach for BSEE to review:

(1) A deepwater development project, or

(2) A subsea tieback development technology, or

(3) Any other project or system that uses new or unusual technology during any phase of the following operations: drilling, completion, workover, intervention, injection, production,

pipeline, platform, decommissioning, or abandonment.

(b) The DWOP process does not replace but complements other submittals required by the regulations, such as BOEM EPs, DPPs, and DOCDs, or BSEE applications and/or permits (e.g., APD, Application for Permit to Modify (APM), pipeline application, and platform application). BSEE will use the information in your DWOP process to determine whether the project will be developed in an acceptable manner, particularly with respect to operational safety and environmental protection involved with a deepwater development project, subsea tieback development technology, or new or unusual technology.

(c) The DWOP process consists of two phases:

(1) *The Conceptual Plans.* The Conceptual Plans outline certain equipment and process specifications, operational concepts, and basis of design that you plan to use for project development, and for applicable equipment design, installation, and operation. Sections 250.227 through 250.229 prescribe what each of the Conceptual Plans must contain. Each Conceptual Plan may be submitted separately or combined as applicable; and

(2) *The DWOP.* The DWOP identifies specific design, fabrication, installation and operational requirements for equipment, systems, and activities as applicable in §§ 250.236 through 250.242.

(d) You must submit to BSEE the applicable plan(s) covered under the

DWOP process as appropriate (see § 250.225 for Conceptual Plan requirements and § 250.235 for DWOP requirements). Certain projects requiring New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans may not be required to have an associated Project Conceptual Plan or DWOP.

§ 250.221 When must I use the DWOP process?

(a) You must use the DWOP process for any project that meets any of the following criteria:

(1) Is planned in water depths greater than 1000 ft;

(2) Will use subsea tieback development technology, regardless of water depth; or

(3) Will use any new or unusual technology for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment project.

(b) If you are unsure if your project will use subsea tieback development technology or new or unusual technology, contact the Regional Supervisor for guidance.

§§ 250.222–250.224 [Reserved]

Conceptual Plans

§ 250.225 What are the types of Conceptual Plans that I must submit?

There are three types of Conceptual Plans:

(a) A Project Conceptual Plan is required for any project that is planned in water depths greater than 1000 feet,

will use subsea tieback development technology, or will use new or unusual technology for completion, injection, production, pipeline, or platform operations;

(b) A New or Unusual Technology Conceptual Plan is required for any project or system that involves equipment or procedures that are considered new or unusual technology (see § 250.200 for the definition of new or unusual technology) for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations; and

(c) A New or Unusual Technology Barrier Equipment Conceptual Plan is required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier (see § 250.200 for the definition of primary and secondary barriers) for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations.

§ 250.226 When and how must I submit each applicable Conceptual Plan?

You must submit each applicable Conceptual Plan to the Regional Supervisor after you have decided on the general concept(s) for a project or system, and before you finalize engineering design of the equipment, well, well safety control system, or subsea production systems. You must submit, for BSEE approval, each Conceptual Plan according to the following table:

Conceptual plan type	Where to find the description (§)	Additional information
(a) Project Conceptual Plan	250.227	You may not complete any production or injection well or install the tree before BSEE has approved the Project Conceptual Plan.
(b) New or Unusual Technology Conceptual Plan.	250.228	(1) Operations and approval timing requirements are as follows: (i) You may not install any new or unusual technology until BSEE approves your New or Unusual Technology Conceptual Plan, (ii) You may not complete any production or injection well or install a tree before BSEE has approved all New or Unusual Technology Conceptual Plans associated with all well completion equipment and the Project Conceptual Plan, and (iii) BSEE must first approve your New or Unusual Technology Conceptual Plan associated with subsea production systems before the DWOP may be approved. You may install this new or unusual technology following BSEE permit approval (e.g., pipeline application) and prior to DWOP approval. (2) The Regional Supervisor may require the operator to use an I3P to perform certain functions and verifications in accordance with § 250.231, as applicable. (3) BSEE will not approve a New or Unusual Technology Conceptual Plan until you submit and BSEE reviews all I3P Reports (if any required). (4) BSEE must approve your New or Unusual Technology Conceptual Plan before it will approve any associated application or permit application (e.g., pipeline application, platform application, APD, APM). (5) You must submit separate New or Unusual Technology Conceptual Plans for each piece of equipment at an assembly level (e.g., BOP, tree, wellhead system, or tubing head spool).

Conceptual plan type	Where to find the description (§)	Additional information
(c) A New or Unusual Technology Barrier Equipment Conceptual Plan.	250.229	(1) You must submit a New or Unusual Technology Barrier Equipment Conceptual Plan for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier. (2) Operations and approval timing requirements are as follows: (i) BSEE must first approve your New or Unusual Technology Barrier Equipment Conceptual Plan prior to you installing new or unusual technology identified as barrier equipment, (ii) You may not complete any production or injection well or install the tree before BSEE has approved all the New or Unusual Technology Barrier Equipment Conceptual Plans associated with all well completion equipment and the Project Conceptual Plan, and (iii) BSEE must first approve your New or Unusual Technology Barrier Equipment Conceptual Plan associated with subsea production systems before the DWOP may be approved. You may install this equipment after BSEE permit approval (e.g., pipeline application) and prior to DWOP approval. (3) BSEE must first approve your New or Unusual Technology Barrier Equipment Conceptual Plan before it will approve any associated application or permit application (e.g., pipeline application, platform application, APD, APM). (4) All new or unusual technology identified as barrier equipment requires the use of an Independent Third Party (I3P) to perform certain functions and verifications in accordance with § 250.231. BSEE will not approve New or Unusual Technology Barrier Equipment Conceptual Plans until you submit and BSEE reviews all required I3P Reports pursuant to § 250.231. (5) You must submit separate New or Unusual Technology Barrier Equipment Conceptual Plans for each piece of equipment at an assembly level (e.g., BOP, tree, wellhead system, tubing head spool).

§ 250.227 What must the Project Conceptual Plan contain?

In the Project Conceptual Plan, you must explain the basis of design that you will use to develop the field. You must include the following information:

(a) An overview of the development concept(s);

(b) The system control type (*i.e.*, direct hydraulic or electro-hydraulic);

(c) The estimated distance from each of the wells to the host platform, and umbilical length(s);

(d) A statement that the subsea production safety system will be designed to comply with Subpart H of this part;

(e) For a new facility, a description of the type of facility you plan to install (e.g. spar, tension leg platform (TLP), FPSO, etc.);

(f) For a subsea tie back to an existing facility:

(1) A description of known structural modifications that you will need to make to accommodate the tieback, including a statement about whether these accommodations constitute minor or major modifications,

(2) The BSEE-approved service life of the existing facility, and

(3) A description of how you will evaluate whether the modifications may affect the BSEE-approved service life.

(g) A statement regarding whether the host facility will be manned or unmanned;

(h) A schedule of development activities, including well completion, facility installation, and date of first oil;

(i) Schematics, including:

(1) A proposed well location plat,

(2) A conceptual subsea field schematic depicting the planned development infrastructure that contains (as applicable) the wells, pipelines, manifolds, subsea booster pumps, high integrity pressure protection system, riser systems, umbilical(s), and facility footprint,

(3) The surface or subsea tree, and

(4) A proposed wellbore and completion schematic for a typical well (including Surface Controlled Subsurface Safety Valve (SCSSV) location and chemical injection points; and depiction or description of gas zones, if any, behind the production casing or production liner and how those gas zones will be isolated).

(j) A description of the drilling and completion systems;

(k) The estimated shut-in tubing pressure for the proposed well(s), including the calculation used to arrive at the estimate, specifying true vertical depth (TVD), reservoir pressure, and the fluid gradient used, or a brief discussion of the pressure volume temperature (PVT) data used for estimation;

(l) The wellbore static bottomhole temperature and the estimated flowing temperature at the tree;

(m) The pressure and temperature rating of the tree and wellhead;

(n) Whether there will be corrosive production (e.g., hydrogen sulfide (H₂S), Carbon dioxide (CO₂), Mercury (Hg) or

injection fluids (e.g., acid)), including concentrations;

(o) Whether any of the proposed equipment will be re-furbished and re-certified;

(p) Whether enhanced recovery is planned for the early life of the project;

(q) Whether any new or unusual technology will be used to develop your project involving the following: drilling, completion, injection, production, risers, pipelines, or platforms;

(r) Whether the well(s) will include smart completion technology;

(s) A list of requests for any alternate procedures or equipment in accordance with § 250.141 and request for departures in accordance with § 250.142 associated with your applicable Conceptual Plans; and

(t) Documentation demonstrating payment of the service fee listed in § 250.125.

§ 250.228 What must the New or Unusual Technology Conceptual Plan contain?

(a) You must include the following information, as applicable, in your New or Unusual Technology Conceptual Plan:

(1) How the New or Unusual Technology Conceptual Plan fits within your overall site specific project, if applicable, including an overview of the project development concepts.

(2) A description of the technology and specific conditions under which it will be used;

(3) A description of shut-in capabilities and procedures;

(4) A description of redundancies of critical components or systems that will be used;

(5) A discussion of how the new or unusual technology could impact the barrier or safety system, if any, including:

(i) The detection method for new or unusual technology failure;

(ii) A description of how barriers or safety systems function to a fail-safe state when impacted by new or unusual technology failure;

(6) Information on inspection and testing capabilities;

(7) A risk assessment and failure mode analysis;

(8) Operating procedures;

(9) A history of development and application of the technology;

(10) The basis of design, including design verification and validation testing;

(11) Detailed schematics identifying all components;

(12) A justification for new or unusual technology use, and any additional information required for a complete review;

(13) A list of requests for alternate procedures or equipment in accordance with § 250.141 and request for departures in accordance with § 250.142 needed for the new or unusual technology proposed in your New or Unusual Technology Conceptual Plan;

(14) A statement that the technology is fit for service in the applicable environment (for the specific project at location); and

(15) Documentation demonstrating payment of the service fee listed in § 250.125.

(b) The Regional Supervisor may require the use of an I3P according to § 250.231 if the system or equipment you propose to use requires a high degree of specialized or technically complex engineering knowledge, expertise, and experience to evaluate, or if existing industry standards do not address the system or equipment you propose to use.

(1) The Regional Supervisor may also require you to follow the I3P requirements according to § 250.232, as applicable, on a case-by-case basis.

(2) If you have any questions about I3P requirements for the New or Unusual Technology Conceptual Plan, contact the applicable Regional Supervisor.

§ 250.229 What must the New or Unusual Technology Barrier Equipment Conceptual Plan include?

Your New or Unusual Technology Barrier Equipment Conceptual Plan must include the following information:

(a) A description how the New or Unusual Technology Barrier Equipment Conceptual Plan fits within your overall site-specific project, if applicable. You must include an overview of the project development concepts and a proposed schedule for submittal of associated Conceptual Plans;

(b) Detailed schematics depicting the primary and secondary barriers that include all components, assemblies, or sub-assemblies, each labeled and categorized as a Category 1 barrier or Category 2 barrier;

(c) A list of the primary and secondary barriers that includes all components, assemblies, or sub-assemblies specifying each assigned barrier as either a Category 1 barrier or Category 2 barrier;

(d) A list of the engineering standards that will be used in the equipment's material selection and qualification, design verification analysis, and design validation testing;

(e) A list of requested alternate procedures or equipment in accordance with § 250.141 and requested departures in accordance with § 250.142 needed for the new or unusual technology barrier equipment proposed in your New or Unusual Technology Barrier Equipment Conceptual Plan;

(f) A list of the functional requirements (e.g., environmental and physical loads (magnitude and frequency)) for which the barrier equipment is being designed;

(g) A description of the equipment's safety critical functions, (e.g., function(s) performed by or inherent to the equipment enabling it to achieve or maintain a safe state);

(h) An I3P nomination, in accordance with § 250.231(a);

(i) An I3P verification plan that includes the following:

(1) A discussion of the equipment's material selection and qualification;

(2) A discussion of the equipment's design verification analyses;

(3) A discussion of the equipment's design validation testing;

(4) An explanation of why the analyses, processes, and procedures ensure that the equipment is fit for service in the applicable environment; and

(5) Details regarding how the I3P will address the additional items listed in § 250.232.

(j) Documentation demonstrating payment of the service fee listed in § 250.125.

§ 250.230 When are you required to submit an I3P Report?

You must submit to BSEE any I3P reports required in § 250.232 for any

equipment identified in your New or Unusual Technology Barrier Equipment Conceptual Plan and when required by the Regional Supervisor. BSEE will not approve your associated Conceptual Plan until BSEE reviews the required I3P Reports.

§ 250.231 What are your requirements for the Independent Third Party (I3P) nomination?

In accordance with each applicable Conceptual Plan, you must:

(a) Nominate I3P(s) to review the design verification and design validation documentation of the Original Equipment Manufacturer (OEM). Your I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required verifications and validations. You must submit your I3P nomination(s) within the applicable Conceptual Plan for separate BSEE acceptance before BSEE will approve the applicable Conceptual Plan. Your I3P nomination must include the following descriptions:

(1) Previous experience in third-party verification and validation or experience in the design, fabrication, and installation of applicable offshore oil and gas equipment;

(2) Technical capabilities of the individual or the primary staff for the specific project;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology to review the specific project. This should include, but not limited to, computer programs, hardware, and equipment as applicable;

(5) Ability to perform the I3P functions for the specific project considering current commitments (e.g., project timelines, schedules, and personnel availability); and

(6) Previous experience with BSEE requirements and procedures.

(b) You must ensure that the I3P has access to all associated documentation and equipment related to items listed on the I3P verification plan defined at § 250.229(i) and necessary for performance of complete reviews in accordance with § 250.232, including relevant OEM documentation (including documentation and data labeled as confidential and proprietary) and access to the OEM fabrication and manufacturing locations if such access is necessary to review the data.

(c) If your project involves submittal of multiple Conceptual Plans, you may propose to use the services of an I3P previously accepted by BSEE for the same project, and not submit the items

required under paragraph (a), if the BSEE-accepted I3P's qualifications are still valid and applicable to provide the required verifications and validations. You must submit documentation regarding the previous I3P nomination acceptance.

§ 250.232 What are the I3P review requirements for Conceptual Plan reviews?

In accordance with each applicable Conceptual Plan, the I3P must:

(a) Review the following information regarding the applicable equipment and/or system:

(1) Basis of Design, technical specification of the equipment (if known at this point in the design process) and functional requirements of the specific project (e.g., environmental and physical loads (magnitude and frequency));

(2) Risk assessment and failure mode analysis;

(3) Material specification, selection, qualification, and testing;

(4) Design verification analysis, including:

(i) Structural/strength analysis, and
(ii) Fatigue assessment and/or analysis.

(5) If fatigue is identified as a potential failure mode, as identified in the fatigue assessment and/or analysis in paragraph (a)(4) of this section, the plan to record and gather data (load monitoring) in order to conduct a future fatigue analysis;

(6) Design validation testing; and
(7) A fabrication, quality management system, and inspection and test plan that identifies the quality control/quality assurance process, and inspection of the final products.

(b) Submit a report to BSEE documenting the review of each item

covered under paragraph (a) of this section. Each report must clearly identify all OEM and operator documents used during the I3P review. The report must also include:

(1) The equipment and/or system's technical specifications, including a statement that the equipment and/or system is fit for purpose for the technical specification by the I3P; and

(2) Verification that the equipment's technical specifications meet or exceed the project's functional requirements, including a statement that the equipment and/or system is fit for purpose for the proposed project by the I3P.

(c) For any new project, you may use previous I3P reviews of equipment and/or systems technical specification that was approved in a previous Conceptual Plan. The Regional Supervisor may accept a final report in accordance with paragraph (c) of this section that includes the following:

(1) A statement that the previous report submitted pursuant to of paragraph (b) of this section remains valid;

(2) Verification that the equipment's technical specifications meet or exceed the proposed project's functional requirements; and

(3) A statement by the I3P that the equipment and/or system is fit for purpose for the proposed project.

§ 250.233 General requirements for any I3P Report.

An I3P Report as required in § 250.232 must be a standalone document that clearly summarizes the required verification and validation work performed and must contain a sufficient level of detail (e.g.,

quantitative information) and clarity to establish the basis of the I3P's findings. Each report must identify the OEM or operator documents reviewed, describe the detailed I3P review, and convey the results of the I3P's review without requiring BSEE to review of any other referenced documents.

§ 250.234 [Reserved]

DWOP Approval

§ 250.235 When and how must I submit the DWOP?

(a) You must submit the DWOP to the Regional Supervisor after BSEE has approved your Project Conceptual Plan and you have substantially completed system design, and before you conduct installation activities post-well completion for:

(1) A deepwater development project;

(2) A project that will use subsea tieback development technology in any water depth; or

(3) An HPHT development project, any project that uses Category 1 or 2 new or unusual technology barrier equipment, or any project that uses new or unusual technology that may impact the safety critical function of Category 1 or 2 barrier equipment regardless of the water depth.

(b) You may install subsea systems and associated pipelines after you have received applicable BSEE permit(s) and Conceptual Plan approvals. However, you may not begin production from the well until BSEE approves your DWOP.

§ 250.236 What information must I submit with the DWOP?

Your DWOP must contain the following information, as applicable:

Information that you must include with your DWOP	Where to find the description (§)
(a) General information	250.237
(b) Well or completion information	250.238
(c) Structural information	250.239
(d) Production safety system information	250.240
(e) Subsea system and pipeline information	250.241
(f) New or unusual technology information	250.242

§ 250.237 What general information must my DWOP include?

You must include the following general information in your DWOP, as applicable:

(a) A list of requests for any alternate procedures or equipment in accordance with § 250.141 and requests for departures in accordance with § 250.142 applicable to the DWOP, and a list of any identified alternate procedures or

equipment or departures for which you may request approval in any future applicable permit or application. You do not need to list alternative procedures or equipment or departure requests that were previously submitted and approved for the same project's Conceptual Plans unless the same alternate procedures or equipment or departure requests are needed for a

different piece of equipment for post-completion activities.

(b) Documentation demonstrating payment of the service fee listed in § 250.125; and

(c) A list of any associated industry standards not incorporated in the regulations that you are using for your project design or operation.

§ 250.238 What well or completions information must my DWOP include?

You must include the following information in your DWOP, as applicable, to be consistent with the activities to be addressed in the associated well permit(s):

- (a) A description and schematic of the typical wellbore, casing, and completion;
- (b) Information concerning the drilling and completion systems; and
- (c) Design and fabrication information for each wellbore riser system (e.g., drilling, completion, workover, intervention, injection, or production) deployed from a floating production facility or TLP.

§ 250.239 What structural information must my DWOP include?

You must include the following information in your DWOP, as applicable, to align with the activities to be addressed in the associated platform application, including any major modifications:

- (a) Structural design, fabrication, and installation information;
- (b) Design, fabrication, installation, and monitoring information on the tendon, or mooring systems, including the turret or buoy system, if applicable; and
- (c) Information on any active station keeping system(s) involving thrusters or other means of propulsion.

§ 250.240 What production safety system information must my DWOP include?

You must include the following information in your DWOP, as applicable, to be consistent with the activities you plan to address in the associated production safety system application:

- (a) A general description of the operating procedures;
- (b) Information about the design, fabrication, and operation of an offshore system for transferring produced hydrocarbons to a transport vessel, including a table summarizing the curtailment of production and offloading based on operational considerations;
- (c) A description of the process facility installation and commissioning procedure;
- (d) A safety analysis flow diagram of the production system from the SCSSV downstream to the first item of separation equipment;
- (e) A statement that the surface and/or subsea safety system and emergency support systems will comply with Subpart H of this part. This statement must include:
 - (1) The methods, frequency, and acceptance criteria for testing the

underwater safety valves (USVs), SCSSVs, and boarding shutdown valves;

(2) A description of the function and testing of the host facility Emergency Shutdown Device (ESD) system and its interface to the subsea system; and

(3) If applicable, a description of the surface and/or subsea safety system and emergency support systems not covered in Subpart H of this part. If you propose to use systems not covered in Subpart H of this part, you must request an approval of alternate procedures or equipment according to § 250.141, and you must also include a table that depicts what valves will close, at what times, and for what events or reasons; and

(f) Information regarding the design, operation, maintenance, personnel competency, and testing of your subsea leak detection system to protect your subsea field/infrastructure (e.g., trees, manifolds, jumpers). You must include a description of the procedures regarding how you will operate the system, ensure system functionality, identify a leak, and the actions you will take if a leak is identified.

§ 250.241 What subsea systems and pipeline information must my DWOP include?

(a) You must include the following information common to the subsea system and the associated pipeline systems, which constitute all or part of a single project development covered by the DWOP and/or is consistent with activities addressed in your associated pipeline application, as applicable:

- (1) The subsea field schematic depicting the planned subsea development equipment and infrastructure, including wells/trees, non-pipe subsea equipment, pipeline route(s), pipeline riser systems, umbilical(s), and platform footprint;
- (2) A description of the subsea development project detailing the subsea and pipeline equipment design criteria and analysis procedures (including industry standards, pressure and temperature ratings, materials selection), testing methods, and general operational procedures;
- (3) A description of the fabrication and assembly/testing location of subsea trees, pipelines, and non-pipe subsea equipment (manifold, Pipeline End Manifold (PLEM), Pipeline End Termination (PLET), Subsea Umbilical Termination Assembly (SUTA), subsea pumps, suction piles, etc.);
- (4) A summary of the Integrity Management Program for subsea tieback development technologies, including a plan for inspection and monitoring to support assessment of the condition of

the systems a minimum of once every 10 years. This should include, but is not limited to, the in-service inspections or surveys of hull and topsides structures, tendons, mooring, and pipeline and/or wellbore riser systems to assess component condition by inspection and analysis after each significant environmental event (e.g., hurricane, earthquake, loop and eddy currents, or mudslide) impacting the system, or once every 10 years, whichever occurs first. You must also include in your Integrity Management Plan a description of how you will determine significant environmental events; and

(5) A summary of safety and environmental controls.

(b) You must include the following information about subsea systems that constitute all or part of a single project development covered by the DWOP:

- (1) The system control type (e.g., direct hydraulic or electro-hydraulic);
- (2) Well tree(s), wellhead, and non-pipe equipment general arrangement drawings and schematics, with size and valve type annotations to illustrate the tree and other equipment in operation;
- (3) The estimated shut-in tubing pressure for the proposed well(s), including the calculation used to arrive at the estimate, specifying TVD, reservoir pressure, and the fluid gradient used, or a brief discussion of the PVT data used for estimation;
- (4) The wellbore static bottomhole temperature and the estimated flowing temperature at the tree, including a description of the method used to calculate this estimate;
- (5) A description of the umbilical(s) and umbilical connection(s), including an umbilical cross-section schematic;
- (6) A description of the chemical or other injection systems and/or enhanced recovery systems you plan to use;
- (7) A description of the corrosion monitoring and prevention/inhibition processes;
- (8) Details of any re-furbished and/or re-certified equipment you plan to use; and
- (9) A schedule of development activities, including well completion, facility installation, and anticipated date of first oil.

(c) You must include the following pipeline information in your DWOP, as applicable, to be consistent with your associated pipeline application(s):

- (1) General design and fabrication information for each pipeline riser system;
- (2) If you propose to use a pipeline free standing hybrid riser (FSHR) on a permanent installation that uses a buoyancy air can suspended from the top of the riser, you must provide the

following information in your DWOP as part of the discussions required by paragraphs (b)(1) and (2) of this section:

- (i) A detailed description and drawings of the FSHR, buoy, and the associated connection system;
- (ii) Detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and

- (iii) Descriptions of your monitoring system and monitoring plan for the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (*e.g.*, corrosion), that may negatively impact the riser system's integrity.

(3) Pipeline and pipeline riser installation methods.

§ 250.242 What New or Unusual Technology information must my DWOP include?

You must include the following new or unusual technology information in your DWOP, as applicable:

(a) A description of any new or unusual technology being used in your development project, including a reference to previously approved New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Equipment Conceptual Plans.

(b) A description of any new or unusual technology not covered under the New or Unusual Technology Conceptual Plan or New or Unusual Technology Barrier Equipment Conceptual Plan. You must include the same applicable information as required in §§ 250.228 or 250.229.

§ § 250.243 and 250.244 [Reserved]

§ 250.245 May I combine the Project Conceptual Plan and the DWOP?

If your development project meets the following criteria, you may submit a combined Project Conceptual Plan/DWOP that complies with all applicable requirements for both, on or before the deadline for submitting the Project Conceptual Plan, as described in § 250.226:

- (a) The project is similar to projects involving subsea tieback development technology for which you have obtained approval previously, and
- (b) The project does not involve either new or unusual technology or a new platform.

§ 250.246 When must I revise my DWOP?

You must revise your approved DWOP to reflect any material change to the plan that does not involve a physical alteration of the equipment on the platform or the seabed.

§ 250.247 When must I supplement my DWOP?

You must supplement your DWOP to reflect additions or changes in your development project that:

(a) Physically alter the equipment or systems upstream of your boarding shut down valve, approved in your DWOP. If a Supplemental DWOP includes the addition of a well or wells (*e.g.*, a new subsea field) not approved in your original DWOP, you may not complete or produce from the new well(s) until BSEE approves the Supplemental DWOP; or

(b) Involves the addition of any new or unusual technology to your project that was not previously covered under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Equipment Conceptual Plan, or DWOP. You may not install any new or unusual technology until BSEE approves the applicable Conceptual Plan and Supplemental DWOP.

§ 250.248 What information must I include in my Supplemental DWOP?

You must include the following information, as applicable, in your Supplemental DWOP:

(a) The same information for your wells or equipment as required in the applicable Conceptual Plan and DWOP requirements in this subpart;

(b) A description of each applicable Conceptual Plan or DWOP section that is being impacted by the addition or change; and

(c) Documentation demonstrating payment of the service fee listed in § 250.125.

Subpart D—Oil and Gas Drilling Operations

- 6. Amend § 250.490 by revising paragraph (p) introductory text to read as follows:

§ 250.490 Hydrogen sulfide.

* * * * *

(p) *Metallurgical properties of equipment.* When operating in a zone with H₂S present or when the concentration of H₂S in the produced fluid may exceed 0.05 psi partial pressure of H₂S, you must use equipment that is constructed of materials with metallurgical properties that resist or prevent sulfide stress cracking (also known as hydrogen embrittlement, stress corrosion cracking, or H₂S embrittlement), chloride-stress cracking, hydrogen-induced cracking, and other failure modes. You must do all of the following:

* * * * *

Subpart E—Oil and Gas Well-Completion Operations

- 7. Amend § 250.518 by revising paragraphs (a), (c), and (d) to read as follows:

§ 250.518 Tubing and wellhead equipment.

(a) No tubing string may be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

(1) The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety factors and material design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.

(2) The tubing string materials must be appropriate for the environment. You must follow NACE Standard MR0175–2003 (incorporated by reference in § 250.198) when H₂S concentration may equal or exceed 0.05 psi partial pressure.

(3) The tubing string threaded connectors must be appropriate for the loads identified in paragraph (a)(1) of this section.

* * * * *

(c) You must design and test the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (incorporated by reference in § 250.198) or ANSI/API Spec. 17D (incorporated by reference in § 250.198), as applicable. The wellhead, tree, and related equipment must have a pressure rating greater than the maximum anticipated surface pressure and must be designed, installed, operated, maintained, and tested to achieve and maintain pressure containment and pressure control.

(1) Newly completed dry trees (*e.g.*, fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree.

(2) Newly completed subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (*e.g.*, vertical or horizontal subsea trees).

(3) Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

(d) You must install, maintain, and test surface and subsurface safety equipment in accordance with the

applicable requirements in subpart H of this part.

* * * * *

Subpart F—Oil and Gas Well-Workover Operations

■ 8. Amend § 250.619 by revising paragraphs (a), (c), and (d) to read as follows:

§ 250.619 Tubing and wellhead equipment.

* * * * *

(a) No tubing string may be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

(1) The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety factors and material design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.

(2) The tubing string materials must be appropriate for the environment. You must follow NACE Standard MR0175–2003 (incorporated by reference in

§ 250.198) when H₂S concentration may equal or exceed 0.05 psi partial pressure.

(3) The tubing string threaded connectors must be appropriate for the loading identified in paragraph (a)(1) of this section.

* * * * *

(c) You must design and test the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (incorporated by reference in § 250.198) or ANSI/API Spec. 17D (incorporated by reference in § 250.198), as applicable. The wellhead, tree, and related equipment must have a pressure rating greater than the shut-in tubing pressure and must be designed, installed, operated, maintained, and tested so as to achieve and maintain pressure containment and pressure control.

(1) Dry trees (*e.g.*, fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree.

(2) Subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (for vertical or horizontal subsea trees).

(3) Wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

(d) You must install, maintain, and test surface and subsurface safety equipment in accordance with the applicable requirements in subpart H of this part.

* * * * *

Subpart G—Well Operations and Equipment

■ 9. Amend § 250.731 by revising paragraph (c)(4) to read as follows:

§ 250.731 What information must I submit for BOP systems and system components?

* * * * *

You must submit:

Including:

(c) * * * (4) If using a subsea BOP, a BOP in an HPHT environment as defined in § 250.105, or a surface BOP on a floating facility, the BOP has not been compromised or damaged from previous service.

* * * * *

■ 10. Amend § 250.732 by revising paragraph (c) to read as follows:

§ 250.732 What are the independent third party requirements for BOP systems and system components?

* * * * *

(c) Before you begin any operations in an HPHT environment, as defined by § 250.105, with the proposed equipment, you must include the following in your applicable permit:

(1) The I3P certification required in § 250.731(c);

(2) A description of any new or unusual technology being used;

(3) A reference to the previously approved associated New or Unusual Technology Barrier Equipment Conceptual Plan;

(4) The final report and statements in accordance with § 250.232(c); and

(5) The fit for service statement required in § 250.230.

You may not deploy your proposed BOP systems and related equipment that will or may be exposed to an HPHT environment until BSEE approves the

New or Unusual Technology Barrier Equipment Conceptual Plan and appropriate permits (*e.g.*, APD and APM).

* * * * *

Subpart H—Oil and Gas Production Safety Systems

§ 250.804 [Removed and Reserved]

■ 11. Remove and reserve § 250.804.

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Part IV

Environmental Protection Agency

40 CFR Part 52

Air Plan Approval; Ohio; Regional Haze Plan for the Second
Implementation Period; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2021–0544; FRL–12175–01–R5]

Air Plan Approval; Ohio; Regional Haze Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Ohio regional haze state implementation plan (SIP) revision submitted by the Ohio Environmental Protection Agency (Ohio or Ohio EPA) on July 30, 2021, which Ohio EPA supplemented on August 6, 2024, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA's Regional Haze Rule for the program's second implementation period. EPA proposes to find that Ohio's SIP submission addresses the requirement that States must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas, and also addresses other applicable requirements for the second implementation period of the regional haze program. EPA is taking this action pursuant to sections 110 and 169A of the CAA.

DATES: Written comments must be received on or before September 30, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2021–0544 at <https://www.regulations.gov> or via email to langman.michael@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be confidential business information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Alisa Liu, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–3193, liu.alisa@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

- I. What action is EPA proposing?
- II. Background and Requirements for Regional Haze Plans
 - A. Regional Haze Background
 - B. Roles of Agencies in Addressing Regional Haze
- III. Requirements for Regional Haze Plans for the Second Implementation Period
 - A. Identification of Class I Areas
 - B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
 - C. Long-Term Strategy for Regional Haze
 - D. Reasonable Progress Goals
 - E. Monitoring Strategy and Other State Implementation Plan Requirements
 - F. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
 - G. Requirements for State and Federal Land Manager Coordination
- IV. EPA's Evaluation of Ohio's Regional Haze Submission for the Second Implementation Period
 - A. Background on Ohio's First Implementation Period SIP Submission
 - B. Ohio's Second Implementation Period SIP Submission and EPA's Evaluation
 - C. Identification of Class I Areas
 - D. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
 - E. Long-Term Strategy for Regional Haze
 1. Selection of Sources for Analysis
 2. Emission Measures Necessary To Make Reasonable Progress
 3. Ohio's Long-Term Strategy
 4. EPA's Evaluation of Ohio's Compliance With 40 CFR 51.308(f)(2)(i)
 5. Consultation With States
 6. Five Additional Factors
 - F. Reasonable Progress Goals

- G. Monitoring Strategy and Other Implementation Plan Requirements
- H. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
- I. Requirements for State and Federal Land Manager Coordination
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

I. What action is EPA proposing?

On July 30, 2021, Ohio EPA submitted a revision to its SIP to address regional haze for the second implementation period and supplemented it on August 6, 2024. Ohio EPA made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308. EPA proposes to find that the Ohio regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and thus proposes to approve Ohio's submission into its SIP.

II. Background and Requirements for Regional Haze Plans

A. Regional Haze Background

In the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's mandatory Class I Federal areas, which include certain national parks and wilderness areas.¹ CAA 169A. The CAA establishes as a national goal the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.” CAA 169A(a)(1). The CAA further directs EPA to promulgate regulations to assure reasonable progress toward meeting this national goal. CAA 169A(a)(4). On December 2, 1980, EPA promulgated regulations to address visibility impairment in mandatory Class I Federal areas (hereinafter referred to as “Class I areas”) that is “reasonably attributable” to a single source or small group of sources. (45 FR 80084, December 2, 1980). These regulations, codified at 40 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

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

haze. CAA 169B. EPA promulgated the Regional Haze Rule (RHR), codified at 40 CFR 51.308,² on July 1, 1999. (64 FR 35714, July 1, 1999). These regional haze regulations are a central component of EPA's comprehensive visibility protection program for Class I areas.

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

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.

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

³ There are several ways to measure the amount of visibility impairment, *i.e.*, haze. One such measurement is the deciview, which is the principal metric used by the RHR. Under many circumstances, a change in one deciview will be perceived by the human eye to be the same on both clear and hazy days. The deciview is unitless. It is proportional to the logarithm of the atmospheric extinction of light, which is the perceived dimming of light due to its being scattered and absorbed as it passes through the atmosphere. Atmospheric light extinction (b^{ext}) is a metric used to 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 deciview, 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 Triangle Park (August 20, 2019). The formula for the deciview is $10 \ln(b^{ext})/10 \text{ Mm}^{-1}$. 40 CFR 51.301.

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

Much of the focus in the first implementation period of the regional haze program, which ran from 2007 through 2018, was on satisfying States' BART obligations. First implementation period SIPs were additionally required to contain long-term strategies for making reasonable progress toward the national visibility goal, of which BART is one component. The core required elements for the first implementation period SIPs (other than BART) are laid out in 40 CFR 51.308(d). Those provisions required that States containing Class I areas establish reasonable progress goals (RPGs) that are measured in deciviews (dv) and reflect the anticipated visibility conditions at the end of the implementation period including from implementation of States' long-term strategies. The first planning period RPGs were required to provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no

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

⁵ In addition to each of the fifty 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) and (d)(3).

degradation in visibility for the least impaired days over the same period. In establishing the RPGs for any Class I area in a State, the State was required to consider four statutory factors: the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources. CAA 169A(g)(1); 40 CFR 51.308(d)(1).

States were also required to calculate baseline (using the five year period of 2000–2004) and natural visibility conditions (*i.e.*, visibility conditions without anthropogenic visibility impairment) for each Class I area, and to calculate the linear rate of progress needed to attain natural visibility conditions, assuming a starting point of baseline visibility conditions in 2004 and ending with natural conditions in 2064. This linear interpolation is known as the uniform rate of progress (URP) and is used as a tracking metric to help States assess the amount of progress they are making towards the national visibility goal over time in each Class I area.⁶ 40 CFR 51.308(d)(1)(i)(B), (d)(2). The 1999 RHR also provided that States' long-term strategies must include the "enforceable emissions limitations, compliance, schedules, and other measures as necessary to achieve the reasonable progress goals." 40 CFR 51.308(d)(3). In establishing their long-term strategies, States are required to consult with other States that also contribute to visibility impairment in a given Class I area and include all measures necessary to obtain their shares of the emission reductions needed to meet the RPGs. *See* 40 CFR 51.308(d)(3)(i), (ii). The provisions of 40 CFR 51.308(d) also contain seven additional factors States must consider in formulating their long-term strategies, 40 CFR 51.308(d)(3)(v), as well as provisions governing monitoring and other implementation plan requirements. 40 CFR 51.308(d)(4).

⁶ EPA established the URP framework in the 1999 RHR to provide "an equitable analytical approach" to assessing the rate of visibility improvement at Class I areas across the country. The start point for the URP analysis is 2004 and the endpoint was calculated based on the amount of visibility improvement that was anticipated to result from implementation of existing CAA programs over the period from the mid-1990s to approximately 2005. Assuming this rate of progress would continue into the future, EPA determined that natural visibility conditions would be reached in 60 years, or 2064 (60 years from the baseline starting point of 2004). However, EPA did not establish 2064 as the year by which the national goal *must* be reached. 64 FR 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." (82 FR 3078 at 3084, January 10, 2017).

Finally, the 1999 RHR required States to submit periodic progress reports—SIP revisions due every five years that contain information on States' implementation of their regional haze plans and an assessment of whether anything additional is needed to make reasonable progress, *see* 40 CFR 51.308(g),(h)—and to consult with the Federal Land Manager(s) ⁷ (FLMs) responsible for each Class I area according to the requirements in CAA 169A(d) and 40 CFR 51.308(i).

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

EPA provided guidance to the states for their second implementation period SIP submissions in the preamble to the 2017 RHR Revisions as well as in subsequent, stand-alone guidance documents. In August 2019, EPA issued "Guidance on Regional Haze State Implementation Plans for the Second Implementation Period" ("2019

Guidance").⁸ On July 8, 2021, EPA issued a memorandum containing "Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period" ("2021 Clarifications Memo").⁹ Additionally, EPA further clarified the recommended procedures for processing ambient visibility data and optionally adjusting the URP to account for international anthropogenic and prescribed fire impacts in two technical guidance documents: the December 2018 "Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program" ("2018 Visibility Tracking Guidance"),¹⁰ and the June 2020 "Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program" and associated Technical Addendum ("2020 Data Completeness Memo").¹¹

As explained in the 2021 Clarifications Memo, EPA intends the second implementation period of the regional haze program to secure meaningful reductions in visibility impairing pollutants that build on the significant progress States have achieved to date. The Agency also recognizes that analyses regarding reasonable progress are State-specific and that, based on States' and sources' individual circumstances, what constitutes reasonable reductions in visibility impairing pollutants will vary from State-to-State. While there exist many opportunities for States to

leverage both ongoing and upcoming emission reductions under other CAA programs, the Agency expects States to undertake rigorous reasonable progress analyses that identify further opportunities to advance the national visibility goal consistent with the statutory and regulatory requirements. *See generally* 2021 Clarifications Memo. This is consistent with Congress'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.¹²

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants and pollution affecting visibility in Class I areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I areas and the emissions that impact visibility in those areas. To address regional haze, States need to develop strategies in coordination with one another, considering the effect of emissions from one jurisdiction on the air quality in another. Five regional planning organizations (RPOs),¹³ which include representation from State and Tribal governments, EPA, and FLMs, were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from State and Tribal land impact Class I areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help States meet the consultation requirements of the RHR.

The Lake Michigan Air Directors Consortium (LADCO) is an RPO that includes the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. LADCO's work is a

⁸ Guidance on Regional Haze State Implementation Plans for the Second Implementation Period. <https://www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period> EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019).

⁹ Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period. <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).

¹⁰ Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. <https://www.epa.gov/sites/default/files/2021-03/documents/tracking.pdf> EPA Office of Air Quality Planning and Standards, Research Triangle Park. (December 20, 2018).

¹¹ Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. <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).

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

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

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

collaborative effort of State governments, Tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Midwest. Along with the six LADCO States, participants in LADCO's Regional Haze Technical Workgroup include EPA, U.S. National Parks Service (NPS), U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (USFS).

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

Under the CAA and EPA's regulations, all 50 States, the District of Columbia, and the U.S. Virgin Islands were required to submit regional haze SIPs satisfying the applicable requirements for the second implementation period of the regional haze program by July 31, 2021. Each State's SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas. CAA 169A(b)(2)(B). To this end, 40 CFR 51.308(f) lays out the process by which States determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis¹⁴ and (f)(4) through (6) containing additional, related requirements. Broadly speaking, a State first must identify the Class I areas within the State and determine the Class I areas outside the State in which visibility may be affected by emissions from the State. These are the Class I areas that must be addressed in the State's long-term strategy. See 40 CFR 51.308(f), (f)(2). For each Class I area within its borders, a State must then calculate the baseline, current, and natural visibility conditions for that area, as well as the visibility improvement made to date and the URP. See 40 CFR 51.308(f)(1). Each State having a Class I area and/or emissions that may affect visibility in a Class I area must then develop a long-term strategy that includes the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress in such areas. A reasonable progress determination is based on applying the four factors in

CAA section 169A(g)(1) to sources of visibility-impairing pollutants that the State has selected to assess for controls for the second implementation period. Additionally, as further explained below, the RHR at 40 CFR 51.308(f)(2)(iv) separately provides five "additional factors"¹⁵ that States must consider in developing their long-term strategies. See 40 CFR 51.308(f)(2). A State evaluates potential emission reduction measures for those selected sources and determines which are necessary to make reasonable progress. Those measures are then incorporated into the State's long-term strategy. After a State has developed its long-term strategy, it then establishes RPGs for each Class I area within its borders by modeling the visibility impacts of all reasonable progress controls at the end of the second implementation period, *i.e.*, in 2028, as well as the impacts of other requirements of the CAA. The RPGs include reasonable progress controls not only for sources in the State in which the Class I area is located, but also for sources in other States that contribute to visibility impairment in that area. The RPGs are then compared to the baseline visibility conditions and the URP to ensure that progress is being made towards the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I areas. 40 CFR 51.308(f)(2) and (3).

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

A State must submit its regional haze SIP and subsequent SIP revisions to 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 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." 64 FR 35714 at 35720–22, July 1, 1999.

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

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

As part of assessing whether a SIP submission for the second implementation period is providing for reasonable progress towards the national visibility goal, the RHR contains requirements in 40 CFR 51.308(f)(1) related to tracking visibility improvement over time. The requirements of this section apply only to States having Class I areas within their borders; the required calculations must be made for each such Class I area. EPA's 2018 Visibility Tracking Guidance¹⁶ provides recommendations

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

¹⁵ 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.

¹⁶ 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

to assist States in satisfying their obligations under 40 CFR 51.308(f)(1); specifically, in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP to account for the impacts of international anthropogenic emissions and prescribed fires. See 82 FR 3078 at 3103–05, January 10, 2017.

The RHR requires tracking of visibility conditions on two sets of days: the clearest and the most impaired days. Visibility conditions for both sets of days are expressed as the average deciview index for the relevant five-year period (the period representing baseline or current visibility conditions). The RHR provides that the relevant sets of days for visibility tracking purposes are the 20 percent clearest (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).¹⁷ 40 CFR 51.301. A State must calculate visibility conditions for both the 20 percent clearest 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). 40 CFR 51.308(f)(1)(i) and (iii). States must also calculate natural visibility conditions for the clearest and most impaired days,¹⁸ by estimating the conditions that would exist on those two sets of days absent anthropogenic visibility impairment. 40 CFR 51.308(f)(1)(ii). Using all these data, States must then calculate, for each Class I area, the amount of progress made since the baseline period (2000–2004) and how much improvement is left to achieve to reach natural visibility conditions.

Using the data for the set of most impaired days only, States must plot a

<https://www.epa.gov/sites/default/files/2021-03/documents/tracking.pdf>.

¹⁷ This action 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.

¹⁸ The RHR at 40 CFR 51.308(f)(1)(ii) contains an error related to the requirement for calculating two sets of natural conditions values. The rule says, “most impaired days or the clearest days” where it should say “most impaired days and clearest days.” This is an error that was intended to be corrected in the 2017 RHR Revisions but did not get corrected in the final rule language. This is supported by the preamble text at 82 FR 3098: “In the final version of 40 CFR 51.308(f)(1)(ii), an occurrence of “or” has been corrected to “and” to indicate that natural visibility conditions for both the most impaired days and the clearest days must be based on available monitoring information.”

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 dv, that would need to be achieved during each implementation period to achieve natural visibility conditions by the end of 2064. The URP is used in later steps of the reasonable progress analysis for informational purposes and to provide a non-enforceable benchmark against which to assess a Class I area’s rate of visibility improvement.¹⁹ Additionally, in the 2017 RHR Revisions, EPA provided States the option of proposing to adjust the endpoint of the URP to account for impacts of anthropogenic sources outside the United States and/or impacts of certain types of wildland prescribed fires. These adjustments, which must be approved by EPA, are intended to avoid any perception that States should compensate for impacts from international anthropogenic sources and to give States the flexibility to determine that limiting the use of wildland-prescribed fire is not necessary for reasonable progress. See 82 FR 3078 at 3107, January 10, 2017, footnote 116.

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

C. Long-Term Strategy for Regional Haze

The core component of a regional haze SIP submission is a long-term strategy that addresses regional haze in each Class I area within a State’s borders and each Class I area that may be affected by emissions from the State. The long-term strategy “must include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress, as determined pursuant to (f)(2)(i) through (iv).” 40 CFR 51.308(f)(2). The amount of progress that is “reasonable progress” is based on applying the four statutory

¹⁹ Being on or below the URP is not a “safe harbor”; *i.e.*, achieving the URP does not mean that a Class I area is making “reasonable progress” and does not relieve a State from using the four statutory factors to determine what level of control is needed to achieve such progress. See, *e.g.*, 82 FR 3078 at 3093, January 10, 2017.

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

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

While States have the option to analyze *all* sources, the 2019 Guidance explains that “an analysis of control measures is not required for every source in each implementation period,” and that “[s]electing a set of sources for analysis of control measures in each implementation period is . . . consistent with the Regional Haze Rule, which sets up an iterative planning process and anticipates that a state may not need to analyze control measures for all its sources in a given SIP revision.” 2019 Guidance at 9. However, given that source selection is the basis of all subsequent control determinations, a reasonable source selection process “should be designed and conducted to ensure that source selection results in a

set of pollutants and sources the evaluation of which has the potential to meaningfully reduce their contributions to visibility impairment.” 2021 Clarifications Memo at 3.

EPA explained in the 2021 Clarifications Memo that each State has an obligation to submit a long-term strategy that addresses the regional haze visibility impairment that results from emissions from within that State. Thus, source selection should focus on the in-state contribution to visibility impairment and be designed to capture a meaningful portion of the State’s total contribution to visibility impairment in Class I areas. A State should not decline to select its largest in-state sources on the basis that there are even larger out-of-state contributors. 2021 Clarifications Memo at 4.²⁰

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

Once a State has selected the set of sources, the next step is to determine the emissions reduction measures for those sources that are necessary to make reasonable progress for the second implementation period.²¹ 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.” CAA 169A(g)(1). EPA has explained that the four-factor analysis is an assessment of potential emission reduction measures (*i.e.*, control options) for sources; “use of the terms ‘compliance’ and ‘subject to such requirements’ in section 169A(g)(1) strongly indicates that Congress intended the relevant determination to be the requirements with which sources would have to comply to satisfy the CAA’s reasonable progress mandate.” 82 FR 3078 at 3091, January 10, 2017. Thus, for each source it has selected for four-factor analysis,²² a State must consider a “meaningful set” of technically feasible control options for reducing emissions of visibility impairing pollutants. *Id.* at 3088. The 2019 Guidance provides that “[a] state must reasonably pick and justify the measures that it will consider, recognizing that there is no statutory or regulatory requirement to consider all technically feasible measures or any particular measures. A range of technically feasible measures available to reduce emissions would be one way to justify a reasonable set.” 2019 Guidance at 29.

EPA’s 2021 Clarifications Memo provides further guidance on what constitutes a reasonable set of control options for consideration: “A reasonable four-factor analysis will consider the full range of potentially reasonable options for reducing emissions.” 2021 Clarifications Memo at 7. In addition to add-on controls and other retrofits (*i.e.*, new emissions reduction measures for sources), EPA explained that States should generally analyze efficiency improvements for sources’ existing measures as control options in their four-factor analyses, as in many cases such improvements are reasonable given that they typically involve only additional operation and maintenance costs. Additionally, the 2021

Clarifications Memo provides that States that have assumed a higher emissions rate than a source has achieved or could potentially achieve using its existing measures should also consider lower emissions rates as potential control options. That is, a State should consider a source’s recent actual and projected emission rates to determine if it could reasonably attain lower emission rates with its existing measures. If so, the State should analyze the lower emission rate as a control option for reducing emissions. 2021 Clarifications Memo at 7. EPA’s recommendations to analyze potential efficiency improvements and achievable lower emission rates apply to both sources that have been selected for four-factor analysis and those that have forgone a four-factor analysis on the basis of existing “effective controls.” See 2021 Clarifications Memo at 5, 10.

After identifying a reasonable set of potential control options for the sources it has selected, a State then collects information on the four factors with regard to each option identified. EPA has also explained that, in addition to the four statutory factors, States have flexibility under the CAA and RHR to reasonably consider visibility benefits as an additional factor alongside the four statutory factors.²³ The 2019 Guidance provides recommendations for the types of information that can be used to characterize the four factors (with or without visibility), as well as ways in which States might reasonably consider and balance that information to determine which of the potential control options is necessary to make reasonable progress. See 2019 Guidance at 30–36. The 2021 Clarifications Memo contains further guidance on how States can reasonably consider modeled visibility impacts or benefits in the context of a four-factor analysis. 2021 Clarifications Memo at 12–13, 14–15. Specifically, EPA explained that while visibility can reasonably be used when comparing and choosing between multiple reasonable control options, it should not be used to summarily reject controls that are reasonable given the four statutory factors. 2021 Clarifications Memo at 13. Ultimately, while States have discretion to reasonably weigh the factors and to determine what level of control is needed, 40 CFR 51.308(f)(2)(i) provides that a State “must include in its implementation plan a description of . . . how the four factors were taken into consideration in selecting the

²⁰ 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 at 26987–88, May 4, 2016).

²¹ The CAA provides that, “[i]n determining reasonable progress there shall be taken into consideration” the four statutory factors. CAA 169A(g)(1). However, in addition to four-factor 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.

²² “Each source” or “particular source” is used here as shorthand. While a source-specific analysis is one way of applying the four factors, neither the statute nor the RHR requires States to evaluate individual sources. Rather, States have “the flexibility to conduct four-factor analyses for specific sources, groups of sources or even entire source categories, depending on state policy preferences and the specific circumstances of each state.” 82 FR 3078 at 3088, January 10, 2017. However, not all approaches to grouping sources for four-factor analysis are necessarily reasonable; the reasonableness of grouping sources in any particular instance will depend on the circumstances and the manner in which grouping is conducted. If it is feasible to establish and enforce different requirements for sources or subgroups of sources, and if relevant factors can be quantified for those sources or subgroups, then States should make a separate reasonable progress determination for each source or subgroup. 2021 Clarifications Memo at 7–8.

²³ See, *e.g.*, Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016), Docket Number EPA–HQ–OAR–2015–0531, U.S. Environmental Protection Agency at 186; 2019 Guidance at 36–37.

measure for inclusion in its long-term strategy.”

As explained above, 40 CFR 51.308(f)(2)(i) requires States to determine the emission reduction measures for sources that are necessary to make reasonable progress by considering the four factors. Pursuant to 40 CFR 51.308(f)(2), measures that are necessary to make reasonable progress towards the national visibility goal must be included in a State’s long-term strategy and in its SIP.²⁴ If the outcome of a four-factor analysis is a new, additional emission reduction measure for a source, that new measure is necessary to make reasonable progress towards remedying existing anthropogenic visibility impairment and must be included in the SIP. If the outcome of a four-factor analysis is that no new measures are reasonable for a source, continued implementation of the source’s existing measures is generally necessary to prevent future emission increases and thus to make reasonable progress towards the second part of the national visibility goal: preventing future anthropogenic visibility impairment. *See* CAA 169A(a)(1). That is, when the result of a four-factor analysis is that no new measures are necessary to make reasonable progress, the source’s existing measures are generally necessary to make reasonable progress and must be included in the SIP. However, there may be circumstances in which a State can demonstrate that a source’s existing measures are *not* necessary to make reasonable progress. Specifically, if a State can demonstrate that a source will continue to implement its existing measures and will not increase its emissions rate, it may not be necessary to have those measures in the long-term strategy to prevent future emissions increases and future visibility impairment. EPA’s 2021 Clarifications Memo provides further explanation and guidance on how States may demonstrate that a source’s existing measures are not necessary to make reasonable progress. *See* 2021 Clarifications Memo at 8–10. If the State can make such a demonstration, it need

not include a source’s existing measures in the long-term strategy or its SIP.

As with source selection, the characterization of information on each of the factors is also subject to the documentation requirement in 40 CFR 51.308(f)(2)(iii). The reasonable progress analysis, including source selection, information gathering, characterization of the four statutory factors (and potentially visibility), balancing of the four factors, and selection of the emission reduction measures that represent reasonable progress, is a technically complex exercise, but also a flexible one that provides States with bounded discretion to design and implement approaches appropriate to their circumstances. Given this flexibility, 40 CFR 51.308(f)(2)(iii) plays an important function in requiring a State to document the technical basis for its decision making so that the public and EPA can comprehend and evaluate the information and analysis the State relied upon to determine what emission reduction measures must be in place to make reasonable progress. The technical documentation must include the modeling, monitoring, cost, engineering, and emissions information on which the State relied to determine the measures necessary to make reasonable progress. This documentation requirement can be met through the provision of and reliance on technical analyses developed through a regional planning process, so long as that process and its output has been approved by all State participants. In addition to the explicit regulatory requirement to document the technical basis of their reasonable progress determinations, States are also subject to the general principle that those determinations must be reasonably moored to the statute.²⁵ 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 long-term strategy for making reasonable progress. Additionally, the RHR at 40 CFR 51.308(f)(2)(iv) separately provides five

“additional factors”²⁶ that States must consider in developing their long-term strategies: (1) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to reduce the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. The 2019 Guidance provides that a State may satisfy this requirement by considering these additional factors in the process of selecting sources for four-factor analysis, when performing that analysis, or both, and that not every one of the additional factors needs to be considered at the same stage of the process. *See* 2019 Guidance at 21. EPA provided further guidance on the five additional factors in the 2021 Clarifications Memo, explaining that a State should generally not reject cost-effective and otherwise reasonable controls merely because there have been emission reductions since the first planning period owing to other ongoing air pollution control programs or merely because visibility is otherwise projected to improve at Class I areas. Additionally, States generally should not rely on these additional factors to summarily assert that the State has already made sufficient progress and, therefore, no sources need to be selected or no new controls are needed regardless of the outcome of four-factor analyses. 2021 Clarifications Memo at 13.

Because the air pollution that causes regional haze crosses State boundaries, 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

²⁴ States may choose to, but are not required to, include measures in their long-term strategies beyond just the emission reduction measures that are necessary for reasonable progress. *See* 2021 Clarifications Memo at 16. For example, States with smoke management programs may choose to submit their smoke management plans to EPA for inclusion in their SIPs but are not required to do so. *See, e.g.,* 82 FR 3078 at 3108–09, January 10, 2017, (requirement to consider smoke management practices and smoke management programs under 40 CFR 51.308(f)(2)(iv) does not require States to adopt such practices or programs into their SIPs, although they may elect to do so).

²⁵ *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).

²⁶ 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.

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

D. Reasonable Progress Goals

Reasonable progress goals “measure the progress that is projected to be achieved by the control measures States have determined are necessary to make reasonable progress based on a four-factor analysis.” 82 FR 3078 at 3091, January 10, 2017. Their primary purpose is to assist the public and EPA in assessing the reasonableness of States' long-term strategies for making reasonable progress towards the national visibility goal. *See* 40 CFR 51.308(f)(3)(iii) and (iv). States in which Class I areas are located must establish two RPGs, both in dv—one representing visibility conditions on the clearest days and one representing visibility on the most anthropogenically impaired days—for each area within their borders. 40 CFR 51.308(f)(3)(i). The two RPGs are intended to reflect the projected impacts, on the two sets of days, of the emission reduction measures the State with the Class I area, as well as all other contributing States, have included in their long-term strategies for the second implementation period.²⁷ The RPGs also

account for the projected impacts of implementing other CAA requirements, including non-SIP based requirements. Because RPGs are the modeled result of the measures in States' long-term strategies (as well as other measures required under the CAA), they cannot be determined before States have conducted their four-factor analyses and determined the control measures that are necessary to make reasonable progress. *See* 2021 Clarifications Memo at 6.

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

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

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

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

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

E. Monitoring Strategy and Other State Implementation Plan Requirements

The provisions of 40 CFR 51.308(f)(6) require States to have certain strategies and elements in place for assessing and reporting on visibility. Individual requirements under this section apply either to States with Class I areas within their borders, States with no Class I areas but that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area, or both. A State with Class I areas within its borders must submit with its SIP revision a monitoring strategy for

²⁷ 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

measuring, characterizing, and reporting regional haze visibility impairment that is representative of all Class I areas within the State. SIP revisions for such States must also provide for the establishment of any additional monitoring sites or equipment needed to assess visibility conditions in Class I areas, as well as reporting of all visibility monitoring data to EPA at least annually. Compliance with the monitoring strategy requirement may be met through a State's participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring network, which is used to measure visibility impairment caused by air pollution at the 156 Class I areas covered by the visibility program. 40 CFR 51.308(f)(6), (f)(6)(i), (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' SIPs must provide for procedures by which monitoring data and other information are used to determine the contribution of emissions from within the State to regional haze visibility impairment in affected Class I areas. 40 CFR 51.308(f)(6)(ii), (iii). The provisions of 40 CFR 51.308(f)(6)(v) further require that all States' SIPs provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area; the inventory must include emissions for the most recent year for which data are available and estimates of future projected emissions. States must also include commitments to update their inventories periodically. The inventories themselves do not need to be included as elements in the SIP and are not subject to EPA review as part of the Agency's evaluation of a SIP revision.²⁸ All States' SIPs must also provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for States to assess and report on visibility. 40 CFR 51.308(f)(6)(vi). Per the 2019 Guidance, a State may note in its regional haze SIP that its compliance with the Air Emissions Reporting Rule (AERR) in 40 CFR part 51, subpart A satisfies the requirement to provide for an emissions inventory for the most recent year for which data are available. To satisfy the requirement to provide estimates of future projected emissions, a State may explain in its SIP how projected emissions were developed for

use in establishing RPGs for its own and nearby Class I areas.²⁹

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."³⁰ Under this provision, if EPA or the FLM of an affected Class I area has advised a State that additional monitoring is needed to assess reasonably attributable visibility impairment, the State must include in its SIP revision for the second implementation period an appropriate strategy for evaluating such impairment.

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

The provisions of 40 CFR 51.308(f)(5) require a State's regional haze SIP revision to address the requirements of paragraphs 40 CFR 51.308(g)(1) through (5) so that the plan revision due in 2021 will serve also as a progress report addressing the period since submission of the progress report for the first implementation period. The regional haze progress report requirement is designed to inform the public and EPA about a State's implementation of its existing long-term strategy and whether such implementation is in fact resulting in the expected visibility improvement. See 81 FR 26942, 26950, May 4, 2016, (82 FR 3078 at 3119, January 10, 2017). To this end, every State's SIP revision for the second implementation period is required to describe the status of implementation of all measures included in the State's long-term strategy, including BART and reasonable progress emission reduction measures from the first implementation period, and the resulting emissions reductions. 40 CFR 51.308(g)(1) and (2).

A core component of the progress report requirements is an assessment of changes in visibility conditions on the clearest and most impaired days. For second implementation period progress reports, 40 CFR 51.308(g)(3) requires States with Class I areas within their borders to first determine current visibility conditions for each area on the most impaired and clearest days, 40 CFR 51.308(g)(3)(i), and then to

calculate the difference between those current conditions and baseline (2000–2004) visibility conditions to assess progress made to date. See 40 CFR 51.308(g)(3)(ii). States must also assess the changes in visibility impairment for the most impaired and clearest days since they submitted their first implementation period progress reports. See 40 CFR 51.308(g)(3)(iii), (f)(5). Since different States submitted their first implementation period progress reports at different times, the starting point for this assessment will vary State by State.

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

G. Requirements for State and Federal Land Manager Coordination

CAA section 169A(d) requires that before a State holds a public hearing on a proposed regional haze SIP revision, it must consult with the appropriate FLM or FLMs; pursuant to that consultation, the State must include a summary of the FLMs' conclusions and recommendations in the notice to the public. Consistent with this statutory requirement, the RHR also requires that States "provide the [FLM] with an opportunity for consultation, in person and at a point early enough in the State's policy analyses of its long-term strategy emission reduction obligation so that information and recommendations provided by the [FLM] can meaningfully inform the State's decisions on the long-term strategy." 40 CFR 51.308(i)(2). Consultation that occurs 120 days prior to any public hearing or public comment opportunity will be deemed "early enough," but the RHR provides that in any event the opportunity for consultation must be provided at least 60 days before a public hearing or

²⁹ *Id.*

³⁰ 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.

²⁸ See "Step 8: Additional requirements for regional haze SIPs" in 2019 Guidance at 55.

comment opportunity. This consultation must include the opportunity for the FLMs to discuss their assessment of visibility impairment in any Class I area and their recommendations on the development and implementation of strategies to address such impairment. 40 CFR 51.308(i)(2). For EPA to evaluate whether FLM consultation meeting the requirements of the RHR has occurred, the SIP submission should include documentation of the timing and content of such consultation. The SIP revision submitted to EPA must also describe how the State addressed any comments provided by the FLMs. 40 CFR 51.308(i)(3). Finally, a SIP revision must provide procedures for continuing consultation between the State and FLMs regarding the State's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas. 40 CFR 51.308(i)(4).

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

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

Ohio submitted its regional haze SIP for the first implementation period for 2007–2018 to EPA on December 31, 2008. Based on the failure to submit a complete SIP addressing all elements of 40 CFR 51.308, EPA issued a finding of failure to submit on January 9, 2009. 74 FR 2392, January 15, 2009.

On March 11, 2011, Ohio submitted an updated first implementation period regional haze SIP, and EPA finalized a limited approval on May 29, 2012. 77 FR 39177, July 2, 2012.

In a separate action, EPA finalized a limited disapproval of Ohio's March 11, 2011, regional haze SIP because of deficiencies arising from the remand of the Clean Air Interstate Rule (CAIR). EPA promulgated a Federal Implementation Plan (FIP) to replace Ohio's reliance on CAIR with the Cross-State Air Pollution Rule (CSAPR). 77 FR 33642, June 7, 2012.

On April 14, 2014, Ohio submitted a revision to its March 11, 2011, regional haze SIP and supplemented it on July 27, 2015, to extend the compliance date for the non-EGU BART emission limits for SO₂, which EPA approved on February 22, 2016. 81 FR 11445, March 4, 2016.

On November 30, 2016, Ohio EPA submitted a second revision to change reliance on CAIR to reliance on the CSAPR, which EPA approved on April

30, 2018, converting EPA's limited approval/limited disapproval of Ohio's March 11, 2011, regional haze SIP to a full approval, and withdrawing the FIP provisions that addressed the limited disapproval. See 83 FR 21719, May 10, 2018. The requirements for regional haze SIPs for the first implementation period are contained in 40 CFR 51.308(d) and (e). 40 CFR 51.308(b).

Pursuant to 40 CFR 51.308(g), Ohio was also responsible for submitting a five-year progress report as a SIP revision for the first implementation period, which it did on March 11, 2016. EPA approved this five-year progress report as a revision to the Ohio SIP at 40 CFR 52.1870(e) on December 8, 2017 (82 FR 60543, December 21, 2017).

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

In accordance with CAA sections 169A and the RHR at 40 CFR 51.308(f), Ohio EPA submitted a revision to the Ohio SIP on July 30, 2021, to address its regional haze obligations for the second implementation period, which runs through 2028. Ohio EPA supplemented its SIP submittal on August 6, 2024. Ohio initiated an FLM consultation process and provided three public comment periods on the regional haze SIP for the second implementation period. The first public comment period on the initial SIP revision ran from May 10, 2021 through June 28, 2021, and a public hearing was held on June 14, 2021. The second public comment period, limited to proposed emission limitations for three sources, ran from January 16, 2024 through March 18, 2024, and a public hearing was held on March 18, 2024. The third public comment period, regarding draft administrative orders effectuating the proposed emission limitations for the three sources, ran from June 6, 2024 through July 8, 2024, and a public hearing was held on July 9, 2024. Ohio received and responded to comments from FLMs and the public. Ohio included the comments and responses in Appendices K1–K4, L1–L4, M1–M3, N1–N2, O, and P9–P12 of its July 30, 2021, submission and in Appendices C3, C4, C7, C8, E2, E3, F2, F3, F4, F5, and G of its August 6, 2024, supplement.

The following sections describe Ohio's SIP submission, including Ohio's assessment of progress made since the first implementation period in reducing emissions of visibility impairing pollutants, and the visibility improvement progress at nearby Class I areas. Also described is Ohio's August 6, 2024 supplement, which provides

administrative orders effectuating emission limitations for three sources to be incorporated into the regulatory portion of Ohio's SIP at 40 CFR 52.1870(d). This action also contains EPA's evaluation of Ohio's submission against the requirements of the CAA and the RHR for the second implementation period of the regional haze program.

C. Identification of Class I Areas

The provisions of section 169A(b)(2) of the CAA require 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 (f)(2), which requires each State's plan to include a long-term strategy that addresses regional haze in such Class I areas.

Ohio has no Class I areas within its borders that are among the 156 mandatory Class I Federal areas where EPA deemed visibility to be an important value. See 40 CFR part 81, subpart D. Thus, Ohio EPA only considered out-of-state mandatory Class I Federal areas covered under the RHR.

Ohio is a member of LADCO and participated in its regional approach for developing a strategy for making reasonable progress towards the national visibility in the northern Midwest Class I areas. Ohio EPA reviewed technical analyses conducted by LADCO to determine what Class I areas outside the State are affected by Ohio emission sources. For the second regional haze implementation period, LADCO used the Comprehensive Air Quality Model with extensions Particulate Matter Source Apportionment Tool (PSAT). LADCO tagged States and regions as well as individual point sources and inventory source groups to apportion emissions to States and regions. LADCO assessed relative visibility impacts in 2028 by projecting representative emissions inventories and known emission controls from 2016.³¹ A group of RPOs,

³¹ See appendix A of Ohio EPA's SIP submittal. Details of the analysis and source-apportioned visibility contributions at Class I areas within the LADCO region for regional haze second planning period are documented in LADCO's modeling

States, and EPA established 2016 as the base year for a national air quality modeling platform for future ozone, PM_{2.5}, and regional haze SIP development because of fairly typical ozone conditions and wildfire conditions.³² LADCO relied upon EPA's inventory estimates for 2016 and 2028 for most emission sectors as described in EPA's September 19, 2019, "Availability of Modeling Data and Associated Technical Support Document for the EPA's Updated 2028 Visibility Air Quality Modeling," (EPA's Updated 2028 Visibility Air Quality Modeling).³³ For Electric Generating Units (EGUs), LADCO used forecasts from the Eastern Regional Technical Advisory Committee (ERTAC) based on continuous emissions monitoring data from 2016 instead of the Integrated Planning Model used in EPA's 2016 modeling platform. LADCO also incorporated State-reported changes to EGUs received through September 2020 to estimate 2028 EGU emissions.

Ohio identified affected Class I areas where progress toward natural visibility conditions may be impacted by emissions from sources in Ohio. Ohio reviewed technical analyses conducted by LADCO and other RPOs to determine which Class I areas outside the State are affected by Ohio emission sources.

For the second implementation period, Ohio used LADCO's modeled emissions projections for 2028 as a framework to assess the potential for changes in visibility-impairing emissions. Like the metrics used in the first implementation period,³⁴ Ohio EPA retained the 2 percent light extinction threshold for determining Ohio's contribution to visibility at Class I areas. LADCO's modeling results showed that a 2 percent light extinction threshold, when applied to all six LADCO States and seven other States, would account for 92 percent or more of the total light extinction at the Class I areas located in the LADCO States on the most impaired days. When applying the 2 percent total light extinction threshold, Ohio identified 17 Class I

areas affected by Ohio emission sources for the second implementation period. These Class I areas, along with Ohio's 2028 projected contributions to visibility impairment, are: Sipsey Wilderness Area in Alabama (2.3 percent); Cohutta Wilderness Area in Georgia (2.1 percent); Mammoth Cave National Park in Kentucky (5.9 percent); Seney Wilderness Area in Michigan (2.0 percent); Great Gulf Wilderness Area (2.5 percent) and Presidential Range—Dry River Wilderness in New Hampshire (2.5 percent); Brigantine Wilderness Area in New Jersey (4.3 percent); Linville Gorge (3.8 percent) and Shining Rock Wilderness Areas (2.8 percent) and Swanquarter National Wildlife Refuge in North Carolina (3.6 percent); Great Smoky Mountains National Park (2.3 percent) and Joyce-Kilmer-Slickrock Wilderness Area in Tennessee (2.3 percent); Lye Brook Wilderness Area in Vermont (3.3 percent); James River Face Wilderness Area (6.5 percent) and Shenandoah National Park in Virginia (10.5 percent); and Dolly Sods (13.1 percent) and Otter Creek Wilderness Areas (13.1 percent) in West Virginia.³⁵ Based on the adjusted URP glidepaths for each of these Class I areas provided in EPA's Updated 2028 Visibility Air Quality Modeling, visibility conditions, as depicted in Table 1 of Ohio's SIP submission, are projected to be below their respective glidepaths in 2028. Visibility conditions at Dolly Sods and Otter Creek Wilderness Areas, the Class I areas impacted most significantly by Ohio, are projected to be approximately 5 dv below their respective glidepaths in 2028.

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

The provisions of 40 CFR 51.308(f)(1) require States to determine the following for "each mandatory Class I Federal area located within the State": baseline visibility conditions for the most impaired and clearest days, natural visibility conditions for the most impaired and clearest days, progress to date for the most impaired and clearest days, the differences between current visibility conditions and natural visibility conditions, and the URP. This section also provides the option for States to propose adjustments to the URP line for a Class I area to account for visibility impacts from anthropogenic

sources outside the United States and/or the impacts from wildland prescribed fires that were conducted for certain, specified objectives. 40 CFR 51.308(f)(1)(vi)(B).

Ohio has no mandatory Class I areas within its borders to which the requirements of the visibility protection program apply in 40 CFR part 81, subpart D, and therefore, 40 CFR 51.308(f)(1) and its requirements do not apply.

E. Long-Term Strategy for Regional Haze

Each State having a Class I area within its borders or emissions that may affect visibility in a Class I area must develop a long-term strategy for making reasonable progress towards the national visibility goal. CAA 169A(b)(2)(B). As explained in the Background section of this notice, reasonable progress is achieved when all States contributing to visibility impairment in a Class I area are implementing the measures determined through application of the four statutory factors to sources of visibility impairing pollutants to be necessary to make reasonable progress. 40 CFR 51.308(f)(2)(i). Each State's long-term strategy must include the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress. 40 CFR 51.308(f)(2). All new (*i.e.*, additional) measures that are the outcome of four-factor analyses are necessary to make reasonable progress and must be in the long-term strategy. If the outcome of a four-factor analysis and other measures necessary to make reasonable progress is that no new measures are reasonable for a source, that source's existing measures are necessary to make reasonable progress, unless the State can demonstrate that the source will continue to implement those measures and will not increase its emission rate. Existing measures that are necessary to make reasonable progress must also be in the long-term strategy. In developing its long-term strategies, a State must also consider the five additional factors in 40 CFR 51.308(f)(2)(iv). As part of its reasonable progress determinations, the State must describe the criteria used to determine which sources or group of sources were evaluated (*i.e.*, subjected to four-factor analysis) for the second implementation period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy. 40 CFR 51.308(f)(2)(iii).

technical support document (TSD), dated June 17, 2021.

³² See "Base Year Selection Workgroup Final Report," produced by the Inventory Collaborative Base Year Selection Workgroup, April 5, 2017. https://www.wrapair2.org/pdf/2017-12-12_Base_Year_Selection_Report_V1.1.pdf.

³³ EPA, Office of Air Quality Planning and Standards, "Availability of Modeling Data and Associate Technical Support Document for EPA's Updated 2028 Visibility Air Quality Modeling," September 19, 2019. https://www.epa.gov/sites/default/files/2019-10/documents/updated_2028_regional_haze_modeling-td-2019_0.pdf

³⁴ See Section III.2. and Appendix A of Ohio's SIP submission for LADCO's technical support document and supporting materials.

³⁵ The list of Class I areas impacted by Ohio, including the 2028 projections for visibility on the 20 percent most impaired days and Ohio's contribution, is found in Table 1 of Ohio's SIP submission.

1. Selection of Sources for Analysis

This section summarizes how Ohio EPA's SIP submission addressed the requirements of 40 CFR 51.308(f)(2)(i) of the Regional Haze Rule. Specifically, it describes the criteria Ohio EPA used to determine the selection of sources or groups of sources it evaluated for an analysis of potential emission control measures. States may rely on technical information developed by the RPOs of which they are members to select sources for four-factor analysis and to conduct that analysis, as well as to satisfy the documentation requirements under 40 CFR 51.308(f).

In selecting sources to determine possible additional control measures during the second planning period, Ohio EPA considered NO_x, SO₂, PM_{2.5}, and NH₃, which are direct or precursor pollutants than can impair visibility. Based on EPA's Updated 2028 Visibility Air Quality Modeling showing that the EGU and non-EGU point source sectors contribute 37 to 76 percent of the visibility impact at Class I areas impacted by Ohio sources, Ohio found it reasonable to focus on point sources for the second implementation period.

To assist States with their source selection, LADCO generated source lists based on total process-level emissions (Q) divided by distance (d) to the nearest Class I area, where Q/d was used as a surrogate quantitative metric of visibility impact. Total emissions of Q refer to the sum of NO_x, SO₂, PM_{2.5}, and NH₃. The National Emissions Inventory Collaborative 2016 alpha inventory was selected by participants in the LADCO Regional Haze Technical Workgroup for the Q/d analysis in 2018 as the best available inventory at that time. LADCO identified unit level sources above Q/d thresholds of 1, 4, and 10, providing key information the States could use to select potential sources to be subject to the four-factor analysis. For details on the data and methods used in the Q/d analysis, see LADCO's October 14, 2020, technical memorandum "Description of the Sources and Methods Used to Support Q/d Analysis for the 2nd Regional Haze Planning Period" and section 5 of LADCO's June 17, 2021, Technical Support Document "Modeling and Analysis for Demonstrating Reasonable Progress for the Regional Haze Rule 2018–2028 Planning Period," (LADCO's 2021 TSD) contained in appendix A and B of Ohio's SIP submission.

In addition to LADCO's Q/d analysis, Ohio EPA compared point source inventories from the 2017 National Emissions Inventory (NEI) and the 2018 Ohio Emissions Inventory System

(EIS)³⁶ with the emissions used in LADCO's analysis. For sources where Q was greater than 500 tons per year for the sum of NO_x, SO₂, PM_{2.5}, and NH₃ in either the emissions data from the 2016 alpha inventory, 2017 NEI, or 2018 Ohio EIS, Ohio calculated updated Q/d values to determine if any additional sources would be identified beyond those in LADCO's list. However, the process did not result in the identification of any additional sources. As such, Ohio EPA relied upon the Q/d information developed by LADCO to select emission units for further analysis.

Ohio EPA began by using a unit Q/d greater than 5 as a threshold for selecting sources for further evaluation. Then on May 12, 2020, and October 2, 2020, Ohio received lists of sources recommended for four-factor analyses that were prepared by NPS and USFS, respectively, and are included in Appendices K2, K3, and K4 in Ohio's SIP submission. The list from NPS identified facilities with emissions comprising 80 percent of Ohio's total Q based on only SO₂ and NO_x that covered a mix of years from 2014 to 2017, whereas the list from USFS identified facilities with a Q/d greater than 8 as calculated by LADCO with the addition of VOC to represent 80 percent of Ohio's total Q at the closest Class I area to Ohio managed by USFS, the Dolly Sods Wilderness Area. While Ohio EPA's primary approach was to consider Q/d on an individual unit basis, the FLM's consideration of Q/d on a facility-wide basis prompted Ohio to include facility-wide contribution as an additional consideration. As such, Ohio EPA added a secondary selection criterion for facility-wide Q/d and developed a two-tiered approach to capture significant point source emissions in Ohio for further analysis. Ohio EPA's first tier identified individual units with a Q/d greater than 5 for a potential four-factor analysis. For facilities with Q/d greater than 10, Ohio EPA's second tier selected individual units with Q/d greater than 4 for a potential four-factor analysis. This secondary selection criteria resulted in the addition of two units to Ohio EPA's initial list for a total of 38 units at 16 facilities, accounting for 73 percent of the total Q for all sources in Ohio with Q greater than 0.1 tons per year, including 80 percent of SO₂, 57 percent

of NO_x, 47 percent of PM_{2.5}, and 23 percent of NH₃.

Using this two-tiered approach, Ohio EPA identified the following facilities and units: Avon Lake Power Plant Unit B012; Cardinal Power Plant Units B001, B002, B009; Carmeuse Lime, Inc.—Maple Grove Operations Units P003, P004; Conesville Power Plant Units B004, B007, B008; City of Orrville Department of Public Utilities Units B001, B004; Dover Municipal Light & Power Plant Unit B004; DP&L, J.M. Stuart Generating Station Units B001, B002, B003, B004; DP&L, Killen Generating Station Unit B001; FirstEnergy Generation LLC—Bay Shore Plant Unit B006; General James M. Gavin Power Plant Units B003, B004; Haverhill Coke Company LLC Unit P902; Miami Fort Power Station Units B015, B016; Ohio Valley Electric Corp.—Kyger Creek Station Units B001, B002, B003, B004, B005; P.H. Glatfelter Company—Chillicothe Facility Units B002, B003; W.H. Sammis Plant Units B007, B008, B009, B010, B011, B012, B013; and Zimmer Power Station Unit B006.

Ohio then refined the list above by considering whether units had permanently shut down, accepted a commitment to permanently shut down by 2028, converted to natural gas only, converted to limited use, accepted new emission limits, or had existing effective controls such that, in all these cases, a full four-factor analysis would likely result in a conclusion that no further controls are necessary. For units accepting a commitment to permanently shut down by 2028 or to comply with new emission limits by 2025, Ohio issued Director's Final Findings and Orders (DFFO) and requested they be incorporated into its SIP to ensure that the measures become permanent and federally enforceable. For units that had already permanently shut down or had converted to natural gas or limited use, Ohio ensured measures were permanent and federally enforceable through Ohio's permitting process under its SIP approved Permit to Install (PTI) program and its title V program. Ohio has PTI rules under Ohio Administrative Code (OAC) Chapter 3745–31 that have been approved into Ohio's SIP at 40 CFR 52.1870 as well as a federally approved title V operating permit program set forth at 40 CFR part 70. When an owner or operator certifies a permanent shutdown and notifies Ohio EPA, the unit cannot resume operation without being considered a new source subject to the Federal New Source Review (NSR) requirements. Ohio's rules at OAC 3745–31 prevent installation or

³⁶ Ohio EPA's Emission Inventory System (EIS) is a compilation of data describing emissions from different sources of air pollution. Ohio EPA's EIS data and reports are available at <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/reports-and-data/emission-inventory-system>.

modification and subsequent operation of a new source without a new permit.

Of the emission units that had already permanently shut down during the second implementation period, 12 met Ohio's two-tier Q/d source selection criteria. For Conesville Power Plant, coal-fired boiler B007 permanently shut down on May 31, 2019, and coal-fired boilers B004 and B008 permanently shut down on May 31, 2020. DP&L—J.M. Stuart Generating Station permanently shut down its coal-fired boiler B001 on September 30, 2017, and boilers B002, B003, and B004 on June 1, 2018. DP&L—Killen Generating Station also shut down its coal-fired boiler B001 on June 1, 2018. W.H. Sammis Plant permanently shut down its coal-fired boilers B007, B008, B009, and B010 on May 31, 2020.³⁷

Of the units that met Ohio's Q/d source selection criteria but had not yet permanently shut down by Ohio's SIP submittal date in 2021, 3 units accepted enforceable commitments to permanently shut down by 2028: Miami Fort Power Station's coal-fired boilers B015 and B016 and Zimmer Power Station's coal-fired boiler B006. On September 29, 2020, the owner of Miami Fort and Zimmer Power Stations announced plans to permanently shut down these units. In lieu of a four-factor analysis, Ohio determined that these permanent shutdowns were necessary for reasonable progress. As such, on July 9, 2021, Ohio EPA issued DFFOs which established enforceable commitments for the shutdown of these three units by January 1, 2028, and requested that the DFFOs be approved into Ohio's SIP at 40 CFR 52.1870(d) for EPA approved State source-specific requirements.³⁸

Units that met Ohio's Q/d source selection criteria but have since converted from coal to natural gas or limited use include the non-EGUs at P.H. Glatfelter Company—Chillicothe Facility Units B002 and B003 as well as the EGUs at the City of Orrville Department of Public Utilities Units B001 and B004. P.H. Glatfelter

Company, now Pixelle Specialty Solutions LLC, converted units B002 and B003 to natural gas on May 31, 2016, and September 6, 2016, respectively. The conversions were part of a strategy to address BART requirements under the first implementation planning period as well as Boiler Maximum Achievable Control Technology (Boiler MACT) under permit PTI P0118906. Following the conversions, SO₂ emissions from P.H. Glatfelter Company units B002 and B003 decreased from 2,873 tons per year (tpy) and 5,708 tpy in 2016 to 1 tpy and 1 tpy in 2018, respectively, and NO_x emissions decreased from 412 tpy and 691 tpy in 2016 to 134 tpy and 195 tpy in 2018, respectively. Similarly, the City of Orrville Department of Public Utilities converted B004 to natural gas on December 20, 2016, and converted B001 to a limited use boiler beginning January 31, 2017, to comply with requirements of Boiler MACT and the Data Requirements Rule (DRR) for the SO₂ NAAQS designation process under permit PTI P0124959 and title V Permit No. P0125633. Following the conversions, SO₂ emissions from B001 and B004 decreased from 3,846 tpy and 3,030 tpy in 2016 to 275 tpy and 0 tpy in 2018, respectively, and NO_x emissions decreased from 647 tpy and 510 tpy in 2016 to 57 tpy and 20 tpy in 2018, respectively. For both facilities, reversing the conversion back to coal or fulltime use would require approval for a modification of its federally enforceable permit.

Beyond the 15 units shutting down and 4 units converting to natural gas or limited use as described above, Ohio EPA also evaluated 13 units at 5 facilities for existing effective controls. As explained in EPA's July 8, 2021, Clarifications Memo (section 4.1), a "source's existing measures are generally needed to prevent future visibility impairment (*i.e.*, to prevent future emission increases) and thus necessary to make reasonable progress." Measures that are necessary to make reasonable progress must be included in the SIP. However, 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 require those measures under the regional haze program in its long-term strategy or SIP in order to prevent future emission increases.

The units that Ohio identified with existing effective controls are FirstEnergy Generation LLC—Bay Shore Plant Unit B006; Haverhill Coke Company LLC Unit P902; and W.H. Sammis Plant Units B011, B012, B013.

Ohio provided a weight-of-evidence demonstration as each unit has consistently implemented their existing measures and have achieved, using those measures, a reasonably consistent emission rate. With historical data from 2016 through 2019 showing reasonably consistent emission rates and 2028 projections from LADCO showing rates consistent with 2016, Ohio demonstrated that NO_x and SO₂ emission rates for these units are not expected to increase in the future. As such, except where expressly noted below for Cardinal Power Plant, Ohio Valley Electric Corp.—Kyger Creek Station, and General James M. Gavin Power Plant, Ohio determined the existing measures are not necessary to make reasonable progress or prevent future emission increases and, thus, do not need to be included in the regulatory portion of the SIP.

FirstEnergy Generation LLC—Bay Shore Plant Unit B006 is a fluidized bed boiler with limestone injection and a baghouse. The operational nature of this process, whereby calcium sulfate is formed in the boiler and is captured in the baghouse, results in approximately 94 percent removal of SO₂ and a SO₂ emission rate of 0.34 pounds per million British thermal units (lbs/MMBtu) or less. Unit B006 operates with low combustion temperatures along with very low nitrogen content petroleum coke fuel, which have resulted in NO_x emission rates of 0.08 lbs/MMBtu and less from 2016 to 2019. The facility's title V permit contains both SO₂ and NO_x emission limits as well as a requirement for 90 percent SO₂ reduction. Given the reasonably consistent emission rates, the permitted emission limitations, and the operational nature of the process in which SO₂ is inherently controlled and NO_x has a low formation potential, Ohio determined that B006 is effectively controlled and that a full four-factor analysis would likely result in the conclusion that no further controls are necessary for reasonable progress.

Haverhill Coke Company LLC Unit P902 is a coke battery with SO₂ controls installed in 2007 with design control efficiency of 92 percent. Under the terms of a Federal consent decree entered in 2014 and amended in 2018,³⁹ portions of which were incorporated into the facility's title V permit, Heat Recovery Steam Generators were

³⁷ Each of these units have been certified by the source owner or operator as retired under the provisions for Retired Unit Exemptions in the Acid Rain Program and/or CSAPR NO_x and SO₂ Trading Programs. The Retired Unit Exemption prohibits these units from emitting SO₂, NO_x, or both starting on the day the exemption takes effect. See 40 CFR 72.8, 40 CFR 97.405, 40 CFR 97.505, 40 CFR 97.605, 40 CFR 97.705, 40 CFR 97.805. Copies of the Retired Unit Exemption forms for each of these units are included in the docket. Also included in the docket is a copy of the list of retired generators from the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Regional Transmission Organization (RTO), which includes each of these units as well.

³⁸ Appendix C of Ohio's July 30, 2021, SIP revision contains the DFFOs issued for the Miami Fort and Zimmer Power Stations.

³⁹ *United States of America, the State of Illinois and the State of Ohio v. Gateway Energy & Coke Company, LLC, Haverhill Coke Company, LLC and Suncoke Energy, Inc.* (S.D. Illinois Case No. 3:13-cv-00616-DH-SCW), entered on November 10, 2014, as amended on June 5, 2015, and July 10, 2018.

installed on P902. This resulted in further SO₂ emission reductions from 1,183 tpy in 2016 to 777 tpy in 2019. With SO₂ controls demonstrating greater than 90 percent effectiveness, title V permit limits, and consent decree requirements resulting in decreasing emissions, Ohio EPA determined that P902 is effectively controlled.

While W.H. Sammis Plant permanently shut down coal-fired Units B007, B008, B009, and B010 in 2020 as noted above, there are three remaining coal-fired Units B011, B012, B013 operating with an SO₂ emission limit of 0.130 lbs/MMBtu under the terms of a Federal consent decree,⁴⁰ which was incorporated into the facility's title V permit. For NO_x control, a selective non-catalytic reduction (SNCR) system was installed on B011 in 2006, and selective catalytic reduction (SCR) systems with at least 90 percent control efficiency were installed on B012 and B013 in 2010, all of which must be operated continuously under the Federal consent decree. Flue Gas Desulfurization (FGD) systems with 95 percent SO₂ control efficiency were installed on each unit in 2010. With SO₂ and NO_x controls achieving greater than 90 percent control efficiency, title V SO₂ permit limits below the 0.2 lbs/MMBtu limit in the Mercury and Air Toxics Standards for coal-fired EGUs, and reasonably consistent emission rates showing no increasing future trends, Ohio EPA determined that B012 and B013 are effectively controlled as described in the 2019 Guidance. For B011 with a Q/d of 5, Ohio determined that although the existing SNCR does not meet the examples of in the 2019 Guidance, its year-round operation and an emission rate consistently between 0.13 and of 0.15 lbs/MMBtu with no future projected increase indicate that a full four-factor analysis would likely result in the conclusion that no further controls are necessary.

Of the 13 units that Ohio initially identified with existing effective controls, there were 8 units for which Ohio later provided, in its August 6, 2024, supplement, new enforceable measures necessary for reasonable progress as described below: Cardinal Power Units B001, B002, B009; and Ohio Valley Electric Corp.—Kyger Creek Station Units B001, B002, B003, B004, B005.

Cardinal Power Plant operates three coal-fired boilers: B001, B002, and

B009. For NO_x control, SCRs with approximately 90 percent control efficiency were installed on all three boilers in 2003. The SCRs must be continuously operated under the terms of their PTI permits and a Federal consent decree.⁴¹ From 2016–2019, the SCRs have consistently achieved NO_x emission rates of 0.09 lbs/MMBtu and lower. For SO₂ control, FGD systems with approximately 95 percent control efficiency were installed on B001 in 2008, on B002 in 2007, and on B009 in 2011. The FGD systems must be operated continuously under the terms of the same Federal consent decree that were incorporated into their PTI permits. The permitted SO₂ emission limits were set at 1.056 lbs/MMBtu for B001 and B002 as well as 0.66 lbs/MMBtu for B009. From 2016–2019, the FGDs have consistently achieved SO₂ emission rates at or below 0.24 lbs/MMBtu for B001, 0.27 lbs/MMBtu for B002, and 0.15 for B009. With FGD systems achieving at least 90 percent effectiveness that were installed since 2007 and emission rates that were reasonably consistent from 2016 to 2019 with no projected increase, Ohio determined that the units were effectively controlled as described in the 2019 Guidance.

Subsequently, on August 6, 2024, Ohio EPA submitted a supplement to its July 30, 2021, Regional Haze SIP after going through FLM consultation and two public notice and comment periods. Units B001, B002, and B009 combined are subject to a SO₂ emission limit of 4,858.75 lbs/hour as a rolling, thirty-day average that was derived as a part of the attainment demonstration for the Steubenville, OH–WV 2010 1-hour SO₂ nonattainment area. The SO₂ limit became effective on July 5, 2019 and was approved into Ohio's SIP, effective November 21, 2019.⁴² 84 FR 56385, October 22, 2019. Ohio EPA submitted its August 6, 2024, supplement to incorporate the SO₂ limit through a DFFO into the SIP for Regional Haze purposes and to ensure reasonable progress by maintaining the existing measures.

⁴¹ *United States, et al. v. American Electric Power Service Corp., et al.*, S.D. Ohio Civil Action Nos. C2–99–1250, C2–99–1182, C2–05–360, and C2–04–1098 entered on December 10, 2007, and substantively modified on July 17, 2019 (AEP Consent Decree). Ohio provided a link to the AEP Consent Decree and modification, which are included in the docket.

⁴² For the technical justification and development methodology behind the SO₂ limit, Ohio EPA provided a link to its June 2019 Redesignation Request and Maintenance Plan for the Ohio Portion of the Steubenville, OH–WV 1-hour SO₂ Nonattainment Area, a copy of which is provided in the docket.

Ohio Valley Electric Corp.—Kyger Creek Station operates five coal-fired boilers: B001, B002, B003, B004, and B005. For SO₂ control, FGD systems operating year-round with 97 percent control efficiency were installed on B001 and B002 in 2012 and on B003, B004, and B005 in 2011. Under its title V permit, the facility demonstrates compliance with the Mercury and Air Toxics Standard through the SO₂ emission limit of 0.2 lbs/MMBtu. For NO_x control, SCRs with 70–90 percent efficiency were installed on B001 and B002 in 2002 and on B003, B004, and B005 in 2003. Together with overfire air systems, the SCRs achieve an average 87 percent NO_x control efficiency. Ohio EPA recognized that the SCRs do not meet the 90 percent control efficiency examples of effectively controlled units in the 2019 Guidance and that NO_x emission control is limited by ammonia slip and mercury oxidation that jeopardize compliance with the Mercury and Air Toxics Standards. Since Ohio submitted its SIP in 2021, Kyger Creek enhanced its preventative maintenance and made process improvements to increase the reliability of the urea injection system. This is expected to increase both seasonal and year-round NO_x removal efficiency. To ensure that these recent improvements are sustained going forward, Ohio EPA adopted NO_x emission limits of 0.4 lbs/MMBtu on a 720-operating rolling hourly average for each stack: Common Stack 12 for combined emissions from B001 and B002 and Common Stack 35 for combined emissions from B003, B004, and B005. Both stacks are equipped with continuous emissions monitoring systems. The limits were developed by analysis of NO_x emission rates from 2018 to 2023, prior to and following system improvements, and represent a reduction from the previous permitted limit of 0.84 lbs/MMBtu. As such, in the supplement that Ohio EPA submitted on August 6, 2024, Ohio requested to incorporate the new NO_x emission limit of 0.4 lbs/MMBtu for both Common Stacks 12 and 35 into Ohio's SIP at 40 CFR 52.1870(d) through a DFFO for Regional Haze purposes to ensure reasonable progress by maintaining the recent improvements.

After refining the list of 38 units identified by Ohio's Q/d source selection threshold and addressing 32 of those as described above, Ohio EPA provided four-factor analyses for the remaining 6 units at the following 4 facilities: Avon Lake Power Plant Unit B012; Carmeuse Lime, Inc.—Maple Grove Operations Units P003 and P004; Dover Municipal Light & Power Plant

⁴⁰ *United States of America, et al. v. Ohio Edison Company, et al.*, U.S. District Court for the Southern District of Ohio, Eastern Division, Civil Action No. C2–99–1181, entered on March 18, 2005. Ohio EPA provided a link to the Consent Decree, a copy of which is provided in the docket.

Unit B004; and General James M. Gavin Power Plant Units B003 and B004. The emission units that Ohio selected for a four-factor analysis are described below.

Consistent with the first regional haze implementation period, Ohio EPA focused on NO_x and SO₂ emissions in considering potential additional control measures at these four facilities. As demonstrated by the analysis in LADCO's Technical Support Document of the IMPROVE monitoring data, the NO_x and SO₂ emissions lead to the formation of the particulate species of nitrate and sulfate that currently contribute more to visibility impairment in the LADCO Class I Areas than PM_{2.5}, NH₃, and VOC. The LADCO Class I Areas consist of Boundary Waters Canoe Area Wilderness and Voyageurs National Park in Minnesota, as well as Isle Royale National Park and Seney Wilderness Area in Michigan. Additionally, in Table 20 of its submittal, Ohio EPA provided 2017 NEI data for Ohio point sources, showing smaller VOC, PM, and NH₃ emissions relative to NO_x and SO₂ emissions. For this reason, Ohio EPA chose to focus on reducing emissions of NO_x and SO₂, which the 2019 Guidance recommended would be a reasonable approach for the second implementation period. *See* 2019 Guidance at page 12. Nevertheless, Ohio considered emissions from each of the regional haze precursors NO_x, SO₂, PM_{2.5}, NH₃ and VOC in the source selection process. As shown in Table 4 of its submittal, the sources meeting Ohio's primary and secondary Q/d selection criteria account for 38 units at 16 facilities, representing 80 percent of SO₂ emissions, 57 percent of NO_x emissions, 47 percent of PM_{2.5} emissions, and 23 percent of NH₃ emissions for all sources with a sum of SO₂, NO_x, PM_{2.5}, and NH₃ emissions from 2016 greater than 0.1 tpy. The background on each of the 6 units selected for a four-factor analysis is described below.

Avon Lake Power Plant

Avon Lake Power Plant is an EGU, and Unit B012 is a 6,040 MMBtu/Hour pulverized coal-fired boiler that was installed in 1970. For NO_x control, B012 is equipped with low-NO_x cell burners and overfire air. For SO₂ control, Avon Lake Power Plant accepted a federally enforceable SO₂ emissions limit of 9,600 lbs/hr on a 1-hour average basis for all SO₂-emitting sources at the facility (B010, B012, B013, B015, and B016) to satisfy requirements under the DRR for the 2010 SO₂ NAAQS designation

process.⁴³ *See* 83 FR 40723, August 16, 2018. The facility's title V permit P0085253, effective April 18, 2017, contains a SO₂ permit limit for B012, which was reduced from the previous limit of 4.65 lbs/MMBtu to a new combined SO₂ permit limit on B010 and B012 of 1.59 lbs/MMBtu as a rolling, 30-day average. To comply with the new SO₂ emissions limits, the facility switched to a blend of Western Bituminous and Powder River Basin coal in 2016, which contributed to reductions in annual SO₂ emissions for B012 from 8,862 tpy in 2016 to 1,597 tpy in 2019, lowered the SO₂ emission rate from 1.60 lbs/MMBtu in 2016 to 0.70 lbs/MMBtu in 2019, and reduced Q/d from 32 in 2016 to 7 in 2019.

Carmeuse Lime, Inc.—Maple Grove Operations

Carmeuse Lime, Inc.—Maple Grove Operations is a lime manufacturing plant. Unit P003 and Unit P004 both consist of a rotary kiln and cooler as well as a shared stack for emissions. P003 and P004 burn coal, petroleum coke, and/or natural gas. For PM control, both units have baghouses, however, there are no add-on controls for SO₂ or NO_x. Although both units were subject to a best available control technology analysis under the Federal PSD program in 2002–2003 when lime manufacturing operations were restarted, no add-on control technologies for NO_x or SO₂ were found to be cost-effective. However, SO₂ at both units is inherently controlled when calcium-rich lime kiln dust chemically absorbs the SO₂ in the flue gas, which is then removed in the baghouse. NO_x emissions at both units are controlled by good combustion practices.

Limits on SO₂ and NO_x are included in the facility's title V Permit P0125171. The permit includes a maximum sulfur content limit for fuel of 5.50 percent for coal and 6.50 percent for coke by weight. P003 and P004 are subject to SO₂ limits of 1,102 lbs/hour and 4,826.80 tons per rolling, 12-month period. P003 and P004 are also subject to NO_x limits of 1,234.90 lbs/hour and 5,408.90 tons per rolling 12-month period.

Dover Municipal Light & Power Plant

Dover Municipal Light & Power Plant is a coal-fired electrical generating

plant. Unit B004 is a 247 MMBtu/hour coal-fired stoker boiler that was installed in 1962 that uses natural gas as a backup fuel. Under title V Permit P0090810, B004 is subject to SO₂ emissions limit of 4.60 lbs/MMBtu.

General James M. Gavin Power Plant

General James M. Gavin Power Plant is a coal-fired electrical generating plant. Unit B003 and Unit B004 are both 11,936 MMBtu/hr pulverized coal-fired, dry-bottom boilers installed in 1974. For SO₂, wet FGD systems with 95 percent control efficiency were installed on B003 in 1994 and on B004 in 1995. NO_x emissions for B003 and B004 are controlled through the use of low NO_x burners and SCR, achieving 91 percent control efficiency. The FGDs and SCRs are operated continuously under the terms of the facility's title V Permit P0089258 and the Federal AEP Consent Decree. A federally enforceable SO₂ emission limit of 7.41 lbs/MMBtu applies to both B003 and B004 under the title V permit. From 2016 to 2019, SO₂ emission rates have ranged from 0.27 to 0.37 lbs/MMBtu for B003 and 0.29 to 0.39 lbs/MMBtu for B004, while NO_x emission rates have remained between 0.10 and 0.11 for both units during the same time period.

2. Emission Measures Necessary To Make Reasonable Progress

The provisions of 40 CFR 51.308(f)(2)(i) require States to evaluate and determine the emission reduction measures that are necessary to make reasonable progress by applying the four statutory factors to sources in a control analysis. The emission reduction measures that are necessary to make reasonable progress must be included in the long-term strategy. 40 CFR 51.308(f)(2).

Ohio EPA's four-factor analyses are described below for each of the 6 units identified through its Q/d source selection process. This includes units that had not already permanently shut down, accepted an enforceable commitment to permanently shut down or comply with new limits, converted to natural gas or limited use, or had existing effective controls.

Avon Lake Power Plant

Avon Lake Power Plant Unit B012 was selected for a four-factor analysis based on 2016 emissions resulting in a Q/d of 32. Avon Lake evaluated B012 for both NO_x and SO₂ controls.

Avon Lake evaluated wet FGD and a spray dryer absorber (SDA) for SO₂ control. Capital costs were estimated at \$417,000,000 for SDA and \$483,000,000 for wet FGD. Annual operating costs

⁴³ Ohio's January 13, 2017, submittals for the 2010 SO₂ NAAQS DRR describing the AERMOD Modeling Results for Avon Lake Power Plant with the derivation of the limits of 1.59 lbs/MMBtu and 9,600 lbs/hour as the resulting critical emissions value is available at <https://www.epa.gov/so2-pollution/so2-data-requirements-rule-january-13-2017-state-submittals-ohio>.

were estimated at \$44,500,000 for SDA and \$51,600,000 for wet FGD. Based on a remaining useful life of either 20 or 30 years and retrofit factors of 1.2 and 1, the cost effectiveness was estimated at \$19,500/ton and \$22,600/ton for wet FGD for 2,284 tpy in potential emission reductions from either control option.

For NO_x control, Avon Lake evaluated SNCR and SCR with capital costs ranging from \$13,000,000 for SNCR to \$191,000,000 for SCR, while annual operating costs were estimated at \$1,679,100 for SNCR and \$25,600,000 for SCR. Cost effectiveness was estimated at \$10,200/ton for SNCR for 164 tpy in potential emission reductions and \$26,700/ton for SCR for 959 tpy in reductions. Installation time was estimated at 5 years for SO₂ controls and 2 to 5 years for SNCR and SCR, respectively. Impacts from energy requirements, solid waste, and ammonia usage were also evaluated.

Carmeuse Lime, Inc.—Maple Grove Operations

Carmeuse Lime, Inc.—Maple Grove Operations Units P003 and P004 were selected for a four-factor analysis.

The evaluation of SO₂ controls at Units P003 and P004 included conditioning tower slurry injection, DSI, and wet scrubbers. Capital costs for each unit were estimated at \$14,437,783 for conditioning tower slurry injection, \$16,960,653 for DSI, and \$23,784,927 for wet scrubbers. Annual costs were estimated at \$3,982,597 for conditioning tower slurry injection, \$9,140,819 for DSI, and \$6,305,184 for wet scrubber. The cost effectiveness values at Units P003 and P004, respectively, were estimated for conditioning tower slurry injection at \$3,266 and \$3,274/ton, DSI at \$5,857 and \$5,862/ton, and wet scrubbing at \$4,506 and \$4,043/ton SO₂. Potential SO₂ emission reductions for each unit P003 and P004, respectively, were 1,221 and 1,216 tpy for conditioning tower slurry injection, 1,566 and 1,559 tpy for DSI, and 1,559 and 1,559 tpy for wet scrubbing.

Switching fuel to solely natural gas was also evaluated and found to be technically infeasible due to the insufficient supply of natural gas in the region as well as the impact on the production process that would result from altering the product chemistry and capacity. The switch to natural gas would fundamentally change the production process since the flame temperature would be lower, altering product chemistry and quality, changing the thermal profile of the kiln, and reducing production capacity.

For NO_x, several control options were evaluated, including preheater

installation, low-NO_x burners, SCR, and SNCR. However, no options were determined to be technically feasible beyond current operation under good combustion practices. Despite the concerns about technical feasibility, Carmeuse Lime, Inc.—Maple Grove Operations performed a four-factor analysis on the addition of tail-end SCR, which would have required the installation of an SO₂ wet scrubber upstream and stack gas reheat downstream. Estimated capital costs for Units P003 and P004 were \$16,878,012 and \$16,722,674, respectively, while estimated annual costs were \$11,596,001 and \$11,431,638, resulting in cost effectiveness values of \$10,419 and \$11,484/ton NO_x.

Both SO₂ and NO_x analyses considered a remaining useful life of 20 or 25 years, a 4 to 5 year installation time, and energy and non-air quality environmental impacts. In addition to the consideration of candidate control options, Carmeuse Lime, Inc.—Maple Grove Operations considered visibility impact and noted that an analysis done during the first implementation period shows that the facility is located outside the area of influence for the closest Class I area, the Dolly Sods Wilderness Area, and that it was not one of the four sources in Ohio identified by VISTAS in their June 22, 2020, request as a source that strongly contributes to regional haze.

Dover Municipal Light & Power Plant

Dover Municipal Light & Power Plant Unit B004 was selected for a four-factor analysis based on 2016 emissions resulting in a Q/d of 7 and the absence of existing SO₂ add-on controls. The unit is controlled with a baghouse for PM, activated carbon for mercury, and DSI for hydrogen chloride.

The evaluation of SO₂ controls considered fuel switching, DSI, wet FGD, and SDA. The City of Dover determined that switching from the current low sulfur coal to natural gas was infeasible, not only because it would require major changes to the boiler's burner design and an additional mile of natural gas pipeline, but also because of the insufficiency of a natural gas supply. For the other control options, capital costs were estimated at \$2,640,000 for DSI, \$28,110,269 for wet FGD, and \$24,274,288 for SDA. Annual costs were estimated at \$1,558,509 for DSI, \$4,615,991 for wet FGD, and \$4,030,803 for SDA. The cost effectiveness and potential reductions in SO₂ emissions were estimated at \$2,985/ton for 522 tpy with DSI, \$5,016/ton for 920 tpy with wet FGD, and \$4,402/ton for 916 tpy with SDA.

The analyses considered a remaining useful life of 30 years, a 5-year installation time, as well as energy and non-air quality environmental impacts. Dover Municipal Light & Power Plant also compared annualized compliance costs as a percentage of sales for each control option, which resulted in 6.2 percent for DSI and 18.5 percent for wet FGD. Citing to guidance for the Regulatory Flexibility Act,⁴⁴ Dover Municipal Light & Power Plant observed that EPA has employed discretion in not proceeding with rulemakings that regulate only a small number of small businesses with annualized compliance costs as a percentage of sales greater than 3 percent. As such, Dover Municipal Power & Light Plant noted that as a non-profit governmental organization, the costs of any of the controls evaluated would threaten the viability of the plant, with the options of wet FGD and SDA almost certainly resulting in closure.

General James M. Gavin Power Plant

General James M. Gavin Power Plant was selected for a four-factor analysis based on 2016 emissions resulting in a Q/d above Ohio's threshold for Units B003 and B004 as well as the relative impact of this source on visibility impairment.

For NO_x, Ohio EPA determined that the units were effectively controlled. This determination considered that the SCRs were installed in 2001, are operated continuously, and achieve 91 percent control efficiency with low NO_x burners. In addition, Ohio found that the emission rates, which ranged between 0.10 and 0.11 lbs/MMBtu from 2016 to 2019, were reasonably consistent and that no increase in those rates was projected into 2028.

SO₂ was considered in the four-factor analysis since the current FGDs were installed in 1994–1995 before the beginning of the first implementation period. General James M. Gavin Power Plant evaluated fuel switching, retrofitting new dry FGD, retrofitting new wet FGD, and making operational improvements to the existing wet FGD. General James M. Gavin Power Plant currently burns eastern bituminous coal with a sulfur content of 3.9 to 4.2 percent. Switching to lower sulfur coal was considered technically infeasible due to operational issues from a higher ash content causing slagging issues and overburdening the electrostatic precipitator (ESP), thereby decreasing

⁴⁴ EPA Office of Policy, Economic and Innovation, "Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as Amended by the Small Business and Regulatory Enforcement Fairness Act," November 30, 2006.

its control efficiency. Switching to natural gas was precluded since natural gas is not currently available at the site, and the nearest pipeline 10 miles away does not have the capacity to supply the required loading to the plant.

In terms of add-on SO₂ controls, the existing DSI systems designed for SO₃ emissions control were evaluated for collateral removal of SO₂. However, the analysis determined that modifying operational parameters with higher sorbent injection rates required for significant SO₂ emissions control would overburden the ESP in handling particulate emissions. Similarly, the analysis found that installation of a new SDA would require replacing the existing ESP and would offer no advantage compared to the existing wet FGD. In 2019, General James M. Gavin Power Plant made significant expenditures to upgrade and optimize the existing wet FGD systems which improved control efficiency to 95 percent. With the significant recent expenditures for the upgrades and the lack of technically feasible options for further optimization, the analysis cited to the 2019 Guidance in determining that replacing the existing wet FGD was not a practical option and that additional controls were unlikely to be reasonable. *See* 2019 Guidance at 22–23.

In December 2023, General James M. Gavin Power Plant provided to Ohio EPA a supplemental analysis with new information on \$9.3 million in additional upgrades and improvements to their FGD systems made since 2020, many of which occurred after Ohio EPA submitted its Regional Haze SIP in July 2021. Additionally, General James M. Gavin Power Plant evaluated whether the facility could, at a reasonable cost, achieve a consistently lower SO₂ emission rate either through existing measures or potential low-cost upgrades. Although no additional upgrades were found to be feasible based on the custom-build nature of the FGD systems and the recent improvements, General James M. Gavin Power Plant identified the feasibility of consistently achieving a lower SO₂ emission rate as a result of the recent upgrades based on 2019–2023 emissions data, load variability, coal content and supply. To ensure that the recent improvements are maintained going forward, Ohio adopted new SO₂ emission limits of 0.75 lbs/MMBtu on a rolling 30-operating day average for both B003 and B004, representing a reduction from the former SO₂ limits of 7.41 lbs/MMBtu. To ensure the new SO₂ limits are permanent and federally enforceable, Ohio EPA submitted the August 6, 2024, supplement to

incorporate the new SO₂ limits through a DFFO into the SIP at 40 CFR 52.1870(d) for Regional Haze purposes.

Ohio's Evaluation of the Four-Factor Analyses

In considering the four-factor analyses for each of the four facilities described above, Ohio determined that additional add-on controls are not cost-effective and thus not necessary for reasonable progress in the second planning period. In making its determination, Ohio evaluated the analyses of energy and solid waste impacts from increased power usage and generation of solid waste and wastewater. Ohio evaluated capital and operating costs, costs per ton of pollutant removed, and potential emission reductions, and took under consideration compliance costs/sales ratios. To compare the candidate control options at a facility, Ohio estimated the visibility benefit of potential emission reductions as a part of a weight-of-evidence approach to be considered alongside, not instead of, the four statutory factors. In determining the maximum visibility benefit at any Class I area in 2028, Ohio used source apportionment modeling conducted by VISTAS⁴⁵ and scaled the modeled visibility impacts to the expected emissions reductions from the potential controls evaluated, which ranged from 0.001 to 0.180 Mm⁻¹ at Avon Lake Power Plant, 0.192 to 0.246 Mm⁻¹ at Carmeuse Lime, Inc.—Maple Grove, and 0.041 to 0.072 Mm⁻¹ at Dover Municipal Power & Light Plant. Ohio also pointed to the State's progress report in its regional haze SIP revision for the second planning period, showing emission trends with significant reductions of 90 percent SO₂ and 57 percent NO_x from 2005 to 2017. Looking forward to 2028, Ohio identified additional emission reductions that will be achieved in the second planning period through measures identified in the long-term strategy, which are discussed below.

Ohio concluded that on-the-books and on-the-way controls identified in the State's long-term strategy, including the DFFOs for permanent shutdowns at Miami Fort Power Plant and Zimmer Power Station as well as the DFFOs for SO₂ and NO_x limits at Cardinal Power Plant, General James M. Gavin Power

Plant, and Ohio Valley Electric Corp.—Kyger Creek, are necessary to achieve reasonable progress at the Class I areas impacted by emissions from Ohio.

3. Ohio's Long-Term Strategy

Each State's long-term strategy must include the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress. 40 CFR 51.308(f)(2). After considering information regarding existing effective controls, analyses under the four statutory factors in 40 CFR 51.308(f)(2)(i), and the five additional factors in 40 CFR 51.308(f)(2)(iv) in addition to other requirements in 40 CFR 51.308(f)(2)(ii) described below, Ohio determined the State's long-term strategy for the second implementation planning period is comprised of the following measures to make reasonable progress.⁴⁶ These measures represent reductions beyond those planned in the first implementation planning period with numerous changes in emissions and emission limits since the first implementation planning period, as well as emission reductions due to ongoing air pollution control programs and permanent shutdowns. Except as noted below for the DFFOs and Ohio's Beneficiary Mitigation Plan for the Volkswagen Settlement, the following measures in Ohio's long-term strategy are already permanent and federally enforceable. Ohio EPA requested that the DFFOs be incorporated into the regulatory portion of Ohio's SIP at 40 CFR 52.1870(d) to ensure that they will also be federally enforceable and permanent for regional haze purposes.

On-the-books controls for the long-term strategy in the 2nd implementation period include:

- Permanent shutdown of Conesville Power Plant Units B004, B007, and B008
- Permanent shutdown of DP&L J.M. Stuart Units B001, B002, B003, and B004
- Permanent shutdown of DP&L J.M. Killen Unit B001
- Permanent shutdown of W.H. Sammis Plant Units B007, B008, B009, and B010
- National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines
- Control of Hazardous Air Pollutants from Mobile Sources (also known as the Federal Mobile Source Air Toxics Rules)

⁴⁵ "The VISTAS Regional Haze Project," <https://metro4-sesarm.org/content/vistas-regional-haze-program>; "Task 7—PSAT Source Apportionment Modeling/Tagging," <https://www.metro4-sesarm.org/content/task-7-source-apportionment-modelingtagging>; "PSAT Source Apportionment Modeling Results Report—August 2020," https://www.metro4-sesarm.org/sites/default/files/VISTAS%20Task%207%20PSAT_20200831.pdf.

⁴⁶ The measures listed in Ohio's long-term strategy are described in Ohio's SIP submission in Section III.3(e)(5) and III.5(e).

- Mercury and Air Toxics Standards (40 CFR 63, subpart UUUUU)
- Federal Oil and Natural Gas Industry Standards
- NO_x Emission Standards for New Commercial Aircraft Engines (40 CFR 87, 40 CFR 1068)
- NESHAPs for Industrial, Commercial, and Institutional Area Source Boilers, Major Source Boilers (40 CFR 63)
- New Source Performance Standards (NSPS) for Commercial and Industrial Solid Waste Incinerators (CISWI) (40 CFR 60, subpart CCCC, 40 CFR 60, subpart DDDD)
- NSPS for New Residential Wood Heaters (40 CFR 60, subpart AAA)
- SO₂ Data Requirements Rule (40 CFR 51)
- Ohio's Beneficiary Mitigation Plan for the Volkswagen Settlement (84 FR 43508, August 21, 2019)

On-the-way controls for the long-term strategy that reflect additional emission reductions expected by 2028 include:

- Revised CSAPR Update (40 CFR 97, subpart GGGGG)
- DFFO for Miami Fort Power Station, providing for the permanent shutdown of coal-fired Boilers B015 and B016, and for Zimmer Power Station, providing for the permanent shutdown of coal-fired Boiler B006
- DFFO for Cardinal Power Plant, providing for an SO₂ emission limit on coal-fired Boilers B001, B002, and B009
- DFFO for Ohio Valley Electric Corp.—Kyger Creek, providing for a new NO_x emission limit on coal-fired Boilers B001, B002, B003, B004, and B005
- DFFO for General James M. Gavin Power Plant, providing for a new SO₂ emission limit on coal-fired Boilers B003 and B004

4. EPA's Evaluation of Ohio's Compliance With 40 CFR 51.308(f)(2)(i)

EPA proposes to find that Ohio has satisfied the requirements of 40 CFR 51.308(f)(2)(i) related to evaluating sources and determining the emission reduction measures that are necessary to make reasonable progress by considering the four statutory factors. Ohio's selection of sources and evaluation of control measures was reasonable and consistent with the requirements of 40 CFR 51.308(f)(2)(i).

For Ohio's source selection methodology, Ohio EPA targeted the sources with the highest potential to impair visibility at mandatory Class I areas. Ohio EPA included a thorough description of its source selection methodology. Starting with LADCO's calculations for Q/d based on 2016 data, Ohio EPA compared more recent point

source inventories from the 2017 NEI and 2018 Ohio EIS to determine if updated Q/d values on a unit basis would identify additional sources for selection. Then, in response to other methods used by NPS and USFS to identify sources for further evaluation, Ohio EPA modified its source selection process by adding a secondary criterion for a facility-wide Q/d. Ohio EPA's two-tiered approach broadened its source selection process and identified individual units with a Q/d greater than 5 as well as units with a Q/d greater than 4 at facilities with a Q/d greater than 10. Using this source selection methodology, Ohio EPA selected 38 units at 16 facilities for further analysis, accounting for 80 percent of SO₂ and 57 percent of NO_x for point sources with Q greater than 0.1 tpy.

In determining which facilities to evaluate through a four-factor analysis, Ohio EPA refined the list of sources selected using its Q/d thresholds by providing adequate justification for no further analysis where sources had accepted an enforceable commitment for SO₂ or NO_x limits, permanently shut down, accepted an enforceable commitment to permanently shut down by 2028, converted to natural gas or limited use, or had existing effective controls.

For selected sources that had accepted an enforceable commitment for SO₂ or NO_x limits, Ohio issued DFFOs to be incorporated into its SIP at 40 CFR 52.1870(d) for 10 units at 3 facilities: Cardinal Power Units B001, B002, and B009; Ohio Valley Electric Corp.—Kyger Creek Station Units B001, B002, B003, B004, and B005; and General James M. Gavin Power Plant Units B003 and B004. These limits in the DFFOs ensure recent improvements in emission controls are maintained and that the measures are permanent and federally enforceable for regional haze purposes.

For selected sources that had permanently shut down or had accepted an enforceable commitment to permanently shut down by 2028, Ohio identified 15 units at 6 facilities: Conesville Power Plant Units B004, B007, and B008; DP&L J.M. Stuart Units B001, B002, B003, and B004; DP&L JM Killen Unit B001; W.H. Sammis Plant Units B007, B008, B009, and B010; Miami Fort Power Station Units B015 and B016; and Zimmer Power Station Unit B006. Based on 2016 inventories, the permanent shutdown of these units represents federally enforceable and permanent emission reductions from some of Ohio's largest sources as follows. In 2019 and 2020, the shutdowns at Conesville Power Plant Units B004, B007, and B008 achieved

emission reductions of 5,013 tpy SO₂ and 5,981 tpy NO_x. In 2017 and 2018, the shutdowns at DP&L, J.M. Stuart Generating Station achieved emission reductions of 9,005 tpy SO₂ and 5,466 tpy NO_x. In 2018, the shutdown at DP&L, Killen Generating Station achieved emission reductions of 10,130 tpy SO₂ and 6,057 tpy NO_x. In 2020, the shutdowns at W.H. Sammis Plant achieved reductions of 2,996 tpy SO₂ and 1,634 NO_x. By 2028, under the DFFOs, the shutdowns at Miami Fort Power Station will achieve emission reductions of 10,214 tpy SO₂ and 5,052 tpy NO_x, while the shutdown at Zimmer Power Station will achieve emission reductions of 9,973 tpy SO₂ and 5,458 tpy NO_x. Together, these shutdowns will reduce SO₂ by over 47,000 tpy and NO_x by over 33,000 tpy and represent emission reductions of 32 percent SO₂ and 32 percent NO_x from all point sources in Ohio with total emissions of SO₂, NO_x, PM, and NH₃ greater than 0.1 tpy based on 2016 emissions.

For selected sources that converted to natural gas or limited use under enforceable permit conditions, Ohio identified conversions at 4 units within 2 facilities, where add-on controls or more stringent limits would not be necessary for reasonable progress. Compared to 2016 base-year emissions, the conversions at the City of Orrville Department of Public Utilities Units B001 and B004 reduced SO₂ emissions by 6,601 tpy, and the conversions at P.H. Glatfelter Company—Chillicothe Facility B002 and B003 reduced SO₂ emissions by 8,579 tpy. Together, in addition to the emission reductions from the shutdowns mentioned above, these conversions represent an additional 10 percent reduction in SO₂ emissions from all point sources in Ohio with total emissions of SO₂, NO_x, PM, and NH₃ greater than 0.1 tpy.

For selected sources that had existing effective controls, Ohio sufficiently provided a weight-of-evidence demonstration as described in the 2021 Clarifications Memo for 5 units at 3 facilities: FirstEnergy Generation LLC—Bay Shore Plant Unit B006; Haverhill Coke Company LLC Unit P902; and W.H. Sammis Plant Units B011, B012, B013. Ohio documented that these units are effectively controlled for SO₂ and NO_x by inherent process or control systems installed during the first implementation period with greater than 90 percent control efficiency as well as federally enforceable limits in Federal consent decrees or limits below levels recommended in the 2019 Guidance as potentially existing effective controls. With reasonably

consistent trends in emission rates, Ohio also adequately demonstrated that the existing measures for these units are not necessary to make reasonable progress or prevent future emission increases and, thus, do not need to be included in the regulatory portion of the SIP.

Of all the 38 emission units Ohio identified through its Q/d source selection process listed above, Ohio relied upon the following specific control measures at 25 units in its long-term strategy in addition to the other Federal regulations and State programs included. For 12 of those units, Ohio's long-term strategy relies upon permanent shutdowns that have already occurred during the 2nd implementation period. For the other 13 units, Ohio EPA provided DFFOs with enforceable commitments for either SO₂ limits or NO_x limits by 2025 or permanent shutdowns by 2028 to be incorporated into Ohio's SIP for regional haze purposes at 40 CFR 52.1870(d).

For the remaining 13 emission units that Ohio EPA identified through its Q/d source selection process, Ohio did not rely on new or existing measures as part of the long-term strategy to make reasonable progress in the second planning period. At 4 of those units, Ohio EPA documented enforceable conversions to natural gas or limited use. At another 5 of those units, Ohio provided a weight of evidence demonstration and determined their existing measures are not necessary to make reasonable progress or prevent future emission increases. At the other 4 units, Ohio provided four-factor analyses. Each of these analyses considered all four statutory factors and appropriately followed the methods in the EPA Air Pollution Control Cost Manual.⁴⁷ The lowest cost control options in the four-factor analyses outlined the potential for emission reductions at each unit for Avon Lake Power Plant of 2,284 tpy SO₂ for \$19,500/ton, Dover Municipal Power & Light Plant of 522 tpy SO₂ for \$2,985/ton, and at Carmeuse Lime, Inc.—Maple Grove Operations of 1,221 and 1,216 tpy SO₂ for \$3,226/ton and \$3,274/ton, respectively. With the emission reductions from already implemented shutdowns and fuel conversions, Ohio made a reasoned determination that additional add-on controls are not cost effective and thus not necessary for

reasonable progress in the second planning period.

The permanent shutdown of 15 units at 6 large EGUs during the second implementation period represents large enforceable reductions in SO₂ and NO_x from Ohio sources that had impacted the same Class I areas that are impacted by the 4 units evaluated in the four-factor analyses. With a relatively small potential for additional emission reductions identified in the four-factor analyses compared to those of the shutdowns and fuel conversions already taking place, Ohio EPA provided a reasoned basis for its conclusions to not require additional controls at those 4 units for the second implementation period.

Overall, 29 out of 38 coal-fired units above Ohio's Q/d threshold either converted to natural gas or limited use, accepted enforceable limits, or have or will permanently shut down by 2028. The trends in NO_x and SO₂ emissions noted in Ohio's progress report discussed below demonstrate how Ohio's long-term strategy will continue to make significant reductions during the second implementation period. The shutdowns will reduce statewide SO₂ by over 47,000 tpy and NO_x by over 33,000 tpy, and the conversions to natural gas add another 15,000 tpy of SO₂ reductions to that total. Together, these shutdowns and fuel conversions represent statewide emission reductions of 43 percent SO₂ and 32 percent NO_x from point sources in Ohio with total emissions of SO₂, NO_x, PM, and NH₃ greater than 0.1 tpy based on 2016 emissions. Ohio's plan shows that these measures will achieve substantial SO₂ and NO_x emission reductions beyond those included in its first implementation period. These shutdowns, conversions, and committed controls contribute to Ohio's emission reductions and the associated visibility improvements at the affected Class I areas for the second implementation planning period.

EPA proposes to find that the shutdowns and conversions noted above that have already taken place during the second planning period are already federally enforceable and permanent and do not need to be included in the regulatory portion of the SIP. For the upcoming permanent shutdowns and committed controls provided for in the DFFOs, EPA proposes to find that those are necessary for reasonable progress and must be included in the SIP and made federally enforceable and permanent. For the other 9 coal-fired units, Ohio EPA determined that no additional controls would be necessary for reasonable progress in the second

planning period based on existing effective controls that have achieved reasonably consistent emission rates that are not expected to increase in the future.

EPA proposes to find that Ohio has satisfied the requirements of 40 CFR 51.308(f)(2)(i) related to evaluating sources and determining the emission reduction measures that are necessary to make reasonable progress by applying the four statutory factors to sources in a control analysis. Ohio EPA's SIP submission, as supplemented, reasonably applied the Q/d source selection process in relying on the closest Class I areas and the emissions of NO_x, SO₂, PM_{2.5}, NH₃ and VOC. Ohio EPA examined a reasonable set of sources, including sources identified by FLMs. In addition, Ohio EPA adequately explained its decision to focus on the two pollutants—SO₂ and NO_x—that currently drive visibility impairment within the LADCO region. EPA proposes to find that Ohio EPA adequately supported its conclusions for its top-impacting sources in determining permanent and federally enforceable shutdowns, controls, and fuel conversions necessary for reasonable progress. EPA is basing this proposed finding on the State's examination of its largest operating EGU and non-EGU sources. EPA proposes to find the State's approach reasonable because it demonstrated that these sources with the greatest modeled impacts on visibility, as well as other sources above the State's Q/d threshold that might be expected to impact visibility, either have shut down, accepted an enforceable commitment to shut down by 2028, accepted new emission limits by 2025, converted to natural gas or limited use, or have existing effective controls.

As part of the State's long-term strategy, Ohio EPA submitted 4 DFFOs providing legally binding, enforceable commitments upon the owners or operators of the facilities, and any subsequent owner or operator, at the State level under Ohio Revised Code 3704.03 and 3745.01. Since Ohio is relying on these 4 DFFOs to make reasonable progress as part of its long-term strategy for the second implementation period, Ohio EPA requested the incorporation of the DFFOs into the Ohio SIP to ensure that they are federally enforceable and permanent for regional haze purposes. The first DFFO was effective on July 9, 2021, and provides for the shutdown of Miami Fort Power Station Units B015 and B016 and Zimmer Power Station Unit B006 by no later than January 1, 2028. The other three DFFOs provide for

⁴⁷ See EPA Air Pollution Control Cost Manual, available at <https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution>.

SO₂ emission limits at Cardinal Power Plant Units B001, B002, and B009 and General James M. Gavin Power Plant Units B003 and B004 as well as a NO_x emission limit Ohio Valley Electric Corp.—Kyger Creek Units B001, B002, B003, B004, and B005. These three DFFOs became effective July 26, 2024, when they were entered into the Ohio EPA Director's journal, and compliance begins on January 1, 2025. Based on the discussion herein, these 4 DFFOs provide an adequate technical and legal basis for source-specific measures that are consistent with the CAA requirements and EPA's Regional Haze Rule. As such, EPA proposes to approve Ohio EPA's request and incorporate by reference these 4 DFFOs into the SIP.

5. Consultation With States

The consultation requirements of 40 CFR 51.308(f)(2)(ii), provides 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. The provisions of 40 CFR 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. The provisions of 40 CFR 51.308(f)(2)(ii)(C) speak to what happens if States cannot agree on what measures are necessary to make reasonable progress. States may 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.

Although Ohio has no mandatory Class I Federal areas within its borders, Ohio has previously been shown to have sources with emissions that impact visibility at downwind mandatory Class I Federal areas. Ohio EPA consulted with other States to develop a coordinated emission management approach to its regional haze SIP and to address Ohio's impact on nearby Class I areas. Ohio EPA participated in the LADCO and inter-RPO processes, which developed the technical information needed for such coordinated strategies.

Ohio participated in the LADCO Regional Haze Technical Workgroup meetings with other LADCO States, FLMS, and EPA Region 5. Through LADCO, Ohio also consulted with other States and Tribes.

Ohio EPA received and responded to requests from MANE-VU and VISTAS on behalf of the States in their RPOs. On August 25, 2017, Ohio EPA received the "Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Class I Area States concerning a Course of Action in Contributing States Located Upwind of MANE-VU toward Assuring Reasonable Progress for the Second Regional Haze Implementation Period (2018–2028)," (2017 MANE-VU Ask).⁴⁸ MANE-VU is the RPO for the Northeastern and Mid-Atlantic States and Tribal Governments, which include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont. For the second implementation period, MANE-VU performed contribution analyses to identify source and State-level contributions to visibility impairment and the need for interstate consultation. MANE-VU used the results of these analyses to determine emission units in various States that have a potential for visibility impacts of 3.0Mm⁻¹ or greater using action 2015 emissions from EGUs and 2011 emissions from other sources. For Ohio, MANE-VU identified 8 units at the following facilities: Avon Lake Power Plant (Unit 12), General James M. Gavin Power Plant (Units 1 and 2), and Muskingum River (Units 1, 2, 3, 4, and 5). The five specific parts of the 2017 MANE-VU Ask requested Ohio and other upwind States to pursue specific emission management strategies to meet the 2028 reasonable progress goals for the second regional haze implementation period. On December 20, 2017, LADCO responded to the MANE-VU Ask, indicating that LADCO did not agree with MANE-VU's impact assessment results and recommended that MANE-VU use emissions estimates that, in the opinion of LADCO, better reflect the current state of knowledge.⁴⁹ On December 29, 2017, Ohio EPA also responded to the 2017 MANE-VU Ask to address the requests and alleged inaccuracies regarding Ohio sources,

⁴⁸ MANE-VU's "2017 Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Class I Area States concerning a Course of Action in Contributing States Located Upwind of MANE-VU toward Assuring Reasonable Progress for the Second Regional Haze Implementation Period (2018–2028)" dated August 25, 2017, which includes a link to MANE-VU's contribution analyses report at <http://www.otcair.org/manevu>, is provided as appendix M1 to Ohio's Regional Haze SIP submission in the docket.

⁴⁹ LADCO's December 20, 2017, response to the MANE-VU Ask is found in appendix M2 of Ohio's Regional Haze SIP revision submittal in the docket.

which did not include recent permanent shutdowns or fuel conversions and resulted in modeling that overestimated Ohio's contribution.⁵⁰

MANE-VU Ask 1 requested that States "ensure the most effective use of control technologies on a year-round basis to consistently minimize emissions of haze precursors, or obtain equivalent alternative emission reductions" at EGUs "with a nameplate capacity larger than or equal to 25 MW with already installed NO_x and/or SO₂ controls." MANE-VU Ask 2 requested four-factor analyses be performed for any source modeled by MANE-VU that has the potential for a visibility impact greater than 3.0 Mm⁻¹. In response to both MANE-VU Asks 1 and 2, Ohio EPA referred to its Q/d source selection process and four-factor analyses, where Ohio made a determination of existing effective controls or provided a four-factor analysis for the sources identified by MANE-VU: Avon Lake Power Plant and General James M. Power Plant, with the exception of Muskingum River Power Plant, which permanently shut down in 2015.

MANE-VU Ask 3 requested States pursue, before 2028, an ultra-low sulfur fuel oil standard for #2 distillate oil of 0.0015 percent sulfur by weight or 15 ppm, for #4 residual oil of 0.25–0.5 percent sulfur by weight, and for #6 residual oil of 0.3–0.5 percent sulfur by weight. Ohio responded to MANE-VU Ask 3 by explaining that these fuel types do not comprise a significant portion of fuel usage in Ohio, and as such, would have little impact on visibility and would not warrant further evaluation and standard setting.

MANE-VU Ask 4 requested States lock in lower emission rates for SO₂, NO_x, and PM at EGUs and sources with more than 250 MMBtu/hour heat input that have switched to lower emitting fuels by updating permits, enforceable agreements, and/or rules. Ohio responded to MANE-VU Ask 4 that, in most cases, switches to lower emitting fuels have already been incorporated into Ohio's federally enforceable permits, however, lowering emission rates for such facilities across the board is not required or appropriate.

MANE-VU Ask 5 requested States include, in their Regional Haze SIP revision, measures to decrease energy demand by improved energy efficiency and to increase use of Combined Heat and Power and distributed generation technologies, such as fuel cells, wind,

⁵⁰ Ohio EPA's December 29, 2017, Technical Response Letter to the 2017 MANE-VU Ask is found in appendix M3 of Ohio's Regional Haze SIP revision in the docket.

and solar. Ohio responded to MANE–VU Ask 5, noting that Ohio EPA lacks the legislative authority to set energy policy, but encourages energy efficiency through efforts such as Ohio’s Encouraging Environmental Excellence Program.⁵¹

MANE–VU issued a second statement to Ohio EPA, similar to the one discussed above and also dated August 25, 2017, entitled, “Statement of the Mid-Atlantic/Northeast Visibility Union (MANE–VU) Concerning a Course of Action Within MANE–VU Toward Assuring Reasonable Progress for the Second Implementation Period (2018–2028).”⁵² Ohio EPA responded to MANE–VU’s request, noting that even though Ohio’s source selection process did not result in the selection of peaking combustion turbines for four-factor analysis, Ohio considered such NO_x controls and did not find the measures necessary for Ohio sources during the second implementation period.

On June 22, 2020, the VISTAS RPO sent a letter to Ohio EPA on behalf of Alabama, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.⁵³ VISTAS shared with Ohio EPA the results of a technical analyses identifying Ohio sources to which VISTAS attributed significant impacts on visibility impairment at Class I areas within the VISTAS states. VISTAS’ analyses identified sources with a sulfate or nitrate impact greater than 1.00 percent of the total sulfate plus nitrate point source visibility impairment on the 20 percent most impaired days for each Class I area. For Ohio, VISTAS identified the following four sources: Ohio Valley Electric Corp.—Kyger Creek Station, Cardinal Power, General James M. Gavin Power Plant, and Zimmer Power Station. VISTAS requested that Ohio conduct a reasonable progress analysis for each of the four sources, and, if Ohio determined that a four-factor analysis was not warranted, provide a rationale.

On October 29, 2020, Ohio EPA responded to VISTAS request by providing information for each of the four sources on emissions controls,

control efficiencies, permitted limits, consent decree provisions, and trends in emission rates and annual emissions from 2016 to 2019.⁵⁴ Citing to examples in the 2019 Guidance of sources with effective emission controls, Ohio replied to VISTAS that, other than Zimmer Power Station, each of the other sources have existing effective controls with FGD or SCR with at least 90 percent effectiveness, and that a four-factor analysis would likely result in the conclusion that no further controls are necessary. For Zimmer Power Station, Ohio EPA confirmed that the facility announced it would permanently shut down in 2027, and that discussions were underway to secure the upcoming shutdown in an enforceable commitment such that a four-factor analysis would not be warranted.

In addition to the measures identified by MANE–VU and VISTAS above, Ohio reviewed the Regional Haze SIPs for other States, that were available at the time, to ensure appropriate consideration was given to measures determined necessary by other States for similar types of sources as those selected by Ohio for four-factor analysis, which were EGUs and lime manufacturing plants.

EPA proposes to find that Ohio has satisfied the consultation requirements of 40 CFR 51.308(f)(2)(ii). Ohio has met the 40 CFR 51.308(f)(2)(ii)(A) and (B) requirements with its participation in the LADCO consultation process plus its individual consultation meetings with contributing States. There were no disagreements with another State, therefore 40 CFR 51.308(f)(2)(ii)(C) does not apply to Ohio.

The requirements of 40 CFR 51.308(f)(2)(iii) provide that a State must document the technical basis for its decision making to determine the emission reductions measures that 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.” Ohio documented the technical basis, including the modeling, monitoring, engineering, costs, and emissions information that was relied on in determining the emission reduction measures that are necessary to make reasonable progress.

For modeling, Ohio EPA documented the modeling done by LADCO to determine visibility projections and contributions to impairment at the Class I areas. Ohio included justification for the 2016 base year selection and the 2028 emission projections based on ERTAC forecasts and State-reported changes.

For monitoring, Ohio described how ambient air quality monitoring data were analyzed to produce a conceptual understanding of the air quality problems contributing to haze as well as to project visibility conditions in 2028 through LADCO’s modeling and EPA’s Updated 2028 Visibility Air Quality Modeling. Ohio noted that LADCO relied upon the IMPROVE monitoring data to track the chemical composition of PM_{2.5} in haze at Class I areas in the LADCO region, which included ammonium nitrate, ammonium sulfate, elemental carbon, organic carbon, sea salt, and inorganic soil. Ohio EPA also pointed to its statewide monitoring network of EPA-approved monitors for ozone and PM_{2.5}, which Ohio continually reviews and uses to determine the contribution of emissions from sources within Ohio to visibility impairment at Class I areas in other States for SIP development.

For emissions information, Ohio EPA provided data for 2016 through 2019, the most recent data year available at the time, from various sources for each unit screened in using Ohio’s Q/d source selection threshold. Data from 2016 for annual emissions of NO_x, SO₂, PM_{2.5}, and NH₃ that was used by LADCO in the Q/d analysis relied upon the 2016 inventory developed by the National Emissions Inventory Collaborative described above. Emissions data for 2016–2019 for NO_x and SO₂ were obtained from EPA’s Clean Air Markets Database (CAMD) for sources that report emissions data to CAMD. To quantify emissions from sources that do not report to CAMD, data for 2017–2019 was obtained from Ohio EPA’s EIS. Ohio also provided an emissions summary by source category and pollutant obtained from the 2017 NEI, the most recent triennial NEI available at the time. For engineering and costs, Ohio EPA provided site-specific four-factor analyses, which evaluated potential engineering designs and costs for various NO_x and SO₂ emission control systems for 4 coal-fired EGUs at 3 different power plants (Avon Lake Power Plant, Dover Municipal Light & Power Plant, and General James M. Gavin Power Plant) and 2 coal-fired boilers at one lime manufacturing plant (Carmeuse Lime, Inc.—Maple Grove Operations). Additionally, Ohio EPA

⁵¹ Ohio’s Encouraging Environmental Excellence Program is available at <https://epa.ohio.gov/divisions-and-offices/environmental-financial-assistance/recognition-and-awards/e3-program>.

⁵² MANE–VU’s second statement dated August 25, 2017, entitled “Statement of the Mid-Atlantic/Northeast Visibility Union (MANE–VU) Concerning a Course of Action Within MANE–VU Toward Assuring Reasonable Progress for the Second Implementation Period (2018–2028)” is included as appendix O in Ohio’s Regional haze SIP revision included in the docket.

⁵³ VISTAS June 22, 2020, letter to Ohio EPA is included as appendix N1 in Ohio’s Regional Haze SIP revision included in the docket.

⁵⁴ Ohio’s October 29, 2020, response to VISTAS is included as appendix N2 to Ohio’s Regional Haze SIP revision included in the docket.

provided information to support to the incorporation of specific emissions rates in the long-term strategy and the SIP at 40 CFR 52.1870(d) at three power plants for the purposes of regional haze (Cardinal Power Plant, General James M. Gavin Power Plant, and Ohio Valley Electric Corp.—Kyger Creek Station). EPA proposes to find that such documentation of the technical basis of the long-term strategy satisfies the requirements of 40 CFR 51.308(f)(2)(iii).

The provisions of 40 CFR 51.308(f)(2)(iii) require that the emissions information considered to determine the measures that are necessary to make reasonable progress include information on emissions for the most recent year for which the State has submitted triennial emissions data to EPA (or a more recent year), with a 12-month exemption period for newly submitted data. As previously mentioned above, Ohio EPA participated in the development of technical analyses, including emission inventory information, by LADCO and its member States, and is relying in part on those analyses to satisfy the emission inventory requirements. Ohio EPA explained that emissions for the 2016 base year and the 2028 projected year used in LADCO's modeling address elements of 40 CFR 51.308(f)(6)(v) of the Regional Haze Rule, which requires that States provide recent and future year emissions inventories of pollutants anticipated to contribute to visibility impairment in any Class I areas. Ohio EPA's regional haze SIP revision for the second implementation period also included 2017 NEI emission data, which corresponds to the year of the most recent triennial NEI at the time of Ohio's SIP submission, as required under 40 CFR 51.308(f)(2)(iii) of the Regional Haze Rule. Based on Ohio EPA's consideration and analysis of the 2017 emission data in its SIP submittal, EPA proposes to find that Ohio has satisfied the emissions information requirement in 40 CFR 51.308(f)(2)(iii).

6. Five Additional Factors

In addition to the four statutory factors, States must also consider the five additional factors listed in 40 CFR 51.308(f)(2)(iv) in developing their long-term strategies.

As required by 40 CFR 51.308(f)(2)(iv)(A), Ohio EPA considered emission reductions due to ongoing air pollution control programs. Ohio EPA noted ongoing Federal and State emission control programs that have reduced and will continue to reduce visibility impairing pollutants from Ohio point and area sources as well as on-road and non-road mobile

sources in the second implementation period. For point sources, this included Federal provisions for title V permitting actions; Acid Rain Program; Boiler MACT; VOC MACT; Combustion turbine MACT; NSPS for New Residential Wood Heaters; NSPS for Commercial and Industrial Solid Waste Incinerators; NESHAPs for Industrial, Commercial, and Institutional Area Source Boilers, Major Source Boilers; NESHAP for Reciprocating Internal Combustion Engines; Mercury and Air Toxics Standards for power plants; oil and natural gas industry standards; SO₂ DRR; and Revised CSAPR Update. For area sources, regulations include national emission standards for aerosol coatings plus State regulations for Ohio's consumer product rules, Ohio's Architectural and Industrial Maintenance coatings rules, and Ohio's portable fuel container rules.

For on-road mobile sources, Ohio EPA cited to Federal regulations for the Motor Vehicle Emission Control Program—low sulfur gasoline and ultra-low sulfur diesel fuel; Control of Hazardous Air Pollutants from Mobile Sources; and NO_x Emission Standards for New Commercial Aircraft Engines. Among the controls for on-road mobile sources is the Ohio-administered Federal inspection and maintenance (I/M) program known as “E-check” in northeast Ohio, codified at Ohio Administrative Code 3745–26–01(Z). For non-road mobile sources, Ohio EPA cited to Federal regulations for the Clean Air Non-road Diesel Rule, Non-road Spark-Ignition Engines and Recreational Engine Standards, New Non-road Spark Ignition Engines, heavy-duty diesel engine standard/low sulfur fuel, railroad/locomotive standards, and commercial marine vessel engine standards. For both on-road and non-road mobile sources, Ohio EPA also provided information about Ohio's Beneficiary Mitigation Plan, which accepted and distributed funds from the Volkswagen settlement in 2018, resulting in benefits that compound over the lifetime of the equipment purchased or repowered. This included \$40 million to on-road fleets (school bus replacements, transit bus replacements, and class 4–8 local freight and port drayage trucks and shuttle buses), \$19 million to non-road equipment (tugboats, ferries, switcher locomotives, airport ground support, and port cargo handling equipment); and \$11.25 million for infrastructure to support Zero Emissions Vehicles.

As required by 40 CFR 51.308(f)(2)(iv)(B), Ohio's consideration of measures to mitigate the impacts of construction activities in its SIP

submission focus on windblown dust resulting from earth moving activities as a primary source of airborne particles. For work on construction sites where greater than one acre of land is disturbed, Ohio EPA points to general permits required under the National Pollutant Discharge Elimination System, which require best management practices to control soil erosion and stormwater runoff that are also effective in preventing and reducing airborne soil as particulate matter emissions.

Pursuant to 40 CFR 51.308(f)(2)(iv), Ohio EPA's SIP submission addressed schedules for source retirements, replacements, and natural gas conversions for 18 coal-fired units that are or will be permanent and federally enforceable during the second implementation period. As such, Ohio did not select these sources for a four-factor analysis. During the second implementation period, as enumerated above, 12 coal-fired EGUs have already permanently shut down, 3 coal-fired units converted to natural gas, and 3 coal-fired EGUs will permanently shut down by 2028. These retirements and conversions contribute to Ohio's emission reductions and the associated visibility improvements at the affected Class I areas for the second implementation period.

In considering smoke management for prescribed burns as required in 40 CFR 51.308(f)(2)(iv)(D), Ohio EPA referred to interrelated laws and regulations for management of air emissions from prescribed fires. Among the enforcing agencies is the Ohio Department of Natural Resources Division of Forestry, which has the authority under Ohio Revised Code (ORC) 1503.18⁵⁵ to ban outdoor burning statewide in unincorporated areas during certain months and times of the year and to provide waivers only for individuals who are Certified Prescribed Fire Managers. In addition, OAC 3745–19⁵⁶ “Open Burning Standards” regulates prescribed fires for horticultural, silvicultural, range, or wildfire management practices and requires applications for permission, which must specify methods to reduce air emissions and certify adherence to the requirements of OAC 3745–19. To put Ohio's contribution from prescribed fires into context, Ohio EPA also provided emissions data from the 2017

⁵⁵ Ohio Revised Code (ORC), title 15 Conservation of Natural Resources, Chapter 1503 Division of Forestry, Section 1503.18 is available at <https://codes.ohio.gov/ohio-revised-code/section-1503.18>.

⁵⁶ Ohio Administrative Code (OAC), Chapter 3745–19 Open Burning Standards is available at <https://codes.ohio.gov/ohio-administrative-code/chapter-3745-19>.

NEI showing that prescribed fire activity in the State constitutes less than 1 percent of total U.S. prescribed fire emissions.

As required by 40 CFR 51.308(f)(2)(iv), Ohio EPA considered the anticipated net effect on visibility improvements at the LADCO Class I Areas due to projected changes in emissions from point, area, and mobile sources during the second implementation period. For each potential control measure evaluated in the four-factor analyses, Ohio EPA projected the maximum estimated visibility benefit at any Class I area among the sources that were modeled, as listed in Table 18 of Ohio's SIP submission, to compare the relative control measures at a particular facility. Ohio considered cost-effectiveness along with time necessary to install controls, energy and non-air quality environmental impacts, and remaining useful life. Ohio found no potential new add-on controls necessary for reasonable progress.

Ohio EPA considered other projected changes in emissions that would affect visibility at the LADCO Class I Areas. The visibility improvement expected during the second implementation period was estimated using LADCO's 2016 base year and 2028 future year inventory components to simulate 2016 and 2028 air quality. As described above, for EGUs, projected changes for 2028 emissions in LADCO's modeling platform were based on ERTAC forecasts and State-reported changes. For most other emission sectors, LADCO relied upon EPA's 2016 and 2028 inventory estimates for projected changes. As Ohio EPA pointed out in section III.3(e)(5) of its SIP submission, these projected changes in EPA's 2016 and 2028 inventory estimates took into account Federal on-the-books controls, such as those listed in Ohio's long-term strategy above. In addition, as noted in section III.3(e)(5) of Ohio's SIP submission, improvements in visibility are also anticipated by the end of the second implementation period due to the upcoming permanent shutdowns of coal-fired EGUs at Miami Fort Power Station and Zimmer Power Station by 2028.

Ohio EPA also demonstrated that visibility conditions in the LADCO Class I Areas have shown continued improvement relative to baseline conditions. As depicted in LADCO's 2021 TSD, 2016 visibility impairment conditions at the LADCO Class I Areas on the 20 percent most impaired days as well as the 20 percent clearest days were below their respective glidepaths. By the end of the second

implementation period in 2028, both LADCO's projections and EPA's Updated 2028 Visibility Air Quality Modeling show 2028 visibility conditions will be below the URP glidepaths for the LADCO Class I Areas.

Ohio EPA concluded, in section V of its SIP submission, that when weighing the four-factor analyses and the five additional required factors, new add-on controls are not necessary to meet second implementation period regional haze SIP requirements beyond the measures included in Ohio's long-term strategy. Ohio's process for selecting sources for four-factor analyses represented 80 percent of the total SO₂ and 57 percent of NO_x for all sources with Q greater than 0.1 tons per year and provided an analytical means for refining the list based on shutdowns, conversions, and existing effective controls. For the add-on controls evaluated for the 6 units selected for four-factor analyses, Ohio considered the cost effectiveness, time necessary to install the controls, energy and solid waste impacts, the costs/sales ratio, and comparable visibility benefits in determining that the controls evaluated were not cost effective to achieve emission reductions during the second implementation period. Ohio EPA reflected upon the steady and significant improvement in visibility at each of the Class I areas impacted by sources in Ohio and noted that LADCO's modeling shows continued improvement with 2028 projections below their URP glidepaths. As discussed under the progress report elements below, from 2005 to 2017, Ohio's SO₂ emissions decreased by 90 percent while NO_x emissions decreased by 47 percent. During the second implementation period, the decreasing trend continues with the shutdowns of 12 coal-fired EGUs at 4 facilities and the upcoming permanent shutdowns of 3 more coal-fired EGUs at 2 power stations. Given all these factors, Ohio concluded that the on-the-books and on-the-way controls included in its long-term strategy, including the shutdowns and emission limits for NO_x and SO₂ in the DFFOs, are more than sufficient to make reasonable progress in the second implementation period. EPA proposes to find that Ohio reasonably considered and satisfied the requirements for each of the five additional factors in 40 CFR 51.308(f)(2)(iv) in developing its long-term strategy.

F. Reasonable Progress Goals

The provisions of 40 CFR 51.308(f)(3) contain the requirements pertaining to RPGs for each Class I area. Under 40 CFR 51.308(f)(3)(i), a State, in which a

mandatory Class I area is located, is required to establish RPGs—one each for the most impaired and clearest days—reflecting the visibility conditions that will be achieved at the end of the implementation period as a result of the emission limitations, compliance schedules and other measures required under paragraph (f)(2) to be in States' long-term strategies, as well as implementation of other CAA requirements. The long-term strategies as reflected by the RPGs must provide for an improvement in visibility on the most impaired days relative to the baseline period and ensure no degradation on the clearest days relative to the baseline period. The provisions of 40 CFR 51.308(f)(3)(ii) apply in circumstances in which a Class I area's RPG for the most impaired days represents a slower rate of visibility improvement than the uniform rate of progress calculated under 40 CFR 51.308(f)(1)(vi). Under 40 CFR 51.308(f)(3)(ii)(A), if the State in which a mandatory Class I area is located establishes an RPG for the most impaired days that provides for a slower rate of visibility improvement than the URP, the State must demonstrate that there are no additional emission reduction measures for anthropogenic sources or groups of sources in the State that would be reasonable to include in its long-term strategy. The provisions of 40 CFR 51.308(f)(3)(ii)(B) requires that if a State contains sources that are reasonably anticipated to contribute to visibility impairment in a Class I area in *another* State, and the RPG for the most impaired days in that Class I area is above the URP, the upwind State must provide the same demonstration. Because Ohio has no Class I areas within its borders to which the requirements of the visibility protection program apply in 40 CFR part 81, subpart D, Ohio is subject only to 40 CFR 51.308(f)(3)(ii)(B), but not 40 CFR 51.308(f)(3)(i) or (f)(3)(ii)(A).

Under 40 CFR 51.308(f)(3)(ii)(B), a State that contains sources that are reasonably anticipated to contribute to visibility impairment in a Class I area in another State for which a demonstration by the other State is required under 40 CFR 51.308(f)(3)(ii)(B) must demonstrate that there are no additional emission reduction measures that would be reasonable to include in its long-term strategy. Ohio's SIP submission at Table 1, section III(7)(b), and appendix A show that at each of the Class I areas impacted by emissions from Ohio, the 2028 projected visibility impairment is not above the adjusted URP glidepaths for the 20 percent most impaired days

and ensures no degradation on the 20 percent clearest days. Therefore, EPA proposes it is reasonable to assume that the demonstration requirement under 40 CFR 51.308(f)(3)(ii)(B) as it pertains to these areas will not be triggered.

EPA proposes to determine that Ohio has satisfied the applicable requirements of 40 CFR 51.308(f)(3) relating to RPGs.

G. Monitoring Strategy and Other Implementation Plan Requirements

The requirements of 40 CFR 51.308(f)(6) specify 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.

The provisions of 40 CFR 51.308(f)(6)(i) require SIPs to provide for the establishment of any additional monitoring sites or equipment needed to assess whether reasonable progress goals to address regional haze for all mandatory Class I Federal areas within the State are being achieved. The provisions of 51.308(f)(6)(ii) require SIPs to provide for procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at mandatory Class I Federal areas both within and outside the State. As noted above, Ohio does not have any mandatory Class I Federal areas located within its borders to which the requirements of the visibility protection program apply in 40 CFR part 81, subpart D. Therefore, 40 CFR 51.308(f)(6)(i) and (ii) do not apply.

The provisions of 40 CFR 51.308(f)(6)(iii) require States with no Class I areas to include procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at Class I areas in other States. States with Class I areas must establish a monitoring program and report data to EPA that is representative of visibility at the Class I Federal areas. The IMPROVE network meets this requirement. Ohio EPA stated that, as a participant in LADCO, it reviewed information about the chemical

composition of baseline monitoring data at LADCO Class I Federal areas to understand the sources of haze causing pollutants. Ohio EPA does not operate any monitoring sites under the Federal IMPROVE program and, therefore, does not require approval of its monitoring network under the Regional Haze Rule. Ohio EPA relies upon participation in the IMPROVE network as part of the State's monitoring strategy for regional haze to review progress and trends in visibility at Class I areas that may be affected by emissions from Ohio, for comprehensive periodic revisions of this implementation plan, and for periodic reports describing progress towards the reasonable progress goals for those areas. Ohio also runs a monitoring network of EPA-approved monitors for ozone and PM_{2.5}, as described in section III(8)(c) of Ohio's SIP submission, which Ohio EPA uses to determine the contribution of emissions from sources within Ohio to visibility impairment at Class I areas in other States for SIP development.

The provisions of 40 CFR 51.308(f)(6)(iv) require the SIP to provide for the reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the State. As noted above, Ohio does not have any mandatory Class I Federal areas located within its borders to which the requirements of the visibility protection program apply in 40 CFR part 81, subpart D, and, therefore, 40 CFR 51.308(f)(6)(iv) does not apply.

The provisions of 40 CFR 51.308(f)(6)(v) require 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. Ohio EPA, as described in section III(8)(c)(ii) of its SIP submission, provided statewide emission inventories, including data from 2017 as the most recent year available at the time of the State's SIP submission, by complying with EPA's AERR. In 40 CFR part 51, subpart A, the AERR requires States to submit updated emissions inventories for criteria pollutants to EPA's Emissions Inventory System every three years. The emission inventory data is used to develop the NEI, which provides for, among other things, a triennial State-wide inventory of pollutants that are reasonably anticipated to cause or contribute to visibility impairment. Ohio's SIP submission, in section III(8)(b), includes a table of 2017 NEI data with source categories covering emissions from EGU point, non-EGU point, on-road, non-road, commercial marine vessels, dust,

and other for the following pollutants: SO₂, NO_x, PM_{2.5}, PM₁₀, VOC, and NH₃. To depict changes in emissions over time, Ohio EPA accompanied the 2017 NEI data with side-by-side comparisons comparing 2005 emissions for the same source categories and pollutants. Ohio EPA also provided a summary of SO₂, NO_x, PM_{2.5}, VOCs, and NH₃ emissions for 2016 that LADCO used in developing Q/d metrics and the 2016 base year emissions inventory to project emissions to year 2028. Additionally, as described in further detail under the progress report elements in section III(8)(b) of Ohio's SIP submission, Ohio EPA provided more recent data through 2019 from CAMD to depict trends in EGU emissions, which demonstrated a 94 percent decrease in SO₂ emissions and an 84 percent decrease in NO_x emissions from 2005 to 2019.

The provisions of 40 CFR 51.308(f)(6)(v) also require States to include estimates of future projected emissions and include a commitment to update the inventory periodically. For future projected emissions, Ohio relied on the LADCO modeling and analysis, which estimated 2028 projected emissions of SO₂ and NO_x for specific facilities in the LADCO States to provide an assessment of expected future year air quality based on 2016 emissions as well as ERTAC and State forecasts. In addition to Ohio's commitment to comply with the AERR to periodically update EPA's emission inventories for creating and analyzing the NEI, Ohio annually updates the State's own EIS for pollutants anticipated to cause or contribute to visibility impairment in Class I areas to support future regional haze progress reports and SIP revisions.

EPA proposes to find that Ohio has met the requirements of 40 CFR 51.308(f)(6) as described above, including through its continued participation in LADCO, its own statewide EIS, and its emissions reporting to EPA under AERR.

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

The provisions of 40 CFR 51.308(f)(5) require that periodic comprehensive revisions of States' regional haze plans also address the progress report requirements of 40 CFR 51.308(g)(1) through (5). The purpose of these requirements is to evaluate progress towards the applicable RPGs for each Class I area within the State and each Class I area outside the State that may be affected by emissions from within that State. The provisions of 40 CFR 51.308(g)(1) and (2) apply to all States

and require a description of the status of implementation of all measures included in a State's first implementation period regional haze plan and a summary of the emission reductions achieved through implementation of those measures. The provisions of 40 CFR 51.308(g)(3) apply only to States with Class I areas within their borders and requires such States to assess current visibility conditions, changes in visibility relative to baseline (2000–2004) visibility conditions, and changes in visibility conditions relative to the period addressed in the first implementation period progress report. The provisions of 51.308(g)(4) apply to all States and requires an analysis tracking changes in emissions of pollutants contributing to visibility impairment from all sources and sectors since the period addressed by the first implementation period progress report. This provision further specifies the year or years through which the analysis must extend depending on the type of source and the platform through which its emission information is reported. Finally, 40 CFR 51.308(g)(5), which also applies to all States, requires an assessment of any significant changes in anthropogenic emissions within or outside the State have occurred since the period addressed by the first implementation period progress report, including whether such changes were anticipated and whether they have limited or impeded expected progress towards reducing emissions and improving visibility.

Ohio's previous progress report, which was a 5-year progress report submitted as a SIP revision for the first implementation period on March 11, 2016, included emission inventories from 2002–2014 of NO_x and SO₂ for EGUs as well as inventories from 2005 and 2011 of NO_x, SO₂, PM_{2.5}, PM₁₀, VOC, and NH₃ for additional source categories: EGUs, non-EGUs, on-road, non-road, commercial marine vessels, and other. Based on CAMD data for emissions from EGUs covering the period 2002 to 2014, Ohio's 2016 5-year progress report showed a decrease in NO_x emissions by 76 percent and a decrease in SO₂ emissions by 75 percent. (82 FR 60543, December 21, 2017).

For the second implementation period SIP submittal, the 2019 Guidance recommends the progress report cover the first full year that was not incorporated into the previous progress report through a year that is as close as possible to the submission date of the SIP. 2019 Guidance at 55. Ohio's 2021 progress report, contained in section III(8)(b) of its SIP submission, covered

the measures and emissions reductions achieved from 2005 through 2019, including 2017 as the most recent NEI year available at the time for sector level emissions.

To address the progress report elements of 51.308(g)(1), Ohio EPA described the status of implementation of all measures in the long-term strategy under its first implementation period regional haze plan. These measures included several Federal measures, including CAIR and its successor CSAPR, to which Ohio attributed the majority of reductions in visibility-impairing emissions from the largest point-source sector, EGUs, during the first implementation period, along with the Acid Rain Program under title IV and the NO_x SIP Call. Additional on-the-books control measures that generated further emission reductions addressed mobile sources, such as on-road provisions under the Federal Motor Vehicle Emission Control Program for low-sulfur gasoline and ultra-low sulfur diesel fuel as well as the Ohio-administered Federal I/M program, E-check. Non-road Federal measures for mobile sources included the Clean Air Non-road Diesel Rule, the evaporative Large Spark Ignition and Recreational Vehicle standards, heavy-duty diesel engine standard for low-sulfur diesel fuel, railroad/locomotive standards, and commercial marine vessel engine standards. Measures for area sources included Ohio's consumer products rules for consumer solvents, Ohio's Architectural and Industrial Maintenance coatings rules, Ohio's portable fuel container rules, and NESHAP for aerosol coatings. Among the other measures, Ohio also included BART and Industrial Boiler MACT, which applied to only one EGU in the State.

As required by 40 CFR 51.308(g)(2), Ohio provided a summary of the emission reductions achieved through the measures outlined above from the first implementation period. As a result of these measures, NEI data from 2005 to 2017 from across all emission categories, discussed more fully below, show that Ohio's SO₂ emissions decreased by 90 percent, NO_x emissions decreased by 57 percent, VOC emissions decreased by 33 percent, and ammonia emissions decreased by 26 percent. The most significant emissions reductions from Ohio's SIP strategies were realized mainly as a result of CAIR and CSAPR, where CAMD data show that the EGU sector experienced a 94 percent decrease in SO₂ from 1,085,485 tpy in 2005 to 68,905 tpy in 2019 as well as an 84 percent decrease in NO_x from 255,000 tpy in 2005 to 40,493 tpy in

2019. EPA proposes to find that Ohio has met the requirements of 40 CFR 51.308(g)(1) and (2) because its SIP submission describes the measures included in the long-term strategy from the first implementation period, as well as the status of their implementation and the emission reductions achieved through such implementation.

The provisions of 40 CFR 51.308(g)(3) require States to assess Reasonable Progress Goals, including current visibility conditions and changes, for any Class I areas within the State. As described above, Ohio has no mandatory Class I Federal areas within its borders that are among the 156 mandatory Class I Federal areas where EPA deemed visibility to be an important value. Therefore, 40 CFR 51.308(g)(3) does not apply.

To address 40 CFR 51.308(g)(4), Ohio EPA provided an analysis, in section III.8(b)(iv) of its SIP submittal, tracking the change in emissions of NO_x, SO₂, PM_{2.5}, PM₁₀, NH₃, and VOC from all sources and activities in the State. Table 21 of Ohio's SIP submission documents changes in emissions of each of these pollutants for the EGU point, non-EGU point, on-road, non-road, commercial marine vessels, and other categories based on the NEIs from 2005 through 2017, the most recent NEI year available at the time for category level emissions. As a caveat, Ohio noted that there were several changes in the methodologies for estimating emissions between the 2005 and 2017 NEIs, such that they are not readily comparable as explained in EPA's 2017 National Emissions Inventory: January 2021 Updated Release, Technical Support Document.⁵⁷ Specifically, these inconsistencies resulted from changes in the reporting of the condensable portion of PM emissions, changes in the model used for on-road and non-road emissions, as well as improvements in methodologies for other sources such as paved and unpaved PM emissions, ammonia fertilizer and animal waste emissions, oil and gas production, residential wood combustion, solvents, industrial and commercial/institutional fuel combustion, and commercial marine vessel emissions. While Ohio EPA noted that the inventories are not directly comparable, 40 CFR 51.308(g)(4) does not require States to revise previous NEI year estimates to use the same methods as a more recent year.

⁵⁷ 2017 National Emissions Inventory: January 2021 Updated Release, Technical Support Document," EPA-454/R-21-001, February 2021. https://www.epa.gov/sites/default/files/2021-02/documents/nei2017_tsd_full_jan2021.pdf.

Ohio EPA's analysis of Table 21 documents overall emission reductions in NO_x and SO₂ across all source categories from the 2005 and 2017 NEIs, with a 90 percent reduction in SO₂ and 57 percent reduction in NO_x. Based on the 2005 and 2017 NEIs, Ohio documented decreases in NO_x emissions of 77 percent from EGU Point, 32 percent from non-EGU point, 49 percent from on-road, 55 percent from non-road, 38 percent from commercial marine vessels, and 44 percent from other categories. For SO₂, Ohio calculated decreases from the 2005 to 2017 NEIs of 92 percent from EGU point, 77 percent from non-EGU point, 87 percent from on-road, 99 percent from non-road, 92 percent from commercial marine vessels, and 36 percent from other categories. Overall reductions in VOC and NH₃ emissions, which Ohio EPA notes are less impactful on visibility in the LADCO Class I Areas, reached 33 percent and 26 percent, respectively, despite an apparent increase in EGU point source emissions in NH₃, which Ohio EPA attributes to changes in estimation methodologies at a few select facilities that Ohio EPA is investigating further. Similarly, while overall PM_{2.5} and PM₁₀ emissions appear to increase by 14 percent and 12 percent, respectively, Ohio EPA notes that a direct comparison between the 2005 and 2017 NEIs would be inaccurate because of the inconsistencies in PM reporting and changes in the modeling of emissions as explained above. In addition to the NEIs, Ohio EPA provided data, as noted earlier, with respect to EGUs that report to CAMD from 2005 to 2019, the most recent year available at the time, tracking the change in emissions and chronicling the decrease in SO₂ by 94 percent and the decrease in NO_x by 84 percent. EPA proposes to find that Ohio has satisfied the requirements of 40 CFR 51.308(g)(4) by tracking the change in emissions of NO_x, SO₂, PM_{2.5}, VOCs, and NH₃ identified by type of source since the first progress report.

To address 40 CFR 51.308(g)(5), Ohio EPA assessed significant changes in anthropogenic emissions since the first implementation period plan, within and outside of the State, including whether they were anticipated and whether they limited or impeded progress in improving visibility. Within the State, Ohio compared the 2005 and 2017 NEIs in Table 21 of its submittal to identify changes in anthropogenic emissions, finding that emissions significantly decreased across all categories for NO_x and SO₂. As previously mentioned,

these changes were anticipated and occurred mainly as a result of CSAPR as it replaced CAIR. Where emissions appeared to increase significantly, such as for NH₃ emissions from EGU-point source category, Ohio explained the changes occurred as a result the inconsistencies in the reporting, modeling, and methodologies used for the 2005 and 2017 NEI data sets as described above, and that Ohio is investigating the potential for the increases to be attributed to errors at a few select facilities. With the significant decreases in anthropogenic emissions of NO_x, SO₂, VOC, and NH₃ across all source categories from 2005 to 2017 NEIs, Ohio EPA found that no changes in anthropogenic emissions within or outside Ohio have occurred from 2005 to 2017 that would limit or impede progress in reducing pollutant emissions and improving visibility. Ohio noted that further improvements in visibility are anticipated with the emission reductions to be realized the Revised CSAPR Update along with the permanent shutdown of coal-fired boilers at Miami Fort Power Station and Zimmer Power Station. The emissions trend data in Ohio's SIP submission support an assessment that anthropogenic haze-causing pollutant emissions in Ohio have decreased during the reporting period and that changes in emissions have not limited or impeded progress in reducing pollutant emissions and improving visibility. EPA proposes to find that Ohio has met the requirements of 40 CFR 51.308(g)(5).

Following up on Ohio's 2021 progress report, in section III.8(b) of its SIP submission, Ohio EPA committed to submit a progress report for the second implementation period by January 31, 2025, to evaluate progress towards the reasonable progress goal for each mandatory Class I Federal area located within and outside the State that may be affected by emissions from within the State as required by 40 CFR 51.308(g).

I. Requirements for State and Federal Land Manager Coordination

CAA section 169A(d) requires States to consult with FLMs before holding the public hearing on a proposed regional haze SIP and to include a summary of the FLMs' conclusions and recommendations in the notice to the public. In addition, 40 CFR 51.308(i)(2)'s FLM consultation provision requires a State to provide FLMs with an opportunity for consultation that is early enough in the State's policy analyses of its emission

reduction obligation so that information and recommendations provided by the FLMs' can meaningfully inform the State's decisions on its long-term strategy. If the consultation has taken place at least 120 days before a public hearing or public comment period, the opportunity for consultation will be deemed early enough. Regardless, the opportunity for consultation must be provided at least 60 days before a public hearing or public comment period at the State level. The requirements of 40 CFR 51.308(i)(2) also provide two substantive topics on which FLMs must be provided an opportunity to discuss with States: assessment of visibility impairment in any Class I area and recommendations on the development and implementation of strategies to address visibility impairment. In 40 CFR 51.308(i)(3), States, in developing their implementation plans, are required to include a description of how they addressed FLMs' comments.

In development of its SIP submittal, Ohio participated with the FLMs in an early engagement process as well as a formal consultation process, sharing drafts of its SIP submission, reviewing information provided by the FLMs, and meeting to discuss the development of Ohio's proposed Regional Haze plan. On May 12, 2020, and October 2, 2020, Ohio received lists of sources recommended for four-factor analyses by NPS and USFS, respectively, which are included as Appendices K2 and K3 in Ohio's SIP submission. On October 8, 2020, Ohio EPA shared an early draft of its Regional Haze plan with USFS, FWS, and NPS for their review and comments. Following this early engagement process, Ohio initiated a formal consultation process with the FLMs on January 6, 2021, providing another draft of its Regional Haze plan and offering an opportunity for consultation in person. Ohio EPA initiated the early engagement process more than 120 days before the first public comment period on Ohio's plan and began the formal consultation process at least 60 days prior to the first public comment period on Ohio's plan as required by 40 CFR 51.308(i)(2). On February 10, 2021, USFS shared their comments on the draft plan with Ohio EPA, and NPS shared their comments with Ohio EPA on February 17, 2021, both of which are contained in Appendices L1, L2, L3 of Ohio's SIP submission. Ohio EPA's response to the FLM's comments from February 2021 are included as Appendix L4 of Ohio's SIP submittal as required by 40 CFR 51.308(i)(3).

On May 10, 2021, Ohio announced its initial public comment period and public hearing regarding the State's proposed SIP submittal for the second implementation period on Ohio EPA's Regional Haze website,⁵⁸ in the Ohio EPA Weekly Review,⁵⁹ and through electronic mailing lists to interested parties, including FLMs. The public notice included FLM's comments and Ohio EPA's response in the proposed SIP submission. The initial public comment period took place from May 10, 2021, through June 28, 2021, being extended beyond the original 30-day period by an additional two weeks, and a virtual and in-person public hearing was held on June 14, 2021. Following the public comment period, Ohio submitted its SIP revision to EPA on July 30, 2021.

Subsequently, in 2023 and 2024, Ohio EPA re-engaged with the FLMs on a proposed supplement to its July 30, 2021, SIP submission. As discussed above, Ohio EPA shared a proposed supplement with the FLMs that included an analyses and proposed emission limits for General James M. Gavin Power Plant, Cardinal Power Plant, and Ohio Valley Electric Corp.—Kyger Creek Station. For the proposed supplement, Ohio EPA provided a 45-day FLM consultation period from January 16, 2024, to March 1, 2024, that ran concurrently with an extended public comment period from January 16, 2024, to March 18, 2024, during which Ohio made the FLM comments available to the public on its website by March 5, 2024. A virtual and in-person public hearing on Ohio EPA's proposed supplement was held on March 18, 2024.

Following the second public comment period, Ohio EPA again re-engaged with the FLMs on proposed DFFOs that would effectuate the emissions limitations contained within the proposed supplement. After Ohio EPA and the FLMs agreed on a shortened FLM consultation period from May 3, 2024, to May 31, 2024, Ohio provided a third public comment period regarding draft DFFOs effectuating the proposed emission limitations from June 3, 2024, through July 8, 2024, and a virtual and in-person public hearing was held on July 8, 2024. Ohio EPA considered input from FLMs and the public provided during each of the three FLM consultation periods and three

public notice periods when finalizing this SIP revision.

As required by 40 CFR 51.308(i)(4), Ohio committed to continue consultation with States and FLMs on the development and review of any future plan revisions and progress reports, as well as other programs having the potential to contribute to visibility impairment in the mandatory Class I areas, including NSR sources that might impact visibility in Class I areas. Given Ohio EPA's actions recounted above, EPA proposes to find that Ohio has satisfied the requirements of 40 CFR 51.308(i) to consult with the FLMs on its regional haze SIP for the second implementation period.

V. Proposed Action

EPA proposes to approve Ohio's July 30, 2021, SIP submission, as supplemented on August 6, 2024, as satisfying the regional haze requirements for the second implementation period contained in 40 CFR 51.308(f).

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 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, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on communities with environmental justice (EJ) concerns 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."

Ohio EPA did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with EJ concerns.

⁵⁸ The Ohio EPA Regional Haze website is available at <https://epa.ohio.gov/divisions-and-offices/air-pollution-control/state-implementation-plans/state-implementation-plan-sip-regional-haze>.

⁵⁹ The Ohio EPA Weekly Review is available at <https://epa.ohio.gov/about/media-center/public-notices>.

List of Subjects in 40 CFR Part 52

Environmental protection, Air
pollution control, Incorporation by

reference, Nitrogen dioxide, Ozone,
Particulate matter, Sulfur oxides.

Dated: August 21, 2024.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2024–19189 Filed 8–29–24; 8:45 am]

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Vol. 89, No. 169

Friday, August 30, 2024

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FEDERAL REGISTER PAGES AND DATE, AUGUST

62653-63072	1
63073-63280	2
63281-63812	5
63813-64352	6
64353-64778	7
64779-65164	8
65165-65514	9
65515-65754	12
65755-65988	13
65989-66180	14
66181-66542	15
66543-66986	16
66987-67256	19
67257-67516	20
67517-67820	21
67821-68080	22
68081-68320	23
68321-68534	26
68535-68768	27
68769-70094	28
70095-70448	29
70449-71152	30

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	245.....68081
Ch. IV.....68321	274a.....68081
700.....63073	
Proposed Rules:	
700.....63111	
3 CFR	
Proclamations:	
10789.....64779	
10790.....66181	
10791.....67517	
10792.....67821	
10793.....68769	
10794.....68773	
Administrative Orders:	
Memorandums:	
Memorandum of July	
3, 2024.....64343	
Memorandum of July	
11, 2024.....64345	
Memorandum of July	
19, 2024.....64347	
Memorandum of July	
29, 2024.....64349	
Memorandum of	
August 5, 2024.....64781	
Notices:	
Notice of August 6,	
2024.....65163	
Notice of August 13,	
2024.....66187	
Presidential	
Determinations:	
No. 2024-08 of July	
26, 2024.....64351	
5 CFR	
532.....67519, 67829	
Proposed Rules:	
532.....67563	
7 CFR	
205.....64783	
354.....66543	
622.....65989	
761.....65020	
762.....65020	
764.....65020	
765.....65020	
766.....65020	
768.....65020	
769.....65020	
770.....65020	
930.....65515	
959.....63079, 67520	
3555.....66189	
Proposed Rules:	
984.....66639	
8 CFR	
212.....65165, 68081	
214.....68081	
9 CFR	
Proposed Rules:	
201.....68376	
381.....64678	
10 CFR	
2.....67830	
37.....68083	
50.....64353, 70449	
51.....64166, 65755, 67522	
52.....64353	
54.....64353	
72.....63813, 67523	
430.....65520	
Proposed Rules:	
2.....67889	
50.....65226, 68787	
52.....65226, 68787	
73.....65226	
431.....68788	
11 CFR	
Proposed Rules:	
100.....62670, 62671	
104.....62672	
106.....62670, 62671	
109.....62670, 62671	
110.....62670, 62671	
111.....62673	
300.....62670, 62671	
12 CFR	
34.....64538	
225.....64538	
303.....64353	
308.....64353	
323.....64538	
330.....65166	
722.....64538	
741.....64538	
Ch. X.....65170	
1026.....64538, 68086	
1222.....64538	
Proposed Rules:	
Ch. I.....62679	
15.....67890	
21.....65264	
Ch. II.....62679	
208.....65242	
262.....67890	
Ch. III.....62679	
303.....67002, 68244	
304.....67890	
326.....65242	
337.....68244	
354.....65556	
748.....65242	
753.....67890	
1077.....67890	
1226.....67890	

1282.....70127

13 CFR

120.....65174, 68090
125.....62653
128.....62653

Proposed Rules:

121.....68274
124.....68274
125.....68274
126.....68274
127.....68274
128.....68274
134.....68274

14 CFR

1.....67834
11.....67834
25.....66543, 68094, 68706
29.....67851
39.....63813, 67257, 67261,
67263, 67267, 67523, 67525,
67527, 67530, 67532, 67535,
67538
71.....63082, 64785, 65758,
66194, 66196, 66199, 66200,
66545, 66987, 66988, 67540,
67852, 67853, 68337, 68339,
68777, 70469, 70471, 70472,
70473, 70474
91.....67834, 68094
95.....65759
97.....63281, 63282, 68535,
68537, 70476, 70478

121.....68094
125.....68094
129.....66546
135.....67834
136.....67834
259.....65534
260.....65534
399.....65534

Proposed Rules:

1.....67564
21.....65264
25.....63111, 63845, 67564
27.....68833
33.....67564
35.....67564
39.....62685, 64834, 64837,
65264, 65567, 65270, 65568,
66642, 67009, 67329, 67332,
67572, 67575, 67577, 67908,
67910, 67913, 68837, 68840,
70580, 70582
71.....63114, 63116, 63329,
64840, 66290, 67915, 68376,
70585
73.....62688
129.....66645
259.....65272
261.....65272

15 CFR

734.....68539
740.....68539
744.....68539, 68544
746.....68539
922.....68100

16 CFR

1.....66546
310.....70095
465.....68034

Proposed Rules:

305.....67335

1112.....65791, 67917
1130.....67917
1240.....67917
1250.....65791

17 CFR

48.....66201
232.....65179
270.....70479

Proposed Rules:

140.....67890
256.....67890

18 CFR**Proposed Rules:**

1304.....70145

19 CFR

12.....65539

20 CFR

404.....67542, 68341
416.....67542, 68341
422.....67542

21 CFR

573.....67856
803.....70096
866.....66552, 66556
880.....66558
900.....68364
1140.....70483
1308.....65991

Proposed Rules:

Ch. I.....65294
1.....66647
73.....63330
1301.....70148

22 CFR

40.....67857
120.....66210
123.....67270
124.....67270, 68778
126.....67270
150.....68778

24 CFR

203.....63082
982.....65769
983.....65769

Proposed Rules:

200.....63847

25 CFR**Proposed Rules:**

1000.....66655

26 CFR

1.....66560, 66562, 66563,
67859, 70486
31.....66563
301.....66562, 66563

Proposed Rules:

1.....64750, 67336, 70587
20.....67580
301.....64750

27 CFR

9.....70487

Proposed Rules:

9.....70149

28 CFR

35.....65180

29 CFR

103.....62952
2550.....65779

Proposed Rules:

1614.....66656
1910.....70698
1915.....70698
1917.....70698
1918.....70698
1926.....70698
1928.....70698

30 CFR

250.....71076
550.....70490
556.....70490
917.....64787, 66214
938.....64797, 64801, 66563,
66989
944.....66218
948.....64801, 68781

31 CFR

525.....67556
546.....67556
587.....65994, 67860
589.....67556
591.....67557
Ch. X.....70258

Proposed Rules:

151.....67890
210.....65296

32 CFR

1662.....66568

33 CFR

100.....62653, 63284, 65996,
68365, 68782, 70494, 70496
117.....63815, 64367
165.....62654, 63286, 63288,
63290, 63816, 64369, 64371,
64805, 65200, 65203, 65205,
65540, 65997, 66223, 67861,
68102, 68104, 68105, 68366,
68782, 70100

Proposed Rules:

165.....62689, 63331, 68122,
68843, 70587

34 CFR

75.....70300
76.....70300
77.....70300
79.....70300
299.....70300
Ch. VI.....62656, 66225
655.....68738
656.....68738
657.....68738

Proposed Rules:

Ch. III.....64399

36 CFR

242.....70348

37 CFR

210.....70496

38 CFR

17.....67863
21.....66579, 66991
78.....62659

Proposed Rules:

38.....65572

39 CFR

20.....68107
111.....66580
121.....68368
966.....66599
3000.....67292
3010.....67292
3040.....67292
3041.....67292
3006.....65205

Proposed Rules:

111.....63850
3050.....65301, 65302

40 CFR

49.....65212
52.....63818, 64373, 65214,
66232, 66234, 66599, 66603,
66607, 66609, 66995, 67158,
67301, 70497, 70500
60.....62872, 70505
62.....63099
63.....70505
70.....66609
81.....62663
174.....64807, 68783
180.....63291, 63821, 64810,
65542, 65545, 65548, 67109,
68112, 68114, 70103, 70106,
70525
271.....70109
282.....63101
300.....66612

Proposed Rules:

52.....62691, 63030, 63117,
63258, 63852, 63860, 65492,
66015, 66291, 66295, 66659,
66661, 67012, 67014, 67018,
67208, 67341, 67919, 68378,
70589, 70590, 71124
70.....66662
84.....65575, 66029
180.....64842, 68571
271.....70156
282.....63134
300.....66665
721.....67368
725.....67368
751.....65066
1090.....70048

41 CFR

102-5.....67865
102-36.....67865
102-38.....67865
102-39.....67865
102-40.....67865
102-41.....67865
102-42.....67865

42 CFR

136.....70527
405.....68986
412.....64276, 64582, 68986
413.....64048, 68986
417.....63825
418.....64202
422.....63825
423.....63825
431.....68986
460.....63825
482.....68986
485.....68986
488.....64048
495.....68986

512.....68986	535.....64832	19.....70297	585.....67869
43 CFR	Proposed Rules:	52.....70296	672.....65999
2.....63828	401.....63334, 68847	211.....66283	1145.....66011
8360.....64383	47 CFR	212.....66283, 66285	1540.....66287
44 CFR	0.....63296	223.....66283	Proposed Rules:
206.....66241	1.....63296, 66254, 68117	225.....66286	37.....67922
45 CFR	2.....63296, 70115	226.....66283	190.....67040
102.....64815	4.....67558	252.....66283, 66285	
1607.....65550	5.....65217	501.....63325	50 CFR
2520.....66614	8.....65224	502.....63325	17.....65225, 65552
2521.....66614	25.....65217, 66615	512.....62665	20.....68500, 70545
2522.....66614	26.....63296	538.....63325	100.....70348
1301.....67720	52.....64832	552.....63325	300.....63841, 67887, 70120
1302.....67720	54.....67303, 70119	570.....63108	622.....63843, 64397
1303.....67720	63.....68117	Ch. 29.....66616	635.....62666, 63109, 68119
1304.....67720	64.....68369	Proposed Rules:	648.....65554, 65789, 68785, 70124
1305.....67720	73.....65224	2.....70157	660.....62667, 62668, 66011, 67326
2551.....70536	79.....66268	17.....70157	679.....66633, 67327, 68120, 70126
2552.....70536	97.....65217	36.....70157	Proposed Rules:
2553.....70536	Proposed Rules:	52.....70157	17.....62707, 63888, 64852, 65124, 65816
Proposed Rules:	1.....66305	204.....66327	32.....63139
170.....63498	25.....63381	209.....66338	223.....63393, 67400
171.....63498	54.....65576, 67394	212.....66327	224.....67400
172.....63498	64.....64843	217.....66327	622.....68572
2522.....68845	73.....63381, 64851, 67400	252.....66327, 66338	648.....63394, 65576
46 CFR	76.....63381	339.....65303	660.....63153, 70406
10.....63830	79.....63135, 68124	352.....65303	665.....63155, 67402
501.....65786	48 CFR	49 CFR	
502.....64832	Chapter 1.....70296	40.....62665	
	1.....70298	385.....67560	
	4.....70297	571.....67867, 67869	
		576.....66629	

LIST OF PUBLIC LAWS Note: No public bills which have become law were received by the Office of the Federal Register for inclusion	in today's List of Public Laws. Last List August 1, 2024	Public Laws Electronic Notification Service (PENS) PENS is a free email notification service of newly	enacted public laws. To subscribe, go to https://portalguard.gsa.gov/__layouts/PG/register.aspx. Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. PENS cannot respond to specific inquiries sent to this address.