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Contents

Federal Register

Vol. 89, No. 196

Wednesday, October 9, 2024

Agency for Healthcare Research and Quality

NOTICES

Statement of Organization, Functions, and Delegations of Authority, 81915–81917

Agency for International Development

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Monitoring, Evaluation and Research under the Foreign Assistance Act, 81880

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 81917–81918

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Community Services Block Grant Annual Report, 81918–81919

Commerce Department

See Foreign-Trade Zones Board

See Industry and Security Bureau

See International Trade Administration

See National Institute of Standards and Technology

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

Community Living Administration

NOTICES

Single-Source Supplement: University Center for Excellence in Developmental Disabilities Core Function Activities, 81919–81920

Consumer Product Safety Commission

RULES

Safety Standard: Infant Bath Seats, 81825–81829

Energy Department

See Federal Energy Regulatory Commission

RULES

Energy Conservation Program: Certification Requirements, Labeling Requirements, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment, 81994–82071

NOTICES

Performance Review Board Members, 81896–81897

Environmental Protection Agency

RULES

Vessel Incidental Discharge National Standards of Performance, 82074–82158

NOTICES

Hearings, Meetings, Proceedings, etc.: National Environmental Youth Advisory Council, 81912–81913

Pending Approval for Other Use of Phosphogypsum, 81910–81912

Federal Aviation Administration

NOTICES

Petition for Exemption; Summary: International Aero Engines, LLC, 81978–81979

Federal Emergency Management Agency

NOTICES

Metropolitan Statistical Area Used in Grant Programs, 81925–81927

Federal Energy Regulatory Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 81902–81904

Application:

Cheyenne Plains Gas Pipeline Co., LLC, Natural Gas Pipeline Co. of America, LLC, 81906–81908
Combined Filings, 81898, 81900–81901, 81904–81906, 81908–81909

Effectiveness of Exempt Wholesale Generator Status:

Cross Town Energy Storage, LLC; Cranberry Point Energy Storage, LLC; Morrow Lake Solar, LLC, et al., 81898

Effectiveness of Withdrawal of Request for Temporary Variance:

Lake Lynn Generation, LLC, 81897

Environmental Assessments; Availability, etc.:

Black Bayou Gas Storage, LLC, Black Bayou Gas Storage Project, 81909–81910

Filing:

Florida Power and Light Co., 81901–81902

Institution of Section 206 Proceeding and Refund Effective Date:

Puget Sound Energy, Inc., 81899–81900, 81904

Permits; Applications, Issuances, etc.:

Desert Bloom Energy Storage, LLC, 81910

Request for Extension of Time:

Equitrans, LP, 81897–81898
Trailblazer Pipeline Co. LLC and Rockies Express Pipeline LLC, 81898–81899

Federal Maritime Commission

NOTICES

Agreements Filed, 81913

Federal Motor Carrier Safety Administration

NOTICES

Exemption Application:

Qualification of Drivers; Epilepsy and Seizure Disorders, 81983–81985

Qualification of Drivers; Hearing, 81979–81982

Federal Railroad Administration

NOTICES

Petition for Extension of Waiver of Compliance, 81985–81987

Petition for Waiver of Compliance, 81986

Federal Reserve System

NOTICES

Change in Bank Control:

Acquisitions of Shares of a Bank or Bank Holding Company, 81913–81914

Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 81914

Federal Trade Commission

PROPOSED RULES

Petition for Rulemaking:

Consumer Technology Association, 81871

Fish and Wildlife Service

NOTICES

Permits; Applications, Issuances, etc.:

Foreign Endangered Species, 81928–81930

Foreign-Trade Zones Board

NOTICES

Designation of New Grantee:

Foreign-Trade Zone 30, Salt Lake City, UT, 81880

General Services Administration

NOTICES

Hearings, Meetings, Proceedings, etc.:

Federal Acquisition Regulatory Council; In-Person and Virtual Listening Session, 81914–81915

Health and Human Services Department

See Agency for Healthcare Research and Quality

See Centers for Medicare & Medicaid Services

See Children and Families Administration

See Community Living Administration

See Health Resources and Services Administration

See National Institutes of Health

Health Resources and Services Administration

NOTICES

Agency Information Collection Activities; Proposals,

Submissions, and Approvals:

Evaluation of the Maternal and Child Health Bureau Pediatric Mental Health Care Access Program and the Screening and Treatment for Maternal Mental Health and Substance Use Disorders Program, 81920–81922

Homeland Security Department

See Federal Emergency Management Agency

See U.S. Citizenship and Immigration Services

Industry and Security Bureau

NOTICES

Denial of Export Privileges:

URAL Airlines JSC, 81881–81884

Hearings, Meetings, Proceedings, etc.:

Emerging Technology Technical Advisory Committee, 81880–81881

Interior Department

See Fish and Wildlife Service

See National Park Service

Internal Revenue Service

PROPOSED RULES

Entities Wholly Owned by Indian Tribal Governments, 81871–81878

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 81988–81989

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

Burden Related to Information Reporting for Certain Life Insurance Contract Transactions, 81989–81990

Hearings, Meetings, Proceedings, etc.:

Taxpayer Advocacy Panel Joint Committee, 81988

Taxpayer Advocacy Panel Taxpayer Assistance Center

Improvements Project Committee, 81987–81988

Taxpayer Advocacy Panel Taxpayer Communications

Project Committee, 81991

Taxpayer Advocacy Panel's Notices and Correspondence

Project Committee, 81990

Taxpayer Advocacy Panel's Special Projects Committee, 81987

Taxpayer Advocacy Panel's Tax Forms and Publications

Project Committee, 81988–81989

Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee, 81990–81991

International Trade Administration

NOTICES

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:

Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany, 81886–81887

Certain Quartz Surface Products from the People's Republic of China, 81887–81888

Mattresses from Serbia, 81888–81889

Oil Country Tubular Goods from the Republic of Turkey, 81884–81886

International Trade Commission

NOTICES

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

Certain Wi-Fi Routers, Wi-Fi Devices, Mesh Wi-Fi Network Devices, and Hardware and Software Components Thereof, 81939–81940

Large Residential Washers from Mexico, 81940

Raw Flexible Magnets from China and Taiwan, 81938–81939

Justice Department

NOTICES

Proposed Consent Decree:

CERCLA, 81940–81941

Clean Air Act, 81941

Toxic Substances Control Act, 81940

Labor Department

See Mine Safety and Health Administration

See Occupational Safety and Health Administration

NOTICES

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

Labor Organization and Auxiliary Reports; Correction, 81941

Secure Transfer, Research-Use Data Lake, 81941–81942

Mine Safety and Health Administration

NOTICES

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

Ventilation Plans, Tests, and Examinations in Underground Coal Mines, 81942–81949

National Aeronautics and Space Administration

NOTICES

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

Communications Research, 81950–81951

NASA Assurance of Civil Rights Compliance, 81951

National Archives and Records Administration**NOTICES**

Records Schedules; Withdrawal, 81951–81952

National Endowment for the Humanities**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Humanities Panel, 81952–81953

National Foundation on the Arts and the Humanities

See National Endowment for the Humanities

National Highway Traffic Safety Administration**RULES**

Federal Motor Vehicle Safety Standard:
No. 213, Child Restraint Systems; No. 213a, Child
Restraint Systems—Side Impact Protection; No. 213b,
Child Restraint Systems, 81836–81848

National Institute of Standards and Technology**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Visiting Committee on Advanced Technology, 81889–
81890

National Institutes of Health**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 81923–81925
National Institute of Allergy and Infectious Diseases,
81923–81925
National Institute of Neurological Disorders and Stroke,
81924
National Institute on Alcohol Abuse and Alcoholism,
81925
National Institute on Drug Abuse, 81922–81923

National Oceanic and Atmospheric Administration**RULES**

Endangered and Threatened Species:
Technical Correction for the Coral *Fimbriaphyllia*
paradivisa, 81867–81869
Fisheries of the Northeastern United States:
Atlantic Herring Fishery; Adjustment to the 2024
Specifications, 81869–81870
Takes of Marine Mammals Incidental to Specified
Activities:
U.S. Navy Repair and Replacement of the Q8 Bulkhead at
Naval Station Norfolk, 81848–81867

PROPOSED RULES

Fisheries off West Coast States:
Pacific Coast Groundfish Fishery; Pacific Coast
Groundfish Fishery Management Plan; Amendment
34; Groundfish Exclusion Area for Coral Research
and Restoration, 81878–81879

NOTICES

Environmental Impact Statements; Availability, etc.:
Fisheries of the Caribbean, Gulf of Mexico, and South
Atlantic; Secretarial Amendment to the Fishery
Management Plan for the Snapper-Grouper Fishery of
the South Atlantic Region, 81892–81893
Hearings, Meetings, Proceedings, etc.:
New England Fishery Management Council, 81893–81894
North Pacific Fishery Management Council, 81890–81891
Pacific Fishery Management Council, 81894
South Atlantic Fishery Management Council, 81891
Southeast Data, Assessment, and Review Webinar, 81890
Implementation Timeline for the Modernized National
Spatial Reference System, 81891–81892

National Park Service**NOTICES****Inventory Completion:**

Department of the Interior, Bureau of Land Management,
New Mexico State Office, Santa Fe, NM, and New
Mexico Junior College, Western Heritage Museum
and Lea County Cowboy Hall of Fame, Hobbs, NM,
81937–81938

Hastings Museum, Hastings, NE, 81936–81937

The Fort Ticonderoga Association, Ticonderoga, NY,
81934–81936

U.S. Army Garrison Fort Cavazos, Fort Cavazos, TX,
81936

University of Tennessee, Department of Anthropology,
Knoxville, TN, 81930–81934

Nuclear Regulatory Commission**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Financial Protection Requirements and Indemnity
Agreements, 81953–81954

Occupational Safety and Health Administration**RULES**

Hazard Communication Standard, 81829–81836

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
COVID–19 Recordkeeping and Reporting in Healthcare
Standard, 81949–81950

Patent and Trademark Office**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Matters Related to First Inventor to File, 81894–81896
Performance Review Board Members, 81896

Personnel Management Office**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Federal Salary Council, 81954

Postal Regulatory Commission**NOTICES**

New Postal Products, 81954–81956

Presidential Documents**PROCLAMATIONS****Special Observances:**

Child Health Day (Proc. 10833), 81823–81824

Fire Prevention Week (Proc. 10830), 81815–81816

German-American Day (Proc. 10832), 81821–81822

National Community Policing Week (Proc. 10831),
81817–81819

Securities and Exchange Commission**NOTICES****Application:**

Sound Point Alternative Income Fund, Felicitas Private
Markets Fund and Skypoint Capital Advisors, LLC,
81968–81969

Self-Regulatory Organizations; Proposed Rule Changes:

Cboe BYX Exchange, Inc., 81956–81958

Cboe BZX Exchange, Inc., 81966–81968

Cboe EDGA Exchange, Inc., 81969–81970

Cboe EDGX Exchange, Inc., 81976–81978

Investors Exchange, LLC, 81971–81976
The Nasdaq Stock Market, LLC, 81956
The Options Clearing Corp., 81958–81966

Small Business Administration**NOTICES**

Disaster Declaration:
Virginia, 81978

Transportation Department

See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

Treasury Department

See Internal Revenue Service

U.S. Citizenship and Immigration Services**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Adult Citizenship Educator of the Year, 81927–81928

Veterans Affairs Department**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Survey of Veteran Enrollees' Health and Use of Health
Care, 81991

Hearings, Meetings, Proceedings, etc.:
Advisory Committee on Prosthetics and Special-
Disabilities Programs, 81992

Separate Parts In This Issue**Part II**

Energy Department, 81994–82071

Part III

Environmental Protection Agency, 82074–82158

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.

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

10830.....	81815
10831.....	81817
10832.....	81821
10833.....	81823

10 CFR

429.....	81994
431.....	81994

16 CFR

1215.....	81825

Proposed Rules:

1.....	81871

26 CFR**Proposed Rules:**

1.....	81871
301.....	81871

29 CFR

1910.....	81829

40 CFR

139.....	82074

49 CFR

571.....	81836

50 CFR

217.....	81848
223.....	81867
648.....	81869

Proposed Rules:

660.....	81878

Presidential Documents

Title 3—

Proclamation 10830 of October 4, 2024

The President

Fire Prevention Week, 2024

By the President of the United States of America**A Proclamation**

In the face of incredibly dangerous fires, Americans have always met the moment—whether it is the first responders rushing in to keep everyone safe or the neighborhoods that come together to rebuild from the rubble. During Fire Prevention Week, we encourage all Americans to learn more about fire safety. We recommit to preventing fires before they occur and supporting families affected by fires. And we extend our gratitude to the firefighters and first responders whose extraordinary bravery saves lives.

As President, I have seen the devastating toll fires take on families across the country. I have met with families who lost their homes and small business owners who lost their livelihoods to fires. I have met with firefighters who saved lives while risking their own—some had fought massive wildfires when they had never been trained for that before. This year, more than 1,400 people, including 43 firefighters, lost their lives to fires. And thousands of acres of land have been burned by wildfires—in total, more acres have been burned than the size of some States.

With climate change, these fires will only get more ferocious, deadly, and costly. But my Administration is doing everything we can to fight the climate crisis and keep people safe. That is why I have made the most significant climate investment anywhere in the world. Through my Bipartisan Infrastructure Law, we are investing billions of dollars to strengthen our early wildfire detection programs, prevent and mitigate drought, and—in the event of a wildfire—restore and rehabilitate ecosystems. At the same time, my Inflation Reduction Act is putting us on the path to cut America’s carbon emissions in at least half by 2030 with historic investments in green manufacturing, clean energy, and climate-smart agriculture.

My Administration is also committed to ensuring firefighters have the resources and support they need to do their jobs safely and effectively. That is why, in my first months as President, I invested \$350 billion from the American Rescue Plan to help States and cities keep first responders, including firefighters, on the job. The law also increased Federal firefighting grants by \$300 million, paying for hundreds of emergency response vehicles, thousands of sets of turnout gear, critical cancer research, and more local firefighters in the field. The Department of Labor proposed a rule that would substantially update protections for emergency response workers, including firefighters, for the first time in more than four decades. Further, I am proud to have increased the Federal firefighter minimum wage to \$15 an hour—a first step toward giving firefighters the pay they deserve. And we have launched new programs to recruit, retain, and train Federal firefighters. I also signed the Fire Grants and Safety Act, directing millions of dollars to fire stations and communities across the country so they can prevent fires and mitigate the damage if they do occur.

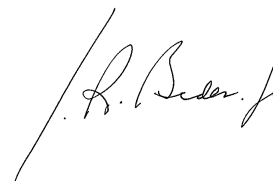
We are also committed to advancing public safety and uplift Fire Prevention Week’s theme of “Smoke alarms: Make them work for you!” Smoke alarms are essential to ensuring you and your family can leave home quickly in the event of a fire. Make sure to install smoke alarms in every bedroom, outside each sleeping area, and on every floor of the house. Once a month,

remember to test your smoke alarm by pressing the test button. And replace smoke alarms either every 10 years or if they stop responding when tested.

The First Lady and I remain in awe of the heroism and courage of our firefighters and all the communities who have come together to rebuild in the wake of devastating fires—we truly are a good Nation because we are a good people. During Fire Prevention Week, we honor our first responders and firefighters for keeping us safe. We recommit to supporting all Americans rebuilding their lives after a fire. And we spread awareness about smoke alarms and fire safety.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 6 through October 12, 2024, as Fire Prevention Week. I call on all Americans to participate in this observance with appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

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

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping horizontal line extending to the left.

Presidential Documents

Proclamation 10831 of October 4, 2024

National Community Policing Week, 2024

By the President of the United States of America

A Proclamation

Every day that our police officers put on that shield and walk out the door, they put their lives at risk to ensure the rest of us are safe. During National Community Policing Week, we honor police officers' service and sacrifice, recommit to supporting them, and reaffirm that community policing practices that advance public trust are the gold standard for law enforcement.

In the first half of this year, according to preliminary data submitted to the FBI, the homicide rate continued to fall at record speed, declining by 22.7 percent, while the violent crime rate fell by 10.3 percent to its lowest level since 1969. These record decreases follow the historic declines in crime in 2023, including the largest-ever decrease in the homicide rate. The decreases are in no small part due to the hard work and courageous efforts of law enforcement across America.

As President, public safety and crime reduction are top priorities for my Administration and me. Since day one, my Administration has worked with law enforcement, mayors, and community leaders to do what we know works to keep people and communities safe. Through my American Rescue Plan, we made the largest Federal investment toward public safety in our Nation's history—delivering more than \$15 billion in aid for local and State governments to keep law enforcement on the beat, retain and hire more police officers, pay overtime and bonuses, and expand benefits for disabled first responders. States, counties, and cities have already invested that funding to make their communities safer, and we added billions more in grants through the Department of Justice to help cities invest in law enforcement and community violence interruption programs.

I also know that being in law enforcement today is harder than ever—police are expected to respond to so many challenging situations, from drug overdoses and mental health crises to domestic violence, child abandonment, and more. That is why my Administration has invested in increasing the number of crisis responders who work alongside police officers to respond to non-violent crimes. We have made more investments in recruiting, retaining, and training officers. I have called for funding that would put 100,000 more officers on the street who are trained in community policing. Additionally, we need to invest more in technology and training to solve crimes faster and clear court backlogs, and we need more detectives to solve murders and more deputy United States Marshals to apprehend fugitives.

Police officers deal with unbelievable stress. Every time an officer responds to a call, executes a warrant, or conducts a traffic stop, there is a tremendous risk: the fear of ambush, the anxiety of not knowing what is behind that door, and the trauma of bearing witness to the most horrible tragedies imaginable. That is why I have been laser-focused on providing officers with the mental health and wellness resources they need and deserve. I also signed extended benefits for families of officers who have tragically died by suicide.

Our police officers are dedicated, honorable, and good people—they build trust with the communities they serve because they know that trust is the foundation of public safety. Our communities are safer and stronger

when our officers have the resources, training, and tools they need to do their jobs and walk the beat, getting to know the neighborhoods and the people they serve. A lack of trust from the public means less public safety for all of us: crimes do not get reported, witnesses do not come forward and cases do not get solved, victims suffer while perpetrators roam free, and justice goes undelivered.

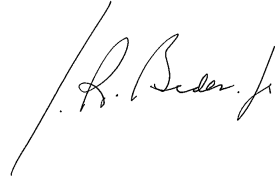
When communities trust the police, crimes get solved faster. That is why when Republicans blocked the passage of the George Floyd Justice in Policing Act of 2021, a bill that the Vice President coauthored while in the Senate, we took action. I signed a historic Executive Order to set the gold standard for law enforcement. In part, it requires Federal law enforcement agencies to develop best practices that attract, support, and retain officers who are representative of the communities they are sworn to serve. We have also made historic investments in proven strategies to interrupt and prevent violence in the first place, including using trusted messengers who are trained to disrupt violence. At the same time, I signed the most significant gun safety law in nearly three decades and have taken more executive actions to stop the flow of illegal guns than any other administration in history.

There is more work to be done. My Safer America Plan calls on the Congress to invest \$37 billion to support law enforcement and crime prevention. The plan would fund 100,000 additional police officers, invest \$5 billion in community violence interventions, and enact commonsense gun safety reforms, such as a universal background check requirement and a ban on assault weapons and high-capacity magazines.

There is no greater responsibility than keeping our families, neighborhoods, and Nation safe. During National Community Policing Week, we reaffirm our commitment to choosing progress over politics when it comes to supporting our law enforcement and ensuring the safety of our communities. We honor the heroism, bravery, and sacrifice of our police officers. And may we recommit to upholding one of our Nation's most fundamental values: justice for all.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 6 through October 12, 2024, as National Community Policing Week. I call upon law enforcement agencies, elected officials, and all Americans to observe this week by recognizing ways to improve public safety, build trust, and strengthen community-police relationships.

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

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Presidential Documents

Proclamation 10832 of October 4, 2024

German-American Day, 2024

By the President of the United States of America

A Proclamation

In 1683, 13 families left the only home they had ever known to flee religious persecution and start new lives in America, establishing the first German settlement just outside Philadelphia. On German-American Day, we celebrate the history, culture, and countless contributions of our Nation's 40 million German Americans.

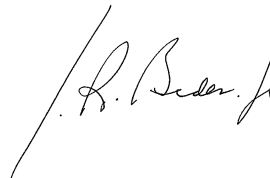
The hard work, achievements, and sacrifices of German Americans have shaped the very idea of America. German-American immigrants established some of our Nation's earliest and most extensive newspapers, advancing the role of the free press in America. German-American scholars and writers, scientists and musicians, and leaders in every sector are the source of some of America's best ideas and most exciting possibilities. And today, German Americans are not only a proud part of our country's character, but they also tie us closer to Germany and its people.

My Administration is committed to growing the friendship, allyship, and partnership between Germany and the United States. This month, I will be traveling to Germany to meet with their leaders and coordinate on shared priorities like securing democracy around the world, countering antisemitism and other forms of hatred, and advancing cooperation on economics, trade, and technology. We will also continue to stand together to support the brave people of Ukraine in their defense against Russian aggression.

Today, may we celebrate the culture and bonds German Americans have built over the hundreds of years they have called this country home. Together, may we recommit to fighting for a better future, full of new possibilities for our Nation.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim October 6, 2024, as German-American Day. I urge all Americans to celebrate the rich and varied history of German Americans and remember the many contributions they have made to our Nation.

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

A handwritten signature in black ink, appearing to read "Joe Biden", is written over a diagonal line that serves as a signature line.

[FR Doc. 2024-23457

Filed 10-8-24; 8:45 am]

Billing code 3395-F4-P

Presidential Documents

Proclamation 10833 of October 4, 2024

Child Health Day, 2024

By the President of the United States of America

A Proclamation

Our Nation's children deserve every opportunity to reach their biggest dreams—that begins with ensuring our families and children have the resources and support they need to stay healthy and strong. On Child Health Day, we recommit to supporting families as they help their children to lead healthy lives.

When we came into office, Vice President Harris and I promised to give families some well-deserved breathing room so that families could care for their children without worrying about how they were going to pay the bills. That is why my American Rescue Plan expanded the Child Tax Credit, which reduced child poverty by nearly half across the Nation. That law also made our Nation's biggest investment in child care ever, keeping businesses open and hundreds of thousands of child care workers employed to care for children. To lower health insurance costs, I signed the Inflation Reduction Act, saving millions of families \$800 per year on their health insurance premiums. And we strengthened the Maternal, Infant, and Early Childhood Home Visiting Program to provide home visits from trained professionals, who can offer prenatal care and postpartum support to new mothers and ensure their children's health and well-being needs are met. We launched the National Maternal Mental Health Hotline at 1-833-TLC-MAMA to help better support pregnant and postpartum moms. We also modernized the Thrifty Food Plan for the first time in nearly five decades so that millions more families can afford nutritious foods. We are working to reduce the amount of sodium in food to help prevent children from experiencing high blood pressure, heart disease, and stroke later in life. At the same time, we are working to secure free and healthy school meals for every child—beginning with setting a goal to deliver free school meals to nine million more children by 2032.

My Administration is also working to ensure our youth have access to the mental health care they need, making the largest investment in mental health ever. This includes over \$2 billion in funding, including \$1 billion through the Bipartisan Safer Communities Act, to help schools across the country train and hire new mental health counselors. We made it easier for schools to leverage Medicaid to deliver health care, including mental health care, to millions of children and youth. And we launched 988, the Suicide and Crisis Lifeline, which anyone can call, text, or chat to be connected to a trained crisis counselor, 24 hours a day, 7 days a week.

Americans deserve to live in a safe community, free from the threat of violence—and when it comes to our Nation's children, one of our most fundamental responsibilities is keeping them safe. In the United States, firearms are the leading cause of death for children. It is unacceptable. Children are exposed to violence and worry about school shootings happening to them, and this exposure and fear can lead to negative consequences for their school life, mental health, and more. That is why I signed the most significant gun safety law in nearly 30 years and have announced dozens of gun safety executive actions, including one that will improve the active shooter drills that nearly all students undergo. I also established

the first-ever White House Office of Gun Violence Prevention, overseen by Vice President Harris. We have made significant progress, but we must do more. I continue to call on the Congress to ban assault weapons and high-capacity magazines, require safe storage of firearms, enact universal background checks, and end immunity for gun manufacturers.

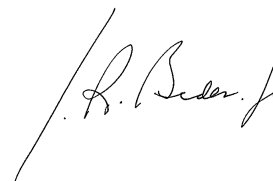
Our Administration is also making historic investments to tackle the climate crisis, which is essential to protecting our children's futures. Every child should be able to turn on the faucet at home or school and have access to safe, clean water—that is why, through my Bipartisan Infrastructure Law, we are working to replace every lead pipe in America. My Inflation Reduction Act—the most significant investment in climate ever—is investing in air quality sensors so that we prevent communities from experiencing the harmful effects of pollution. And we have recommitted to conserving 30 percent of all our Nation's lands and waters by 2030 so that generations to come may enjoy them.

Our children deserve to grow up in a country that cares about their health, happiness, and opportunities for success. During Child Health Day, may we recommit to supporting our children and families so that they can thrive. And may we continue to build a future where every child can reach their full potential.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as Child Health Day and has requested that the President issue a proclamation in observance of this day.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim Monday, October 7, 2024, as Child Health Day. I call upon families, child health professionals, faith-based and community organizations, and governments to help ensure that America's children stay safe and healthy.

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

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping horizontal line extending to the left.

Rules and Regulations

Federal Register

Vol. 89, No. 196

Wednesday, October 9, 2024

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

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

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1215

[Docket No. CPSC–2009–0064]

Safety Standard for Infant Bath Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In September 2019, the U.S. Consumer Product Safety Commission (CPSC) published an update to the consumer product safety standard for infant bath seats under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference ASTM F1967–19, *Standard Consumer Safety Specification for Infant Bath Seats*, the voluntary standard for infant bath seats that was in effect at the time. ASTM has now issued a revised standard, ASTM F1967–24. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. Consistent with the CPSIA update process, this direct final rule updates the mandatory standard to incorporate by reference ASTM's 2024 version of the voluntary standard.

DATES: The rule is effective on January 4, 2025, unless the Commission receives a significant adverse comment by November 8, 2024. If the Commission receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 4, 2025.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2009–0064, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2009–0064, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Will Cusey, Small Business Ombudsman, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7945 or (888) 531–9070; email: sbo@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the

effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be “substantially the same as” the voluntary standard, or it may be “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission's rules when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for Infant Bath Seats

Under section 104(b)(1) of the CPSIA, the Commission published a mandatory standard for infant bath seats, codified in 16 CFR part 1215, “Safety Standard for Infant Bath Seats.” The rule incorporated by reference the then-current voluntary standard, ASTM F1967–08a, *Standard Consumer Safety Specification for Infant Bath Seats*, with modifications to make the standard more stringent. 75 FR 31691 (June 4, 2010). ASTM F1967 applies to infant bath seats, which it describes as products used in a bath tub, sink, or similar bathing enclosure and that provide support, at a minimum, to the front and back of a seated infant during bathing by a caregiver. The mandatory

standard includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children.

The voluntary standard has been revised five times since 2010, and the Commission updated part 1215 upon each notice of revision from ASTM: 2012 (77 FR 45242 (July 31, 2012)), 2013 (78 FR 73692 (Dec. 9, 2013)), and 2019 (84 FR 49435 (Sep. 20, 2019)).¹ ASTM F1967–19 is the current mandatory standard incorporated by reference in part 1215.

Most recently, in July 2024, ASTM published another revision to the voluntary standard for infant bath seats, approving ASTM F1967–24. On July 8, 2024, ASTM notified CPSC of the revision. On July 18, 2024, the Commission published a notice of availability of the revised voluntary standard in the **Federal Register** and sought comments on the effect of the revisions. 89 FR 58303. CPSC did not receive any comments.

As discussed below, based on staff's review of ASTM F1967–24, the Commission will allow the revised voluntary standard to become the mandatory standard for infant bath seats because the revised requirements in the voluntary standard improve the safety of infant bath seats overall, and none of the revised requirements reduce safety.² Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F1967–24 will become the mandatory consumer product safety standard for infant bath seats on January 4, 2025. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates part 1215 to incorporate by reference the revised voluntary standard, ASTM F1967–24.

II. Revisions to ASTM F1967

ASTM F1967–24 includes a few substantive additions and revisions, as well as clarifications and editorial revisions.

A. Substantive and Clarifying Revisions

ASTM F1967–24 contains substantive changes to testing requirements in section 7.4.1.2 that clarify the test surface used in the stability test procedure. The revisions clarify that bath seats intended to contact the bottom surface of the bath tub must be

tested on both Test Surface #1 and Test Surface #2. As defined in the voluntary standard, Test Surface #1 is any area on the bottom surface of the bath tub where safety tread strips³ are applied; and Test Surface #2 is any area on the bottom surface of the bath tub where safety tread slips are not applied. In general, Test Surface #1 is considered the most onerous testing surface for products utilizing suction cups on the bottom surface for stability because safety tread strips make it more difficult for suction cups to adhere to the surface.

ASTM F1967–19 states that the stability test must be conducted using all relevant surfaces and is not clear that all bath seats that come into contact with the bottom surface of the bath tub must be tested on both Test Surface #1 and Test Surface #2. The language in ASTM F1967–19 implies that the choice of testing surface(s) may be at the discretion of the manufacturer. For example, if the manufacturer's use instructions for a bath seat state "only for use on smooth surfaces," application of ASTM F1967–19 could be interpreted so that the bath seat should only be evaluated on Testing Surface #2. Allowing manufacturers to decide which testing surface(s) the product should be evaluated on may lead to some bath seats only being tested on the one surface on which they perform best, while ignoring how the product performs on a more onerous testing surface. Accordingly, requiring all bath seats that come into contact with the bottom surface of the bath tub to use both test surfaces will promote consistency across different test labs and improve the safety of infant bath seats.

In addition, ASTM F1967–24 contains substantive changes to testing requirements in section 7.4.1.1 that relate to specifications for the test platform (*i.e.*, the bath tub on which the infant bath seat is placed for the stability test). ASTM F1967–24 now requires the test platform to be "alcove-style" and no longer requires all surfaces of the tub to be "smooth" or that the side ledge of the tub must have any certain uniform thickness. As indicated above, a smooth surface generally provides the most favorable testing surface for products utilizing suction cups on the bottom surface for

stability because rough surfaces make it more difficult for suction cups to adhere to the surface. Because section 7.4.1.2 in ASTM F1967–24 clarifies that testing is necessary on both Test Surface #1 and Test Surface #2, removing "smooth" from the bath tub description should not impact test results. Also, ASTM F1967–24 updates and removes certain dimension requirements of the test platform in Figure 3 and removes Figures 4 and 5, which had illustrated the side sectional views of the test platform.

ASTM made these revisions because of the current unavailability of the bath tub described and specified in ASTM F1967–19. Staff's market research identified the most common style of bath tub as an "Alcove" tub, meaning a rectangular tub that is intended to be surrounded by tile or similar waterproof material walls, and a textured or grit floor surface. Bath tubs currently available on the market typically have a textured or grit floor surface to provide slip resistance to the floor; ASTM members and staff report that it is challenging to find a bath tub with a smooth surface. In addition, the most common size of bath tubs available is 60 inches long by 30 inches wide. A similar overall exterior length and width could be discerned from Figure 3 in ASTM F1967–19. However, the bath tub make, and model shown in Figure 3, including the side dimensions in Figures 4 and 5 of ASTM F1967–19, is no longer available, and many of the dimensions are not relevant to testing bath seats available on the market. The revised Figure 3 dimensions in ASTM F1967–24, making clear the overall 60 x 30-inch exterior length and width, reflect current market availability and remove unnecessary dimensions from the test platform. The removal of Figures 4 and 5 in ASTM F1967–24 that display bath tub thickness dimensions is consistent with these revisions to Figure 3 and description of the test platform. However, these changes are neutral to safety because they do not impact the outcome of performance testing.

The proposed dimension and description changes will still allow labs to use the bath tub described by ASTM F1967–19 for infant bath seat evaluations and will not cause any procedural or equipment changes. These changes are being implemented because the bath tub described by the standard in ASTM F1967–19 no longer exists on the market, which would prevent future labs from meeting the equipment requirements to become International Organization for Standardization (ISO) accredited and CPSC-accepted to

¹ In 2018 and 2019, ASTM approved two more revisions: ASTM F1967–18 and ASTM F1967–19. ASTM did not notify CPSC of the publication of the 2018 version of the voluntary standard. However, in June 2019 ASTM notified the Commission of the 2019 revision to the voluntary standard for infant bath seats, which included the changes in the 2018 version of the standard.

² The Commission voted 5–0 to approve this notice on September 17, 2024.

³ According to ASTM F1967–24, Safety Tread Strips are defined as commercially available adhesive backed safety tread strips for bath tub use that are rectangular, approximately 0.75 in. wide by 7 in. or greater in length. The corners may be filleted with a radius that does not exceed ½ the width. Safety tread strips are to be applied by the person or the lab that is performing the stability test for infant bath seats.

perform infant bath seat testing in accordance with part 1215. Because the changes to the test platform will not impact the testing procedure of currently approved labs and will not affect test results for bath seats currently available on the market, CPSC considers these changes to be neutral to safety.

B. Non-Substantive Revisions

ASTM F1967–24 also includes several minor additions and revisions that are editorial and do not alter any substantive requirements in the standard. The revised standard updates certain contact information as well as section and figure numbers to reflect revised sections and figures. ASTM also updated the Rationale section of the standard to provide explanatory information about the 2024 standard revisions. Because these revisions do not change any substantive testing or labeling requirements, they are neutral regarding the safety of infant bath seats.

III. Incorporation by Reference

Section 1215.2 of the direct final rule incorporates by reference ASTM F1967–24. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section II of this preamble summarizes the revisions to ASTM F1967–24 that the Commission incorporates by reference into 16 CFR part 1215. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F1967–24 is available for viewing on ASTM's website at: www.astm.org/CPSC.htm. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: www.astm.org/READINGLIBRARY/. Additionally, interested parties can purchase a copy of ASTM F1967–24 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: (610) 832–9500; www.astm.org. Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814;

telephone: (301) 504–7479; email: cpsc-os@cpsc.gov.

IV. Certification

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a CPSC-accepted third party conformity assessment body accredited to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because infant bath seats are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1215 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA;⁴ the phthalates prohibitions in section 108 of the CPSIA⁵ and 16 CFR part 1307; the tracking label requirements in section 14(a)(5) of the CPSA;⁶ and the consumer registration form requirements in 16 CFR part 1130. ASTM F1967–24 makes no changes that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing infant bath seats. 75 FR 31688 (June 4, 2010). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing infant bath seats to 16 CFR part 1215. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified in 16 CFR part 1112. The NOR for accreditation of

third party labs for testing infant bath seats is codified at 16 CFR 1112.15(b)(2).

As previously mentioned in this preamble to the direct final rule, the changes to the test platform will not change the way that third party labs test infant bath seats for compliance with the safety standard for infant bath seats. The dimension and description changes to the test platform will still allow labs to use the bath tub described by ASTM F1967–19 for infant bath seat evaluations and will not cause any procedural or equipment changes. Testing laboratories that have demonstrated competence for testing in accordance with ASTM F1967–19 will have the competence to test in accordance with the revised standard ASTM F1967–24. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F1967–19 to be capable of testing to ASTM F1967–24 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation.

VI. Direct Final Rule Process

On July 18, 2024, the Commission provided notice in the **Federal Register** of the 2024 revision to ASTM F1967 and requested comment on whether the revision improves the safety of infant bath seats covered by the standard. 89 FR 58303. CPSC did not receive any comments. Now, the Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F1967–24 would take effect as the new CPSC standard for infant bath seats in the absence of any action by the Commission. Thus, public comments

⁴ 15 U.S.C. 1278a.

⁵ 15 U.S.C. 2057c.

⁶ 15 U.S.C. 2063(a)(5).

would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments. CPSC did not receive any adverse comments about the requirements in this update in response to the Notice of Availability published on July 18, 2024.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on January 4, 2025. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion that undermines “the rule’s underlying premise or approach,” or a showing that the rule “would be ineffective or unacceptable without change.” 60 FR 43108, 43111. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section VI of this preamble, the Commission has determined that further notice and the

opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VIII. Paperwork Reduction Act

The current mandatory standard includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1215, and the marking, labeling, and instructional literature for infant bath seats are currently approved under OMB Control Number 3041–0159. The revision does not affect the information collection requirements or approval related to the standard.

IX. Environmental Considerations

The Commission’s regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization

revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C.

2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for infant bath seats. Therefore, ASTM F1967–24 automatically will take effect as the new mandatory standard for infant bath seats on January 4, 2025, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this document, the rule will become effective on January 4, 2025.

XII. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, OIRA has determined that this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1215

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1215—SAFETY STANDARD FOR INFANT BATH SEATS

- 1. The authority citation for part 1215 is revised to read as follows:

Authority: 15 U.S.C. 2056a.

- 2. Revise § 1215.2 to read as follows:

§ 1215.2 Requirements for infant bath seats.

Each infant bath seat must comply with all applicable provisions of ASTM F1967–24, *Standard Consumer Safety Specification for Infant Bath Seats*, approved June 1, 2024. The Director of

the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at www.astm.org/READINGLIBRARY/. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: (610) 832–9500; www.astm.org. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479; email: cpsc-os@cpsc.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–23211 Filed 10–8–24; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2019–0001]

RIN 1218–AC93

Hazard Communication Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; correction and technical amendment.

SUMMARY: OSHA is correcting several inadvertent errors in its Hazard Communication Standard (HCS) which were published in the **Federal Register** on May 20, 2024. The agency has identified several errors in the regulatory text and appendices to the HCS which pertain to the classification of hazardous chemicals and information presented on labels and Safety Data

Sheets (SDSs). The agency believes these errors, although minor and primarily typographical in nature, should be addressed expeditiously to avoid confusion or unnecessary costs in the regulated community due to incorporation of errors on labels and SDSs. OSHA is continuing its review of the regulatory text and will issue another correction document to address additional minor errors at a later date.

DATES: October 9, 2024.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

For general and technical information: Tiffany DeFoe, Director, Office of Chemical Hazards, Metals, Directorate of Standards and Guidance, OSHA, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; email defoe.tiffany@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

On May 20, 2024, OSHA published a final rule updating and revising its Hazard Communication Standard (HCS) (89 FR 44144). The final rule became effective on July 19, 2024. This document corrects several minor errors in the final rule. The errors addressed by this correction occur in § 1910.1200, paragraphs (d) and (f) of the regulatory text and in appendices A, B, and C. These corrections reflect the agency's intent for the provisions of the final rule as explained in the preamble to the final rule. Some of these corrections are explained in the following discussion, and the table provided at the end of this section summarizes all the corrections included in this notice.

Two of the corrections are to the regulatory text. First, OSHA inadvertently mis-numbered portions of paragraph (d) in the final rule, resulting in erroneous cross-references in other areas of the standard (*e.g.*, paragraph (f)(1) and appendix D, table D.–1). As shown in OSHA's references to paragraph (d) in the preamble to the final rule, the final economic analysis, and cross references in the regulatory

text and appendix D, OSHA intended paragraphs (d)(1)(i)(A) and (d)(1)(i)(B) to be designated (d)(1)(i) and (d)(1)(ii), respectively (see, *e.g.*, 89 FR 44278). To ensure that the regulatory text is clear and consistent with the agency's intent, OSHA is rearranging and renumbering paragraph (d)(1) by incorporating the text currently designated as (d)(1)(ii) into (d)(1) and renumbering the provisions currently designated as (d)(1)(i)(A) and (d)(1)(i)(B) to (d)(1)(i) and (d)(1)(ii), respectively.

Second, a phrase regarding transmission of labels by electronic or other technological means was inadvertently included in paragraph (f)(11). As OSHA's discussion in the preamble of the final rule shows (89 FR 44293), the agency did not intend to include this phrase in paragraph (f)(11) and is therefore removing it.

The remainder of the errors corrected in this document are in the appendices. For instance, in appendix B, the contents of table B.13.1 were inadvertently placed as table B.12.1. OSHA only intended to change table B.12.1 as described in the preamble to the final rule (89 FR 44236). Therefore, the agency is correcting the text of table B.12.1 to align with what it proposed and stated it was finalizing in the preamble.

Additionally, OSHA inadvertently inserted hazard statements for aerosols instead of hazard statements for chemical under pressure in appendix C, table C.4.16. Therefore, OSHA is updating the label elements in C.4.16, Chemical Under Pressure, to conform with the GHS, Rev. 8, consistent with the agency's discussion of its intent to add the hazard communication elements for chemical under pressure (under the aerosol hazard class) in the summary and explanation to the final rule (89 FR 44323–44324). OSHA is also removing extra slashes that were inadvertently inserted in the prevention column of that table.

Correction Summary

The following table contains a summary of the corrections being made to the Hazard Communication Standard. The changes are listed by the paragraph or appendix they are located in.

Standard	Correction or technical amendment
§ 1910.1200, paragraph (d)(1)	Change paragraph (d)(1)(i) to paragraph (d)(1) and incorporate (d)(1)(ii) into (d)(1); renumber (d)(1)(i)(A) to be (d)(1)(i) and (d)(1)(i)(B) to be (d)(1)(ii).
§ 1910.1200, paragraph (f)(11)(i)	Remove the words “either” and “or, with the agreement of the receiving entity, transmit the labels by electronic or other technological means” in the last phrase of (f)(11)(i).
§ 1910.1200, appendix A, table A.1.1.	Dermal Category 1 value of “≤5” is corrected to read “≤50”.
§ 1910.1200, appendix A, A.1.3.6.2.4.	Change the symbol before the 10% in the second sentence of A.1.3.6.2.4 from ≤ (less than or equal to) to > (greater than).

Standard	Correction or technical amendment
§ 1910.1200, appendix A, table A.2.2.	Rename the table to “Skin irritant category” and reinsert phrase “least 2 animals, particularly taking into account alopecia (limited area), hyperkeratosis, hyperplasia . . .” into the paragraph.
§ 1910.1200, appendix A, table A.2.3.	Reinsert phrase “data are available and” into “Where data are available and the sub-categories of skin . . .” in the text of the note to the table.
§ 1910.1200, appendix A, table A.7.1.	Category 1, Category 2, and additional category for effects on or via lactation reproductive toxicity values of “≥0.01%” are corrected to read “≥0.1%.”
§ 1910.1200, appendix B, table B.3.1.	Add “or” after the first condition under category 3, to read “(1) The chemical does not meet the criteria for Categories 1 and 2; or”.
§ 1910.1200, appendix B, table B.12.1.	Replace table with the prior version of table B.12.1 apart from also removing “equal to or” from Category 3.
§ 1910.1200, appendix C, C.4.16 ...	Remove “/” in all locations in prevention column of all C.4.16 tables. Replace the tables for Chemical Under Pressure in C.4.16 to align with GHS Revision 8 hazard statements. For Category 1, revise hazard statement to read: “Extremely flammable chemical under pressure. May explode if heated.” For Category 2, revise hazard statement to read: “Flammable chemical under pressure. May explode if heated.” For Category 3, revise hazard statement to read: “Chemical under pressure: may explode if heated.”

II. Exemption From Notice-and-Comment Procedures

OSHA has determined that these corrections are not subject to the procedures for public notice and comment specified in section 4 of the Administrative Procedures Act (5 U.S.C. 553) or section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)). This rulemaking only corrects errors of a minor, mainly typographical nature and makes a few technical amendments that do not affect or change any existing rights or obligations, and no stakeholder is likely to object to these changes. Therefore, OSHA has determined that there is good cause that public notice and comment are unnecessary within the meaning of 5 U.S.C. 553(b)(4)(B), 29 U.S.C. 655(b), and 29 CFR 1911.5. For the same reasons, the Agency finds good cause under 5 U.S.C. 553(d)(3) to make the amendment effective upon publication.

List of Subjects in 29 CFR Part 1910

Chemicals, Diseases, Explosives, Flammable materials, Gases, Hazardous substances, Incorporation by reference, Labeling, Occupational safety and health, Safety, Signs and symbols.

Accordingly, 29 CFR part 1910 is corrected by making the following correcting amendments:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

■ 1. Add authority citation for part 1910 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 08–2020 (85 FR 58393); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

- 2. Amend § 1910.1200 as follows:
- a. Revise and republish paragraphs (d)(1) and (f)(11)(i);
- b. In appendix A, revise and republish table A.1.1, paragraph A.1.3.6.2.4, table A.2.2, table A.2.3 and table A.7.1;
- c. In appendix B, revise and republish table B.3.1 and table B.12.1; and
- d. In appendix C, revise and republish table C.4.16;

The revisions read as follows:

§ 1910.1200 Hazard communication.

(d)(1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to classify the chemicals in accordance with this section. Employers are not required to classify chemicals unless they choose not to rely on the classification performed by the chemical manufacturer or importer for the chemical to satisfy this paragraph (d)(1). For each chemical, the chemical manufacturer or importer shall determine the hazard classes, and where appropriate, the category of each class that apply to the chemical being classified. The hazard classification

shall include any hazards associated with the chemical’s intrinsic properties including:

- (i) A change in the chemical’s physical form; and
- (ii) Chemical reaction products associated with known or reasonably anticipated uses or applications.

* * * * *
(f) * * *

(11) *Label updates.* (i) Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical shall revise the labels for the chemical within six months of becoming aware of the new information and shall ensure that labels on containers of hazardous chemicals shipped after that time contain the new information. For chemicals that have been released for shipment and are awaiting future distribution, chemical manufacturers, importers, distributors, or employers have the option not to relabel those containers; however, if they do not relabel the containers, they must provide the updated label for each individual container with each shipment.

* * * * *
Appendix A to § 1910.1200—Health Hazard Criteria (Mandatory)

* * * * *

TABLE A.1.1—ACUTE TOXICITY ESTIMATE (ATE) VALUES AND CRITERIA FOR ACUTE TOXICITY HAZARD CATEGORIES

Exposure route	Category 1	Category 2	Category 3	Category 4
Oral (mg/kg bodyweight) see: Note (a) Note (b)	ATE ≤ 5	>5 ATE ≤ 50	>50 ATE ≤ 300	>300 ATE ≤ 2000
Dermal (mg/kg bodyweight) see: Note (a)	ATE ≤ 50	>50 ATE ≤ 200	>200 ATE ≤ 1000	>1000 ATE ≤ 2000

TABLE A.1.1—ACUTE TOXICITY ESTIMATE (ATE) VALUES AND CRITERIA FOR ACUTE TOXICITY HAZARD CATEGORIES—Continued

Exposure route	Category 1	Category 2	Category 3	Category 4
<i>Note (b)</i> Inhalation—Gases (ppmV) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i>	ATE ≤ 100	>100 ATE ≤ 500	>500 ATE ≤ 2500	>2500 ATE ≤ 20000
Inhalation—Vapors (mg/l) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i> <i>Note (d)</i>	ATE ≤ 0.5	>0.5 ATE ≤ 2.0	>2.0 ATE ≤ 10.0	>10.0 ATE ≤ 20.0
Inhalation—Dusts and Mists (mg/l) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i>	ATE ≤ 0.05	>0.05 ATE ≤ 0.5	>0.5 ATE ≤ 1.0	>1.0 ATE ≤ 5.0

Note: Gas concentrations are expressed in parts per million per volume (ppmV).

Notes to table A.1.1:

- (a) The acute toxicity estimate (ATE) for the classification of a substance is derived using the LD50/LC50 where available;
- (b) The acute toxicity estimate (ATE) for the classification of a substance or ingredient in a mixture is derived using:
- the LD₅₀/LC₅₀ where available. Otherwise,
 - the appropriate conversion value from table 1.2 that relates to the results of a range test, or
 - the appropriate conversion value from table 1.2 that relates to a classification category;
- (c) Inhalation cut-off values in the table are based on 4 hour testing exposures. Conversion of existing inhalation toxicity data which has been generated according to 1 hour exposure is achieved by dividing by a factor of 2 for gases and vapors and 4 for dusts and mists;
- (d) For some substances the test atmosphere will be a vapor which consists of a combination of liquid and gaseous phases. For other substances the test atmosphere may consist of a vapor which is nearly all the gaseous phase. In these latter cases, classification is based on ppmV as follows: Category 1 (100 ppmV), Category 2 (500 ppmV), Category 3 (2500 ppmV), Category 4 (20000 ppmV).
- The terms “dust”, “mist” and “vapor” are defined as follows:
- Dust: solid particles of a substance or mixture suspended in a gas (usually air);
 - Mist: liquid droplets of a substance or mixture suspended in a gas (usually air);
 - Vapor: the gaseous form of a substance or mixture released from its liquid or solid state.

* * * * *

A.1.3.6.2.4 If the total concentration of the relevant ingredient(s) with unknown acute toxicity is ≤10% then the formula presented in A.1.3.6.1 must be used. If the total concentration of the

relevant ingredient(s) with unknown acute toxicity is >10%, the formula presented in A.1.3.6.1 is corrected to adjust for the percentage of the unknown ingredient(s) as follows:

$$\frac{100 - (\sum C_{\text{unknown}} \text{ if } > 10\%)}{\text{ATE}_{\text{mix}}} = \sum \frac{C_i}{n \text{ ATE}_i}$$

* * * * *

TABLE A.2.2—SKIN IRRITATION CATEGORY ^a

	Criteria
Irritant (Category 2)	(1) Mean score of ≥2.3 ≤ 4.0 for erythema/eschar or for edema in at least 2 of 3 tested animals from grading at 24, 48, and 72 hours after patch removal or, if reactions are delayed, from grades on 3 consecutive days after the onset of skin reactions; or (2) Inflammation that persists to the end of the observation period normally 14 days in a least 2 animals, particularly taking into account alopecia (limited area), hyperkeratosis, hyperplasia, and scaling; or (3) In some cases where there is pronounced variability of response among animals, with very distinctive positive effects related to chemical exposure in a single animal but less than the criteria above.

^a Grading criteria are understood as described in OECD Test Guideline 404.

* * * * *

TABLE A.2.3—CONCENTRATION OF INGREDIENTS OF A MIXTURE CLASSIFIED AS SKIN CATEGORY 1 OR 2 THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS HAZARDOUS TO SKIN (CATEGORY 1 OR 2)

Sum of ingredients classified as:	Concentration triggering classification of a mixture as:	
	Skin corrosive	Skin irritant
	Category 1	Category 2
Skin Category 1	≥5%	≥1% but <5%
Skin Category 2		≥10%

TABLE A.2.3—CONCENTRATION OF INGREDIENTS OF A MIXTURE CLASSIFIED AS SKIN CATEGORY 1 OR 2 THAT WOULD TRIGGER CLASSIFICATION OF THE MIXTURE AS HAZARDOUS TO SKIN (CATEGORY 1 OR 2)—Continued

Sum of ingredients classified as:	Concentration triggering classification of a mixture as:	
	Skin corrosive	Skin irritant
	Category 1	Category 2
(10 × Skin Category 1) + Skin Category 2		≥10%

Note: Where data are available and the sub-categories of skin Category 1 (corrosive) are used, the sum of all ingredients of a mixture classified as sub-category 1A, 1B or 1C respectively, must each be ≥5% in order to classify the mixture as either skin sub-category 1A, 1B or 1C. Where the sum of 1A ingredients is <5% but the sum of 1A+1B ingredients is ≥5%, the mixture must be classified as sub-category 1B. Similarly, where the sum of 1A + 1B ingredients is <5% but the sum of 1A + 1B + 1C ingredients is ≥5% the mixture must be classified as sub-category 1C. Where at least one relevant ingredient in a mixture is classified as Category 1 without sub-categorization, the mixture must be classified as Category 1 without sub-categorization if the sum of all ingredients corrosive to skin is ≥5%.

* * * * *

TABLE A.7.1—CUT-OFF VALUES/CONCENTRATION LIMITS OF INGREDIENTS OF A MIXTURE CLASSIFIED AS REPRODUCTIVE TOXICANTS OR FOR EFFECTS ON OR VIA LACTATION THAT TRIGGER CLASSIFICATION OF THE MIXTURE

Ingredients classified as:	Cut-off values/concentration limits triggering classification of a mixture as:		
	Category 1 reproductive toxicant	Category 2 reproductive toxicant	Additional category for effects on or via lactation
Category 1 reproductive toxicant	≥0.1%	.....	.....
Category 2 reproductive toxicant .....	.....	≥0.1%	.....
Additional category for effects on or via lactation .....	.....	.....	≥0.1%

* * * * *

Appendix B to § 1910.1200—Physical Hazard Criteria (Mandatory)

* * * * *

TABLE B.3.1—CRITERIA FOR AEROSOLS

Category	Criteria
1	Contains ≥85% flammable components and the chemical heat of combustion is ≥30 kJ/g; or For spray aerosols, in the ignition distance test, ignition occurs at a distance ≥75 cm (29.5 in), or For foam aerosols, in the aerosol foam flammability test The flame height is ≥20 cm (7.87 in) and the flame duration ≥2 s; or The flame height is ≥4 cm (1.57 in) and the flame duration ≥7 s.
2	Contains >1% flammable components, or the heat of combustion is ≥20 kJ/g; and for spray aerosols, in the ignition distance test, ignition occurs at a distance ≥15 cm (5.9 in), or in the enclosed space ignition test, the Time equivalent is ≤300 s/m ³ ; or Deflagration density is ≤300 g/m ³ . For foam aerosols, in the aerosol foam flammability test, the flame height is ≥4 cm and the flame duration is ≥2 s and it does not meet the criteria for Category 1.
3	(1) The chemical does not meet the criteria for Categories 1 and 2; or (2) The chemical contains ≤1% flammable components (by mass) and has a heat of combustion <20 kJ/g.

Note 1: Flammable components do not include pyrophoric, self-heating or water-reactive chemicals.
Note 2: Aerosols do not fall additionally within the scope of flammable gases, gases under pressure, flammable liquids, or flammable solids. However, depending on their contents, aerosols may fall within the scope of other hazard classes.
Note 3: Aerosols containing more than 1% flammable components or with a heat of combustion of at least 20 kJ/g, which are not submitted to the flammability classification procedures in this appendix shall be classified as Category 1.

* * * * *

TABLE B.12.1—CRITERIA FOR CHEMICALS WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES

Category	Criteria
1	Any chemical which reacts vigorously with water at ambient temperatures and demonstrates generally a tendency for the gas produced to ignite spontaneously, or which reacts readily with water at ambient temperatures such that the rate of evolution of flammable gas is equal to or greater than 10 liters per kilogram of chemical over any one minute.

TABLE B.12.1—CRITERIA FOR CHEMICALS WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES—Continued

Category	Criteria
2	Any chemical which reacts readily with water at ambient temperatures such that the maximum rate of evolution of flammable gas is equal to or greater than 20 liters per kilogram of chemical per hour, and which does not meet the criteria for Category 1.
3	Any chemical which reacts slowly with water at ambient temperatures such that the maximum rate of evolution of flammable gas is greater than 1 liter per kilogram of chemical per hour, and which does not meet the criteria for Categories 1 and 2.

Note: Classification of solid chemicals shall be based on tests performed on the chemical as presented. If, for example, for the purposes of supply or transport, the same chemical is to be presented in a physical form different from that which was tested and which is considered likely to materially alter its performance in a classification test, classification must be based on testing of the chemical in the new form.

* * * * *

Appendix C to § 1910.1200—Allocation
of Label Elements (Mandatory)

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C.4.16 AEROSOLS

(Classified in Accordance with Appendix B.3 of this section)

Hazard category	Signal word	Hazard statement	Pictogram
			Flame
1	Danger	Extremely flammable aerosol Pressurized container: may burst if heated.	
2	Warning	Flammable aerosol Pressurized container: may burst if heated.	

Precautionary statements			
Prevention	Response	Storage	Disposal
Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking. Do not spray on an open flame or other ignition source. Do not pierce or burn, even after use.		Protect from sunlight. Do not expose to temperatures exceeding 122 °F (50 °C).	

C.4.16 AEROSOLS

(Classified in Accordance with Appendix B.3.1 of this section)

Pictogram

No symbol

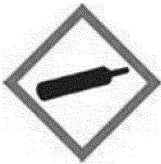
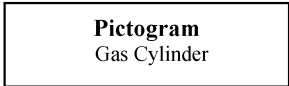
Hazard category	Signal word	Hazard statement
3	Warning	Pressurized container: may burst if heated.

Precautionary statements			
Prevention	Response	Storage	Disposal
Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking. Do not pierce or burn, even after use.		Protect from sunlight. Do not expose to temperatures exceeding 122°F (50 °C).	

C.4.16 CHEMICAL UNDER PRESSURE
(Classified in Accordance with Appendix B.3.2 of this section)

			Pictogram Gas Cylinder and Flame
Hazard category	Signal word	Hazard statement	
1	Danger	Extremely flammable chemical under pressure May explode if heated.	
2	Warning	Flammable chemical under pressure May explode if heated.	
Precautionary statements			
Prevention	Response	Storage	Disposal
Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking. Do not spray on an open flame or other ignition source.	In case of leakage, eliminate all ignition sources. Stop leak if safe to do so.	Protect from sunlight. Store in a well-ventilated place.	

C.4.16 CHEMICAL UNDER PRESSURE
(Classified in Accordance with Appendix B.3.2 of this section)



[[Hazard category	Signal word	Hazard statement
3	Warning	Chemical under pressure: may explode if heated.

Precautionary statements			
Prevention	Response	Storage	Disposal
Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking.	Stop leak if safe to do so.	Protect from sunlight. Store in a well-ventilated place.	

* * * * *

III. Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this document. 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, 657); 5 U.S.C. 553; Section 304, Clean Air Act Amendments of 1990 (Pub. L. 101–549, reprinted at 29 U.S.C.A. 655 Note); Section 41, Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 941); Section 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 3704); Section 1031, Housing and Community Development Act of 1992 (42 U.S.C. 4853); Section 126, Superfund Amendments and Reauthorization Act of 1986, as amended (reprinted at 29 U.S.C.A. 655 Note); Secretary of Labor’s Order No. 8–2020 (85 FR 58393–94); and 29 CFR part 1911.

Signed at Washington, DC, on September 30, 2024.

Douglas L. Parker,
Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024–23144 Filed 10–8–24; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety
Administration

49 CFR Part 571

[Docket No. NHTSA–2024–0058]

RIN 2127–AM64

Federal Motor Vehicle Safety
Standards; FMVSS No. 213, “Child
Restraint Systems,” FMVSS No. 213a,
“Child Restraint Systems—Side Impact
Protection,” and FMVSS No. 213b,
“Child Restraint Systems”—Response
to Petitions for Reconsideration

AGENCY: National Highway Traffic
Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Final rule; response to petitions
for reconsideration.

SUMMARY: This final rule responds to petitions for reconsideration of the June 2022 final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 213a and the December 2023 final rule establishing FMVSS No. 213b. This final rule grants petitions to incorporate a dummy positioning procedure for shield-type child restraint systems (CRSs), clarify test procedure for CRSs with certain types of side impact technologies, remove testing CRSs installed with lap belt only in frontal sled tests, and correct inconsistencies in the regulatory text and figures in FMVSS Nos. 213a and 213b. This final rule also partially grants the petition to

align compliance dates between the standards. All other requests are denied.

DATES:

Effective date: November 8, 2024.

Reconsideration date: If you wish to petition for reconsideration of this rule, your petition must be received by November 25, 2024.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Note that all petitions received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a submission containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512). Please see further information in

the Regulatory Notices and Analyses section of this preamble.

Privacy Act: The petition will be placed in the docket. Anyone can search the electronic form of all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>.

Docket: For access to the docket to read background documents, go to www.regulations.gov, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call Cristina Echemendia, Office of Crashworthiness Standards (telephone: (202) 366–6345). For legal issues, you may call Matthew Filpi, Office of Chief Counsel (telephone: (202) 366–2992). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

II. Petitions for Reconsideration (FMVSS No. 213a) and Agency Response

- a. Dynamic Test Procedure for CRSs With Fixed, Adjustable and Configurable Side Impact Technologies
- b. Arm Positioning for CRSs With a Fixed or Movable Surface To Restrain the Child in FMVSS No. 213a
- c. Side Impact Seat Assembly Mounting Angle Tolerance Correction
- d. Fix Inconsistent Units for Radius and Protrusion Limits in FMVSS Nos. 213, 213a and 213b
- e. Removing “At NHTSA’s Option” Phrase in S6.1.2
- f. Removing 45 Degree CRS Angle at Completion of Test Requirement
- g. Correcting Error on Table 1 to S5.1.6
- h. Clarifications

III. Petitions for Reconsideration (FMVSS Nos. 213 and 213b) and Agency Response

- a. Aligning Compliance Dates
- b. Removing Type 1 Seat Belt Testing or Changing Sunset Date
- c. Unit Conversion Consistency
- d. Remove Duplicative Language
- e. Registration Card Guidelines

IV. Correction to Regulatory Text

V. Costs and Benefits

VI. Compliance Date and Effective Date

VII. Regulatory Analyses and Notices

I. Executive Summary

On June 30, 2022, NHTSA published a final rule (side impact final rule) (87 FR 39234) amending FMVSS No. 213, “Child restraint systems,” to establish side impact performance requirements for CRSs designed to seat children weighing up to 18.1 kilograms (kg) (40 pounds (lbs)), or for children in a height range that includes heights up to 1100 millimeters (43.3 inches). The side impact performance requirements were established in the new FMVSS No. 213a, “Child restraint systems—side impact protection,” which is referenced by Standard No. 213.

On December 5, 2023, NHTSA published a final rule (frontal test upgrade final rule) (88 FR 84514) amending FMVSS No. 213 and adding FMVSS No. 213b, “Child restraint systems.” The amendments to FMVSS No. 213 modernize the standard by updating the CRS owner registration program, labeling requirements instructing consumers on correct use of child restraints, requirements for add-on school bus-specific child restraint systems, and provisions for NHTSA’s use of test dummies in NHTSA compliance tests. The establishment of FMVSS No. 213b will update the standard seat assembly on which NHTSA tests child restraint systems for compliance with frontal crash performance requirements.

NHTSA received petitions for reconsideration of the side impact final rule,¹ from Columbus Trading-Partners USA, Inc. (Cybex products distributor) and Evenflo (Goodbaby International subsidiary) Inc. (Evenflo). NHTSA received petitions for reconsideration² of the frontal test upgrade final rule from Juvenile Products Manufacturers Association (JPMA) and Evenflo.

The petitioners to the side impact final rule requested clarifications on dummy positioning test procedures for shield-type CRSs and on test procedures for CRSs that have adjustable and configurable technologies for side impact. The petitioners also requested minor corrections to the regulatory text of the adopted standard. NHTSA is granting the petitions to incorporate a dummy positioning procedure for shield-type CRSs, correct inconsistencies in the side impact seat assembly mounting angle tolerances in the regulatory text and figures, and correct inconsistent units between the

standards. NHTSA is denying the remaining requests from the two petitioners.

The petitioners to the frontal test upgrade final rule requested the following: (1) consolidations of the compliance dates³ of FMVSS Nos. 213, 213a and 213b, (2) removal of tests with CRS installation using Type 1 seat belt or an earlier sunset date for testing CRSs installed with the Type 1 seat belt, (3) minor corrections to the regulatory text of the adopted standards, and, (4) guidance on the new requirements for the registration card. NHTSA is partially granting the request to align the compliance dates and granting the request to remove Type 1 seat belt testing. NHTSA is also making minor corrections to the regulatory text identified by the petitioners. The agency is denying the request for rulemaking to provide guidance on the new registration card requirements.

II. Petitions for Reconsideration (FMVSS No. 213a) and Agency Responses

a. Dynamic Test Procedure for CRSs With Fixed, Adjustable, and Configurable Side Impact Technologies

Cybex requested NHTSA clarify how fixed, adjustable, and configurable side impact technologies will be tested in future annual compliance test programs. Cybex explained that previous NHTSA interpretations have deemed “belt tensioning bars, additional straps and support legs” as supplemental devices. Cybex further noted that supplemental devices are not used during compliance testing per the specifications in S6.1.2 of FMVSS No. 213 that no supplemental devices be used to install CRSs.

Cybex explained that neither the dynamic test procedure nor past interpretations Cybex reviewed provide guidance on other aspects of adjusting or use of a child restraint beyond S6.1.2. This section of the standard requires CRS installation in accordance with manufacturer’s instructions provided with the CRS.

Cybex asked NHTSA for clarification on (1) whether an adjustment specified in the manufacturer’s instruction is allowed to be made prior to or after securing the CRS to the side impact seat assembly (SISA), and (2) whether an adjustment of a technology that is part of the CRS is allowed to be made prior to testing according to this supplemental device requirement.

Agency Response: NHTSA is denying Cybex’s petition to provide informal guidance on the testing procedure

¹ Petitions have been docketed here: <https://www.regulations.gov/document/NHTSA-2022-0051-0004>.

² Petitions have been docketed here: <https://www.regulations.gov/document/NHTSA-2023-0040-0003>.

³ The compliance date is the date that the applicable products must comply with the rule.

outlined in FMVSS No. 213a. Under 49 CFR 553.35, petitions for reconsideration must contain a brief statement of the complaint and an explanation why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. We do not believe that Cybex has met its burden of explaining why the FMVSS No. 213a test procedure is not practicable, is unreasonable, or is not in the public interest. Instead, Cybex's petition simply requests guidance on how NHTSA would test CRSs under FMVSS No. 213a. NHTSA does not provide informal guidance in responses to petitions for reconsideration.

Although we will not be providing guidance on how FMVSS No. 213a's test procedures apply to the adjustable side impact technology discussed by Cybex, we do think this issue is worth addressing. Instead of addressing it here in the form of guidance, we plan to initiate a rulemaking on this issue. FMVSS No. 213a is new requirement that does not take effect until June of 2025. Accordingly, when NHTSA published its Notice of Proposed Rulemaking (NPRM) in 2014 proposing side impact protection requirements for child restraint systems, the agency could not predict how child restraint manufacturers would choose to comply with the standard. Additionally, no commenters discussed this technology during the NPRM stage. NHTSA conducted rigorous testing to ensure that the requirements of FMVSS No. 213a were practicable, but as is the case with many of our standards, manufacturers innovate to meet the requirements of our standards. This is the case with the adjustable side impact technology Cybex discusses in its petition for reconsideration. Accordingly, the agency could not have considered how to test with this technology since it did not exist when the requirements were proposed and how popular these designs would become.

Because the agency has limited test experience with adjustable side impact technology, we cannot yet speak to any safety benefits associated with it. The agency plans to continue its research and testing to determine if and how FMVSS No. 213a should be amended to accommodate for this technology. The agency also plans to consider potential misuse and how restraints with this technology perform under the test procedures outlined in FMVSS No. 213a with and without the technology deployed.

For the reasons discussed above, NHTSA is denying Cybex's request to provide guidance on how FMVSS No.

213a's test procedures apply to deployable side impact technology.

b. Arm Positioning for CRSs With a Fixed or Movable Surface To Restrain the Child in FMVSS No. 213a

Cybex noted that the current FMVSS No. 213 allows the use of a forward restraining surface (e.g., shield) in lieu of a harness. However, Cybex states the side impact final rule did not consider CRSs that use a forward restraining surface. Cybex argued that the 25-degree dummy arm positioning required in the new FMVSS No. 213a standard could not be met in forward facing CRSs with restraining surfaces. Accordingly, Cybex requested clarification regarding test dummy arm positioning for CRSs with restraining surfaces. Cybex also asked whether placing the dummy's arm above the forward restraining surface would be considered as "inhibiting the torso or head movement." Cybex noted that if this interaction is considered as "inhibiting the torso or head movement," it requested clarification on the allowable limb position.⁴

Agency Response: NHTSA is granting Cybex's request to specify arm placement in FMVSS No. 213a testing for shield-type CRSs where the arm cannot be placed at a 25-degree angle. As background, FMVSS No. 213a specifies a procedure in S9.2(d) and S9.3(d) to position the Q3s dummy's arm in CRSs that can be used forward-facing and/or rear-facing. The arm is rotated downwards in the plane parallel to the dummy's midsagittal plane until the arm engages the Q3s detent that positions the arm at a 25-degree angle with respect to the thorax. However, some CRS designs equipped with a fixed or movable surface⁵ that restrain the dummy⁶ may prevent the arm from engaging the detent to position the arm at a 25-degree angle with respect to the thorax.

Section 10.2.2(d) of FMVSS Nos. 213 and 213b specifies positioning the arm of dummies by rotating the limb downwards in the plane parallel to the dummy's midsagittal plane until the limb contacts a surface of the CRS or the standard seat assembly. This test procedure applies to all the dummies used in FMVSS Nos. 213 and 213b. The procedure provides for consistent positioning of the dummy's arms for all

CRSs, including the ones equipped with a fixed or movable surface that restrain the child in FMVSS No. 213.

In response to Cybex's petition, NHTSA is specifying use of the FMVSS Nos. 213 and 213b arm positioning procedure for the Q3s dummy in FMVSS No. 213a for those CRSs equipped with a fixed or movable surface that restrain the child and in which the specified 25-degree arm angle cannot be reached. The 25-degree angle is specified for side impact testing, positioning the arm to expose the thorax to directly contact the intruding door or CRS side structure. This arm positioning procedure produces a more repeatable test. Utilizing the FMVSS Nos. 213 and 213b arm positioning procedure for positioning the Q3s dummy in FMVSS No. 213a will still achieve NHTSA's goal to position the arm in a manner that exposes the thorax so that it directly contacts the intruding door or CRS side structure during 213a testing. An arm positioned at a 25-degree angle or (slightly) higher would likely not be considered to "inhibit the torso or head movement."⁷

c. Side Impact Seat Assembly Mounting Angle Tolerance Correction

FMVSS No. 213a adopted requirements to attach the SISA to the sled test platform so the Seat Orientation Reference Line (SORL)⁸ of the seat is at a 10-degree angle counter-clockwise from the perpendicular to the travel direction of the test platform. Evenflo noted that the regulatory text has a discrepancy in the angle tolerance specified in S6.1.1(a)(1) and Figure 2A. Section 6.1.1(a)(1) specifies the SISA is mounted on a dynamic test platform so that the SORL is 10 ±0.1 degrees from the perpendicular direction of the test platform travel. Figure 2A specifies this angle to be 10 ±1 degrees. Evenflo requested clarification on the discrepancy between the text and the drawing.

Agency Response: The ±0.1 tolerance of the SISA mounting angle specified in S6.1.1(a)(1) is incorrect. NHTSA is granting Evenflo's petition to correct the discrepancy in the mounting angle tolerance between S6.1.1(a)(1) and Figure 2A. NHTSA is specifying the

⁴ Cybex provided a picture of a shield-type CRS with a dummy to exemplify. The petition can be found at Docket No. NHTSA-2022-0051-0004.

⁵ Fixed or movable CRS surfaces are described in S5.2.2.2 of FMVSS No. 213 and S5.2.2.2 of FMVSS No. 213b.

⁶ There are no CRSs with a fixed or movable surface that restrain the child in the U.S. market currently.

⁷ If the CRS design results in a Q3s dummy arm position high enough that it interacts with the head (inhibiting head movement) during testing, the CRS design may need to be changed to prevent this from happening. NHTSA does not expect the arm position to be high enough to interact with the dummy's head in known shield-type CRSs. But NHTSA will evaluate this issue on a case-by-case basis.

⁸ Seat orientation reference line or *SORL* means the horizontal line through Point Z as illustrated in Figure 1 to § 571.213a.

correct tolerance in S6.1.1(a)(1) so that it indicates an angle of 10 ± 1 degrees, making it consistent with Figure 2A.

d. Fix Inconsistent Units for Radius and Protrusion Limits in FMVSS Nos. 213, 213b and 213a

Evenflo requested NHTSA specify the protrusion dimensions requirements existing in both FMVSS No. 213 and 213a in the same units. Evenflo noted that FMVSS No. 213 uses inches while FMVSS No. 213a uses millimeters. Evenflo argued that this discrepancy can lead to confusion in application and interpretation of the standard.

Agency Response: NHTSA agrees that the units for the same protrusion dimension requirements should be the same in FMVSS Nos. 213 (S5.1.1(a) and S5.2.4), 213a (S5.1.1(a) and S5.1.4) and 213b (S5.1.1(a) and S5.2.4). NHTSA is granting this petition and will change the units of FMVSS No. 213 and 213b to millimeters to be consistent with FMVSS No. 213a.

e. Removing “at NHTSA’s Option” Phrase in S6.1.2

Evenflo sought clarification regarding the phrase “at NHTSA’s option” in the FMVSS No. 213b Dynamic Test Procedure section (S6.1.2). Evenflo explained that the section is followed by test procedures with each of the attachment methods. Evenflo added that none of the attachments are optional for a manufacturer when it is certifying compliance with FMVSS Nos. 213 and 213a. Evenflo argued that if “at NHTSA’s option” refers to test options available to NHTSA as part of its annual test compliance program, then the language is more appropriate for test procedures and not in the regulation.

Agency Response: NHTSA is denying Evenflo’s petition to remove the phrase “at NHTSA’s option” from the regulatory text. This phrase is included to make clear that NHTSA may conduct the compliance test with a CRS attached in any or all of its attachment modes. NHTSA notes that the agency’s safety standards specify the test conditions and procedures that the agency will use to evaluate the performance of the vehicle or equipment (such as CRSs) being tested for compliance to the safety standard. While manufacturers are required to certify their products meet the requirements of FMVSS No. 213 when tested in accordance with the standard and exercise due care in doing so, they are not specifically required to test their CRSs the way NHTSA tests child restraints in a compliance test.

f. Removing 45 Degrees CRS Angle at Completion of Test Requirement

Evenflo questioned whether the requirement in S5.1.1 (c) that does not allow the angle between the system’s back support for the child and the system’s seating surface to be less than 45 degrees at the completion of the test is needed as it is already required in the FMVSS No. 213 frontal dynamic test. Evenflo also argued that the frontal force (fore/aft vehicle direction) component⁹ in the side impact test is small compared to the side (lateral vehicle direction) component, and, small compared to the frontal component of the frontal crash in FMVSS No. 213.

Agency Response: NHTSA is denying this petition, and will retain the S5.1.1 (c) requirement. While the side impact test has a small longitudinal component, NHTSA believes this requirement will ensure CRS integrity in a broader range of crash environments. While the agency has not seen any CRSs fail to meet this requirement during our testing, the CRS market is constantly evolving, with manufacturers introducing new designs into the market every year. This requirement will ensure that future designs perform adequately in a side impact crash as well as a frontal crash.

g. Correcting Error on Table 1 in Paragraph S5.1.6

Evenflo commented that Table 1 in paragraph S5.1.6 (installation) does not match the means of installation indicated in S6.1.2.

Agency Response: After reviewing the table example Evenflo showed in its petition, we note that the table in Evenflo’s petition was taken from the web version of the June 2022 final rule in the docket system,¹⁰ and the web version had a formatting error. However, the June 2022 final rule in the **Federal Register**¹¹ and the electronic Code of

⁹ The sled test forces acting upon a CRS can be represented as a 3-dimensional force vector. The portion of that force vector that is parallel to the fore/aft (frontal) “vehicle” direction is the frontal component of the force vector. The FMVSS No. 213a sliding seat test fixture (representing the vehicle seat) is at a 10 degree angle to the sled’s direction of travel during the test. Defining test forces based upon a coordinate system fixed to the seat fixture, there are frontal, lateral, and vertical components to the forces.

¹⁰ www.regulations.gov.

¹¹ Web Version: <https://www.federalregister.gov/documents/2022/06/30/2022-13658/federal-motor-vehicle-safety-standards-child-restraint-systems-child-restraint-systems-side-impact> PDF Version: <https://www.govinfo.gov/content/pkg/FR-2022-06-30/pdf/2022-13658.pdf>.

Federal Regulations¹² display the correct table. Since receiving Evenflo’s comment, the docket system has corrected the table formatting and now displays the correct table.

h. Clarifications

Evenflo requested several clarifications regarding the contactable surfaces and protrusion limitation requirements. These clarification requests included:

(1) If materials such as soft goods, padding, energy absorbing materials or elements, or flexible materials are permanently affixed to another component, whether the underlying component is considered contactable.

(2) Whether the portion of the shell that is adjacent to the headrest is considered contactable in CRSs with an adjustable headrest.

(3) Whether a contactable surface varies based on the size of the test dummy or associated with the largest dummy for a given use configuration.

(4) Whether energy absorbing materials integrated to the system’s structures are considered padding and flexible overlay materials and whether they would be removed prior to inspection.

(5) Whether energy absorbing material that is attached with mechanical fasteners (push pins, tape or glue, etc.) is considered padding or part of the structure to be evaluated for the protrusion limitations.

Agency Response: NHTSA is denying Evenflo’s clarifications request. The protrusion limitation requirements in question are not specific to FMVSS No. 213a and have been present in FMVSS No. 213 (S5.2.4) since 1979. The 2014 NPRM proposing the side impact requirements for FMVSS No. 213 (79FR4570) proposed the same existing protrusion limitation requirements. There have been no changes to the protrusion limitation requirements and NHTSA did not receive comments regarding the existing protrusion limitation requirements in the 2014 NPRM proposing side impact requirements for CRS. This requirement was also unchanged during the frontal test upgrade rulemaking, as no proposed changes or comments were received during that rulemaking either. Therefore, this request is out of scope for a petition for reconsideration.

¹² Link to the electronic code of federal regulations: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-571/subpart-B/section-571.213a>.

III. Petitions for Reconsideration (FMVSS Nos. 213 and 213b) and Agency Response

a. Aligning Compliance Dates

One petitioner, JPMA, urged NHTSA to align the required compliance dates for FMVSS No. 213 (December 5, 2024), FMVSS No. 213a (June 30, 2025) and FMVSS No. 213b (December 5, 2026) to avoid unnecessary costs. JPMA argued that the current compliance schedule would result in duplicative efforts regarding “instruction and label revisions, tooling modifications, model testing and certification processes, marketing materials and more, adding unnecessary costs and challenges.” JPMA explained that every modification triggers a change to the Universal Product Code. JPMA stated that such a change results in product histories and customer reviews starting over for new products, which reduces consumer confidence in established products and brands. JPMA stated that these changes also disrupt retailer relationships with changing product models that sometimes result in buybacks of older versions of the products.

JPMA suggested that the compliance date for the changes to the three standards be aligned with the FMVSS No. 213b compliance date (December 5, 2026) to avoid any unnecessary burdens and to minimize costs for manufacturers. As an alternative, JPMA suggested aligning the labeling changes of FMVSS No. 213 and the side impact requirements in FMVSS No. 213a to a December 5, 2025, compliance date. JPMA explained that this date is favorable for the manufacturers to avoid challenges of midyear product changes and would allow them five additional months to work on the new FMVSS No. 213a side impact requirements.

Agency Response: NHTSA is partially granting JPMA’s petition to align the FMVSS Nos. 213, 213a and 213b compliance dates. In the side impact final rule, we discussed that the agency did not see a reason to delay the compliance date of FMVSS No. 213a, or to shorten the lead time for FMVSS No. 213b. The agency explained that making the compliance dates of the two rules coincide had some merit but the consequences of aligning the compliance date of FMVSS No. 213a with that of FMVSS No. 213b would delay the significant safety benefits¹³ of side impact protection and thereby outweigh any such merit.

With the option for early compliance, manufacturers have flexibility in deciding when to meet these updated standards. FMVSS No. 213b test results showed that some current CRS designs already meet performance requirements using the new sled text fixture. CRS manufacturers will have an opportunity for early compliance for their CRS models that need no change or only need small design changes, and if desired, to voluntarily comply with the FMVSS No. 213b requirements by the June 30, 2025, compliance date of FMVSS No. 213a to reduce their burden.

To alleviate some of JPMA’s concerns on duplicative efforts due to the different compliance dates, we are aligning the updates to FMVSS No. 213 from the frontal test upgrade final rule and the side impact final rule to a single compliance date of June 30, 2025. This action partially grants JPMA’s petition. The compliance date alignment will reduce unnecessary burdens through minimization of costs to manufacturers caused by multiple model number changes for a particular CRS design in a short period of time. This change provides an additional 6–7 months for manufacturers to align their labeling and registration card designs and launch them together along with the side impact changes.

One of JPMA’s requests was to align the FMVSS No. 213 and FMVSS No. 213a compliance dates to the December 5, 2025, compliance date for FMVSS No. 213b. As noted earlier, delaying the compliance date of FMVSS No. 213a would delay the significant safety benefits from improved side impact protection afforded to children seated in applicable CRSs. Additionally, delaying the FMVSS No. 213 labeling and registration card changes that were finalized in the December 5, 2023 frontal test upgrade final rule notice by an additional year (December 5, 2025) would delay the safety benefits garnered from these updates.¹⁴ NHTSA is granting a little over 6 months delay in requiring compliance with the labeling and registration updates to reduce manufacturer’s burden of introducing products to the market multiple times. NHTSA believes this approach reduces burden to manufacturers without significantly impacting the realization of benefits from the updated labeling requirements and does not see need to further delay the benefits. Therefore, NHTSA is denying the petition to align

the FMVSS Nos. 213 and 213a compliance date to December 2025.

b. Removing Type 1 Seat Belt Testing or Changing Sunset Date

JPMA expressed concerns with retaining Type 1 belt testing until 2029 without the opportunity for regulatory comment. JPMA claimed that the testing is duplicative considering that CRSs would already be tested with lower anchors and Type 2 belts. JPMA added that NHTSA should consider the time for product validation required by the other changes to FMVSS Nos. 213, 213a and 213b that will require new full evaluations and would delay development of future CRS models.

JPMA argued that the data presented in the side impact final rule where NHTSA estimated “36% of the 2022 light duty vehicle fleet are of model years (MY) 2000–2007 that do not have Type 2 belts in all rear seating positions” is faulty. JPMA noted that in a 2004 final rule (69 FR 70904) amending FMVSS No. 208, “Occupant crash protection,” the agency stated that approximately 77% of the passenger car fleet and 49% of the light truck and van (LTV) fleet had Type 2 belts in the rear center seat. JPMA argued that the data presented showed the sunset date of September 1, 2029, to remove Type 1 seat belt testing, exceeds the objective stated in the final rule of 90 percent of vehicle having Type 2 belts in the rear center seat.

JPMA urged NHTSA to remove the unnecessarily duplicative testing with Type 1 belts to move towards NHTSA’s stated goal of encouraging future CRS designs that take advantage of the shoulder belt portion of the seat belt to reduce excursions or to recalculate the sunset date based on more complete vehicle data.

Agency Response: NHTSA is granting JPMA’s petition to remove Type 1 seat belt CRS (other than harnesses)¹⁵ installation testing in FMVSS No. 213b. Additionally, NHTSA has decided to amend a labeling requirement relating to Type 1 seat belts in FMVSS No. 213 as part of the agency’s response to this petition.

i. Removing Type 1 seat belt CRS installation testing from FMVSS No. 213b. While JPMA pointed to a 2004 final rule (69 FR 70904) where NHTSA indicated that “approximately 77% of the passenger car fleet and 49% of the light truck and van (LTV) fleet had Type 2 belts in the rear center seat,” JPMA is

¹³ The FMVSS No. 213a side impact final rule calculated an annual reduction of 3.7 fatalities and 41 serious non-fatal injuries.

¹⁴ NHTSA estimated potentially 0.7 to 2.3 lives will be saved and 1.0 to 3.5 moderate-to-critical severity injuries prevented annually when all CRSs in the fleet have the updated labels.

¹⁵ Per the December 5, 2023 final rule, harnesses will continue to be tested only with a Type 1 belt. Type 1 belt installation testing for harnesses was not meant to sunset in the final rule.

incorrect in its understanding of that data. We note that this percentage did not reflect the vehicle fleet at the time but instead referred to the percentage of vehicles that provided Type 2 seat belts in model year (MY) 2000 vehicles.¹⁶ However, NHTSA recognizes that the estimates from the December 2023 final rule do not take into account vehicles older than MY 2008 that voluntarily provided Type 2 seat belts; therefore, the agency acknowledges that the estimates of Type 1 availability in the fleet (36 percent) should be reevaluated.

To more accurately calculate the percentage of vehicles in the fleet without Type 2 seat belts, NHTSA calculated this percentage with estimates that include the percentages of vehicles that voluntarily provided Type 2 seat belts in vehicles older than MY 2008 to decide whether the sunset of Type 1 seat belt CRS installation testing should be changed. Model year 2008 vehicles or newer are required to have Type 2 belts in rear center seats, so there would be no Type 1 seat belts in the rear center seating position for those vehicles.

NHTSA used a 2015 study¹⁷ for estimated percentages of vehicles older than MY 2008 with rear center Type 1 seat belts. The study determined 59.9 percent of cars and 71.7 percent of light trucks and vans (LTVs) for MY 2007 and earlier had rear center Type 1 seat belts. NHTSA multiplied those shares by the 2022 total vehicle registrations¹⁸ to estimate the percentage of vehicles that have Type 1 belts in rear center seating positions. NHTSA estimated that 15 percent of the light duty fleet in 2022 had rear center Type 1 seat belts. NHTSA then applied vehicle survivability schedules to estimate future fleet estimates of vehicles with rear center Type 1 seat belts. Estimates show that in 2026, only 9 percent of

vehicles in the fleet are expected to have rear center lap belts.

TABLE 1—REAR CENTER TYPE 1 SEAT BELT AVAILABILITY IN THE VEHICLE FLEET BY YEAR

Year	Rear center lap belt share (%)
2022	15.0
2023	13.4
2024	11.8
2025	10.3
2026	9.0

In the side impact final rule, NHTSA noted that CRS testing with Type 1 seat belt attachment would end when 90 percent of the fleet consists of vehicles with Type 2 seat belts at all rear seating positions.¹⁹ The new estimates show that by the time FMVSS No. 213b becomes mandatory on December 5, 2026, the vehicle fleet would already have 91 percent of vehicles with Type 2 seat belts in all rear seating positions. Therefore, the agency is removing the requirements from FMVSS No. 213b to test CRSs (other than harnesses) with Type 1 seat belt installations. If a manufacturer chooses to comply early with FMVSS No. 213b for a CRS model, that CRS model would not have to be tested with Type 1 seat belt installation.²⁰

ii. Restoring Type 1 seat belt labeling requirements in FMVSS No. 213. In addition to granting JPMA's petition above, NHTSA has also decided to amend FMVSS No. 213's labeling requirements relating to Type 1 seat belts. Specifically, NHTSA is restoring paragraph S5.5.2(l)(2) to its prior

¹⁹ NHTSA stated in the December 2023 final rule that Type 1 seat belt installation tests become less necessary for safety with the continued reduction of the share of older vehicles (older than 2008 MY) having Type 1 belts. The Type 1 seat belt installation tests may be preventing CRS manufacturers from designing lap-shoulder belt paths that may function as a tether. This pseudo-tether would reduce a child's head excursions, reducing injury severities and lowering the fatality risk for a larger portion of the market. Therefore, ending Type 1 seat belt installation tests when 90% of the fleet have Type 2 seat belts at all rear seating positions serves a good balance to further improve child safety.

²⁰ NHTSA expects that if a CRS manufacturer chooses early compliance with FMVSS No. 213b, it would align to the FMVSS No. 213a compliance date (June 2025). For those models, Type 1 seat belt installation would no longer be evaluated. Given the new calculated estimates, the fleet with vehicles having Type 1 seat belts will have reached 10.3%, which is only slightly above the 10% target in the December 2023 final rule. Not all CRS manufacturers will choose to comply early so NHTSA believes this 10.3% is acceptable as this number will continue to decline as 2026 approaches.

version, before the frontal test upgrade final rule was issued.

Before the frontal test upgrade final rule, paragraph S5.5.2(l)(2) required that CRSs have an installation diagram attached to the CRS showing the CRS installed with a Type 1 seat belt. During the process of amending the regulatory text for FMVSS No. 213 as part of the frontal test upgrade final rule, the agency deleted this requirement, making it so paragraph S5.5.2(l)(2) simply read "[Reserved]." Because the agency has decided to amend the lap belt requirements in FMVSS No. 213b as part of this petition for reconsideration response, but has not applied that same amendment to FMVSS No. 213, CRSs certified to FMVSS No. 213 up until 2026 will still have to be certified with Type 1 belts. Accordingly, the agency feels it is necessary for CRSs certified to FMVSS No. 213 to have a label attached showing a diagram of the CRS installed with a Type 1 belt. For the reasons discussed above, the agency will be restoring this requirement in paragraph S5.5.2(l)(2) of FMVSS No. 213 as part of this final rule.

c. Unit Conversion Consistency

JPMA and Evenflo requested that FMVSS Nos. 213 and 213b have a consistent metric conversion number for standards that specify 40-pounds, as currently the standards specify 18 kg, 18.2 kg, and 18.4 kg in various places. JPMA and Evenflo encouraged a rounded 18 kg conversion even though it is not an exact conversion. Evenflo noted that the FMVSS No. 213 regulation has long used 18 kg as the equivalent to 40 pounds in labeling requirements. As an alternative, the petitioners suggested using a more exact conversion (rounding to a single decimal place) of 18.1 kg.

Agency Response: NHTSA has reviewed the regulatory text sections with inconsistent conversions from 40 pounds to kilograms. NHTSA agrees that having a single conversion throughout the three standards is preferable. Therefore, NHTSA is granting this petition and is amending the regulatory text of FMVSS No. 213 and FMVSS No. 213b to have an 18 kg value for the 40-pound conversion throughout the standards. As Evenflo pointed out, NHTSA has used this conversion in the current FMVSS No. 213 regulatory text. Accordingly, the agency agrees that amendments to FMVSS No. 213 and 213b should use the same conversion.

d. Remove Duplicative Language

Evenflo requested removing duplicative language. Evenflo noted that

¹⁶ This is analysis explained in the Final Economic Assessment of the 2004 final rule. <https://www.regulations.gov/document/NHTSA-2004-18726-0002>.

¹⁷ Kahane, C.J., National Highway Traffic Safety Administration, "Lives saved by vehicle safety technologies and associated Federal Motor Vehicle Safety Standards, 1960 to 2012—Passenger cars and LTVs—With reviews of 26 FMVSS and the effectiveness of their associated safety technologies in reducing fatalities, injuries, and crashes" (report No. DOT HS 812 069) (Jan. 2015). Washington, DC: National Highway Traffic Safety Administration. <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812069>.

¹⁸ Vehicle registration data for passenger vehicles (cars and light trucks) were obtained from R.L. Polk's National Vehicle Population Profile (NVPP). The Polk data set is a compilation of all passenger vehicles that have been registered in compliance with State requirements. (R.L. Polk is a foundation of IHS Markit automotive solutions.)

S5 of FMVSS No. 213b has duplicative language in different subparagraphs (S5(b)(2)²¹ and S5(g))²² which creates ambiguity with respect to what is intended and particularly as to whether there is any substantive difference in the two provisions.

Evenflo also explained that given the discussion in Section XI(h) of the Preamble to the December 2023 Final Rule (88 FR 84514), Evenflo understands that the meaning of “up to 18 kilograms (40 pounds)” is substantively synonymous with “less than 18 Kilograms (40 pounds).”

Agency Response: NHTSA is granting Evenflo’s petition to remove duplicative language in S5(b)(2) and S5(g) by removing S5(g). NHTSA is also amending S5(b)(2) to provide clearer language. The statement in S5(b)(2) will be changed from wording describing the CRS recommend weight and height as “up to 18 kilograms (40 pounds)” and “up to 1100 millimeters (mm)” to “less than 18 kilograms (40 pounds)” and “less than 1100 millimeters (mm),” respectively.

e. Registration Card Guidelines

JPMA requested guidance on the new registration information for consumers. JPMA suggested guidance could be in a revised Laboratory Test Procedure or a separate, dedicated document. JPMA argued that this guidance should be provided soon due to the short time period prior to the compliance date for the registration requirements.

Agency Response: NHTSA is denying the petition to provide additional guidance on the registration card. The petitioners requested guidance on the new registration information for consumers. This request is for not a rulemaking action, and, therefore, is out of scope.

NHTSA notes that the regulatory text describes the information that must be provided in the registration card. NHTSA did not receive any comments from CRS manufacturers seeking more

guidance on this content. The goal of the changes to the registration form was to provide flexibility to manufacturers in how they communicate with consumers to increase registration rates. NHTSA notes that the registration forms that comply with current requirements would also comply with the new requirements.

IV. Corrections to Regulatory Text

In the frontal test upgrade final rule (88 FR 84515) published on December 5, 2023, NHTSA inadvertently omitted important conditional language in the FMVSS No. 213b regulatory text. The omitted language creates an inconsistency within the standard, and several stakeholders have contacted NHTSA’s compliance office about this issue. The agency is correcting the regulatory text as part of this final rule to alleviate potential confusion.

In the frontal test upgrade final rule, the agency inadvertently omitted conditional language from FMVSS No. 213b S5.5.2(g)(1)(ii).²³ This paragraph and subsection were carried over from FMVSS No. 213. FMVSS No. 213 S5.5.2 specifies a labeling requirement for CRSs. Specifically, paragraph S5.5.2(g)(1)(ii) requires specific statements be present on the CRS explaining when and when not to secure the CRS with the vehicle’s child restraint anchorage system. This section has several conditional requirements, including a requirement that a statement be present that the child restraint anchorage system should not be used in certain scenarios for CRSs manufactured from February 27, 2014, to February 26, 2015. The conditional language for this requirement—that the statement be present on CRSs manufactured in the time frame referenced above—appears in brackets in that paragraph of FMVSS No. 213.

In establishing FMVSS No. 213b as part of the frontal test upgrade, much of the language from FMVSS No. 213 was carried over to FMVSS No. 213b. The

agency’s intent was to carry over paragraph S5.5.2(g)(1)(ii) as drafted in FMVSS 213 to FMVSS No. 213b. That did not happen, as the parenthetical indicating that the final labeling requirement in S5.5.2(1)(ii) only applied to seats manufactured between February 27, 2014, and February 26, 2015, was not carried over. The result of that omission is that CRSs certified to FMVSS No. 213b now must include the statement instructing consumers when not to use the child restraint anchorage system, regardless of when the CRS was manufactured. This requirement creates inconsistency within the standard, as Tables S5.5.2(L)(3)(I)(B) and (C) provide different labeling requirements for the maximum weight limit for child restraint anchorage system use. For newly manufactured CRSs, these tables are what manufacturers should rely on in determining labeling requirements for weight thresholds for child restraint anchorage systems. However, because the conditional language was omitted from paragraph S5.5.2(g)(1)(ii), there are now two conflicting labeling requirements for newly produced CRSs.

This outcome is not what the agency intended, and the current language creates contradictory requirements within the standard. The agency believes that alleviating confusion with the standard will make it easier for manufacturers to comply with the standard. Additionally, this amendment will improve safety outcomes, as the current language would likely require that manufacturers have contradictory language printed on labels attached to CRSs. This conflicting language will only lead to confusion on the part of the consumer and may increase misuse rates. For the reasons listed above, NHTSA is amending FMVSS No. S5.5.2(g)(1)(ii) by removing the last requirement listed in FMVSS No. S5.5.2(g)(1)(ii). We believe this is the proper way to address the issue discussed above, as no CRSs certified to FMVSS No. 213b will have been manufactured between 2014 and 2015. Accordingly, there is no reason to have a labeling requirement in FMVSS No. 213b that applies only to seats produced during that time frame.

V. Costs and Benefits

The agency expects no safety benefits as a result of this final rule. However, it is worth noting that the agency believes addressing the inconsistency in current labeling requirements in FMVSS No. 213b will only result in positive safety outcomes. There will be a cost reduction from removing requirements to test CRS secured with Type 1 seat belts. The December 2023 final rule

²¹ S5(b)(2) states “each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights up to 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights up to 1100 millimeters (mm) regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).”

²² S5(g) states “Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights less than 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights less than 1100 millimeters regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).”

²³ The bolded language represents the language that was omitted from FMVSS No. 213b: “[For child restraints manufactured from February 27, 2014 to February 26, 2015, the following statement applies.] Child restraint systems equipped with internal harnesses to restrain the child and with components to attach to a child restraint anchorage system and for which the combined weight of the child restraint system and the maximum recommended child weight for use with internal harnesses exceeds 65 pounds, must be labeled with the following statement: ‘Do not use the lower anchors of the child restraint anchorage system (LATCH system) to attach this child restraint when restraining a child weighing more than * [*insert a recommended weight value in English and metric units such that the sum of the recommended weight value and the weight of the child restraint system does not exceed 65 pounds (29.5 kg)] with the internal harnesses of the child restraint.’”

estimated a temporary annual testing cost with Type 1 seat belts for 3 years of \$5,198,000. This final rule will eliminate the estimated Type 1 seat belt installation test cost in FMVSS No. 213b.

VI. Compliance Date and Effective Date

Because the amendments of this final rule responding to petitions for reconsideration are minor corrections, these amendments will be effective on November 8, 2024. The amendments will follow the compliance dates for the corresponding sections.

VII. Regulatory Analyses and Notices

Executive Order (E.O.) 12866, E.O. 14904, E.O. 13563 and DOT Regulatory Policies and Procedures

NHTSA has considered the potential impact of this final rule under E.O. 12866, E.O. 14094, E.O. 13563, DOT Order 2100.6A and the Department of Transportation's regulatory policies and procedures. This NPRM is not considered to be significant under the Department of Transportation's regulatory policies and procedures.²⁴

This final rule responds to petitions for reconsideration to the June 2022 final rule establishing FMVSS No. 213a and the December 2023 final rule establishing FMVSS No. 213b. This final rule makes several changes to FMVSS No. 213, FMVSS No. 213a and FMVSS No. 213b; specifically, the minor changes provide increased clarity on what the standard requires and bring increased uniformity across the three standards. An additional amendment eliminates the Type 1 belt testing requirement for FMVSS No. 213 through 2029; instead the agency will only be testing with a Type 2 belt starting in 2026. Accordingly, the agency updated the costs in preparation of this final rule. The agency estimates a savings of \$5,198,000 compared to the final rule because manufacturers will not have to conduct tests with Type 1 belts from 2026 through 2029. More information can be found in the "Discussion of Benefits and Costs Associated with the Final Rule" section above.

The minimal impacts of this final rule did not warrant preparation of a regulatory evaluation.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare

and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions), unless the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

I certify that this rule will not have a significant economic impact on a substantial number of small entities. NHTSA estimates there to be 38 manufacturers of child restraints, none of which are small businesses. Even if there were a small CRS manufacturer, the impacts of this rule will not be significant. The amendments made in this final rule are small, and if anything, the impact of the final rule will result in a net savings for a small business CRS manufacturer, due to the fact that it would not have to conduct testing with a Type 1 belt from 2026 through 2029 to ensure compliance with FMVSS No. 213.

Federalism

NHTSA has examined this final rule pursuant to E.O. 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This final rule would 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."

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision stating that, if NHTSA has established a standard for an aspect of motor vehicle or motor vehicle equipment performance, a State may only prescribe or continue in effect a standard for that same aspect of performance if the State standard is identical to the Federal standard. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which "[c]ompliance with

a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law." 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved.

NHTSA rules can also preempt State law if complying with the FMVSS would render the motor vehicle manufacturers liable under State tort law. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. *See Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

Pursuant to E.O. 13132, NHTSA has considered whether this final rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation. To this end, the agency has examined the nature (*e.g.*, the language and structure of the regulatory text) and objectives of this final rule and finds that this final rule, like many NHTSA rules, prescribes only a minimum safety standard. Accordingly, NHTSA does not intend that this final rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by this final rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard finalized in this document. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

National Environmental Policy Act (NEPA)

NHTSA has analyzed this NPRM for the purposes of the NEPA. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act (PRA)

Under the procedures established by the PRA of 1995 (44 U.S.C. 3501, *et seq.*), a Federal agency must request and receive approval from the Office of

²⁴ 44 FR 11034 (Feb. 26, 1979).

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.

The final rule amending FMVSS No. 213 (88 FR 84514) included updates to NHTSA's CRS registration requirements, which constituted an information collection. Included in that final rule was a notice soliciting comment on the information collection associated with the updated CRS registration requirements (OMB Control Number: 2127-0576). No comments were received. NHTSA will submit the Information Collection Request to OMB for its review and approval of the revised collection of information.

This final rule amends the CRS registration requirements adopted in the frontal test upgrade final rule by pushing the compliance date back to June of 2025. The change in the compliance date does not impact the information collection burden outlined in the frontal test upgrade final rule and none of the other amendments in this final rule create "collections of information" as defined at 5 CFR 1320.3(c).

Unfunded Mandates Reform Act (UMRA)

The UMRA of 1995 requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation, with base year of 1995). UMRA also requires an agency issuing an NPRM or final rule subject to the Act to select the "least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule." This final rule would not result in a Federal mandate that will likely result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation, with base year of 1995).

E.O. 12778 (Civil Justice Reform)

When promulgating a regulation, agencies are required under E.O. 12988 to make every reasonable effort to ensure that the regulation, as appropriate: (1) specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed,

circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this final rule is discussed above. NHTSA notes further that there is no requirement that an individual submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

National Technology Transfer and Advancement Act (NTTAA)

Under the NTTAA of 1995 (Pub. L. 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the International Organization for Standardization and the Society of Automotive Engineers. The NTTAA directs this agency to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this final rule.

Plain Language Requirement

E.O. 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

NHTSA has considered these questions and attempted to use plain language in promulgating this final rule. Please inform the agency if you can suggest how NHTSA can improve its use of plain language.

Regulatory Identifier Number (RIN)

The DOT assigns a RIN to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading at the beginning of this notice may be used to find this action in the Unified Agenda.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

List of Subjects in 49 CFR Part 571

Imports, Incorporation by Reference, Motor vehicle safety, Motor vehicles, and Tires.

Regulatory Text

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

- 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

- 2. Section 571.213 is amended by
 ■ a. In paragraph S4, revising the definition of "School bus child restraint system";

- b. In paragraph S5.1.1 revising the introductory text and paragraph (a);
- c. Revising the headings of table 1 and table 2 to S5.1.3.1(a);
- d. Revising paragraphs S5.2.4, S5.3.2.1, S5.5.2(f) introductory text, S5.5.2(f)(2), S5.5.2(g)(1)(i) and (ii),
- e. Adding paragraph S5.5.2(l)(2);
- f. Revising paragraphs S5.6.1.7(a) introductory text, S5.6.1.7(b), S5.6.1.11, S5.6.2.2(a) introductory text, S5.6.2.2(b), S5.8.1(a), S5.8.1.1 introductory text, S5.8.2(a) introductory text, and S5.8.2.1 introductory text.

The addition and revisions read as follows:

§ 571.213 Child restraint systems; Applicable unless a vehicle or child restraint system is certified to § 571.213b.

* * * * *

S4. Definitions

* * * * *

School bus child restraint system means an add-on child restraint system (including a harness) manufactured and sold only for use on school bus seats, that has a label conforming with S5.3.1(b). (This definition applies to child restraint systems manufactured on or after June 30, 2025.)

* * * * *

S5.1.1 Child restraint system integrity. When tested in accordance with S6.1, each child restraint system shall meet the requirements of paragraphs (a) through (c) of this section.

(a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 6 mm or surfaces with protrusions greater than 9 mm above the immediate adjacent surrounding contactable surface of any structural element of the system.

* * * * *

Table 1 to S5.1.3.1(a)—Add-On Child Restraints that Can Be Used Forward-Facing Manufactured Before June 30, 2025

* * * * *

Table 2 to S5.1.3.1(a)—Add-On Child Restraints That Can Be Used Forward-Facing Manufactured After June 30, 2025

* * * * *

S5.2.4 Protrusion limitation. Any portion of a rigid structural component within or underlying a contactable surface, or any portion of a child restraint system surface that is subject to the requirements of S5.2.3 shall, with any padding or other flexible overlay material removed, have a height above any immediately adjacent restraint system surface of not more than 9 mm

and no exposed edge with a radius of less than 6 mm.

* * * * *

S5.3.2.1 School bus child restraint systems manufactured on or after June 30, 2025, shall be capable of meeting the requirements of this standard when installed by seat back mount, or, seat back mount and seat pan mount.

* * * * *

S5.5.2 * * *

(f) For child restraint systems manufactured before June 30, 2025, paragraph (f)(1) of this section applies. For child restraint systems manufactured on or after June 30, 2025, paragraph (f)(2) of this section applies.

* * * * *

(2) For child restraint systems manufactured on or after June 30, 2025: Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the mass and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward facing, booster), except manufacturers shall not recommend forward-facing use for child restraint systems with internal harnesses for children of masses less than 12 kg (26.5 lb), and shall not recommend booster seats for children of masses less than 18 kg (40 lb).

(g) * * *

(1) * * *

(i) As appropriate, the statements required by the following sections will be bulleted and placed after the statement required by 5.5.2(g)(1) in the following order: 5.5.2(k)(1), 5.5.2(h), 5.5.2(j), and 5.5.2(i). For child restraint systems manufactured on or after June 30, 2025, the statements required by 5.5.2(f) and 5.5.2(k)(2) need not be included.

(ii) Secure this child restraint with the vehicle's child restraint anchorage system, if available, or with a vehicle belt. [For car beds, harnesses, and belt positioning seats, the first part of the statement regarding attachment by the child restraint anchorage system is optional.] [For belt-positioning seats, the second part of the statement regarding attachment by the vehicle belt does not apply.]

* * * * *

S5.5.2 * * *

(1) * * *

(2) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions; and

* * * * *

S5.6.1.7. (a) For child restraint systems manufactured before June 30, 2025, one of the following statements, inserting an address and a U.S.

telephone number. If a manufacturer opts to provide a website on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in paragraph S5.6.1.7(a)(2):

* * * * *

(b) For child restraint systems manufactured on or after June 30, 2025, the child restraint system shall include statements informing the owner of the importance of registering the child restraint for recall purposes and instructing the owner how to register the child restraint at least by mail and by telephone, providing a U.S. telephone number. The following statement must also be provided: "For recall information, call the U.S. Government's Vehicle Safety Hotline at 1-888-327-4236 (TTY: 1-800-424-9153), or go to www.NHTSA.gov."

* * * * *

S5.6.1.11 (a) For harnesses that are manufactured before June 30, 2025, for use on school bus seats, the instructions must include the following statement: "WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants." The labeling requirement refers to a restrained occupant as: an occupant restrained by any user appropriate vehicle restraint or child restraint system (e.g., lap belt, lap and shoulder belt, booster, child seat, harness . . .).

(b) For school bus child restraint systems manufactured on or after June 30, 2025, the instructions must include the following statement: "WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants." (The instruction's reference to a "restrained occupant" refers to an occupant restrained by any user-appropriate vehicle restraint or child restraint system (e.g., lap belt, lap and shoulder belt, booster seat or other child restraint system.)

* * * * *

S5.6.2.2. (a) For child restraint systems manufactured before June 30, 2025, the instructions for each built in child restraint system other than a factory-installed restraint, shall include one of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a website on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in S5.6.2.2(a)(2):

* * * * *

(b) For child restraint systems manufactured on or after June 30, 2025, the instructions for each built-in child restraint system other than a factory-installed restraint shall include statements informing the owner of the importance of registering the child restraint for recall purposes and instructing the owner how to register the child restraint at least by mail and by telephone, providing a U.S. telephone number. The following statement must also be provided: “For recall information, call the U.S. Government’s Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *www.NHTSA.gov*.”

S5.8.1 Attached registration form.

(a) For child restraint systems manufactured before June 30, 2025, each child restraint system, except a factory-installed built-in restraint system, shall have a registration form attached to any surface of the restraint that contacts the dummy when the dummy is positioned in the system in accordance with S6.1.2 of Standard 213.

S5.8.1.1 Upgraded attached registration form. For child restraint systems manufactured on or after June 30, 2025, each child restraint system, except a factory-installed built-in restraint system, shall have a registration form attached to any surface of the restraint that contacts the dummy when the dummy is positioned in the system in accordance with S6.1.2 of Standard 213. The form shall not have advertising or any information other than that related to registering the child restraint system.

S5.8.2 * * *

(a) Each electronic registration form provided for child restraint systems manufactured before June 30, 2025, shall:

S5.8.2.1 Upgraded electronic registration form (a) Each electronic registration form provided for child restraint systems manufactured on or after June 30, 2025, shall:

■ 3. Section 571.213a is amended by revising paragraphs S6.1.1(a)(1), S9.2(d), and S9.3(d) to read as follows:

§ 571.213a Standard No. 213a; Child restraint systems—side impact protection.

S6.1.1 * * *

(1) The test device is a SISA consisting of a sliding seat, with one seating position, and a simulated door assembly as described in “NHTSA Standard Seat Assembly; FMVSS No. 213a—Side impact No. NHTSA–213a–2021” (incorporated by reference, see § 571.5). The simulated door assembly is rigidly attached to the floor of the SISA and the sliding seat is mounted on rails to allow it to move relative to the floor of the SISA in the direction perpendicular to the SORL. The SISA is mounted on a dynamic test platform so that the SORL of the seat is 10 ± 1 degrees from the perpendicular direction of the test platform travel.

S9.2 * * *

(d) After the steps specified in paragraph (c) of this section, rotate each of the dummy’s legs downwards in the plane parallel to the dummy’s midsagittal plane until the limb contacts a surface of the child restraint or the SISA. Rotate each of the dummy’s arms downwards in the plane parallel to the dummy’s midsagittal plane until the arm is engaged on the detent that positions the arm at a 25-degree angle with respect to the thorax. For child restraint systems with a fixed or movable surface that does not allow the dummy’s arm to be positioned at a 25-degree angle, rotate each dummy arm downwards in the plane parallel to the dummy’s midsagittal plane until the arm contacts a surface of the child restraint system or the standard seat assembly.

S9.3 * * *

(d) After the steps specified in paragraph (c) of this section, rotate each dummy arm downwards in the plane parallel to the dummy’s midsagittal plane until the limb is positioned at a 25-degree angle with respect to the thorax. For child restraint systems with a fixed or movable surface that does not

allow the dummy’s arm to be positioned at a 25-degree angle, rotate each dummy arm downwards in the plane parallel to the dummy’s midsagittal plane until the arm contacts a surface of the child restraint system or the standard seat assembly.

■ 4. Section 571.213b is amended by

■ a. Revising paragraph S5(b)(2);

■ b. Removing paragraph S5(g);

■ c. Revising paragraphs S5.1.1 introductory text, S5.1.1.(a), table 2 in paragraph S5.1.3.1(a), S5.2.4, table 4 in paragraph S5.3.2, S5.5.2(f), S5.5.2(g)(1)(ii), S5.5.5(f), and S7.1.2(d) and (e).

The revisions read as follows:

§ 571.213b Standard No. 213b; Child restraint systems; Mandatory applicability beginning December 5, 2026.

S5 * * *

(b) * * *

(2) Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights less than 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights less than 1100 millimeters (mm) regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).

S5.1 * * *

S5.1.1 Child restraint system integrity. When tested in accordance with S6.1, each child restraint system shall meet the requirements of paragraphs (a) through (c) of this section.

(a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 6 mm or surfaces with protrusions greater than 9 mm above the immediate adjacent surrounding contactable surface of any structural element of the system.

S5.1.3.1 * * *

(a) * * *

TABLE 2 TO S5.1.3.1(a)—ADD-ON CHILD RESTRAINTS THAT CAN BE USED FORWARD-FACING

When this type of child restraint system	Is tested in accordance with—	These excursion limits apply	Explanatory note: in the test specified in 2nd column, the excursion requirement must be met when the child restraint system is attached to the test seat assembly in the manner described below, subject to certain conditions
All harnesses	S6.1.2(a)(1)(i)(A)	Head 813 mm; Knee 915 mm.	Attached with lap belt; in addition, if a tether is provided, it is attached.

TABLE 2 TO S5.1.3.1(a)—ADD-ON CHILD RESTRAINTS THAT CAN BE USED FORWARD-FACING—Continued

When this type of child restraint system	Is tested in accordance with—	These excursion limits apply	Explanatory note: in the test specified in 2nd column, the excursion requirement must be met when the child restraint system is attached to the test seat assembly in the manner described below, subject to certain conditions
Restraints designed for use by children with physical disabilities.	S6.1.2(a)(1)(i)(A)	Head 813 mm; Knee 915 mm.	Attached with lap and shoulder belt; in addition, if a tether is provided, it is attached.
School bus child restraint systems	S6.1.2(a)(1)(i)(A)	Head 813 mm; Knee 915 mm.	Attached with seat back mount, or seat back and seat pan mounts.
Booster seats	S6.1.2(a)(1)(ii)	Head 813 mm; Knee 915 mm.	Attached with lap and shoulder belt; no tether is attached.
Child restraint systems other than harnesses, restraints designed for use by children with physical disabilities, school bus child restraint systems, and booster seats.	S6.1.2(a)(1)(i)(B)	Head 813 mm; Knee 915 mm.	Attached with a lap and shoulder belt; without a tether attached.
Child restraint systems other than harnesses, restraints designed for use by children with physical disabilities, school bus child restraint systems.	S6.1.2(a)(1)(i)(A), S6.1.2(a)(1)(i)(C).	Head 720 mm; Knee 915 mm.	Attached with a lap and shoulder belt, with a tether attached.
Child restraint systems equipped with a fixed or movable surface described in S5.2.2.2 that has belts that are not an integral part of that fixed or movable surface.	S6.1.2(a)(2)	Head 813 mm; Knee 915 mm.	Attached to lower anchorages of child restraint anchorage system; without a tether attached.
			Attached with a lap and shoulder belt, with a tether attached.
			Attached to lower anchorages of child restraint anchorage system, with a tether attached.
			Attached with lap and shoulder belt or lower anchorages of child restraint anchorage system; no tether is attached.

* * * * *

S5.2.4 *Protrusion limitation.* Any portion of a rigid structural component within or underlying a contactable surface, or any portion of a child

restraint system surface that is subject to the requirements of S5.2.3 shall, with any padding or other flexible overlay material removed, have a height above any immediately adjacent restraint

system surface of not more than 9 mm and no exposed edge with a radius of less than 6 mm.

* * * * *
S5.3.2 * * *

TABLE 4 FOR S5.3.2 MEANS OF INSTALLATION FOR CHILD RESTRAINT SYSTEMS

Type of add-on child restraint system	Type 1 seat belt assembly plus a tether anchorage, if needed	Type 2 seat belt assembly plus a tether anchorage, if needed	Type 2 seat belt assembly	Lower anchorages of the child restraint anchorage system plus a tether, if needed	Lower anchorages of the child restraint anchorage system	Seat back mount, or, seat back mount, and, seat pan mount
School bus child restraint systems						X
Harnesses	X	.....	.....	.....	.....	.....
Car beds			X	.....	.....	.....
Rear-facing restraints			X	.....	X	.....
Booster seats			X	.....	.....	.....
All other child restraint systems		X	X	X	X	.....

* * * * *

S5.5.2 * * *

(f) Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the weight and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward facing, booster), except manufacturers shall not recommend that child restraint systems with internal harnesses be used forward-facing with children of weights less than 12 kg (26.5 lb), and shall not recommend that booster seats be used

by children of weights less than 18 kg (40 lb).

(g) * * *

(1) * * *

(ii) Secure this child restraint with the vehicle's child restraint anchorage system, if available, or with a vehicle belt. [For car beds, harnesses, and belt positioning seats, the first part of the statement regarding attachment by the child restraint anchorage system is optional.] [For belt-positioning seats, the second part of the statement regarding

attachment by the vehicle belt does not apply.]

* * * * *

S5.5.5 * * *

(f) Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the weight and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward facing, booster), except manufacturers shall not recommend forward-facing child restraint systems with internal harnesses for children of weights less

than 12 kg (26.5 lb), and shall not recommend booster seats for children of weights less than 18 kg (40 lb).

* * * * *

S7.1.2 * * *

(d) A child restraint system that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified weight range that includes any children having a weight greater than 13.6 kg (30 lb) but not greater than 18 kg (40 lb) regardless of height, or by children in a specified height range that includes any children whose height is greater than 870 mm but not greater than 1100 mm regardless of weight, is tested with a 49 CFR part 572, subpart P dummy (Hybrid III 3-year-old dummy).

(e) A child restraint system that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified weight range that includes any children having a weight greater than 18 kg (40 lb) but not greater than 22.7 kg (50 lb) regardless of height, or by children in a specified height range that includes any children whose height is greater than 1100 mm but not greater than 1250 mm regardless of weight, is tested with a 49 CFR part 572, subpart N dummy (Hybrid III 6-year-old dummy).

* * * * *

Issued under authority delegated in 49 CFR 1.95 and 501.5.

Sophie Shulman,

Deputy Administrator.

[FR Doc. 2024-22448 Filed 10-8-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 241003-0261]

RIN 0648-BM74

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Repair and Replacement of the Q8 Bulkhead at Naval Station Norfolk

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

ACTION: Final rule.

SUMMARY: NMFS, upon request from the U.S. Navy (Navy), hereby issues regulations to govern the unintentional taking of marine mammals incidental to

the Q8 Bulkhead repair and replacement project at Naval Station (NAVSTA) Norfolk in Norfolk, Virginia over the course of 5 years (*i.e.*, 2025–2029) (the Project). These regulations, which allow for the issuance of a Letter of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: This rule is effective from January 1, 2025, through December 31, 2029.

ADDRESSES: A copy of the Navy's application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navys-construction-activities-q8-bulkhead-naval-station>.

In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427-8401 or craig.cockrell@noaa.gov.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

This rule establishes a framework under the authority of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the Navy's construction activities related to the Project at NAVSTA Norfolk.

We received an application from the Navy requesting 5-year regulations and authorization to take multiple species of marine mammals. Take is anticipated to occur incidental to impact and vibratory pile driving, by Level B harassment only. Please see Background below for definitions of harassment.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to 5 years if, after notice and public comment, the agency makes certain findings and

issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the “least practicable adverse impact” on the affected species or stocks and their habitat (see the discussion below in the Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA, and the implementing regulations at 50 CFR part 216 subpart I, provide the legal basis for issuing this rule containing 5-year regulations, and for any subsequent letters of authorization (LOAs). As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Rule

Following is a summary of the major provisions of this final rule regarding Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions Section 101(a). Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses, where relevant. Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of

similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth (Section 101(5)(A)(i)(II)(aa)). The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On September 14, 2023, NMFS received a request from the Navy for authorization to take marine mammals incidental to repair and replacement of the Q8 Bulkhead at NAVSTA Norfolk in Norfolk, VA. Following NMFS' review of the application, the Navy submitted a revised version on December 18, 2024 and after review of that application a second revised version was submitted on January 16, 2024. The application was deemed adequate and complete on February 23, 2024. A notice of receipt of the Navy's application was published in the **Federal Register** on March 14, 2024 (89 FR 18605). No comments were received on the application during the 30-day comment period.

On July 3, 2024, NMFS published a notice of proposed rulemaking in the **Federal Register** (89 FR 55180). All comments were considered in development of this final rule (see Comments and Responses). Navy's request is for the take of four species by Level B harassment only. Neither Navy nor NMFS expect serious injury or mortality to result from this activity. The regulations will be valid for 5 years (2025–2029). No changes were made from the proposed to the final rule.

Description of the Activity

The Navy proposes to repair and replace the Q8 bulkhead at NAVSTA Norfolk, that has failed in multiple locations, creating sinkholes and unsafe conditions. Work on the bulkhead will be conducted from Piers 12 and 14 to restore function of this Navy dock system. Vibratory and impact hammers will be used for pile removal and installation. Sounds produced from these pile removal and installation activities may result in the incidental take of marine mammals, by Level B harassment only. Approximately 378 piles will be removed and 836 piles will be installed. Work will be conducted in 3 phases over 212 non-consecutive days to complete the pile removal and installation activities.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed rule (89 FR 55180, July 3, 2024). Since

that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

NMFS' notice of proposed rulemaking was published in the **Federal Register** on July 3, 2024 (89 FR 55180). That proposed rule described, in detail, the Navy's activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that proposed rule, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed rulemaking, and requested that interested persons submit relevant information, suggestions, and comments. This proposed rule was available for a 30-day public comment period.

During the 30-day public comment period, NMFS received 2 substantive comment submissions, from members of the public. NMFS' responses to the comments are provided below, and all comments are available online at: <https://www.regulations.gov/document/NOAA-NMFS-2024-0055-0001/comment>.

Comment 1: A commenter stated that the sound propagation equation used by the Navy was simplistic and did not account for a variety of environmental factors that may affect the accuracy of the predicted harassment zones associated with pile driving. The comment stated that at a minimum both bottom composition and topography should be included in the acoustic modeling of the Level B harassment zones.

Response 1: NMFS agrees with the commenter that assuming practical spreading loss is a simplistic approach and excludes certain environmental factors that may be influential on real transmission loss. However, NMFS disagrees with the commenter that the acoustic modeling is inadequate and “undermines the predictions of Level B harassment.” The assumption of practical spreading loss is an approach that is readily accessible to all applicants, and while it does exclude certain relevant factors, it has been supported by hydroacoustic measurements in many locations, where measured transmission loss coefficients typically are between 10 and 30 depending on the site, measurement date, activity, and metric. Further, more complex modeling requires detailed knowledge of the source spectra, seabed

composition and associated acoustic parameters, and the sound speed profile, all of which are often not readily available and introduce their own non-negligible uncertainty.

In addition, the Navy is among the leaders in hydroacoustic measurements of pile driving activities (Illingworth and Rodkin, 2017; NAVFAC Southwest, 2020) and continues to contribute to the scientific knowledge available on this topic. A relevant example can be found in the NAVFAC 2017 pile driving noise measurement report (Illingworth and Rodkin, 2017), wherein transmission loss coefficients were measured for a variety of pile driving activities at JEB Little Creek NAVSTA and NAVSTA Norfolk. Transmission loss coefficients varied significantly by activity and location and ranged from 12.2 to 31.9, but were often near 15. This shows that while practical spreading is not a perfect model, it is a good approximation in waters near the planned activity.

Notably, sophisticated propagation modeling has been performed for pile driving of concrete, composite, and timber piles in the Norfolk region. The Navy has completed this transmission loss modeling and can be reviewed in the following document: https://media.fisheries.noaa.gov/dam-migration/nsn_pile_driving_final_loa_appendix_b_may_2020.pdf. While estimated transmission loss coefficients are not provided in the report, the depth-averaged cumulative SEL is given as a function of range in figure 10 in the report, for the case of a constant water depth of 13 meters (m). This modeling scenario was included only for illustrative purposes but was deemed by the authors to be near the upper bound for expected ranges to thresholds for the study. By fitting several points from the unweighted curve, NMFS has determined that the best fit transmission loss coefficient for this model result is approximately 14.5, which agrees well with the practical spreading model.

Based on the above analyses and information, NMFS is confident that the analysis of the harassment zones reasonably assesses the potential impacts to marine mammals and has not changed that analysis or the reliance upon such analysis in this final rule.

Comment 2: A commenter urged NMFS to implement “hard limits” on the number of marine mammals that could be taken under an authorization granted to the Navy. Further, the commenter stated that if take of marine mammals exceeded those limits construction should be halted until NMFS is able to re-analyze the impacts of the project. The commenter also

urged NMFS to have a “fair process” for this authorization and to not give special exceptions to the Navy regarding their application for an LOA. The commenter also recommended that NMFS and the Navy consider the use of a sound producing device to deter marine mammals from the Project area in order to reduce the number of animals taken during construction activities.

Response 2: NMFS agrees with the commenter that takes should be limited in numbers for each incidental take authorization. In this rule and the proposed rule the Navy and NMFS estimated takes that were likely to occur during the course of this project (see Estimate Take section). Take numbers for each marine mammal species were estimated for each phase of construction. The maximum annual take numbers for each species may not be exceeded in any given year, and the total take level may not be exceeded over the 5-year period of effectiveness of this rule.

NMFS also agrees with the commenter that a fair process for the application and issuance of all incidental take authorizations should be adhered to. Once the application submitted by the Navy for this project was deemed adequate and complete, NMFS published a notice of receipt of the application in the **Federal Register** (89 FR 18605, March 14, 2024) with a 30-day comment period for the public to review and comment on the contents of the application. After the comment period concluded, NMFS developed a proposed rule (89 FR 55180, July 3, 2024) to further engage the public on the analyses of the project and the impacts to marine mammals in the Project area. That proposed rule process included a 30-day comment period for the public. NMFS reviewed and responded comments submitted on the proposed rule and determined if any changes were necessary in the final rule. This process is in accordance with the relevant requirements of the MMPA and of the Administrative Procedure Act, and is applied in the same fashion to all applicants for incidental take authorizations.

NMFS agrees that sound producing devices may be a useful tool for

detering marine mammals in certain circumstances and when warranted, e.g., when deterrence may prevent mortality or serious injury. This project will only result in behavioral disturbance (Level B harassment) which may result in (1) changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; (2) reduced/increased vocal activities; (3) changing/cessation of certain behavioral activities (e.g., socializing or feeding); (4) visible startle response or aggressive behavior (e.g., tail/fluke slapping or jaw clapping); (5) avoidance of areas where sound sources are located (Thorson and Reyff, 2006) (see Behavioral Effects section for more information). Therefore, for this project NMFS disagrees with the use of acoustic deterrence devices since those devices would produce the same level of harassment as the construction activities of this project.

Changes From the Proposed Rule to Final Rule

On May 3, 2024, NMFS published (89 FR 36762) and solicited public comment on its draft updated Technical Guidance (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>), which includes updated thresholds and weighting functions to inform auditory injury estimates, and is intended to replace the 2018 Technical Guidance referenced above, once finalized. NMFS completed a basic comparative analysis based on the updated Technical Guidance and has updated the Level A harassment and shutdown zones (see Estimated Take and Mitigation). This change is necessary because the authorization and regulations issued under this rule are effective for 5 years and the updated Technical Guidance will be effective before this rule expires. This updated analysis did not change the anticipated take numbers analyzed through this rule.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially

affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website at: <https://www.fisheries.noaa.gov/find-species>.

Table 3 lists all species or stocks for which take is expected and proposed to be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs) (section 3 (19)(A)). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES ¹

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenopteridae</i> (rorquals): Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	-, -, N	1,396 (0, 1380, 2016) ...	22	12.15
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Physeteridae:</i> Bottlenose dolphin	<i>Tursiops truncatus</i>	Northern Migratory Coastal	-, -, Y	6,639 (0.41, 4,759, 2016).	48	12.2–21.5
		Southern Migratory Coastal	-, -, Y	3,751 (0.6, 2,353, 2016)	24	0–18.3
		Northern NC Estuarine	-, -, N	823 (0.06, 782, 2017) ...	7.8	7.2–30
<i>Family Phocoenidae (porpoises):</i> Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	-, -, N	85,765 (0.53, 56,420, 2021).	649	145
Order Carnivora—Pinnipedia						
<i>Family Phocidae (earless seals):</i> Harbor Seal	<i>Phoca vitulina</i>	Western North Atlantic	-, -, N	61,336 (0.08, 57,637, 2018).	1,729	339

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://www.marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports/>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

A detailed description of the species likely to be affected by the Navy's construction project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed rule (89 FR 55180, July 3, 2024); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges

(behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS
(NMFS, 2018)

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.

TABLE 2—MARINE MAMMAL HEARING GROUPS—Continued
[NMFS, 2018]

Hearing group	Generalized hearing range *
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the Navy's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the Project area. The proposed rule (89 FR 55180, July 3, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the Navy's construction on marine mammals and their habitat. That information and analysis is referenced in this final rule and is not repeated here; please refer to the proposed rule (89 FR 55180, July 3, 2024).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes that may be authorized, which will inform both NMFS' consideration of "small numbers," and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment) (16 U.S.C. 1362(18)(A)(i)–(ii)).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sounds emitted from pile driving. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, shutdown zones) discussed in detail below in the Mitigation section, Level A harassment is neither anticipated nor would be authorized.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure

context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the state of the receiving animals (*e.g.*, hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007, 2021, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to one micropascal (re one μ Pa)) for continuous (*e.g.*, vibratory pile driving) and above RMS SPL 160 dB re one μ Pa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by temporary threshold shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (*i.e.*, conspecific communication, predators, and prey) may result in changes in behavior patterns that would not otherwise occur.

The Navy's activity includes the use of continuous (*e.g.*, vibratory pile driving and removal) and impulsive (*e.g.*, impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re one μ Pa are applicable.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need

to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources impact or vibratory pile driving and removal, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported below. For concurrent activities where combined impact and vibratory hammer scenarios shown in table 9, the estimated Level A harassment distances

reflect the impact driving activity and the estimated Level B harassment distances reflect the combined vibratory source levels for that activity.

On May 3, 2024, NMFS published (89 FR 36762) and solicited public comment on its draft updated Technical Guidance (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>), which includes updated thresholds and weighting functions to inform auditory injury estimates, and is intended to replace the 2018 Technical Guidance referenced above, once finalized. The public comment period ended on June 17, 2024, and although the updated Technical Guidance is not final, we expect the updated Technical Guidance to represent the best available science once it is. To best ensure we have considered an appropriate estimate of take by Level A harassment, in consideration of the best available science, we have conducted basic comparative calculations using the draft updated Technical Guidance for the purposes of understanding the number of takes by Level A harassment (auditory injury) that would be predicted if the draft updated Technical Guidance were finalized with no changes. The relevant draft updated

thresholds and weighting functions may be found in the executive summary of the draft updated Technical Guidance, on pages 3 and 4. We have also considered whether modifications to mitigation zones would be appropriate in light of the draft updated Technical Guidance. Based on the outcome of these comparisons/analyses using the draft updated Technical Guidance, NMFS has made changes as appropriate to the required shutdown zones necessary to avoid Level A harassment. These updates to the estimated harassment zones (see table 8 and table 9) and resulting changes to the required shutdown zones (see table 11 and table 12) are minor and do not result in any changes to the take levels as described in the proposed rule and analyzed through this final rule.

These thresholds are provided in table 3 and table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance and the draft NMFS' 2024 Technical Guidance, both of which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY
[NMFS 2018]

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	Cell 10: $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of one μPa , and cumulative sound exposure level (L_E) has a reference value of $1\mu\text{Pa}^2\text{s}$. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

TABLE 4—UPDATED THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY (AUD INJ)
[NMFS 2024]

Hearing group	AUD INJ Onset Thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{p,0-pk,flat}$: 222 dB; $L_{E,p,LF,24h}$: 183 dB	Cell 2: $L_{E,p,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	Cell 3: $L_{p,0-pk,flat}$: 230 dB; $L_{E,p,HF,24h}$: 193 dB	Cell 4: $L_{E,p,HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	Cell 5: $L_{p,0-pk,flat}$: 202 dB; $L_{E,p,VHF,24h}$: 159 dB	Cell 6: $L_{E,p,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{p,0-pk,flat}$: 223 dB; $L_{E,p,PW,24h}$: 183 dB	Cell 8: $L_{E,p,PW,24h}$: 195 dB.

TABLE 4—UPDATED THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY (AUD INJ)—Continued
[NMFS 2024]

Hearing group	AUD INJ Onset Thresholds* (received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{p,0-pk,flat}$: 230 dB; $L_{E,p,OW,24h}$: 185 dB	Cell 10: $L_{E,p,OW,24h}$: 199 dB.

*Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0-pk}$) has a reference value of 1 μ Pa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript “flat” is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (i.e., 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the Project area is the existing background noise plus additional construction noise from the Project. Marine mammals are expected to be affected via sound generated by the primary components of the Project (i.e., impact pile driving and vibratory pile driving and removal). The maximum underwater area ensonified above the thresholds for individual activities of behavioral harassment referenced above is 93.5 square kilometers (km²) (36.1 miles (mi²)) and will consist of an area reaching the opposite shoreline of the river (see figures 6.6, 6.8, and 6.10 in the Navy’s application for the Incidental Take Authorization for the Q8 bulkhead Project). The maximum (underwater) area ensonified above the thresholds for concurrent activities of behavioral harassment referenced above is 97.9 km² (37.8 mi²) and will consist of a similar area reaching the opposite shoreline of the river as individual activities (see figures 6.11–6.16 in the Navy’s application). Additionally, vessel traffic and other commercial and industrial activities in the Project area may contribute to elevated background noise levels which may mask sounds produced by the Project.

Transmission loss (*TL*) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. *TL* parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and

bottom composition and topography.

The general formula for underwater *TL* is:

$$TL = B * \log_{10} (R_1/R_2)$$

Where

TL = transmission loss in dB

B = transmission loss coefficient

*R*₁ = the distance of the modeled SPL from the driven pile, and

*R*₂ = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (i.e., free-field) environment not limited by depth or water surface, resulting in a 6-dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of three dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used under conditions, such as the Project site, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that will lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes

place. In order to calculate the distances to the Level A harassment and the Level B harassment sound thresholds for the methods and piles being used in this Project, the Navy and NMFS used acoustic monitoring data from other locations to develop proxy source levels for the various pile types, sizes, and methods. The Project includes vibratory and impact installation of prestressed concrete and composite piles and vibratory removal of existing concrete piles. Steel sheet piles to make up the wall of the bulkhead will be installed with vibratory hammers. Source levels for each pile size and driving method for individual activities are presented in table 5. For concurrent activities where two noise sources have overlapping sound fields, there is potential for higher sound levels than for non-overlapping sources because the isopleth of one sound source encompasses the sound source of another isopleth. In such instances, the sources are considered additive and combined using the rules of decibel addition. For addition of two simultaneous sources, the difference between the two sound source levels is calculated, and: (1) if that difference is between zero and one dB, three dB are added to the higher sound source level; (2) if the difference is between two or three dB, two dB are added to the highest sound source level; (3) if the difference is between four to nine dB, one dB is added to the highest sound source level; and (4) with differences of 10 dB or more, there is no addition. Source levels for each pile size and vibratory driving for concurrent activities are presented in table 6.

TABLE 5—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Pile size	Method	Proxy source level			Literature source
		dB RMS re 1µPa	dB SEL re 1µPa ² sec	dB peak re 1µPa	
56-in sheet pile	Vibratory	168	N/A	N/A	Illingworth and Rodkin, 2017.
18-in concrete	Vibratory	162	N/A	N/A	Caltrans, 2020.
16-in composite	Vibratory	158	N/A	N/A	Illingworth and Rodkin, 2017.
18-in concrete	Impact	170	160	185	e4sciences, 2023.
16-in composite	Impact	169	157	177	Illingworth and Rodkin, 2017.

TABLE 6—PROXY SOUND SOURCE LEVELS FOR CONCURRENT ACTIVITIES

Pile size and type	Vibratory installation source 1 [dB RMS]	Vibratory extract source 2 [dB RMS]	Revised SL to be used [dB RMS]
Source 1: Vibratory hammer 56-in steel sheet pile; Source 2: Vibratory extraction of 18-in concrete pile	168	162	169
Source 1: Vibratory hammer 18-in concrete pile; Source 2: Vibratory extraction of 18-in concrete pile	162	162	165
Source 1: Vibratory hammer 56-in steel sheet pile; Source 2: 16 in composite pile	168	158	168

TABLE 7—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

Phase (year)	Pile size and installation method	Spreadsheet tab used	Weighting factor adjustment (kHz)	Number of strikes per pile	Number of piles per day	Activity duration (minutes)
Phase I (Year 1)	18-in concrete impact installation.	E.1 Impact pile driving	2	307	6	N/A
	18-in concrete vibratory extraction.	A.1 Vibratory pile driving	2.5	N/A	6	14
	56-in sheet pile vibratory installation.	A.1 Vibratory pile driving	2.5	N/A	6	24
Phase II (Year 2)	18-in concrete impact installation.	E.1 Impact pile driving	2	499	6	N/A
	18-in concrete vibratory extraction.	A.1 Vibratory pile driving	2.5	N/A	6	26
	56-in sheet pile vibratory installation.	A.1 Vibratory pile driving	2.5	N/A	6	28
Phase III (Year 3)	16-in composite impact installation.	E.1 Impact pile driving	2	540	6	N/A
	18-in concrete vibratory installation.	E.1 Impact pile driving	2	540	6	N/A
	16-in composite vibratory extraction.	A.1 Vibratory pile driving	2.5	N/A	6	20
	56-in sheet pile vibratory installation.	A.1 Vibratory pile driving	2.5	N/A	6	38

TABLE 8—CALCULATED LEVEL A AND LEVEL B HARASSMENT ISOPLETHS FOR INDIVIDUAL ACTIVITIES

Phase (year)	Activity	Level A harassment zone (m) ¹				Level B harassment zone(m)
		LF-cetaceans	HF (MF)-cetaceans	VHF (HF)-cetaceans	Phocids	
Phase I (Year 1)	18-in concrete impact installation	43.9 (43.6)	5.6 (1.6)	67.8 (52.3)	38.9 (23.5)	46.4
	18-in concrete vibratory extraction	13.5 (10.0)	5.2 (0.9)	11.0 (14.7)	17.3 (6.1)	6,310
	56-in sheet pile vibratory installation ..	48.4 (35.9)	18.6 (3.2)	39.5 (53.0)	62.3 (21.8)	15,849
Phase II (Year 2)	18-in concrete impact installation	60.8 (60.8)	7.7 (2.2)	93.7 (72.4)	53.8 (32.5)	46.4
	18-in concrete vibratory extraction	20.3 (15.1)	7.8 (1.3)	16.6 (22.3)	26.2 (9.2)	6,310
	56-in sheet pile vibratory installation ..	53.7 (39.7)	20.6 (3.2)	43.8 (58.7)	69.1 (24.2)	15,849
Phase III (Year 3)	16-in composite impact installation	40.4 (40.4)	5.1 (1.4)	62.3 (48.1)	35.8 (21.6)	39.8
	18-in concrete impact installation	64.0 (64.0)	8.1 (2.3)	98.7 (76.3)	56.7 (34.3)	46.4
	16-in composite vibratory extraction ...	9.2 (6.8)	3.5 (0.6)	7.5 (10.1)	11.9 (4.2)	3,415
	56-in sheet pile vibratory installation ..	65.8 (48.7)	25.3 (4.3)	53.7 (72.0)	84.7 (29.6)	15,849

¹ Harassment zones shown in parentheses are based on the 2018 technical guidance and were presented in the proposed rule.

TABLE 9—CALCULATED LEVEL A AND LEVEL B HARASSMENT ISOPLETHS FOR CONCURRENT ACTIVITIES

Phase (year)	Activity	Level A harassment zone (m) ¹				Level B harassment zone (m)
		LF-cetaceans	MF (HF)-cetaceans	HF (VHF)-cetaceans	Phocids	
Phase I (Year 1)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	56.4 (41.8)	21.7 (3.7)	46.1 (61.8)	72.7 (25.4)	18,478
	Vibratory extract 18-in concrete piles; vibratory install 56-in steel sheet piles; impact install 18-in concrete piles.	43.9 (43.9)	5.6 (1.6)	67.8 (52.3)	38.9 (23.5)	18,478
Phase II (Year 2)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	62.6 (46.3)	24.0 (4.1)	51.1 (68.5)	80.5 (28.2)	18,478
	Vibratory install 56-in steel sheet piles and impact install 18-in concrete piles.	60.8 (60.8)	7.7 (2.2)	93.7 (72.4)	53.8 (32.5)	15,849
Phase III (Year 3)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	65.8 (56.8)	25.3 (5.0)	53.7 (84.0)	84.7 (34.5)	18,478
	Vibratory install 56-in steel sheet piles and impact install 16-in composite piles.	40.4 (40.4)	5.1 (1.4)	62.3 (48.1)	35.8 (21.6)	15,849

¹ Harassment zones shown in parentheses are based on the 2018 technical guidance and were presented in the proposed rule.

The maximum distance to the Level A harassment threshold during construction will be during the vibratory driving of 56-inch (in) concrete piles during Phase III of individual activities (*i.e.*, 84.7 m for harbor seals) and during the concurrent vibratory extraction of 18-in concrete piles and vibratory installation of 56-in steel sheet piles for concurrent activities of Phase III (*i.e.*, 84.7 m for harbor seals). Given these relatively small isopleths, if a marine mammal enters the shutdown zone during vibratory or impact pile driving it is expected that the construction activity will be shut down before any marine mammal would incur PTS. Therefore, no take by Level A harassment is expected during the construction activities associated with the Q8 bulkhead. The largest calculated Level B harassment isopleth extends out to 18,478 m, which will result from concurrent pile driving of the scenarios presented in table 9. The largest Level B harassment zone of 18,478 m is not an attainable observable distance in all directions, but in some areas the distance is smaller due to the zone being cut off by landmasses. The Level B harassment zone will be monitored to the maximum extent possible.

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations. We describe how the information provided is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and may be authorized.

Humpback Whale

Humpback whales occur in the mouth of the Chesapeake Bay and nearshore waters of Virginia during winter and spring months. Several satellite tagged humpback whales were detected west of the Chesapeake Bay Bridge Tunnel, including two individuals with locations near NAVSTA Norfolk and Joint Expeditionary Base Little Creek (Aschettino *et al.*, 2017). Group size was not reported in these surveys; however, most whales detected were juveniles. Although two individuals were detected in the vicinity of the Project area during shipboard surveys conducted in 2020, there is no evidence that they lingered for multiple days (Aschettino, 2020). Because no density estimates are available for the species in this area, the Navy estimated, and NMFS concurs, that one potential sighting of an average size group (*i.e.*, two individuals) could occur every 60 days of pile driving. Therefore, given the number of Project days expected in each year, NMFS will authorize a total of 16 takes by Level B harassment of humpback whale over the 5-year authorization, with no more than four takes by Level B harassment in a given year.

The largest Level A harassment zone for low-frequency cetaceans extends approximately 65.8 m from the source during concurrent activities for the vibratory extraction of 18-in concrete piles and vibratory install 56-in steel sheet piles (table 9). The Navy plans to shut down if a humpback whale is sighted within any of the Level A harassment zones for all activities. Therefore, NMFS will not authorize take

by Level A harassment of humpback whales.

Bottlenose Dolphins

The expected number of bottlenose dolphins in the Project area was estimated using inshore seasonal densities provided in Engelhaupt *et al.* (2016) from vessel line-transect surveys near NAVSTA Norfolk and adjacent areas near Virginia Beach, Virginia, from August 2012 through August 2015. This density includes sightings inshore of the Chesapeake Bay from NAVSTA Norfolk west to the Thimble Shoals Bridge and is the most representative density for the Project area. To calculate potential Level B harassment takes of bottlenose dolphin, NMFS conservatively multiplied the density of 1.38 dolphin/km² (from Engelhaupt *et al.*, 2016) by the largest Level B harassment isopleth for each activity (tables 7 and 8), and then by the number of days associated with that activity. For example, to calculate Level B harassment takes associated with work at the Q8 bulkhead in Phase I for the vibratory removal of 18-in concrete piles, NMFS multiplied the density (*i.e.*, 1.38 dolphins/km²) by the Level B harassment zone for that activity (*i.e.*, 43.3 km²) by the proportional number of pile driving days for that activity (*i.e.*, 24 days) for a total of 1,437 Level B harassment takes for that activity during Phase I. Takes by Level B harassment were calculated for both individual pile driving activities and concurrent pile driving activities, as authorized takes are conservatively based on the scenario that produces more takes by Level B harassment (table 9). Therefore, NMFS will authorize 14,191 takes by Level B

harassment of bottlenose dolphin across all 5 years, with no more than 6,168 takes in a given year.

The largest Level A harassment zone for mid-frequency cetaceans extends approximately 25.3 m from the source during individual and concurrent activities during Phase III (table 8 and table 9). The Navy plans to shut down all activities if a bottlenose dolphin is sighted within the shutdown zones for mid-frequency cetaceans. Therefore, NMFS will not authorize take by Level A harassment of bottlenose dolphins.

Harbor Porpoise

Harbor porpoises are known to occur in the coastal waters near Virginia Beach (Hayes *et al.*, 2019). Density data for this species within the Project vicinity do not exist or were not calculated because sample sizes were too small to produce reliable estimates of density. Harbor porpoise sighting data collected by the Navy near NAVSTA Norfolk and Virginia Beach from 2012 to 2015 (Engelhaupt *et al.* 2014; 2015; 2016) did not produce enough sightings to calculate densities. One group of two harbor porpoises was seen during spring 2015 (Engelhaupt *et al.* 2016). Elsewhere in their range, harbor porpoises typically occur in groups of two to three individuals

(Carretta *et al.* 2001; Smultea *et al.* 2017).

Due to there being no density estimates for the species in the Project area, the Navy conservatively estimated one exposure of two porpoises for every 60 days of pile driving. Total pile driving days for Phase I will be 74 days, Phase II will be 37 days, and Phase III will be 101 days. Takes by Level B harassment were calculated for both individual pile driving activities and concurrent pile driving activities, as authorized takes are conservatively based on the scenario that produced the larger exposure estimate (table 11). Using the above methodology, NMFS calculated an exposure estimate of eight incidents of take for harbor porpoises.

NMFS does not expect any Level A harassment of harbor porpoise during this Project. The largest Level A harassment zone for high-frequency cetaceans extends approximately 98.7 m from the source during individual activities during Phase III (table 8). The Navy plans to shut down all activities if a harbor porpoise is sighted within the shutdown zones for high-frequency cetaceans. Therefore, NMFS will not authorize take by Level A harassment of harbor porpoise.

Harbor Seal

The expected number of harbor seals in the Project area was estimated using

systematic land- and vessel-based survey data for in-water and hauled out seals collected by the Navy at the CBBT rock armor and portal islands from 2014 through 2019 (Jones *et al.*, 2020). The average daily seal count from the field season ranged from eight to 23 seals, with an average of 13.6 harbor seals across all the field seasons.

NMFS expects that harbor seals are likely to be present from November to April and, consistent with other recent projects (88 FR 31633, May 18, 2023; 87 FR 15945, March 31, 2022; 86 FR 24340; May 6, 2021, and 86 FR 17458; April 2, 2021), NMFS calculated take by Level B harassment by multiplying 13.6 seals by the maximum number of pile driving days expected to occur from November through April. Therefore, we expect the total number of takes by Level B harassment for harbor seals to be 2,882.

NMFS does not expect any Level A harassment of harbor seals during this Project. The largest Level A harassment zone for phocids extends approximately 84.7 m from the source during individual and concurrent activities during Phase III (table 8 and table 9). The Navy plans to shut down all activities if a harbor porpoise is sighted within the shutdown zones for phocids. Therefore, NMFS will not authorize take by Level A harassment of harbor seals.

TABLE 10—TAKES BY LEVEL B HARASSMENT BY SPECIES AND STOCK IN COMPARISON TO STOCK ABUNDANCE

LOA construction phase (year)	Species	Level B (individual activities)	Level B (concurrent activities)	Total	Stock abundance	Percentage of stock
Phase 1	Humpback	2	2	2	1,396	<1
	Bottlenose dolphin—North- ern Migratory (NM) ^{1,2} .	5,414	2,888	2,607	6,639	39.27
	Bottlenose dolphin—South- ern Migratory (SM) ^{1,2} .			2,607	3,751	69.50
	Bottlenose dolphin—NC Es- tuarine ^{1,2} .			200	823	24.30
	Harbor porpoise	4	2	4	85,765	<1
	Harbor seal	1,006	408	1,006	61,336	1.64
Phase 2	Humpback	2	2	2	1,396	<1
	Bottlenose dolphin—NM ^{1,2}	2,609	2,179	1,205	6,639	18.15
	Bottlenose dolphin—SM ^{1,2}			1,205	3,751	32.12
	Bottlenose dolphin—NC Es- tuarine ^{1,2} .			200	823	24.30
	Harbor porpoise	2	2	2	85,765	<1
	Harbor seal	503	653	653	61,336	1.06
Phase 3	Humpback	4	2	4	1,396	<1
	Bottlenose dolphin—NM ^{1,2}	6,168	6,712	3,256	6,639	49.04
	Bottlenose dolphin—SM ^{1,2}			3,256	3,751	85.80
	Bottlenose dolphin—NC Es- tuarine ^{1,2} .			200	823	24.30
	Harbor porpoise	4	2	4	85,765	<1
	Harbor seal	1,236	625	1,373	61,336	2.24

¹ Take estimates are weighted based on the assumed percentages of population for each distinct stock, those percentages were also used to predict the proportion of animals present in the Project area from each stock. Please see Small Numbers section for additional information.

² Assumes multiple repeated takes of the same individuals. Please see Small Numbers section for additional information.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (*e.g.*, likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations.

In addition to the measures described later in this section, the Navy will employ the following mitigation measures:

- The Navy will conduct briefings between construction supervisors and crews, the marine mammal monitoring team, and Navy staff prior to the start of

all pile driving activity and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;

- If a marine mammal comes within 10 m of construction activities, including in-water heavy machinery work, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions; and

- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or is within the harassment zone.

The following mitigation measures apply to the Navy's in-water construction activities.

Establishment of Shutdown Zones—The Navy will establish shutdown zones for all pile driving and removal activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group (table 11 and table 12).

Protected Species Observers (PSO)—The placement of PSOs during all pile driving and removal activities (described in the Monitoring and Reporting section) will ensure that the entire shutdown zone is visible. A minimum of two PSOs will be used during all activities.

Monitoring for Level A and B Harassment—The Navy will monitor the Level B harassment zones (*i.e.*, areas where SPLs are equal to or exceed the 160 dB rms threshold for impact pile driving, and the 120 dB rms threshold during vibratory pile driving and removal) to the extent practicable, and all of the Level A harassment zones and shutdown zones, during all pile driving days. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the

shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the Project area outside the shutdown zone and thus prepare for a potential cessation of activity should the animal enter the shutdown zone.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If a marine mammal is observed within the shutdown zones listed in table 11 or table 12, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zones or 15 minutes have passed without re-detection of the animal. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones will commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).

Soft Start—Soft start procedures are used to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft starts will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

TABLE 11—SHUTDOWN AND MONITORING ZONES FOR INDIVIDUAL ACTIVITIES

Phase (year)	Activity	Shutdown zones (m) ¹			Level B monitoring zones all marine mammals
		LF- cetaceans	VHF (HF)- cetaceans	All other marine mammals	
Phase I (Year 1)	18-in concrete impact installation	50 (50)	70 (60)	40 (30)	50
	18-in concrete vibratory extraction	20 (10)	20 (20)	20 (10)	6,310
	56-in sheet pile vibratory installation	50 (40)	40 (60)	60 (30)	15,850
Phase II (Year 2)	18-in concrete impact installation	70 (70)	100 (80)	60 (40)	50
	18-in concrete vibratory extraction	20 (20)	20 (30)	30 (10)	6,310

TABLE 11—SHUTDOWN AND MONITORING ZONES FOR INDIVIDUAL ACTIVITIES—Continued

Phase (year)	Activity	Shutdown zones (m) ¹			Level B monitoring zones all marine mammals
		LF-cetaceans	VHF (HF)-cetaceans	All other marine mammals	
Phase III (Year 3)	56-in sheet pile vibratory installation	60 (40)	50 (60)	70 (30)	15,850
	16-in composite impact installation	50 (50)	70 (50)	40 (30)	40
	18-in concrete impact installation	70 (70)	100 (80)	60 (40)	50
	16-in composite vibratory extraction	10 (10)	10 (20)	20 (10)	3,415
	56-in sheet pile vibratory installation	70 (50)	60 (80)	90 (30)	15,850

¹ Shutdown zones shown in parentheses are based on the 2018 technical guidance and were presented in the proposed rule.

TABLE 12—SHUTDOWN AND MONITORING ZONES FOR CONCURRENT ACTIVITIES

Phase (year)	Activity	Shutdown zones (m) ¹			Level B monitoring zones all marine mammals
		LF-cetaceans	HF-cetaceans	All other marine mammals	
Phase 1 (Year 1)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	60 (50)	50 (70)	80 (30)	18,480
	Vibratory extract 18-in concrete piles; vibratory install 56-in steel sheet piles; impact install 18-in concrete piles.	50 (70)	70 (90)	40 (40)	18,480
Phase II (Year 2)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	70 (50)	60 (70)	80 (30)	18,480
	Vibratory install 56-in steel sheet piles and impact install 18-in concrete piles.	70 (50)	100 (80)	60 (30)	15,850
Phase III (Year 3)	Vibratory extract 18-in concrete piles and vibratory install 56-in steel sheet piles.	70 (50)	60 (70)	90 (30)	18,480
	Vibratory install 56-in steel sheet piles and impact install 16-in composite piles.	60 (50)	50 (80)	40 (30)	15,850

¹ Shutdown zones shown in parentheses are based on the 2018 technical guidance and were presented in the proposed rule.

Based on our evaluation of the applicant's mitigation measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual

marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Marine mammal monitoring during pile driving and removal must be conducted by qualified, NMFS approved PSOs, in accordance with the following:

- PSOs must be independent of the activity contractor (e.g., employed by a subcontractor) and have no other assigned tasks during monitoring periods;
- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute other relevant experience, education (i.e., a degree in biological science or related field), or training for prior experience performing the duties of a PSO during

construction activity pursuant to a NMFS-issued incidental take authorization;

- PSOs must be approved by NMFS prior to beginning any activity subject to an LOA issued under this final rule; and

- A lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;

- Experience or training in the field identification of marine mammals, including the identification of behaviors;

- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

- Writing skills sufficient to prepare a report of observations including but not limited to: (1) The number and species of marine mammals observed; (2) dates and times when in-water construction activities were conducted; (3) dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and (4) marine mammal behavior; and

- Ability to communicate orally, by radio or in person, with Project personnel to provide real-time information on marine mammals observed in the area as necessary.

Given the configuration of the harassment zones, which vary depending on the pile type/size and the pile driver type (tables 9 and 10), it is assumed that 2 PSOs will be sufficient to monitor the zones for impact drivers, and 3 to 4 PSOs will be sufficient to monitor the zones for vibratory drivers given the placement of the observers in the vicinity of the Project area. However, additional monitors may be

added if warranted by the level of marine mammal activity in the area. PSOs will be placed at the best vantage point(s) practicable (figure 1) to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown by the pile driver operator. PSOs will be deployed on the Green Mile Fishing Pier during vibratory driving of piles when monitoring zones are exceptionally large.

Monitoring will be conducted 30 minutes before, during, and after all in water construction activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

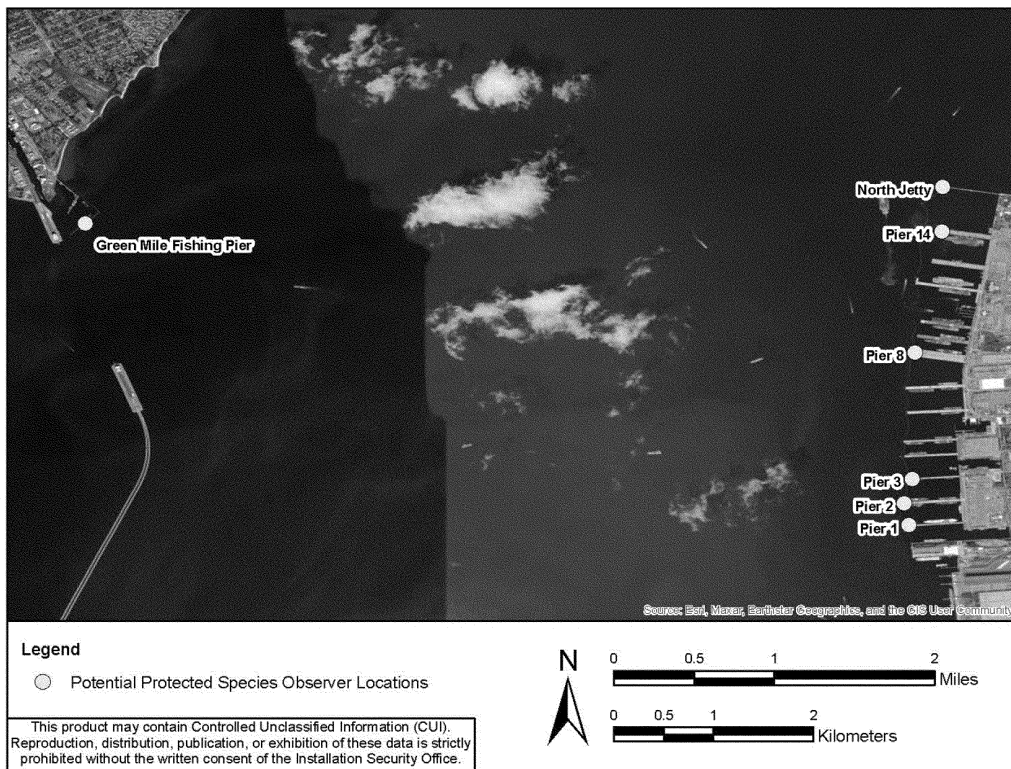


Figure 1 Protected Species Observer Locations at NAVSTA Norfolk at Norfolk, Virginia

Acoustic Monitoring

The Navy will implement *in situ* acoustic monitoring efforts to measure SPLs from in-water construction activities for pile types and methods

that have not been previously collected at NAVSTA Norfolk (table 13). The Navy will collect and evaluate acoustic sound recording levels during pile driving activities. The Navy will collect data on 10 percent of the number of total piles driven for each pile type. Hydrophones will be placed at locations 33 feet (ft) from the noise source and,

where the potential for Level A (PTS onset) harassment exists, at a second representative monitoring location that is a distance of 20 times the depth of water at the pile location, to the maximum extent practicable. For the pile driving events acoustically measured, 100 percent of the data will be analyzed. Please see the Navy's

Acoustic Monitoring Plan and section 13.2 in the application for additional detail.

TABLE 13—NUMBER OF PILES FOR HYDROACOUSTIC MONITORING

Pile type	Total piles	Method of install of removal	Number monitored
18-in concrete	200	Vibratory	20
18-in concrete	184	Impact	18
56-in steel sheet	547	Vibratory	55
16-in composite	178	Vibratory	18
16-in composite	105	Impact	11

Environmental data shall be collected and will include, but will not be limited to, the following: (1) wind speed and direction; (2) air temperature; (3) humidity; (4) surface water temperature; (5) water depth; (6) wave height; (7) weather conditions; and (8) other factors that could contribute to influencing underwater sound levels (*e.g.*, aircrafts, boats, *etc.*).

Reporting

The Navy is required to submit an annual report on all activities and marine mammal monitoring results to NMFS within 90 days following the end of each construction year. Additionally, a draft comprehensive 5-year summary report must be submitted to NMFS within 90 days of the end of the Project. The annual reports will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (a) how many and what type of piles were driven or removed and the method (*i.e.*, impact or vibratory); and (b) the total duration of time for each pile (vibratory driving) or number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

Upon observation of a marine mammal the following information must be reported:

- Name of PSO who sighted the animal(s) and PSO location and activity at the time of the sighting;
- Time of the sighting;

- Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

- Distance and bearing of each observed marine mammal relative to the pile being driven or removed for each sighting;

- Estimated number of animals (min/max/best estimate);

- Estimated number of animals by cohort (*e.g.*, adults, juveniles, neonates, group composition, *etc.*);

- Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

- Number of marine mammals detected within the harassment zones, by species; and

- Detailed information about implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specified actions that ensured, and resulting changes in behavior of the animal(s), if any.

The acoustic monitoring report must contain the informational elements described in the Acoustic Monitoring Plan and, at minimum, must include:

- Hydrophone equipment and methods: (1) recording device, sampling rate, distance (m) from the pile where recordings were made; and (2) the depth of water and recording device(s);
- Type and size of pile being driven, substrate type, method of driving during recordings (*e.g.*, hammer model and energy), and total pile driving duration;
- Whether a sound attenuation device is used and, if so, a detailed description of the device used and the duration of its use per pile;

- For impact pile driving: (1) number of strikes and strike rate; (2) depth of substrate to penetrate; (3) pulse duration and mean, median, and maximum sound levels (dB re: one μ Pa); (4) root

mean square sound pressure level (SPLrms); and (5) cumulative sound exposure level (SELcum), peak sound pressure level (SPLpeak), and single-strike sound exposure level (SELs-s); and

- For vibratory driving/removal: (1) duration of driving per pile; and (2) mean, median, and maximum sound levels (dB re: one μ Pa): SPLrms, SELcum (and timeframe over which the sound is averaged).

If no comments are received from NMFS within 30 days, the draft reports will constitute the final reports. If comments are received, a final report addressing NMFS' comments must be submitted within 30 days after receipt of comments. All PSO datasheets and/or raw sighting data must be submitted with the draft marine mammal report.

Reporting Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the LOA (if issued) and the regulations (*e.g.*, an injury, serious injury, or mortality) the Navy shall report the incident to Office of Protected Resources, NMFS, and the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator. The report must include the following information:

- Description of the incident;
- Environmental conditions (*e.g.*, Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Navy to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Navy will not

be able to resume their activities until notified by NMFS.

In the event that the Navy discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition as described in the next paragraph), the Navy will immediately report the incident to the Office of Protected Resources, NMFS, and the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator. The report will include the same information identified in the paragraph above. Activities will be able to continue while NMFS reviews the circumstances of the incident. NMFS will work with the Navy to determine whether modifications in the activities are appropriate.

In the event that the Navy discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the LOA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Navy will report the incident to the Office of Protected Resources, NMFS, and the NMFS Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator, within 24 hours of the discovery. The Navy will provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also

assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analysis applies to all the species listed in table 3, given that many of the anticipated effects of this Project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Construction activities associated with the Project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment from underwater sounds generated by pile driving and removal. Potential takes could occur if marine mammals are present in zones ensonified above the thresholds for Level B harassment, identified above, while activities are underway.

Level A harassment is unlikely considering the small Level A harassment zones (tables 9 and 10) and corresponding shutdown zones (tables 12 and 13) where activities will cease if animals were present in those zones. Also, pile driving and removal activities are of relatively short duration and an animal will have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours to incur PTS. This is highly unlikely given marine mammal movement throughout the area, especially for small, fast-moving species such as small cetaceans and pinnipeds. Therefore, NMFS is not proposing to authorize take by Level A harassment during any portion of the Navy’s activities.

The nature of activities included in the Navy’s pile driving Project precludes the likelihood of serious injury or mortality. For all species and stocks, take will occur within a limited, confined area (*i.e.*, immediately

surrounding NAVSTA Norfolk in the Chesapeake Bay area) of the stock’s range. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Furthermore, the number of individuals expected to be taken is extremely small relative to the stock abundance for all species.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, decreased foraging (if such activity were occurring), or avoidance (*e.g.*, Thorson and Reyff 2006; Hampton Roads Connector Partners 2023; W.F. Magann Corporation 2023). Individual animals, even if taken multiple times, will most likely move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. Furthermore, many Projects similar to this one are also believed to result in multiple takes of individual animals without any documented long-term adverse effects. Level B harassment will be minimized through use of mitigation measures described herein and, if take does occur the impacts would be expected to be minimal, particularly as the Project is located on a busy waterfront with high amounts of vessel traffic and other ambient noise.

An unusual mortality event (UME) has been declared for humpback whales in the U.S. Atlantic. However, we do not expect authorized takes to exacerbate or compound upon these ongoing UMEs. As noted previously, no injury, serious injury, or mortality is expected or authorized, and the impact of Level B harassment takes of humpback whale will be minimized through the incorporation of the mitigation measures. The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment) remains healthy.

The Project is also not expected to have significant adverse effects on affected marine mammals’ habitats. The

Project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; however, because of the short duration of the activities and the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- The intensity of anticipated takes by Level B harassment is relatively low for all stocks;
- The specified activity and associated ensonified areas are very small relative to the overall habitat ranges of all species and do not include habitat areas of special significance, including any pinniped haulouts;
- The lack of anticipated significant or long-term negative effects to marine habitat;
- The presumed efficacy of the mitigation measures in reducing the effects of the taking incidental to the specified activity; and
- Monitoring reports from similar work in the Chesapeake Bay have documented little to no effect on individuals of the same species impacted by similar activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the maximum number of individuals taken in any year to the most appropriate

estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted maximum annual number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The maximum annual take NMFS authorizes for the four marine mammal stocks is below one-third of the estimated stock abundance for all species except for the western north Atlantic (WNA) southern coastal migratory stock and the WNA northern coastal migratory stock of bottlenose dolphins (see table 10).

There are three bottlenose dolphin stocks that could occur in the Project area. Therefore, the largest estimated annual take by Level B harassment of 6,712 bottlenose dolphin will likely be split among the northern migratory coastal stock, the southern migratory coastal stock, and the northern North Carolina estuarine stock (NNCES). Based on the stocks' respective occurrence in the area, NMFS estimates that there will be no more than 200 takes from the NNCES stock during each phase of construction, representing 24 percent of that population, with the remaining takes split evenly between the northern and southern coastal migratory stocks. Based on the consideration of various factors as described below, we have determined that the number of individuals taken will comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in the Description of Marine Mammals in the Area of Specified Activities section.

Both the WNA northern migratory stock and the WNA southern migratory stock have expansive ranges and they are the only dolphin stocks thought to make broad scale, seasonal migrations in coastal waters of the WNA. Given the large ranges associated with these two stocks, it is unlikely that large segments of either stock will approach the Project area and enter into the Chesapeake Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The

WNA northern migratory stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in the late summer and fall. During cold-water months, dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia border. During January-March, the WNA southern migratory stock appears to move as far south as northern Florida. From April-June, the stock moves back north to North Carolina. During the warm water months of July-August, the stock is presumed to occupy the coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the stocks during spring and fall migrations, but the extent of overlap is unknown.

In summary and as described above, the following factors primarily support our determination regarding the incidental take of small numbers of the affected stocks of a species or stock:

- The maximum annual take of marine mammal stocks for authorization comprises less than three percent of any stock abundance (with the exception of the three bottlenose dolphin stocks);
- Potential bottlenose dolphin takes in the Project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the Project area have extensive ranges and it will be unlikely to find a high percentage of the individuals of any one stock concentrated in a relatively small area such as the Project area or the Chesapeake Bay;
- The Chesapeake Bay represents the migratory boundary for each of the specified dolphin stocks and it will be unlikely to find a high percentage of any stock concentrated at such boundaries; and
- Many of the takes will likely be repeats of the same animals, including from a resident population of the Chesapeake Bay.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable

adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.*, the promulgation of regulations and subsequent issuance of incidental take authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that will preclude this categorical exclusion. Accordingly, NMFS has determined that the action qualifies to be categorically excluded from further review under NEPA.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever NMFS authorizes take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that

will be subject to the requirements in these regulations, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification or on the economic impacts of the rule more generally. As a result, a regulatory flexibility analysis is not required and none has been prepared.

This rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act because the applicant is a Federal agency.

List of Subjects in 50 CFR 217

Acoustics, Administrative practice and procedure, Construction, Endangered and threatened species, Marine mammals, Mitigation and Monitoring requirements, Reporting requirements, Wildlife.

Dated: October 4, 2024.

Samuel D. Rauch III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

For reasons set forth in the preamble, NMFS amends 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. Add subpart X to read as follows

Subpart X—Taking and Importing Marine Mammals Incidental to Navy Construction of the Q8 Bulkhead Repair and Replacement Project at Naval Station Norfolk at Norfolk, Virginia

Sec.

217.230 Specified activity and geographical region.

217.231 Effective dates.

217.232 Permissible methods of taking.

217.233 Prohibitions.

217.234 Mitigation requirements.

217.235 Requirements for monitoring and reporting.

217.236 Letters of Authorization.

217.237 Renewals and modifications of Letters of Authorization.

Subpart X—Taking and Importing Marine Mammals Incidental to Navy Construction of the Q8 Bulkhead Repair and Replacement Project at Naval Station Norfolk at Norfolk, Virginia

§ 217.230 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) and those

persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to construction activities related to the repair and replacement of the Q8 bulkhead at Naval Station Norfolk at Norfolk, Virginia.

(b) The taking of marine mammals by the Navy may be authorized in a Letter of Authorization (LOA) only if it occurs at Naval Station Norfolk, Norfolk, Virginia.

§ 217.231 Effective dates.

Regulations under this subpart are effective from January 1, 2025, through December 31, 2029.

§ 217.232 Permissible methods of taking.

Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.236, the Holder of the LOA (hereinafter “Navy”) may incidentally, but not intentionally, take marine mammals within the area described in § 217.230(b) by harassment associated with construction activities related to the repair and replacement of the Q8 bulkhead, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

§ 217.233 Prohibitions.

(a) Except for the takings contemplated in § 217.232 and authorized by a LOA issued under §§ 216.106 of this chapter and 217.236, it is unlawful for any person to do any of the following in connection with the activities described in § 217.230:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.236;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner other than as specified;

(4) Take a marine mammal specified in such LOA after NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(5) Take a marine mammal specified in such LOA after NMFS determined such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

(b) [Reserved]

§ 217.234 Mitigation requirements.

(a) When conducting the activities identified in § 217.230(a), the mitigation measures contained in this subpart and

any LOA issued under §§ 216.106 of this chapter and 217.236 must be implemented by the Navy. These mitigation measures include:

(1) A copy of any issued LOA must be in the possession of the Navy, supervisory construction personnel, lead protected species observers (PSO), and any other relevant designees of the Navy operating under the authority of the LOA at all times that activities subject to the LOA are being conducted;

(2) The Navy must ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained prior to the start of activities subject to any issued LOA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the Project must be trained prior to commencing work;

(3) The Navy, construction supervisors and crews, and relevant Navy staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 meters (m) of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction;

(4) The Navy must employ PSOs and establish monitoring locations as described in the NMFS-approved Marine Mammal Monitoring Plan. The Navy must monitor the Project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions;

(5) For all pile driving activities, the Navy shall implement shutdown zones with radial distances as identified in a LOA issued under § 217.236. If a marine mammal is observed entering or within the shutdown zone, such operations must be delayed or halted.

(6) Monitoring must take place from 30 minutes prior to initiation of a pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of a pile driving activity.

(7) Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals.

(8) If a marine mammal is observed entering or within the shutdown zones, pile driving activity must be delayed or halted.

(9) If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal.

(10) Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone.

(11) The Navy must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

(b) [Reserved]

§ 217.235 Requirements for monitoring and reporting.

(a) The Navy shall submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of construction. Marine mammal monitoring must be conducted in accordance with the conditions in this section and the NMFS-approved Marine Mammal Monitoring Plan.

(b) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:

(1) PSOs must be independent of the activity contractor (*e.g.*, employed by a subcontractor) and have no other assigned tasks during monitoring periods;

(2) At least one PSO must have prior experience performing the duties of an observer during construction activity pursuant to a NMFS-issued incidental take authorization;

(3) Other observers may substitute other relevant experience, education (*i.e.*, degree in biological science or related field), or training for prior experience performing the duties of an observer during construction activity pursuant to a NMFS-issued incidental take authorization;

(4) One observer must be designated as lead observer or monitoring coordinator. The lead observer must have prior experience performing the duties of a PSO during construction

activity pursuant to a NMFS-issued incidental take authorization;

(5) Observers must be approved by NMFS prior to beginning any activity subject to any issued LOA;

(6) For all pile driving activities, a minimum of two observers shall be stationed at the best vantage points practicable. One of these observers must be positioned to monitor for marine mammals and implement shutdown/delay procedures;

(7) The Navy shall monitor the harassment zones to the maximum extent practicable and the entire shutdown zones. The Navy shall monitor at least a portion of the Level B harassment zone on all pile driving days;

(8) The Navy shall conduct hydroacoustic data collection in accordance with an Acoustic Monitoring Plan that must be approved by NMFS in advance of construction;

(9) The shutdown/monitoring zones may be modified with NMFS' approval following NMFS' acceptance of an acoustic monitoring report;

(10) The Navy must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive five-year summary report must also be submitted to NMFS within 90 days of the end of the Project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The reports must at minimum contain the informational elements described below (as well as any additional information described in the Marine Mammal Monitoring Plan), including:

(i) Dates and times (begin and end) of all marine mammal monitoring;

(ii) Construction activities occurring during each daily observation period, including the number and type of piles that were driven or removed and by what method (*i.e.*, impact or vibratory), total duration of driving time for each pile (vibratory) and number of strikes for each pile (impact);

(iii) PSO locations during marine mammal monitoring;

(iv) Environmental conditions during monitoring periods (at beginning and

end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;

(v) Upon observation of a marine mammal, the following information:

(A) Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;

(B) Time of sighting;

(C) Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

(D) Distance and location of each observed marine mammal relative to the pile being driven for each sighting;

(E) Estimated number of animals (min/max/best estimate);

(F) Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);

(G) Animal's closest point of approach and estimated time spent within the harassment zone; and

(H) Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

(vi) Number of marine mammals detected within the harassment zones, by species; and

(vii) Detailed information about implementation of any mitigation (*e.g.*, shutdown and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

(11) The Holder must submit all PSO data electronically in a format that can be queried such as a spreadsheet or database (*i.e.*, digital images of data sheets are not sufficient);

(12) The Navy must report hydroacoustic data collected as required by a LOA issued under §§ 216.106 of this chapter and 217.236 and as discussed in the Navy's Acoustic Monitoring Plan approved by NMFS;

(13) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy shall report the incident to the Office of Protected Resources (OPR), NMFS, and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by

the specified activity, the Navy must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the authorization. The Navy must not resume their activities until notified by NMFS. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Condition of the animal(s) (including carcass condition if the animal is dead);

(iv) Observed behaviors of the animal(s), if alive;

(v) If available, photographs or video footage of the animal(s); and

(vi) General circumstances under which the animal was discovered.

§ 217.236 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Navy must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Navy must apply for and obtain a modification of the LOA as described in § 217.236.

(e) The LOA must set forth the following information:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA must be based on a determination that the level of taking must be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA must be published in the **Federal Register** within 30 days of a determination.

§ 217.237 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.236 for the activity identified in § 217.230(a) may be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under §§ 216.106 of this chapter and 217.236 for the activity identified in § 217.230(a) may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from Navy's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS must publish a notice of proposed LOA in the **Federal Register** and solicit public comment;

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in

a LOA issued pursuant to § 216.106 of this chapter and § 217.236, a LOA may be modified without prior notice or opportunity for public comment. Notification will be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2024–23392 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 240919–0246]

RTID 0648–XR137

Endangered and Threatened Wildlife and Plants; Technical Correction for the Coral *Fimbriaphyllia paradivisa*

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

ACTION: Direct final rule.

SUMMARY: We, NMFS, announce the revised taxonomy of the coral *Euphyllia paradivisa* (no common name) under the Endangered Species Act of 1973, as amended (ESA). We are revising the Enumeration of threatened marine and anadromous species for *Euphyllia paradivisa* to reflect the scientifically accepted taxonomy and nomenclature of this species. We revise the scientific name of the species to *Fimbriaphyllia paradivisa*. The changes to the taxonomic classification and nomenclature do not affect the species' listing status under the ESA or any protections and requirements arising from its listing.

DATES: The rule is effective December 9, 2024 without further action, unless significant adverse comment is received by November 8, 2024. If significant adverse comments are received, the NMFS will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2024–0078, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2024–0078 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of

the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT:

Lance Smith, NMFS, Pacific Islands Regional Office, 808–725–5131, Lance.Smith@noaa.gov.

SUPPLEMENTARY INFORMATION:

Purpose of This Rule

The purpose of our direct final rule is to notify the public that we are revising the Enumeration of threatened marine and anadromous species (50 CFR 223.102(e)) to reflect the scientifically accepted taxonomy and nomenclature of one coral species, *Euphyllia paradivisa*, listed under section 4 of the ESA in 2014 (16 U.S.C. 1531 *et seq.*). The change reflects the most recently accepted scientific name in accordance with 50 CFR 223.102(b).

We are publishing this rule as a direct final rule because this is a noncontroversial action that reflects decisions already taken in the scientific community, such that prior notice and an opportunity to comment is unnecessary. This rule does not change the listing status of the species under the ESA and does not alter any protections afforded the species or any other legal requirements arising from the species' listing under the ESA. This change should be undertaken in as timely a manner as possible. This rule will be effective, as published in this document on the effective date specified in **DATES**, unless we receive significant adverse comments on or before the comment due date specified in **DATES**. Significant adverse comments are comments that provide strong scientific justification as to why the taxonomic and nomenclature changes to the Enumeration of the listed entity should not be adopted or why the rule should be changed. Please include sufficient scientific information with your comments that will allow us to verify the basis for any significant adverse comments.

If we receive significant adverse comments, we will publish a notification in the **Federal Register** withdrawing this rule before the effective date, and we will engage in notice and comment rulemaking under

the applicable requirements of the Administrative Procedure Act to promulgate these changes to 50 CFR 223.102(e).

Background

Under 50 CFR 223.102(b), we use the most recently accepted scientific name of any species that we have determined to be threatened under the ESA, relying to the extent practicable on the International Code of Zoological Nomenclature (ICZN). The ESA likewise requires that listing decisions be based solely on the best scientific and commercial data available (see 16 U.S.C. 1533(b)(1)(A)). Using the best available scientific information, our direct final rule documents a taxonomic change (scientific name) to *Euphyllia paradivisa*. This change is supported by studies published in peer-reviewed journals, acceptance by the World Register of Marine Species, our 5-year Review of the species (NMFS 2024), and broad acceptance by scientists around the world. We revise the scientific name of *Euphyllia paradivisa* listed under section 4 of the ESA (16 U.S.C. 1531 *et seq.*) as follows: *Fimbriaphyllia paradivisa*. We make this change to the Enumeration of threatened marine and anadromous species (50 CFR 223.102(e)) to reflect the most recently accepted scientific name in accordance with 50 CFR 223.102(b).

Taxonomy Classification

Fimbriaphyllia paradivisa

Based on colony growth form, Veron & Pichon (1980) established two subgenera within the genus *Euphyllia*, namely *Euphyllia* and *Fimbriaphyllia*. Veron (1990) described the species *Euphyllia paradivisa*, placing it in *Euphyllia* instead of *Fimbriaphyllia* based on skeletal and tentacle morphological characteristics. More recently, molecular data showed that the species traditionally ascribed to the genus *Euphyllia* could be separated into two major lineages that were distinct enough to fall within two separate genera (Luzon *et al.* 2017, Arrigoni *et al.* 2023). Luzon *et al.* (2017) demonstrated that these two major lineages, can be distinguished based on the polyp morphology and reproductive traits. As such, Luzon *et al.* (2017) elevated *Fimbriaphyllia* from a subgenera within the genus *Euphyllia* to a separate genus to be composed of five species, namely *F. ancora*, *F. divisa*, *F. paraancora*, *F. paradivisa*, and *F. yaeyamensis*; this taxonomic change was supported by the results of Arrigoni *et al.* (2023). There has been broad acceptance among scientists around the world of the taxonomic change suggested by these

studies. This taxonomic change has also been accepted by the World Register of Marine Species (WoRMS), an authoritative and comprehensive registry of marine species that follows ICZN protocols (see <https://www.marinespecies.org>). (We note that, while the separate ICZN database (ZooBank) is generally a reliable source for taxonomic information, in this instance, the ZooBank is incomplete because it often does not include coral species and marine invertebrates; thus, we are not relying on the ZooBank for evidence of the current, accepted scientific name of this coral species.)

NMFS, therefore, recognizes the taxonomic change and is making technical revisions to 50 CFR 223.102(e) to reflect the most recently accepted scientific name based on the best available scientific information about the listed species. Once the changes to 50 CFR 223.102(e) take effect, the taxonomic change will be incorporated into all new NMFS publications pertaining to the species. This species will continue to be listed as threatened and is subject to the same protections as those that existed prior to these changes. No other aspect of the entry for this species in 50 CFR 223.102(e) will change as a result of this rule.

Required Determinations

The Assistant Administrator for Fisheries finds that good cause exists to waive the requirement for prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(b)(B). Such procedures would be unnecessary as the taxonomic change made in this rule is technical and reflects decisions already taken in the scientific community. This rule does not change the listing status of this coral species under the ESA, and therefore does not alter the legal protections afforded to the species or any other requirements arising from its listing under the ESA or add any new requirements.

This action is not subject to review under Executive Order (E.O.) 12866. Because a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are inapplicable.

This final rule does not contain policies with federalism implications under E.O. 13132. Policies that have federalism implications refers to regulations, legislative comments or proposed legislation, and other policy statements or 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. This final rule does not have federalism implications; therefore, the agency did not follow the additional consultation procedures outlined in E.O. 13132.

This rule does not contain any collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

E.O. 12898 requires that Federal actions address environmental justice in the decision-making process. In particular, the environmental effects of the actions should not have a disproportionate effect on minority and low-income communities. This rule is not expected to have a disproportionate effect on minority populations or low-income populations.

This final rule makes a taxonomic change relative to a previous listing determination under the ESA to reflect the most recently accepted scientific name based on the best available scientific information about the species' taxonomy and nomenclature. NMFS has

concluded that the National Environmental Policy Act (NEPA) does not apply to ESA listing actions, and we conclude that NEPA does not apply to this correction to the identification of the listed species to reflect the best available scientific information (see NOAA Administrative Order 216–6A and the Companion Manual for NOAA Administrative Order 216–6A, regarding Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities).

References Cited

A complete list of references is available on our website at: <https://www.fisheries.noaa.gov/action/>.

List of Subjects in 50 CFR Part 223

Endangered and threatened species.

Dated: October 3, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 223 as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

- 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

- 2. In § 223.102, amend the table in paragraph (e), under the heading “Corals” by revising the entry for “*Euphyllia paradivisa*” to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
Corals					
*	*	*	*	*	*
Coral, [no common name]	<i>Fimbriaphyllia paradviva</i> ...	Entire species	79 FR 53852, Sept. 10, 2014.	226.230	NA.
*	*	*	*	*	*

¹Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2024–23317 Filed 10–8–24; 8:45 a.m.]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240228–0062; RTID 0648–XE363]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the 2024 Specifications

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS increases the 2024 Atlantic herring annual catch limit and Area 1A sub-annual catch limit by 1,000 metric tons (mt) for the remainder of 2024. This action is required by the herring regulations when, based on data through October 1, 2024, NMFS determines that the New Brunswick weir fishery has landed less than 2,722

mt of herring. This notification informs the public of these catch limit changes.

DATES: Effective October 8, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT:

Ashley Trudeau, Fishery Resource Management Specialist, 978–281–9252, ashley.trudeau@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published final 2024 specifications for the Atlantic Herring Fishery Management Plan on March 4, 2024 (89 FR 15482), establishing the 2024 annual catch limit (ACL) and area sub-ACLs. Table 1 shows the current herring specifications for 2024 and the specifications as revised by this action for the remainder of the calendar year.

The NMFS Regional Administrator tracks herring landings in the New Brunswick weir fishery each year. The regulations at 50 CFR 648.201(h) require that if the New Brunswick weir fishery landings through October 1 are determined to be less than 2,722 mt, then NMFS subtracts 1,000 mt from the management uncertainty buffer and reallocates that amount to the ACL and Area 1A sub-ACL. When such a determination is made, NMFS is required to notify the New England Fishery Management Council and

publish the ACL and Area 1A sub-ACL adjustment in the **Federal Register**.

Information from Canada's Department of Fisheries and Oceans indicates that the New Brunswick weir fishery landed 930 mt of herring through October 1, 2024. Therefore, the Regional Administrator determined that, effective upon notification filing in the **Federal Register**, 1,000 mt will be reallocated from the management uncertainty buffer to the Area 1A sub-ACL and the ACL. This 1,000 mt reallocation increases the Area 1A sub-ACL from 5,504 mt to 6,504 mt and the ACL from 19,141 mt to 20,141 mt for the remainder of 2024.

Additionally, NMFS will use the adjusted allocations when we project whether catch from Area 1A will reach 92 percent of the Area 1A sub-ACL, or whether overall herring catch will reach 95 percent of the ACL. When Area 1A catch is projected to reach 92 percent of the Area 1A sub-ACL, catch from this area is reduced to 2,000 lb (907.2 kg) per trip, per calendar day. When overall catch is projected to reach 95 percent of the ACL, then catch in or from all herring management areas is limited to 2,000 lb (907.2 kg) per trip, per calendar day.

TABLE 1—ATLANTIC HERRING SPECIFICATIONS FOR 2024

	Current specifications (mt)	Adjusted specifications (mt)
Overfishing Limit	32,233	32,233
Acceptable Biological Catch	23,409	23,409
Management Uncertainty	4,220	3,220
Optimum Yield/ACL	19,141	20,141
Domestic Annual Harvest	19,141	20,141
Border Transfer	0	0
Domestic Annual Processing	19,141	20,141
U.S. At-Sea Processing	0	0
Area 1A Sub-ACL (28.9 percent)	5,504	6,504
Area 1B Sub-ACL (4.3 percent)	819	819
Area 2 Sub-ACL (27.8 percent)	5,449	5,449
Area 3 Sub-ACL (39 percent)	7,484	7,484
Fixed Gear Set-Aside	30	30
Research Set-Aside (RSA)	0%	0%

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this inseason adjustment because it would be unnecessary and contrary to the public interest. This action allocates a portion of the management uncertainty buffer to the ACL and Area 1A sub-ACL for the remainder of the calendar year pursuant to a previously published regulation

that provides no discretionary decision-making. This reallocation process was the subject of prior notice and comment rulemaking. The adjustment is routine and formulaic, required by regulation, and is expected by industry. The potential to reallocate the management uncertainty buffer was also outlined in the 2024 herring specifications that were published March 23, 2023 (88 FR 17397), which were developed through public notice and comment. Further, this reallocation provides additional economic opportunity for the herring fleet. If implementation of this action is delayed to solicit public comment, the objective of the fishery management plan to achieve optimum yield in the fishery could be compromised. Deteriorating weather conditions during

the latter part of the fishing year may reduce fishing effort, and could also prevent the ACL from being fully harvested. This would result in a negative economic impact on vessels permitted to fish in this fishery. Based on these considerations, NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 3, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–23318 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 89, No. 196

Wednesday, October 9, 2024

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

FEDERAL TRADE COMMISSION

16 CFR Part 1

[File No. R407003]

Petition for Rulemaking of Consumer Technology Association

AGENCY: Federal Trade Commission.

ACTION: Receipt of petition; request for comment.

SUMMARY: Please take notice that the Federal Trade Commission (“Commission”) received a petition for rulemaking from the Consumer Technology Association (“CTA”) and has published that petition online at <https://www.regulations.gov>. This petition requests that the Commission clarify its application of the amended Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products (the “Amplifier Rule”) or amend the Amplifier Rule to apply only prospectively to products designed, tested, and manufactured on or after the August 12, 2024 effective date. The Commission invites written comments concerning the petition. Publication of this petition is pursuant to the Commission’s Rules of Practice and Procedure and does not affect the legal status of the petition or its final disposition.

DATES: Comments must identify the petition docket number and be filed by November 8, 2024.

ADDRESSES: You may view the petition, identified by docket number FTC–2024–0039, and submit written comments concerning its merits by using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit sensitive or confidential information. You may read background documents or comments received at <https://www.regulations.gov> at any time.

FOR FURTHER INFORMATION CONTACT: Joel Christie, Office of the Secretary, Federal Trade Commission, 600 Pennsylvania

Avenue NW, Washington, DC 20580, jchristie@ftc.gov, 202–326–3297.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18(a)(1)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(1)(B), and FTC Rule 1.31(f), 16 CFR 1.31(f), notice is hereby given that the above-captioned petition has been filed with the Secretary of the Commission and has been placed on the public record for a period of 30 days. Any person may submit comments in support of or in opposition to the petition. All timely and responsive comments submitted in connection with this petition will become part of the public record.

The Commission will not consider the petition’s merits until after the comment period closes. It may grant or deny the petition in whole or in part, and it may deem the petition insufficient to warrant commencement of a rulemaking proceeding. The purpose of this document is to facilitate public comment on the petition to aid the Commission in determining what, if any, action to take regarding the request contained in the petition. This document is not intended to start, stop, cancel, or otherwise affect rulemaking proceedings in any way.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2).

(Authority: 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 601 note.)

April J. Tabor,
Secretary.

[FR Doc. 2024–23272 Filed 10–8–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–113628–21]

RIN 1545–BQ13

Entities Wholly Owned by Indian Tribal Governments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations regarding the Federal tax classification of entities wholly owned by Indian Tribal governments (Tribes). The proposed regulations would provide that entities that are wholly owned by Tribes and organized or incorporated exclusively under the laws of the Tribes that own them generally are not recognized as separate entities for Federal tax purposes. The proposed regulations would also provide that, for purposes of making certain elective payment elections (including determining eligibility for and the consequences of such elections) for certain energy credits under the Inflation Reduction Act of 2022, these entities and certain Tribal corporations chartered by the Department of the Interior (DOI) are treated as an instrumentality of one or more Indian Tribal governments or subdivisions thereof. This document also requests comments and provides notice of a public hearing on the proposed regulations that will be in addition to Tribal consultation on the proposed regulations.

DATES:

Comments: Electronic or written comments on this proposed rule from the public must be received by January 7, 2025.

Public Hearing: The public hearing on these proposed regulations is scheduled to be held on January 17, 2025, at 10

a.m. EST. Requests to speak and outlines of topics to be discussed at the public hearing must be received by January 7, 2025. If no outlines are received by January 7, 2025, the public hearing will be cancelled.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–113628–21) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–113628–21), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Amanda R. Markarian of the Office of Associate Chief Counsel (Passthroughs and Special Industries) at (202) 317–6850 (not a toll-free number); and concerning submissions of comments, the hearing, or any questions to attend the hearing by teleconferencing, contact Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or preferably by email to publichearings@irs.gov. If emailing, please include the following information in the subject line: Attend, Testify, or Question and REG–113628–21.

SUPPLEMENTARY INFORMATION:

Authority

This notice of proposed rulemaking contains proposed amendments to provisions of 26 CFR part 1 (Income Tax Regulations) under section 6417 of the Internal Revenue Code (Code) and 26 CFR part 301 (Procedure and Administration Regulations) under section 7701 of the Code that would address the Federal tax treatment of certain Tribal entities wholly owned by one or more Indian Tribal governments (proposed regulations).

Section 6417(h) provides an express delegation of authority to the Secretary of the Treasury or her delegate (Secretary) relating to elective payment elections under section 6417 (section 6417 elections), stating, “[t]he Secretary shall issue such regulations or other guidance as may be necessary to carry out the purposes of this section, including guidance to ensure that the amount of the payment or deemed

payment made under this section is commensurate with the amount of the credit that would be otherwise allowable (determined without regard to section 38(c)).”

Section 7701(a)(40) provides an express delegation of authority to the Secretary related to identifying Indian Tribal governments for Federal tax purposes, stating, “[t]he term ‘Indian tribal government’ means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.”¹

Finally, section 7805(a) of the Code authorizes the Secretary to “prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background

I. Overview

The proposed regulations under section 7701 would provide that an entity wholly owned by one or more Indian Tribal governments, within the meaning of section 7701(a)(40), that is organized or incorporated under the laws of the Tribe or Tribes that own it (wholly owned Tribal entity) is not recognized as a separate entity for Federal tax purposes. A single member limited liability company organized under the laws of the Tribe that owns it would be a wholly owned Tribal entity. Additionally, the proposed regulations would provide that wholly owned Tribal entities, as well as Tribes incorporated under section 17 of the Indian Reorganization Act of 1934, as amended, 25 U.S.C. 5124 (section 17 corporations), or under section 3 of the Oklahoma Indian Welfare Act, as amended, 25 U.S.C. 5203 (section 3 corporations), are treated, for purposes of making section 6417 elections (including determining eligibility for and the consequences of such elections),

as instrumentalities of the Indian Tribal government(s) that wholly own them.

The Treasury Department and the IRS consulted with DOI on these proposed rules because of DOI's role in working with Federally-recognized Indian Tribes and administering a broad array of Federal laws that affect Federally-recognized Indian Tribes. These proposed rules would address only the application of Federal tax law and would not affect the rights of Tribes and Tribal entities under other Federal laws.

The Treasury Department and the IRS continue to consider the Federal tax treatment of Tribally chartered corporations that are owned in part by persons other than Tribes. The Treasury Department and the IRS would conduct Tribal consultation prior to issuing any additional guidance in that area.

II. Executive Order 14112

In December 2023, the President issued an executive order titled “Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination.” Executive Order 14112 (Dec. 6, 2023). Executive Order 14112 reaffirms the Executive Branch's support for Tribal self-determination as the most effective policy for the economic growth of Tribal Nations and the economic well-being of Tribal citizens. Executive Order 14112 requires agency heads to take certain actions, consistent with applicable law and to the extent practicable, to increase access to “Federal funding and support programs for Tribal Nations”; provide Tribal Nations with the flexibility to improve economic growth and address the specific needs of their communities; and reduce administrative burdens. Section 2(b) of the Executive Order defines “Federal funding and support programs for Tribal Nations” as including “funding, programs, technical assistance, loans, grants, or other financial support or direct services that the Federal Government provides to Tribal Nations or Indians because of their status as Indians.” The Treasury Tribal Advisory Committee has advised that Tribes consider “financial support” in Executive Order 14112 to include tax matters that range from tax credits to Federal tax rules that regulate Tribal revenue.

Consistent with Executive Order 14112, the Treasury Department and the IRS recognize the importance of protecting and supporting Tribal sovereignty and self-determination. As the Executive Order explains, “As we continue to support Tribal Nations, we must respect their sovereignty by better

¹ Under the Federally Recognized Indian Tribe List Act of 1994, Public Law 103–454, 108 Stat. 4791 (List Act), the Secretary of the Interior is required to publish annually a list of all Federally-recognized Tribes. In Revenue Procedure 2008–55 (2008–39 I.R.B. 768), after consultation with the Department of Interior (DOI), the Treasury Department and the IRS determined that the Indian tribal entities that appear on the current or future lists of Federally-recognized Tribes published annually under the List Act by the DOI, Bureau of Indian Affairs, are designated as Indian tribal governments for purposes of section 7701(a)(40). See 89 FR 944 (January 8, 2024) for the most current list published by the DOI, Bureau of Indian Affairs.

ensuring that they are able to make their own decisions about where and how to meet the needs of their communities. No less than for any other sovereign, Tribal self-governance is about the fundamental right of a people to determine their own destiny and to prosper and flourish on their own terms.” These commitments build on a recognition of principles of sovereignty, sovereign immunity, and self-governance that have been repeatedly reaffirmed by the Supreme Court. *See, e.g., Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering, P.C., et al.*, 476 U.S. 877, 890–91 (1986); *Oklahoma Tax Comm’n v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 498 U.S. 505, 510 (1991).

III. Prior Guidance

The Federal government has long recognized the unique aspects of Tribal sovereignty and Tribal sovereign immunity. Tribes themselves are not subject to Federal income tax under the Code.² IRS guidance on the issue in the 1960s raised questions about the extent to which section 17 corporations and section 3 corporations should share the Tribe’s Federal income tax status. In response, the IRS published further guidance and issued proposed regulations in 1996 on the treatment of section 17 corporations and section 3 corporations for Federal tax purposes. *See* the notice of proposed rulemaking, *Simplification of Entity Classification Rules*, (PS–43–95) published in the **Federal Register** (61 FR 21989) on May 13, 1996 (explaining the basis for the proposed rule later adopted as § 301.7701–1(a)(3)).

On December 18, 1996, the Treasury Department and the IRS published final regulations (TD 8697) in the **Federal Register** (61 FR 66584) under section 7701, known as the entity classification regulations. Those still-existing regulations at § 301.7701–1(a)(3) make clear that entities formed under local laws are not always recognized as separate entities for Federal tax purposes. For example, an organization wholly owned by a State is not recognized as a separate entity for

Federal tax purposes if it is an integral part of the State. Similarly, those regulations provide that section 17 corporations and section 3 corporations are not recognized as separate entities for Federal tax purposes. The entity classification regulations, however, do not specifically address whether an organization formed under Tribal law and wholly owned by a Tribe (that is, a wholly owned Tribal entity) is recognized as a separate entity for Federal tax purposes.

The preamble to TD 8697 states that the IRS received a number of comments asking for clarification of the tax treatment of wholly owned Tribal entities. 61 FR 66584. The preamble also indicated that the Treasury Department and the IRS continued to study the issue and would issue additional guidance, if necessary. *Id.* at 66585–86.

IV. Tribal Consultation

Over the past several decades, Tribes have sought clarity concerning the Federal tax status of Tribally chartered corporations that are wholly owned by Tribes, in part to provide certainty for Tribal economic development and to support the generation of revenue for Indian Tribal governments. In order to obtain Tribal input on the issue, and in accordance with Executive Order 13175 (November 6, 2000), “Consultation and Coordination with Indian Tribal Governments,” and the Treasury Department’s Tribal Consultation Policy (80 FR 57434, September 23, 2015), *superseded by* Treasury Order 112–04 (November 22, 2023), the Treasury Department and the IRS most recently held Tribal consultations on the issue on June 21 and June 22, 2023, October 8 and October 10, 2019, and a listening session on December 3, 2019.

During Tribal consultations, Tribes have explained that they view Tribally chartered corporations as an exercise of their inherent sovereign authority to generate governmental revenue, self-govern the use of that revenue according to their own laws, and self-determine the use of that revenue for their citizenry. Tribes highlighted that Tribally chartered corporations enable Tribes to create entities that meet their emerging revenue opportunities, establish guidelines for the operation of these entities that are culturally appropriate and protect Tribal assets, and dissolve them when they are unneeded. Tribes also highlighted that Tribally chartered corporations are consistent with recent Federal policy that promotes Tribal sovereignty, self-governance, and self-determination in economic development activities.

In contrast, Tribes highlighted that section 17 and section 3 corporations are not sufficient to meet their needs. The incorporation process for these entities is a lengthy multi-step Federal process that subjects Tribal authority to Federal oversight and approval, results in increased administrative costs to Tribes, and requires an act of Congress to dissolve the chartered entity.

This issue has taken on increased salience in recent years, particularly with the enactment of laws, such as Public Law 117–169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022, that extend greater access to capital and new economic opportunities to certain governments (including Indian Tribal governments), tax-exempt organizations, and other entities. Tribes have reiterated their requests for guidance through meetings of the Treasury Tribal Advisory Committee and other Tribal consultations.

In light of the considerations of Tribal sovereignty and self-determination described previously, the Treasury Department and the IRS propose to amend the existing section 7701 regulations to make clear that entities wholly owned by Tribes and organized or incorporated under the laws of the Tribes that own them generally are not recognized as separate entities for Federal tax purposes. Accordingly, such entities generally would be viewed as one and the same as the Tribes that own them for Federal tax purposes and would therefore not be subject to Federal income tax. In addition, the Treasury Department and the IRS are proposing to amend the existing regulations under section 6417 to provide that such entities and section 17 and section 3 corporations are treated as instrumentalities of the Indian Tribal governments that own them for purposes of making an elective payment election under section 6417 (including determining eligibility for and the consequences of the election). This would mean that the wholly owned Tribal entity itself, rather than the Indian Tribal government(s) owning the entity, would make a section 6417 election for an applicable credit determined with respect to any applicable credit property held directly by the wholly owned Tribal entity.

The Treasury Department and the IRS will conduct Tribal consultation before finalizing these regulations to obtain additional input on questions involving these proposed regulations. The content of these consultations will be published in a Tribal consultation summary.

² *See* Rev. Rul. 67–284, 1967–2 C.B. 55. However, Tribes generally are subject to Federal employment taxes. Employment taxes refers to Federal Insurance Contributions Act (FICA) (consisting of both social security and Medicare taxes), Federal Unemployment Tax Act (FUTA), and Income Tax Withholding. Section 3306(c)(7) of the Code provides an exception from FUTA taxes under certain circumstances. Further, subject to applicable law, including statutes (such as section 7871 of the Code) and treaties or agreements with the United States, Tribes are subject to Federal excise taxes. *See* Rev. Rul. 94–81, 1994–2 C.B. 412.

Explanation of Provisions

I. In General

These proposed regulations would address the Federal tax treatment of wholly owned Tribal entities (that is, entities wholly owned by Tribes and organized or incorporated exclusively under the laws of the Tribes that own them). Specifically, these proposed regulations would provide that such entities are not recognized as separate entities for Federal tax purposes (other than for purposes related to section 6417 elections described in part III of this Explanation of Provisions). The proposed regulations recognize that these entities share core characteristics with section 17 corporations and section 3 corporations, including that they are wholly owned by Tribes and benefit the Tribes by facilitating economic growth and Tribal rebuilding. Accordingly, just as section 17 corporations and section 3 corporations are not recognized as separate entities for Federal tax purposes and are thus not subject to Federal income tax on income earned in the conduct of commercial business on or off the organizing Tribe's reservation, the proposed regulations would confirm that wholly owned Tribal entities would not be recognized as separate entities for Federal tax purposes and would not be subject to Federal income tax on income earned in the conduct of commercial business on or off the organizing Tribe's reservation.

II. Requirements

A. Tribal Law

The proposed regulations would recognize that Tribal law is established by each individual Tribe. Where multiple Tribes work together to establish an entity that is owned by more than one Tribe, each Tribe would need to provide for the entity under its own laws.

B. Wholly Owned

As is the case for determining the ownership of all corporations (including a corporation wholly owned by a State or other government), the determination of whether an outside investor (a person other than a Tribe) holds stock in a Tribal entity, such that it would fail to be wholly owned by one or more Indian Tribal governments for Federal tax purposes, would take into account principles of Federal tax law, such as the substance over form doctrine, debt versus equity analyses, and the economic substance doctrine.

Under these proposed regulations, an entity could satisfy the wholly owned requirement through a multi-Tribe

ownership structure, so long as the entity is organized or incorporated under each Tribe's laws. Proposed § 301.7701-1(a)(4)(iii)(D) (Example 4) illustrates an example of the organizational structure of such an entity.

III. Elective Pay

The proposed regulations would revise the elective pay regulations to provide that, for purposes of making a section 6417 election (including determining eligibility for and the consequences of such election), entities described in proposed § 301.7701-1(a)(4)(i) (that is, section 17 corporations, section 3 corporations, and wholly owned Tribal entities), would be treated as instrumentalities of Indian Tribal governments. Under existing § 1.6417-1(f), section 17 corporations and section 3 corporations are treated as "disregarded entities" for purposes of section 6417, and the applicable-entity owner of a disregarded entity that directly holds applicable credit property must make a section 6417 election for applicable credits determined with respect to such property pursuant to § 1.6417-2(a)(1)(ii). Treatment as instrumentalities under these proposed regulations would mean that an entity described in proposed § 301.7701-1(a)(4)(i) that directly owns applicable credit property would make the section 6417 election itself, rather than its owner or owners. Such an entity generally would do so by filing a Form 990-T, *Exempt Organization Business Income Tax Return*, as described in § 1.6417-1(b)(2), using its own name and employer identification number.

The Treasury Department and the IRS are proposing this rule pursuant to the Secretary's authority under section 6417(h) to issue such regulations or other guidance as may be necessary to carry out the purposes of section 6417, including guidance to ensure that the amount of the payment or deemed payment made under section 6417 is commensurate with the amount of the credit that would be otherwise allowable (determined without regard to section 38(c) of the Code). Given that proposed § 301.7701-1(a)(4)(i) would generally provide that an entity owned by multiple Tribes is not recognized as a separate entity from those Tribes for Federal tax purposes, treating the entity as a "disregarded entity" for section 6417 purposes would have required each of the entity's owners to make a section 6417 election with respect to an applicable credit determined with respect to an applicable credit property owned directly by the entity. That approach would have been

administratively burdensome and complex for the Tribes that own the entity as well as for the IRS. Given the need for coordination among these Tribes in making consistent tax filings, it could also have resulted in cases in which the amount of the total payments or deemed payments claimed under section 6417 may not be commensurate with the amount of the underlying credit. In addition, even for an entity owned by a single Tribe, the entity directly owning the applicable credit property may be better positioned to fulfill the pre-filing registration and other requirements to make the section 6417 election. Accordingly, the proposed regulations are intended to simplify the filing obligations for Tribes and their wholly owned entities and ensure that the amount of any payment or deemed payment made under section 6417 will be commensurate with the amount of the credit that would be otherwise allowable.

In general, the determination of whether an entity is an agency or instrumentality is analyzed on a facts and circumstances basis. In determining whether an entity is an agency or instrumentality for Federal tax purposes, Federal courts have applied a test similar to the six-factor test in Rev. Rul. 57-128, 1957-1 C.B. 311, which generally provides guidance on whether an entity is an instrumentality for purposes of the exemptions from employment taxes under sections 3121(b)(7) and 3306(c)(7). *See, e.g., Berini v. Federal Reserve Bank of St. Louis, Eighth District*, 420 F. Supp. 2d 1021 (E.D. Mo. 2005) and *Rose v. Long Island Railroad Pension Plan*, 828 F.2d 910, 918 (2d Cir. 1987), *cert. denied*, 485 U.S. 936 (1988).

No inferences should be drawn from the instrumentality treatment in proposed § 1.6417-1(c)(7) as to whether any particular entity is or is not an instrumentality in other contexts. The special rule in proposed § 1.6417-1(c)(7) is informed in part by administrative considerations and would be issued under the express delegation of authority in section 6417(h) to promulgate rules that carry out the purposes of section 6417 and ensure that the amount of the payment or deemed payment made thereunder is commensurate with the amount of the underlying credit.

Proposed Applicability Dates

These proposed regulations would, upon finalization, apply to taxable years ending after October 9, 2024. The proposed regulations would also, upon finalization, generally allow an entity the option to apply proposed

§ 301.7701–1(a)(4), including the option to apply proposed § 1.6417–1(c)(7) and (f), to taxable years ending on or before October 9, 2024, provided that the Indian Tribal government(s) that own the entity also apply § 301.7701–1(a)(4), and § 1.6417–1(c)(7) and (f) as applicable, consistently with such entity for all such taxable years. However, this option would not be available for any taxable period for a Federal excise tax or employment tax with respect to which the entity was, as of October 9, 2024, a party to any administrative or judicial proceeding.

Until the date final regulations are published in the **Federal Register**, an entity described in proposed § 301.7701–1(a)(4)(i) generally may rely on the proposed regulations for taxable years ending on or before that date, provided that the Indian Tribal government(s) that own the entity do so consistently with such entity for all such taxable years. However, an entity described in proposed § 301.7701–1(a)(4)(i) may not rely on the proposed regulations for any taxable period for a Federal excise tax or employment tax with respect to which the entity was, as of October 9, 2024, a party to any administrative or judicial proceeding.

Reliance and the proposed option to apply the regulations retroactively are not provided for any taxable period for a Federal excise or employment tax subject to pending administrative or judicial proceedings as of October 9, 2024, because reliance and retroactive application of these regulations in that context could create certain unintended and technical procedural questions. This exception to reliance on the proposed regulations and the proposed option to retroactively apply these regulations is limited to the Federal excise and employment tax context because these questions would not arise in the context of a Federal income tax administrative or judicial proceeding.

Special Analyses

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

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) prohibits an agency from publishing any rule that has Tribal implications if the rule either imposes substantial, direct compliance costs on Indian Tribal governments and is not required by statute, or preempts Tribal law, unless the agency meets the consultation and funding requirements of section 5 of the Executive order. This proposed rule would neither impose substantial, direct compliance costs on

Indian Tribal governments nor preempt Tribal law within the meaning of the Executive order.

II. Executive Order 14112: Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination

Consistent with Executive Order 14112 (described previously in the Background section), these proposed regulations would further Tribal self-determination and self-governance and reduce administrative burdens by providing entities wholly owned by Tribes and organized or incorporated under the laws of the Tribes that own them with the same Federal tax treatment that applies to section 17 corporations and section 3 corporations.

III. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

IV. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in these regulations contain reporting and recordkeeping requirements. The recordkeeping requirements mentioned within these final regulations are considered general tax records under § 1.6001–1(e). These records are required for the IRS to validate that taxpayers have met the regulatory requirements and are entitled to make an elective payment election and to verify the Federal tax classification of entities described in these proposed regulations. For PRA purposes, general tax records are already approved by OMB under 1545–0047 for tax-exempt organizations and government entities.

These regulations also mention reporting requirements related to making elections under section 6417. These elections will be made by

taxpayers on Forms 990–T, and credit calculations will be made on Form 3800 and supporting forms. These forms are approved under 1545–0047 for tax-exempt organizations and governmental entities.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), the Secretary of the Treasury hereby certifies that the proposed regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). These proposed regulations would affect entities that are wholly owned by Tribes. Additionally, no added burden is created through these proposed regulations; rather, these proposed regulations would expand the definition of an eligible entity for section 6417 of the Code but does not expand the requirements for entities to make the elective pay election. Although data is not readily available about the number of small entities that are potentially affected by this rule, it is possible that a substantial number of small entities may be affected.

To the extent the entities described in these regulations make elections under section 6417, the Treasury Department and the IRS certify the final regulatory flexibility analysis undertaken in TD 9988.

For the reasons stated, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Treasury Department and the IRS invite comments on the impact of the proposed regulations on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

VI. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandate Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Indian Tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). These proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Indian Tribal governments or by the private sector in excess of that threshold.

VII. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. These proposed regulations do not have Federalism implications and do not impose substantial, direct compliance costs on State and local governments or preempt State law within the meaning of the executive order.

Comments and Public Hearing

Consideration will be given to comments received in Tribal consultation and comments regarding the notice of proposed rulemaking that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations, including the application of the proposed regulations in the context of federal employment and excise taxes. All commenters are strongly encouraged to submit comments electronically. All comments will be made available at <https://www.regulations.gov>. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing will be held on January 17, 2025, beginning at 10 a.m. ET, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Pursuant to Announcement 2023-16, 2023-20 I.R.B. 854 (May 15, 2023), the public hearing is scheduled to be conducted in person, but the IRS will provide a telephonic option for individuals who wish to attend or testify at the hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed as well as the time to be devoted to each topic January 7, 2025. A period of ten minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS

will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. If no outlines of the topics to be discussed at the hearing are received by January 7, 2025, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to publichearings@irs.gov to have your name added to the building access list. The subject line of the email must contain the regulation number REG-113628-21 and the language TESTIFY In Person. For example, the subject line may say: "Request to TESTIFY In Person at Hearing for REG-113628-21."

Individuals who want to testify by telephone at the public hearing must send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-113628-21 and the language TESTIFY Telephonically. For example, the subject line may say: "Request to TESTIFY Telephonically at Hearing for REG-113628-21."

Individuals who want to attend the public hearing in person without testifying must also send an email to publichearings@irs.gov to have your name added to the building access list. The subject line of the email must contain the regulation number (REG-113628-21) and the language ATTEND In Person. For example, the subject line may say: "Request to ATTEND Hearing In Person for REG-113628-21." Requests to attend the public hearing must be received by 5 p.m. ET on January 15, 2025.

Individuals who want to attend the public hearing telephonically without testifying must send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number (REG-113628-21) and the language ATTEND Hearing Telephonically. For example, the subject line may say: "Request to ATTEND Hearing Telephonically for REG-113628-21." Requests to attend the public hearing must be received by 5 p.m. ET on January 15, 2025.

The hearing will be made accessible to people with disabilities. To request special assistance during the hearing, contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to publichearings@irs.gov (preferred) or by

telephone at (202) 317-6901 (not a toll-free number) by 5 p.m. ET on January 14, 2025.

Statement of Availability of IRS Documents

Rev. Rul. 94-81, Rev. Rul. 94-65, Rev. Rul. 94-16, Rev. Rul. 67-284, and Rev. Rul. 57-128 are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these proposed regulations are attorneys in the Office of Associate Chief Counsel (Passthroughs and Special Industries), Branch 1. However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and record keeping requirements.

26 CFR Part 301

Procedure and Administration.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR parts 1 and 301 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * * *

■ **Par. 2.** Section 1.6417-1 is amended by:

- 1. Revising paragraph (c) introductory text;
- 2. Removing the semicolon from the end of paragraphs (c)(1)(ii) and (c)(2) through (5) and adding a period in their places;
- 3. Removing “; and” from the end of paragraph (c)(6) and adding the text a period in its place; and
- 4. Revising paragraphs (c)(7), (f), and (q).

The revisions read as follows:

§ 1.6417-1 Elective payment election of applicable credits.

* * * * *

(c) *Applicable entity.* The term *applicable entity* means any entity described in paragraph (c)(1) through (7) of this section.

* * * * *

(7) An agency or instrumentality of any applicable entity described in paragraph (c)(1)(ii) or (c)(2) or (3) of this section. For purposes of making a section 6417 election (including determining eligibility for and the consequences of such election), an entity described in § 301.7701-1(a)(4)(i) of this chapter is treated as an instrumentality of the Indian Tribal government(s) or subdivision(s) thereof that own(s) it.

* * * * *

(f) *Disregarded entity*. The term *disregarded entity* means an entity that is disregarded as, or not recognized as, an entity separate from its owner for Federal income tax purposes under § 301.7701-1(a)(3) or §§ 301.7701-2 and 301.7701-3 of this chapter. See paragraph (c)(7) of this section regarding entities described in § 301.7701-1(a)(4)(i) of this chapter.

* * * * *

(q) *Applicability dates*—(1) *In general*. Except as provided in paragraph (q)(2) of this section, this section applies to taxable years ending on or after March 11, 2024. For taxable years ending before March 11, 2024, taxpayers may choose to apply the rules of §§ 1.6417-1 through 1.6417-4 and 1.6417-6, provided the taxpayers apply the rules in their entirety and in a consistent manner.

(2) *Paragraphs (c)(7) and (f) of this section*. Paragraphs (c)(7) and (f) of this section apply to taxable years ending after October 9, 2024. For taxable years ending on or before October 9, 2024, an entity described in § 301.7701-1(a)(4)(i) of this chapter may choose to apply paragraphs (c)(7) and (f) of this section as contained in 26 CFR part 1, revised October 9, 2024 by following the Federal tax reporting requirements in a manner consistent with those provisions for all such years, but only if the Indian Tribal government(s) that own the entity also apply paragraphs (c)(7) and (f) of this section consistently with such entity for all such taxable years.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 is amended by adding an entry for § 301.7701-1(a)(4) in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * * *

* * * * *

Section 301.7701-1(a)(4) also issued under 26 U.S.C. 7701(a)(40).

* * * * *

■ **Par. 4.** Section 301.7701-1 is amended by:

■ 1. Revising paragraph (a)(3);

- 2. Redesignating paragraph (a)(4) as paragraph (a)(5);
- 3. Adding new paragraph (a)(4); and
- 4. Revising paragraph (f).

The revisions and addition read as follows:

§ 301.7701-1 Classification of organizations for federal tax purposes.

(a) * * *

(3) *Certain State and local law entities not recognized*. An entity formed under State or local law is not always recognized as a separate entity for Federal tax purposes. For example, an organization wholly owned by a State is not recognized as a separate entity for Federal tax purposes if it is an integral part of the State.

(4) *Certain Tribal entities*—(i) *In general*. Except as provided in paragraph (a)(4)(ii) of this section, Tribes incorporated under section 17 of the Indian Reorganization Act of 1934, as amended, 25 U.S.C. 5124 (section 17 corporation), or under section 3 of the Oklahoma Indian Welfare Act, as amended, 25 U.S.C. 5203 (section 3 corporation), are not recognized as separate entities for Federal tax purposes. Also, except as provided in paragraph (a)(4)(ii) of this section, entities wholly owned by one or more Indian Tribal governments (within the meaning of section 7701(a)(40) of the Code) and organized or incorporated exclusively under the laws of the Indian Tribal government(s) that own them (wholly owned Tribal entity) are not recognized as separate entities for Federal tax purposes.

(ii) *Elections under section 6417*. See § 1.6417-1(c)(7) of this chapter for the treatment of section 17 corporations, section 3 corporations, and wholly owned Tribal entities described in paragraph (a)(4)(i) of this section for the purposes of making an elective payment election under section 6417 of the Code (section 6417 election), including determining eligibility for and the consequences of such election.

(iii) *Examples*. The following examples illustrate the application of paragraph (a)(4)(i) and (ii) of this section. For purposes of these examples, all references to a Tribe are references to an Indian Tribal government within the meaning of section 7701(a)(40).

(A) *Example 1*. Tribe B incorporates Corporation X pursuant to Tribe B's Corporations Ordinance, which governs the purpose, formation, and operation of commercial entities. Tribe B owns all the shares of Corporation X. Corporation X is therefore wholly owned by Tribe B and organized or incorporated exclusively under the laws of Tribe B. As a result, Corporation X is not

recognized as a separate entity from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417-1(c)(7) of this chapter. Accordingly, Corporation X is not subject to Federal income tax. Under § 1.6417-1(c)(7) of this chapter, Corporation X is treated as an instrumentality of Tribe B for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation X, rather than Tribe B, would be the applicable entity for purposes of making a section 6417 election for any applicable credit (as defined in section 6417(b)) relating to property held or activities conducted by Corporation X.

(B) *Example 2*. Same facts as in paragraph (a)(4)(iii)(A) of this section (*Example 1*), except that the board of Corporation X, pursuant to Tribe B's Corporations Ordinance, organizes a subsidiary, Corporation Z, to pursue a limited line of new business. Corporation X owns all the shares of Corporation Z. Corporation Z is therefore wholly owned by Tribe B and organized or incorporated exclusively under the laws of Tribe B. As a result, neither Corporation X nor Corporation Z is recognized as an entity separate from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417-1(c)(7) of this chapter. Accordingly, Corporation Z is not subject to Federal income tax. Under § 1.6417-1(c)(7) of this chapter, Corporation X and Corporation Z are each treated as an instrumentality of Tribe B for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation Z, rather than Corporation X or Tribe B, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation Z. As in Example 1, Corporation X would continue to be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation X.

(C) *Example 3*. Tribe B incorporates a section 17 corporation. The section 17 corporation subsequently incorporates Corporation J pursuant to Tribe B's Corporations Ordinance, which governs the purpose, formation, and operation of commercial entities. The section 17 corporation owns all the shares of Corporation J. Corporation J is therefore treated as wholly owned by Tribe B and organized or incorporated exclusively under the laws of Tribe B. As a result, Corporation J is not recognized as a

separate entity from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter. Accordingly, neither the section 17 corporation nor Corporation J is subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, the section 17 corporation and Corporation J are each treated as an instrumentality of Tribe B for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, the section 17 corporation, rather than Tribe B, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by the section 17 corporation. In addition, Corporation J, rather than Tribe B or the section 17 corporation, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation J. The analysis would be the same if Tribe B had organized its business as a single member limited liability company pursuant to the Tribe's business code instead of incorporating Corporation J.

(D) *Example 4.* Pursuant to their respective Tribal laws, Tribe A, Tribe B, Tribe C, and Tribe D organize Corporation K via a resolution approved by their respective Indian Tribal governments. Each Tribe owns 25% of the shares of Corporation K. Corporation K is therefore wholly owned by Indian Tribal governments and organized or incorporated exclusively under the laws of each Indian Tribal government that owns it. As a result, Corporation K is not recognized as a separate entity from the Tribes for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter. Accordingly, Corporation K is not subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, Corporation K is treated as an instrumentality of Tribe A, Tribe B, Tribe C, and Tribe D for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation K, rather than Tribe A, Tribe B, Tribe C, or Tribe D, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation K.

* * * * *

(f) *Applicability dates*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, the rules of this section are applicable as of January 1, 1997.

(2) *Exceptions*—(i) *Paragraph (a)(4) of this section.* The rules of paragraph (a)(4) of this section apply to taxable years ending after October 9, 2024. In general, an entity may choose to apply paragraph (a)(4) of this section to taxable years ending on or before October 9, 2024 if the Indian Tribal government(s) that own the entity also apply paragraph (a)(4) of this section consistently with such entity for all such taxable years. However, an entity may not choose to apply paragraph (a)(4) of this section to any taxable period for a Federal excise tax or Federal employment tax with respect to which the entity was, as of October 9, 2024, a party to any administrative or judicial proceeding.

(ii) *Paragraph (c) of this section.* The rules of paragraph (c) of this section are applicable on January 5, 2009.

Douglas W. O'Donnell,
Deputy Commissioner.

[FR Doc. 2024–23142 Filed 10–7–24; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648–BN15

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 34; Groundfish Exclusion Area for Coral Research and Restoration

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

ACTION: Notice of availability of proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) submitted amendment 34 to the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) to the Secretary of Commerce for review. If approved, amendment 34 would modify the groundfish exclusion areas (GEA) section in the Groundfish FMP and refer to the GEAs described in Federal regulation.

DATES: Comments on amendment 34 must be received on or before Sunday, December 8, 2024.

ADDRESSES: You may submit comments on this document, identified by NOAA–

NMFS–2024–0081, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2024–0081 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed amendment 34 and the draft analysis prepared for this action may be obtained from <https://www.regulations.gov> and the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>.

FOR FURTHER INFORMATION CONTACT:

Megan Mackey, 206–526–6140, megan.mackey@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) seaward of Washington, Oregon, and California under the Groundfish FMP. The Council prepared and NMFS implemented the Groundfish FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notice announces that the proposed amendment 34 to the Groundfish FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove amendment 34 to the Groundfish FMP.

Background

The Council met over 2023 and 2024 to consider developing fisheries area closures for deep-sea coral restoration and research in response to a request from the Office of National Marine Sanctuaries (ONMS). ONMS conducts scientific research in national marine sanctuary areas, including on deep sea coral survival, growth and reproduction, under the National Marine Sanctuaries Act and the Magnuson-Stevens Act.

In September 2023, ONMS presented a scoping paper to the Council that proposed five potential locations, with ten areas (or 'sites') within Greater Farallones National Marine Sanctuary and Monterey Bay National Marine Sanctuary (MBNMS), for coral restoration and research (section 1.2 of the Analysis). At that meeting, the Council chose to only continue to scope closures in MBNMS at the locations of Año Nuevo and Ascension Canyons (two sites) and Sur Ridge (one site) for areas to conduct coral research and restoration. The Council proposed that these areas could be closed to bottom contact gears as GEAs. GEAs were established by amendment 32 to the Groundfish FMP in December 2023, and are a management tool intended to mitigate the impacts to sensitive environments from certain groundfish fishing activity (88 FR 83830, December 1, 2023).

At the March 2024 meeting, the Council adopted a range of alternatives for this action that included modified versions of the Año Nuevo and Ascension Canyon sites to address concerns raised by the public regarding

closing off key fishing grounds shallower than 400 fathoms, and enforcement concerns (section 1.2 of the Analysis). The Council also confirmed that the potential sites would only be closed to commercial groundfish bottom contact gears and that no other gear types or fisheries would be included in the closures.

At the June 2024 meeting, the Council adopted their final preferred alternative to develop a GEA for commercial groundfish bottom contact gear at Sur Ridge. If the GEA is established, it is expected that ONMS would begin deep-sea coral outplanting at Sur Ridge in 2025.

The proposed GEA at Sur Ridge would apply to commercial groundfish vessels using bottom contact gear. Currently, the GEA area is within a bottom trawl essential fish habitat conservation area (EFHCA) and therefore no bottom trawling is permitted. If the EFHCA were to be removed at a future time, the GEA would continue to prohibit bottom trawl. The GEA would create new restrictions for non-trawl commercial groundfish vessels using bottom contact gears in the limited entry fixed gear, directed open access, and shore-based individual fishing quota sectors. Vessels using non-bottom contact gear would still be permitted to operate in the area. Overall, this GEA at Sur Ridge would allow the ONMS to perform deep-sea coral research and restoration and have limited impact to the groundfish fisheries. The regulatory changes to establish this GEA will be presented in a forthcoming proposed rule.

In terms of specific changes to the Groundfish FMP, amendment 34 would revise the description of GEAs to remove specific GEA references, in order to be consistent with how other closed area types are set up under the FMP. Active GEAs would be noted in the Federal groundfish regulations at § 660.70 instead, and the history of a specific GEA would likely be provided in the groundfish Stock Assessment Fishery Evaluation document.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. A proposed rule to implement amendment 34 has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement amendment 34 in the near future. For public comments on the proposed rule to be considered in the approval or disapproval decision on amendment 34, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

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

Dated: October 3, 2024.

Karen H. Abrams,

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

[FR Doc. 2024-23262 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 89, No. 196

Wednesday, October 9, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Information Collection Generic Clearance Request for USAID Monitoring, Evaluation and Research Under the Foreign Assistance Act

AGENCY: Agency for International Development (USAID).

ACTION: Notice of information collection; request for comment.

SUMMARY: USAID invites public comment on our intent to request the Office of Management and Budget's (OMB's) approval for a new information collection. USAID proposes a generic clearance to collect feedback and conduct research, monitoring and evaluations of programs and policies through surveys, interviews, and focus groups to understand effectiveness of programs and policies and to discern how programs are affected by crises and other unexpected changes in context. This will help the Agency make better decisions to improve the effectiveness of programs and achieve development and foreign assistance objectives through activities pursuant to Foreign Assistance Act, including under rapidly changing conditions. This will also help safeguard U.S. National Security interests and ensure accountability to U.S. taxpayers. Information collected from USAID partners, stakeholders and program participants is a valuable resource to ensure the Agency programs and operations remain safe, relevant, efficient and effective.

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

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: Elizabeth Roen, eroen@usaid.gov, 202-712-1493.

SUPPLEMENTARY INFORMATION: USAID is requesting a general clearance to collect feedback and conduct research, monitoring and evaluations of programs and policies through surveys, interviews, and focus groups to understand effectiveness of programs and policies and to discern how programs are affected by crises and other unexpected changes in context. USAID conducts programs outside of the United States and will collect data from approximately 450,000 respondents per year, made up primarily of foreign nationals participating in USAID programs, other stakeholders local to the programs, and federal contractors and grantees implementing the programs. The collection of personally identifiable information will be kept to the minimum. The total estimated number of annual burden hours is 225,000 hours. USAID, 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 the proposed information collection. In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), USAID is providing the general public and Federal agencies with an opportunity to comment on the proposed collection of information. This proposed information collection was previously published in the **Federal Register** (89 FR 48550) on June 7, 2024. This notice allows for an additional 30 days for public comments.

OMB Control Number: To be issued by OMB.

Elizabeth Roen,
Deputy Director, Office of Learning, Evaluation and Research, Bureau for Planning, Learning and Resource Management, USAID.

[FR Doc. 2024-23284 Filed 10-8-24; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2167]

Designation of New Grantee; Foreign-Trade Zone 30; Salt Lake City, Utah

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

The Foreign-Trade Zones (FTZ) Board (the Board) has considered the application (docketed June 25, 2024) submitted by the Salt Lake City Corporation, grantee of FTZ 30, requesting reissuance of the grant of authority for said zone to the World Trade Center Utah, which has accepted such reissuance subject to approval by the FTZ Board. Upon review, the Board finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest.

Therefore, the Board approves the application and recognizes the World Trade Center Utah as the new grantee for Foreign-Trade Zone 30, subject to the FTZ Act and the Board's regulations, including section 400.13.

Dated: October 4, 2024.

Dawn Shackleford,

Executive Director of Trade Agreements Policy & Negotiations, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2024-23378 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology Technical Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology Technical Advisory Committee (ETTAC) will meet on October 21, 24, 2024, at 9 a.m.–4 p.m., (Eastern Daylight Time) in the Herbert C. Hoover Building, Room 3884, 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

October 21, 2024

Open Session

1. Opening remarks by the Chairman, Opening remarks by the Bureau of Industry and Security.
2. Status Reports by Chair.
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 Thursday, October 17, 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.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 April 29, 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. 2024–23328 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

URAL Airlines JSC, Utrenniy Lane 1–g, Yekaterinburg, Russia 620025; Order Renewing Temporary Denial of Export Privileges

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (“EAR” or “the Regulations”),¹ I hereby grant the

¹ On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (“ECRA”). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. sec. 2401 *et seq.* (“EAA”), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International

request of the Office of Export Enforcement (“OEE”) to renew the temporary denial order (“TDO”) issued in this matter on April 7, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations and that renewal for an extended period is appropriate because URAL Airlines JSC (“URAL”) has engaged in a pattern of repeated, ongoing and/or continuous apparent violations of the EAR.

I. Procedural History

On October 13, 2022, I signed an order denying URAL export privileges for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.² The temporary denial order was subsequently renewed on April 10, 2023³ and October 6, 2023⁴ in accordance with section 766.24(d) of the Regulations.⁵

On September 10, 2024, BIS, through OEE, submitted a written request for a third renewal of the TDO. The written request was made more than 20 days before the TDO’s scheduled expiration and, given the temporary suspension of international mail service to Russia, OEE has attempted to deliver a copy of the renewal request to URAL by alternative means in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

II. Renewal of the TDO

A. Legal Standard

Pursuant to section 766.24, BIS may issue an order temporarily denying a

Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

² The TDO was published in the **Federal Register** on October 19, 2022 (87 FR 63477).

³ The April 10, 2023 renewal order was published in the **Federal Register** on April 13, 2023 (88 FR 22406).

⁴ The October 6, 2023 renewal order, which was effective upon issuance, was published in the **Federal Register** on October 13, 2023 (88 FR 70925).

⁵ Section 766.24(d) provides that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation. In cases demonstrating a pattern of repeated, ongoing and/or continuous apparent violations, BIS may request the renewal of a temporary denial order for an additional period not exceeding one year.

respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]" *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation." *Id.*

If BIS believes that renewal of a denial order is necessary in the public interest to prevent an imminent violation, it may file a written request for renewal, with any modifications if appropriate. 15 CFR 766.24(d)(1). The written request, which must be filed no later than 20 days prior to the TDO's expiration, should set forth the basis for BIS's belief that renewal is necessary, including any additional or changed circumstances. *Id.* "In cases demonstrating a pattern of repeated, ongoing and/or continuous apparent violations, BIS may request the renewal of a temporary denial order for an additional period not exceeding one year." ⁶ *Id.*

B. The TDO and BIS's Request for Renewal

The U.S. Commerce Department, through BIS, responded to the Russian Federation's ("Russia's") further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage.

Effective February 24, 2022, BIS imposed expansive controls on aviation-related (e.g., Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number ("ECCN") 9A991 (section 746.8(a)(1) of the EAR).⁷ BIS will review any export or reexport license applications for such items under a policy of denial. *See* section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft ("AVS") (section 740.15 of the EAR).⁸ Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request for renewal for a period of one year is based upon the facts underlying the issuance of the TDO and the renewal orders subsequently issued in this matter on April 10, 2023 and October 6, 2023, as well as other evidence developed during this investigation. This evidence demonstrates that URAL has continued, and continues, to act in blatant disregard for U.S. export controls and the terms of previously issued TDOs. Specifically, the initial TDO, issued on October 13, 2022, was based on evidence that URAL engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Russia after March 2, 2022 from destinations including, but not limited to, Bishkek, Kyrgyzstan; Dushanbe, Tajikistan; Khudzhand, Tajikistan; and Tamchy, Kyrgyzstan without the required BIS authorization.⁹ Further evidence

indicated that URAL also operated aircraft subject to the EAR on domestic flights within Russia, potentially in violation of section 736.2(b)(10) of the Regulations.

As discussed in the prior renewal orders, BIS presented evidence indicating that, after the initial TDO issued, URAL continued to operate aircraft subject to the EAR and classified under ECCN 9A991.b on flights both into and within Russia, in violation of the Regulations and the TDO itself.¹⁰ The April 10, 2023 order detailed flights into and out of Russia from/to Bishkek, Kyrgyzstan, Dushanbe, Tajikistan, and Khujand, Tajikistan, as well as within Russia.¹¹ The October 6, 2023 order detailed flights into and out of Russia from/to Dushanbe, Tajikistan, Tamchy, Kyrgyzstan, and Bishkek, Kyrgyzstan, as well as within Russia.¹²

Since that time, URAL continued to engage in conduct prohibited by the TDO and Regulations. In its September 10, 2024 request for TDO renewal, BIS submitted evidence that URAL continues to operate aircraft subject to the EAR and classified under ECCN 9A991.b, both on flights into and within Russia, in violation of the October 6, 2023 renewal order and/or the Regulations. Specifically, BIS's evidence and related investigation demonstrates that URAL continued to operate aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Khujand, Tajikistan, Osh, Kyrgyzstan, and Dushanbe, Tajikistan as well as domestically within Russia. Information about those flights includes, but is not limited to, the following:

(SN) 5055 flew from Dushanbe, Tajikistan to Irkutsk, Russia, and on September 6, 2022, SN5055 flew from Khudzhand, Tajikistan to Sochi, Russia. In addition, on October 6, 2022, SN 5055 flew from Bishkek, Kyrgyzstan to Samara, Russia.

¹⁰ Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

¹¹ Publicly available flight tracking information shows that SN 5055 flew from Dushanbe, Tajikistan to Ufa, Russia on March 20, 2023 and from Osh, Kyrgyzstan to Krasnoyarsk, Russia on March 19, 2023. In addition, on March 19, 2023, SN 2376 flew from Bishkek, Kyrgyzstan to Yekaterinburg, Russia. On March 6, 2023, SN 1941 flew from Khujand, Tajikistan to Yekaterinburg, Russia. On March 16, 2023, SN 1941 flew from Sochi, Russia to Moscow, Russia.

¹² Publicly available flight tracking information shows that SN 5055 flew from Dushanbe, Tajikistan to Yekaterinburg, Russia on September 5, 2023. In addition, on August 21, 2023, SN 2376 flew from Tamchy Kyrgyzstan to Moscow, Russia. On September 4, 2023, SN 1941 flew from Bishkek, Kyrgyzstan to Moscow, Russia.

⁶ 88 FR 59791 (Aug. 30, 2023).

⁷ 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List ("CCL") under Categories 0–2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

⁸ 87 FR 13048 (Mar. 8, 2022).

⁹ Publicly available flight tracking information shows multiple flights into Russia, including the following: on September 10, 2022, serial number

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA-73817	5055	A320-232	Mineralnye Vody, RU/Khujand, TJ	September 17, 2024.
RA-73817	5055	A320-232	Bishkek, KG/Sochi, RU	September 14, 2024.
RA-73817	5055	A320-232	Chelyabinsk, RU/Khujand, TJ	September 3, 2024.
RA-73817	5055	A320-232	Dushanbe, TJ/Chelyabinsk, RU	September 3, 2024.
RA-73817	5055	A320-232	Sochi, RU/Moscow, RU	September 1, 2024.
RA-73818	2376	A320-232	Bishkek, KG/Yekaterinburg, RU	September 4, 2024.
RA-73818	2376	A320-232	Dushanbe, TJ/Yekaterinburg, RU	September 3, 2024.
RA-73818	2376	A320-232	Dushanbe, TJ/Kazan, RU	September 3, 2024.
RA-73818	2376	A320-232	Yekaterinburg, RU/Osh, KG	September 2, 2024.
RA-73818	2376	A320-232	Bishkek, KG/Samara, RU	August 30, 2024.
RA-73798	7206	A321-231	Moscow, RU/Osh, KG	September 17, 2024.
RA-73798	7206	A321-231	Khujand, TJ/Moscow, RU	September 16, 2024.
RA-73798	7206	A321-231	Osh, KG/Moscow, RU	September 4, 2024.
RA-73798	7206	A321-231	Bishkek, KG/Moscow, RU	September 3, 2024.
RA-73798	7206	A321-231	Dushanbe, TJ/Moscow, RU	September 2, 2024.

III. Findings

Under the applicable standard set forth in section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that URAL has acted in violation of the Regulations and the TDO; that such violations have been significant and deliberate; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Moreover, I find that renewal for an extended period is appropriate because URAL has engaged in a pattern of repeated, ongoing and/or continuous apparent violations of the EAR. Therefore, renewal of the TDO for one year is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with URAL, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

IV. Order

It is therefore ordered:

First, URAL Airlines JSC, Utrenni Lane 1-g, Yekaterinburg, Russia, 620025, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of URAL any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by URAL of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby URAL acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from URAL of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and

authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from URAL in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by URAL, or service any item, of whatever origin, that is owned, possessed or controlled by URAL if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to URAL by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, URAL may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal

request may be opposed by URAL as provided in section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to URAL, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for one year.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2024–23351 Filed 10–8–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–817]

Oil Country Tubular Goods From the Republic of Turkey: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to producers and exporters of certain oil country tubular goods (OCTG) from the Republic of Türkiye (Türkiye) during the period of review (POR) from January 1, 2022, through December 31, 2022. In addition, Commerce is rescinding this review, in part, with respect to 10 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable October 9, 2024.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone:(202) 482–1395.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2014, Commerce published in the **Federal Register** the countervailing duty (CVD) order on OCTG from Türkiye.¹ On November 15, 2023, Commerce published in the

Federal Register the notice of initiation of an administrative review of the *Order*.² On December 18, 2024, Commerce selected Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) and Cayirova Boru Sanayi ve Ticaret A.S. (Cayirova) for individual examination as the mandatory respondents in this administrative review.³ On May 21, 2024, we extended the deadline for the preliminary results of this administrative review until September 27, 2024.⁴ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁵ The deadline for the preliminary results is now October 4, 2024.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶ A list of topics discussed in the Preliminary Decision Memorandum is included in the Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the *Order* is OCTG. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy (*i.e.*, a government-provided financial

contribution that gives rise to a benefit to the recipient, and that the subsidy is specific).⁷ For a full description of the methodology underlying our conclusions, see the Preliminary Determination Memorandum.

Partial Rescission of Administrative Review

Commerce may rescind an administrative review of a CVD order when no reviewable entries of subject merchandise exist during the POR for which liquidation is suspended, pursuant to 19 CFR 351.213(d)(3).⁸ Normally, upon completion of an administrative review, suspended entries are liquidated at the CVD assessment rate calculated for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the CVD assessment rate calculated for the POR.¹⁰

Based on our analysis of U.S. Customs and Border Protection (CBP) data, we determine that 10 companies had no entries of subject merchandise during the POR. On September 24, 2024, we notified interested parties of our intent to rescind the administrative review with respect to 10 companies because there are no reviewable entries.¹¹ No parties commented on the notification of intent to rescind, in part. Pursuant to 19 CFR 351.213(d)(3), we are rescinding the administrative review of these companies. For a list of these companies with no reviewable suspended entries of subject merchandise, see Appendix II.

Preliminary Results of Review

We preliminarily find that the following net countervailable subsidy rates exist for the period January 1, 2022, through December 31, 2022:¹²

⁷ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ See, *e.g.*, *Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review*; 2015, 82 FR 14349 (March 20, 2017); see also *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*; 2017, 84 FR 14650 (April 11, 2019).

⁹ See 19 CFR 351.212(b)(2).

¹⁰ See 19 CFR 351.213(d)(3).

¹¹ See Memorandum, "Intent to Rescind review, in Part," dated September 24, 2024.

¹² We preliminarily cumulated any subsidy benefits received by Yücelboru İhracat İthalat ve Pazarlama A.Ş. with those received by Cayirova, pursuant to 19 CFR 351.525(c). See Preliminary Decision Memorandum at 5–6.

¹ See *Certain Oil Country Tubular Goods from India and the Republic of Turkey: Countervailing Duty Orders and Amended Affirmative Final Countervailing Duty Determination for India*, 79 FR 53688 (September 10, 2014) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 78298 (November 15, 2023) (*Initiation Notice*).

³ See Memorandum, "Companies to be Reviewed," dated December 18, 2024.

⁴ See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated May 21, 2024.

⁵ See Memorandum, "Tolling of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated July 22, 2024.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review on Certain Oil Country Tubular Goods; 2022," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Company	Subsidy rate (percent <i>ad valorem</i>)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	1.01
Cayirova Boru Sanayi ve Ticaret A.S.	1.55

Disclosure and Public Comment

Commerce intends to disclose the calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).¹³

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.¹⁴ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.¹⁵ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁶

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁷ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its

requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁹ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date and time of the hearing.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producers/exporters shown above. Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies for which this review is rescinded with these preliminary results, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2022, through December 31, 2022, in accordance with 19 CFR 351.212(c)(1)(i). For the companies remaining in the review, we intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce intends upon publication of the final

results, to instruct U.S. Customs and Border Protection (CBP) to collect cash deposits of the estimated countervailing duties in the amounts calculated in the final results of this review for the respective companies listed above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. If the rate calculated in the final results is zero or *de minimis*, no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of the date of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: October 3, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rescission of Administrative Review, in Part
- V. Subsidies Valuation Information
- VI. Analysis of Programs
- VII. Recommendation

Appendix II

Companies for Which the Review Is Being Rescinded

1. Bakir Grup Makine Imalat Bakim Montaj Demontaj Sanayi ve Ticaret Ltd. Sti.

¹³ See 19 CFR 351.224(b).

¹⁴ See 19 CFR 351.309(c)(1)(ii).

¹⁵ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁶ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁷ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁸ See *APO and Service Final Rule*.

¹⁹ See 19 CFR 351.310(c).

2. Hatboru San ve Tic A.S.
3. Hydra Insaat Sanayi ve Ticaret Anonim Sirketi
4. Kalibre Boru Sanayi ve Ticaret
5. KALTEK Machinery & Trading Ltd. Co.
6. Milfit Boru ve Baglanti Elemlari Sanayi ve Tic. A.S.
7. NETBORU San. Ve Dis. Tic. Koll. Sti.
8.Organize Sanayi Bolgesi
9.Umran Celik Boru Sanayi A.S.
10. Yilmaz Pipo

[FR Doc. 2024–23382 Filed 10–8–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–844]

Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany: Final Results of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from the Federal Republic of Germany (Germany) was not sold in the United States at less than normal value during the period of review (POR) May 1, 2022, through April 30, 2023.

DATES: Applicable October 9, 2024.

FOR FURTHER INFORMATION CONTACT: Ian Riggs, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3810.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2024, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ We received no comments from interested parties on the *Preliminary Results*, and we have made no changes from the *Preliminary Results*. Accordingly, there is no decision memorandum accompanying this **Federal Register** notice.

On July 22, 2024, Commerce tolled certain deadlines in this administrative

proceeding by seven days.² The deadline for these final results is now October 8, 2024. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order³

The merchandise covered by the *Order* is CTL plate from Germany. For a complete description of the scope of the *Order*, see the *Preliminary Results*.

Final Results of Review

We determine that the following estimated weighted-average dumping margin exists for the period May 1, 2022, through April 30, 2023:

Producer/exporter	Weighted-average dumping margin (percent)
AG der Dillinger Hüttenwerke	0.00

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce made no changes from the *Preliminary Results*, there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Because the weighted-average dumping margin for AG der Dillinger Hüttenwerke (Dillinger) is zero or *de minimis* (i.e., less than 0.5 percent) we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Commerce’s “automatic assessment” practice will apply to entries of subject merchandise

during the POR produced by Dillinger for which the reviewed company did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.⁴

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the less-than-fair-value investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 20.99 percent, the all-others rate established in the *Amended Final Determination*.⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

¹ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: o Preliminary Results of Antidumping Duty Administrative Review; 2022–23*, 89 FR 47531 (June 3, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

³ See *Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea, and Taiwan, and Antidumping Duty Orders*, 82 FR 24096 (May 25, 2017) (*Order*).

⁴ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

⁵ See *Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany: Notice of Court Decision Not in Harmony With the Amended Final Determination of Antidumping Investigation; Notice of Second Amended Final Determination*, 89 FR 1882, 1883 (January 11, 2024).

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: October 3, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–23330 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on certain quartz surface products (quartz surface products) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable

subsidies at the levels as indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable October 9, 2024.

FOR FURTHER INFORMATION CONTACT: Ajay K. Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

SUPPLEMENTARY INFORMATION:**Background**

On July 11, 2019, Commerce published the *Order* on quartz surface products from China in the **Federal Register**.¹ On June 3, 2024, Commerce published the notice of initiation of the first five-year (sunset) review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On June 18, 2024, Commerce received notices of intent to participate from the Cambria Company LLC, Dal-Tile LLC, and Guidoni USA (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).³ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as manufacturers or producers of the domestic like product.⁴

On July 3, 2024, Commerce received an adequate substantive response to the *Initiation Notice* from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁵ Commerce did not receive a response from the Government of China (GOC) or from any other interested party. In accordance with section 751(c)(3)(B) of the Act, because Commerce did not receive a substantive response from the GOC or a respondent party, pursuant to 19 CFR 351.218(e)(1)(ii)(B) and (e)(1)(ii)(C), respectively, we determined that the respondent interested parties did not provide an adequate response to the *Initiation Notice*. Therefore, on July 23, 2024, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested

¹ See *Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order*, 84 FR 33053 (July 11, 2019) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 47525 (June 3, 2024) (*Initiation Notice*).

³ See Domestic Interested Parties' Letter, “Notice of Intent to Participate in Sunset Review,” dated June 18, 2024.

⁴ *Id.*

⁵ See Domestic Interested Parties' Letter, “Substantive Response to Notice of Initiation,” dated July 3, 2024.

parties, and that it would conduct an expedited (120-day) sunset review of the *Order*.⁶

Scope of the Order

The products covered by the *Order* are quartz surface products from China. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.⁷

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization in the event of revocation of the *Order* and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum. A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producer/exporter	Net countervailable subsidy (percent)
Fasa Industrial Corporation Limited	190.99
Foshan Hero Stone Co., Ltd. ⁸	190.99
Foshan Nanhai Julan Quartz Co	190.99
Foshan Yixin Stone Co., Ltd.	45.32

⁶ See Commerce's Letter, “Sunset Reviews Initiated on June 3, 2024,” dated July 23, 2024.

⁷ See Memorandum, “Issues and Decision Memorandum for Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Certain Quartz Surface Products from the People's Republic of China,” dated concurrently with this notice (Issues and Decision Memorandum).

⁸ Commerce has found the following companies to be cross-owned with Foshan Hero Stone Co., Ltd.: Mingwei Quartz New Environmental Protection Materials Co., Ltd.; and Foshan Quartz Stone Imp & Exp Co., Ltd.

Producer/exporter	Net countervailable subsidy (percent)
Qinguan Yuefeng Decoration Material Co	190.99
All Others	45.32

Administrative Protective Order

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

Notification to Interested Parties

Commerce is issuing and publishing these final results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: October 3, 2024.

Ryan Majerus,
Deputy Assistant Secretary for Policy and
Negotiations, performing the non-exclusive
functions and duties of the Assistant
Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in
the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. History of the Order
- V. Legal Framework
- VI. Discussion of the Issues
 - 1. Likelihood of Continuation or
Recurrence of a Countervailable Subsidy
 - 2. Net Countervailable Subsidy Rates
Likely to Prevail
 - 3. Nature of the Subsidies
- VII. Final Results of the Sunset Review
- VIII. Recommendation

[FR Doc. 2024–23332 Filed 10–8–24; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–801–002]

Mattresses From Serbia: Final Results
of Antidumping Duty Administrative
Review; 2022–2023

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

SUMMARY: The U.S. Department of
Commerce (Commerce) determines that
Healthcare Europe DOO Ruma
(Healthcare), the sole producer/exporter
subject to this administrative review,
made sales of subject merchandise at
below normal value during the period of
review (POR) May 1, 2022, through
April 30, 2023.

DATES: Applicable October 9, 2024.

FOR FURTHER INFORMATION CONTACT:
Tyler Weinhold, AD/CVD Operations,
Office VI, Enforcement and Compliance,
International Trade Administration,
U.S. Department of Commerce, 1401
Constitution Avenue NW, Washington,
DC 20230; telephone: (202) 482–1121.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2024, Commerce
published the *Preliminary Results* in
this administrative review in the
Federal Register.¹ We provided
interested parties with an opportunity to
comment on the *Preliminary Results*; no
interested party submitted comments.
Because no party commented on the
Preliminary Results, we made no
changes to the preliminary findings
therein; thus, no decision memorandum
accompanies this **Federal Register**
notice.

Scope of the Order²

The products covered by the *Order*
are mattresses from Serbia. For a
complete description of the scope of the
Order, see the *Preliminary Results*.³

Final Results of Review

For these final results, we determine
that the following estimated weighted-
average dumping margin exists for the
period of review of May 1, 2022,
through April 30, 2023:

Producer/exporter	Weighted- average dumping margin (percent)
Healthcare europe DOO Ruma ..	42.09

Disclosure

Normally, Commerce discloses to
parties to the proceeding the

¹ See *Mattresses from Serbia: Preliminary Results
of the Antidumping Duty Administrative Review;
2022–2023*, 89 FR 47129 (May 31, 2024)
(*Preliminary Results*), and accompanying
Preliminary Decision Memorandum (PDM).

² See *Mattresses from Cambodia, Indonesia,
Malaysia, Serbia, Thailand, the Republic of Turkey,
and the Socialist Republic of Vietnam:
Antidumping Duty Orders and Amended Final
Affirmative Antidumping Determination for
Cambodia*, 86 FR 26460 (May 14, 2021) (*Order*).
³ See *Preliminary Results PDM* at 2–3.

calculations performed in connection
with the final results of review within
five days of any public announcement
or, if there is no public announcement,
within five days of the date of
publication of the notice of the final
results in the **Federal Register**, in
accordance with 19 CFR 351.224(b).
However, because we made no changes
from the *Preliminary Results*, there are
no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the
Act, and 19 CFR 351.212(b)(1),
Commerce has determined, and U.S.
Customs and Border Protection (CBP)
shall assess, antidumping duties on all
appropriate entries covered by this
review. Commerce intends to issue
assessment instructions to CBP no
earlier than 35 days after the date of
publication of the final results of this
review in the **Federal Register**. If a
timely summons is filed at the U.S.
Court of International Trade, the
assessment instructions will direct CBP
not to liquidate relevant entries until the
time for parties to file a request for a
statutory injunction has expired (*i.e.*,
within 90 days of publication).

Cash Deposit Requirements

The following cash deposit
requirements will be effective upon
publication in the **Federal Register** of
the notice of these final results for all
shipments of the subject merchandise
entered, or withdrawn from warehouse,
for consumption on or after the
publication date, as provided by section
751(a)(2) of the Act: (1) the cash deposit
rate Healthcare will be equal to the
company-specific weighted-average
dumping margin established in the final
results of the review; (2) for
merchandise exported by producers or
exporters not covered in this review but
covered in a prior segment of the
proceeding, the cash deposit rate will
continue to be the company-specific rate
published in the completed segment for
the most recent period; (3) if the
exporter is not a firm covered in this
review, a prior review, or the original
investigation but the producer has been
covered in a prior completed segment of
this proceeding, then the cash deposit
rate will be the rate established in the
completed segment for the most recent
period for the producer of the
merchandise; and (4) the cash deposit
rate for all other producers or exporters
will continue to be 112.11 percent, the
all-others rate established in the less-
than-fair-value investigation.⁴ These

⁴ See *Mattresses from Serbia: Final Affirmative
Determination of Sales at Less than Fair Value*, and

cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

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

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221.

Dated: October 3, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024-23331 Filed 10-8-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: National Institute of Standards and Technology (NIST) Visiting Committee on Advanced Technology (VCAT or Committee) will meet on Tuesday, October 29, 2024, from 9:00 a.m. to 5:00 p.m. Eastern Time and Wednesday, October 30, 2024, from 9:00 a.m. to 11:00 a.m. Eastern Time.

DATES: The VCAT will meet on Tuesday, October 29, 2024, from 9:00 a.m. to 5:00 p.m. Eastern Time and Wednesday, October 30, 2024, from 9:00 a.m. to 11:00 a.m. Eastern Time. The portion of the meeting that is closed to the public will take place on Wednesday, October 30, 2024, from 9:00 a.m. to 11:00 a.m. Eastern Time.

ADDRESSES: The meeting will be held at the National Cybersecurity Center of Excellence, 9700 Great Seneca Highway, Rockville, Maryland, 20850 with an option to participate via Zoom. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, Maryland 20899-1060, telephone number 240-446-6000. Ms. Shaw's email address is stephanie.shaw@nist.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.*, notice is hereby given that the VCAT will meet on the dates and at the times given in the **DATES** section. The meeting will be partially closed as set forth in the **DATES** section. The VCAT is composed of not fewer than nine members appointed by the NIST Director, eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The primary purpose of this meeting is for the VCAT to review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda for the open portion of the meeting will include an update on major programs at NIST. It will also include discussions of the recommendations from the Subcommittee on U.S. International Standards Development Activity; programmatic updates on safety; CHIPS metrology; post-quantum cryptography (PQC); advanced communications; and artificial intelligence (AI). During a closed session on Wednesday, October 30, 2024, from 9:00 a.m. until 11:00 a.m. Eastern Time, the VCAT will discuss with senior NIST leadership the

agency's current and future budgets and related programmatic prioritization approaches, the premature disclosure of which would significantly frustrate implementation of programmatic actions the agency might propose. This session is closed in accordance with 5 U.S.C. 552b(c)(9)(B). The agenda is subject to change if needed to accommodate Committee business. The final agenda will be posted on the NIST website at <http://www.nist.gov/director/vcat/agenda.cfm>.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda by no later than 5:00 p.m. Eastern Time, Friday, October 18, 2024, by contacting Stephanie Shaw at stephanie.shaw@nist.gov. Approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received but is likely to be about 3 minutes each. The exact time and date for public comments will be included in the final agenda that will be posted on the NIST website at <http://www.nist.gov/director/vcat/agenda.cfm>. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person or via webinar are invited to submit written statements to Stephanie Shaw at stephanie.shaw@nist.gov.

For participants desiring to attend via Zoom, please contact Ms. Shaw at stephanie.shaw@nist.gov by 5:00 p.m. Eastern Time, Friday, October 11, 2024, for detailed instructions on how to join the webinar. All visitors to the NIST site are required to pre-register to be admitted. Please submit your name, time of arrival, email address, and phone number to Stephanie Shaw, stephanie.shaw@nist.gov by 5:00 p.m. Eastern Time, Friday, October 11, 2024. Non-U.S. citizens must submit additional information; please contact Ms. Shaw at stephanie.shaw@nist.gov. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (P.L. 109-13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued

identification in lieu of a state-issued driver's license. For detailed information please visit: http://nist.gov/public_affairs/visitor/.

Authority: 15 U.S.C. 278 and the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.*

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2024-23384 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE358]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 98 Pre-Data Workshop Webinar for Gulf of Mexico Red Snapper.

SUMMARY: The SEDAR 98 assessment process of Gulf of Mexico red snapper will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 98 Pre-Data Workshop webinar will be held Tuesday, October 29, 2024, from 1 p.m. to 3 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in

the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion during the Pre-Data Workshop webinar are as follows:

Participants will review summary information and preliminary data analysis and make recommendations as needed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 3, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-23280 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE365]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Charter Halibut Management Committee will meet October 25, 2024.

DATES: The meeting will be held on Friday, October 25, 2024, from 12:30 p.m. to 4 p.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/3061>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Suite 400, Anchorage, AK 99501-2252; telephone: (907) 271-2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone: (907) 271-2809; email: sarah.marrinan@noaa.gov. For technical support, please contact our admin Council staff, email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Agenda

Friday, October 25, 2024

The Charter Halibut Management Committee will meet to make recommendations on management measures to analyze for the 2025 season. The Alaska Department of Fish and Game (ADF&G) will go over the final numbers for 2023 and preliminary harvest and effort numbers for 2024. Then the committee will discuss development of the 2025 management measures for analysis. The meeting will conclude with any other business. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/3061> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/3061>.

Public Comment

Public comment letters will be accepted and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/3061>.

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

Dated: October 3, 2024.

Key Israel Marquez,

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

[FR Doc. 2024–23281 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XE343]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Habitat and Ecosystem Advisory Panel (AP).

DATES: The Habitat and Ecosystem AP meeting will be held October 28, 2024, from 1 p.m. until 5 p.m.; October 29, 2024, from 8:30 a.m. until 4:30 p.m.; and October 30, 2024, from 8:30 a.m. until 4:30 p.m., EDT.

ADDRESSES: The meeting will be held at the Hilton Garden Inn Charleston Airport & Convention Center, 5625 International Blvd., North Charleston, SC 29418; telephone: (843) 308–9330. Group Name: SAFMC Habitat and Ecosystem AP.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

The meeting will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meeting at: <https://safmc.net/advisory-panel-meetings/>.

FOR FURTHER INFORMATION CONTACT: Kathleen Howington, Habitat and

Ecosystem Scientist, Kathleen.howington@safmc.net; phone: (843) 725–7580.

SUPPLEMENTARY INFORMATION: The Habitat and Ecosystem AP will finalize the Essential Fish Habitat (EFH) 5-Year Review, finalize revisions to the Council's Energy Exploration, Development, Transportation and Hydropower Re-Licensing Policy, and begin the revisions to the Alterations to Riverine, Estuarine and Nearshore Flows Policy. The AP will also review the extent of tide gate, living shoreline, and beneficial use projects and their impacts on habitat, review the Mid Atlantic Fishery Management Council's Fishing Effects Database and App, receive an update on the Army Corps of Engineers project for reefs, and receive a presentation on offshore wind infrastructure coverage and artificial reef footprints. Finally, the AP will review the progress on the Habitat section of the Council's website, the tools and partner evaluation detailed in the *Habitat Blueprint*, communication and outreach efforts, the Habitat and Ecosystem AP workplan, and the next EFH 5-year review. The AP will provide recommendations to the Council on other topics as needed.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aid should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 3, 2024.

Key Israel Marquez,

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

[FR Doc. 2024–23279 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Updated Implementation Timeline for the Modernized National Spatial Reference System (NSRS)**

AGENCY: National Geodetic Survey (NGS), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of upcoming changes.

SUMMARY: The National Geodetic Survey (NGS) is in the process of modernizing

the National Spatial Reference System (NSRS). NGS plans to replace all three North American Datum of 1983 (NAD 83) frames and all vertical datums of the NSRS, including the North American Vertical Datum of 1988 (NAVD 88), with four new terrestrial reference frames and one new geopotential datum to which all geodetic coordinates and derived coordinates within the NSRS will be referenced. NGS is releasing key details of the transition to the new datums in the modernized NSRS to help users and interested parties prepare for the coming change.

DATES: The modernization of the NSRS is scheduled to occur in 2025 or 2026. NGS intends to release associated tools and services within five years of the modernization.

ADDRESSES: National Geodetic Survey, 1315 East-West Highway, Silver Spring, MD 20910. geodesy.noaa.gov; beta.ngs.noaa.gov; <https://geodesy.noaa.gov/datums/newdatums/index.shtml>.

FOR FURTHER INFORMATION CONTACT: Dr. Dru Smith, NSRS Modernization Manager, NOAA Office of National Geodetic Survey, 1315 East-West Highway, Silver Spring, MD 20910, or dru.smith@noaa.gov, (240) 533–9654.

SUPPLEMENTARY INFORMATION: The modernization of the NSRS is designed to improve the accuracy of Federal geodetic control. For over 200 years, NGS and its predecessor agencies (including the Survey of the Coast, which was founded in 1807), have been the stewards of the NSRS—the geodetic infrastructure of the United States. NGS strives to modernize the NSRS as technology and scientific knowledge advance. In 2020, NGS issued a **Federal Register** Notice (FRN) announcing that the completion and rollout of the NSRS modernization was expected to occur between 2022 and 2025 (85 FR 44864). This notice announces the updated projected timeline for the latest modernization effort.

The last significant modernization of the NSRS resulted in the creation of the original North American Datum of 1983 (54 FR 25318) and the North American Vertical Datum of 1988 (58 FR 34245). These datums were defined before the widespread use of the Global Positioning System (GPS) and Global Navigation Satellite System (GNSS), and were determined using classical (*i.e.*, terrestrial, line-of-sight) geodetic measurement techniques. Over the years, minor corrections to and expansion of the NSRS occurred; however, no significant update was possible until now. Through modern

geodetic surveying technology, extensive data collection initiatives, and advances in scientific knowledge, a more accurate, modern NSRS is possible. The new frames and datum shall be known as the “North American Terrestrial Reference Frame of 2022,” the “Pacific Terrestrial Reference Frame of 2022,” the “Caribbean Terrestrial Reference Frame of 2022,” the “Mariana Terrestrial Reference Frame of 2022,” and the “North American-Pacific Geopotential Datum of 2022,” and may be referred to as “NATRF2022,” “PATRF2022,” “CATRF2022,” “MATRF2022,” and “NAPGD2022,” respectively. The new reference frames will rely primarily on GNSSs, such as the GPS, as well as on a gravimetric geoid model resulting from the Gravity for the Redefinition of the American Vertical Datum (GRAV-D) Project. The modernized NSRS will be easier to access and maintain than the existing NSRS, which relies on physical survey marks that deteriorate over time. The modernized NSRS will define new, more accurate, and more regularly updated geodetic coordinates (*i.e.*, latitude, longitude, ellipsoid height, orthometric height, acceleration of gravity, deflections of the vertical, and others). Coordinates will be estimated within these frames and datum at regular reference epochs from all historic survey data available to NGS, beginning with 2020.00.

The following details outline the process for the rollout of the modernized NSRS:

- NGS plans to roll out components of the modernized NSRS in 2025 or 2026. As each component is released at beta.ngs.noaa.gov, it can be publicly tested with feedback provided to NGS. The testing will continue for at least six months after the final component is released on beta.ngs.noaa.gov.
- While the modernized NSRS is being rolled out and tested, the current NSRS will remain the official NSRS of the United States. The official NSRS (*i.e.*, currently NAD 83, NAVD 88, etc.) may be found at geodesy.noaa.gov. Only one major improvement to the current NSRS is expected during this time: ITRF2020 will be integrated in all products and services.
- Once testing is complete, and all modernized NSRS components appear to be stable and correct, the Federal Geodetic Control Subcommittee (FGCS) will be asked to vote to approve the modernized NSRS (likely in 2026). If FGCS approves the modernized NSRS, NGS will publish an FRN announcing the approval of the modernized NSRS and begin a several-month process of transitioning all modernized NSRS

components to the official website at geodesy.noaa.gov. During this transition, the beta website may be wiped of submitted data and no further submissions to the NGS IDB (the repository for the current NSRS) will be allowed.

Additional information regarding the modernization of the NSRS may be found at <https://geodesy.noaa.gov/datums/newdatums/index.shtml>.

Authority: 33 U.S.C. 883a *et seq.*

Shachak Pe’eri,

Acting Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–23347 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE304]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Secretarial Amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region

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

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: NMFS, Southeast Region, intends to prepare an environmental impact statement (EIS) and conduct scoping to analyze management alternatives to be included in a Secretarial Amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Secretarial Amendment). The EIS will evaluate a range of alternatives for setting and managing catch for South Atlantic red snapper to end overfishing and support rebuilding objectives of the stock. The purpose of this notice of intent is to solicit public comments on the scope of issues to be addressed in the EIS.

DATES: Written comments on the scope of issues to be addressed in the EIS must be received on or before November 8, 2024.

ADDRESSES: You may submit comments on this document identified by NOAA–NMFS–2024–0107 by either of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the

Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2024–0107, in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The unique identification number for the EIS for the Secretarial Amendment is: EISX–006–48–1SE–1726732992.

FOR FURTHER INFORMATION CONTACT:

Karla Gore, Southeast Regional Office, telephone: 727–824–5305; or email: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the South Atlantic Fishery Management Council (South Atlantic Council), manages the snapper-grouper fishery, which includes red snapper, under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The South Atlantic Council prepared the Snapper-Grouper FMP, and NMFS implements the Snapper-Grouper FMP through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities and protecting marine ecosystems.

The Magnuson-Stevens Act also provides that the Secretary of Commerce (Secretary) may prepare a fishery management plan (FMP) or an amendment to any such FMP

(Secretarial Amendment) under certain circumstances. Section 304(c)(1)(A) of the Magnuson-Stevens Act provides that the Secretary may prepare an FMP or FMP amendment in accordance with the national standards, the other provisions of the Magnuson-Stevens Act, and any other applicable law, “if the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time” an FMP for such fishery, or any necessary amendment to such an FMP, if such fishery requires conservation and management.

The status of the South Atlantic red snapper stock was evaluated in the Southeast Data, Assessment, and Review (SEDAR) 73 stock assessment that was completed in 2021. The results of SEDAR 73 indicated that the South Atlantic red snapper stock remains overfished and is experiencing overfishing, and the overfishing is being primarily driven by high numbers of dead discards in the recreational sector. Because the South Atlantic red snapper stock is overfished, it is managed under a rebuilding plan implemented through Amendment 17A to the Snapper-Grouper FMP (75 FR 76874, December 9, 2010), which specified a 35-year rebuilding schedule with the rebuilding timeframe to end in 2044. In a letter dated July 23, 2021, NMFS notified the South Atlantic Council of the results of SEDAR 73 and that overfishing of red snapper was occurring. The South Atlantic Council has discussed how to address or end overfishing of this stock since receiving the overfishing notification from NMFS, but it has not taken action to meet the Magnuson-Stevens Act requirements to end overfishing. To reduce overfishing of South Atlantic red snapper in the 2024 fishing year, NMFS implemented interim measures that included reducing the commercial and recreational annual catch limits (89 FR 50530, June 14, 2024).

NMFS has determined that red snapper requires conservation and management measures to end the overfishing, and is therefore developing a Secretarial Amendment to end overfishing of red snapper in accordance with the Magnuson-Stevens Act. While developing the EIS and Secretarial Amendment, NMFS will consider new information that has become available since 2021 for revisions to South Atlantic red snapper management. At this time, NMFS intends for this action to be in place during the 2025 commercial and recreational fishing seasons.

The EIS to support the Secretarial Amendment would explore management strategies to end

overfishing of South Atlantic red snapper while also considering alternatives to increase fishing opportunities for landing red snapper by reducing the amount of fish released dead. NMFS will develop an EIS to describe and analyze alternatives to address the management needs previously described, including the current or “no action” alternatives. Possible actions that NMFS may consider to include in the EIS are, but are not limited to, adjusting catch levels, adjusting accountability measures, and discard reduction measures.

In accordance with the Companion Manual to NOAA Administrative Order 216–6A, NMFS has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. The public is invited to provide written comments on the preliminary issues, which are identified as actions in the EIS. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the final EIS associated with the Secretarial Amendment.

After the draft EIS associated with the Secretarial Amendment is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability of the draft EIS for public comment in the **Federal Register**. The draft EIS will have a 45-day comment period. NMFS currently anticipates publishing the draft EIS by January 24, 2025, with the comment period to expected to end on March 10, 2025.

This procedure is pursuant to regulations issued by the Council on Environmental Quality or implementing the procedural provisions of the National Environmental Policy Act (40 CFR parts 1500–1508) and the Companion Manual to NOAA Administrative Order 216–6A.

NMFS will consider public comments received on the draft EIS in developing the final environmental impact statement (FEIS) and the record of decision. NMFS will announce, through a document published in the **Federal Register**, all additional public comment periods on the final Secretarial Amendment, its proposed implementing regulations, and the availability of its associated FEIS. NMFS will consider all public comments received, whether they are on the draft EIS, final amendment, the proposed regulations, or the FEIS, prior to final agency action. NMFS anticipates publishing the FEIS by April 25, 2025, with a record of decision signed by NMFS by May 25, 2025. These specific dates are preliminary and are subject to change based on NMFS administrative needs.

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

Dated: October 3, 2024.

Karen H. Abrams,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–23320 Filed 10–8–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE340]

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 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 Friday, October 25, 2024 at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; telephone: (777) 634–2000.

Webinar registration URL information: <https://nefmc-org.zoom.us/j/9t0YV2v3M2JP8pZDbsFyXmar>.

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 Committee will meet to discuss: Framework Adjustment 39: Receive an update on plan development team (PDT) tasking and provide input on the range of potential access area and days-at-sea (DAS) allocations for the 2025 and 2026 fishing years. Framework 39 will set specifications including ABC/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 set-

asides for the observer and research programs for fishing year 2025 and default specifications for fishing year 2026. This action will also consider modifying the current seasonal flatfish closure in Closed Area II, and adjusting regulations to allow NGOM permitted vessels to possess scallops outside of the management unit. They will also receive an update on ongoing 2024 scallop work priorities. 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: October 3, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-23278 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE366]

Pacific 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 Pacific Fishery Management Council (Pacific Council) will convene a joint webinar meeting of its Groundfish Management Team (GMT) and its Groundfish Advisory Subpanel (GAP). The GAP and the GMT

will discuss items on the Pacific Council's November 2024 meeting agenda. This meeting is open to the public.

DATES: The joint GMT/GAP online meeting will be held on Monday, October 28, 2024, from 1 p.m. to 4 p.m. Pacific Time. The scheduled ending times for this meeting is an estimate. The meeting will adjourn when business for the day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to attend the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Todd Phillips, Staff Officer, Pacific Council; todd.phillips@noaa.gov; telephone: (503) 820-2426.

SUPPLEMENTARY INFORMATION: The primary purpose of the GAP and GMT webinar is to prepare for the Pacific Council's November 2024 meeting agenda items. This joint meeting is expected to focus on groundfish and cross fishery management plan agenda items.

A detailed agenda for the webinar will be available on the Pacific Council's website prior to the meeting. The GAP and GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT and GAP.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov; (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: October 3, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024-23305 Filed 10-8-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Matters Related To First Inventor To File

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

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0071 (Matters Related to First Inventor to File). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before December 9, 2024.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include "0651-0071 comment" in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by email at raul.tamayo@uspto.gov with "0651-0071 comment" in the subject line. Additional information about this information collection is also available

at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 3 of the Leahy-Smith America Invents Act (AIA), *inter alia*, amended 35 U.S.C. 102 and 103 consistent with the objectives of the AIA, including the conversion of the United States patent system from a "first to invent" system to a "first inventor to file" system. The changes to 35 U.S.C. 102 and 103 in section 3 of the AIA went into effect on March 16, 2013, but apply only to certain applications filed on or after March 16, 2013.

This information collection covers information required by 37 CFR 1.55(k), 1.78(a)(6), and 1.78(d)(6) to assist the USPTO in determining whether an application is subject to 35 U.S.C. 102 and 103 as amended by section 3 of the AIA, or 35 U.S.C. 102 and 103 as in effect on March 15, 2013. The information is only required in nonprovisional applications filed on or

after March 16, 2013, that claim foreign priority to, or domestic benefit of, an application filed before March 16, 2013. Moreover, the information is not required if the nonprovisional application filed on or after March 16, 2013, claims the benefit of an earlier application in which a statement under 37 CFR 1.55(k), 1.78(a)(6), or 1.78(d)(6) has already been filed. Given the passage of time, it is increasingly rare for a newly filed nonprovisional application to claim foreign priority to, or domestic benefit of, an application filed before March 16, 2013, without also claiming benefit of an earlier application in which the statement has already been filed. Accordingly, the estimated responses for this collection continue to decrease.

II. Method of Collection

The items in this information collection may be submitted electronically, or by mail, facsimile, or hand delivery.

III. Data

OMB Control Number: 0651-0071.
Forms: None.

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 50 respondents.

Estimated Number of Annual Responses: 50 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 2 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 100 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$44,700.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Submissions Under 37 CFR 1.55(k) ..	25	1	25	2	50	\$447	\$22,350
2	Submissions Under 37 CFR 1.78(a)(6).	20	1	20	2	40	447	17,880
3	Submissions Under 37 CFR 1.78(d)(6).	5	1	5	2	10	447	4,470
Totals .....	.....	50	.....	50	.....	100	.....	44,700

Estimated Total Annual Respondent Non-hourly Cost Burden: \$10. There are no capital start-up costs, maintenance costs, recordkeeping costs, or filing fees associated with this information collection. However, the USPTO estimates that the total annual non-hour cost burden for this information collection in the form of postage is \$10.

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates one item will be submitted in the mail. The USPTO estimates that the average postage cost

for a mailed submission, using a Priority Mail legal flat rate envelope, will be \$10.15. Therefore, the USPTO estimates the total mailing costs for this information collection at \$10.

IV. Request for Comments

The USPTO is soliciting public comments to:

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

(b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, the

¹ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-41. The USPTO uses the average billing rate for intellectual property work in all firms which is \$447 per hour (<https://www.aipla.org/home/news-publications/economic-survey>).

USPTO cannot guarantee that it will be able to do so.

Justin Isaac,
Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.
[FR Doc. 2024–23349 Filed 10–8–24; 8:45 am]
BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–C–2024–0031]

Performance Review Board

AGENCY: United States Patent and Trademark Office, Commerce.
ACTION: Notice of revised board members.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, the United States Patent and Trademark Office (USPTO) announces the appointment of persons to serve as members of its Performance Review Board (PRB). This is an update to the recently published **Federal Register** notice (published on July 16, 2024), to reflect a board member serving in the role of a new position as the Interim Chief Public Engagement Officer.

ADDRESSES: Office of Human Resources, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Lari B. Washington, Director, Human Capital Management, USPTO, at 571–272–5187.

SUPPLEMENTARY INFORMATION: The membership of the USPTO’s PRB is as follows:

- Derrick Brent, Chair, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO
- Frederick W. Steckler, Vice Chair, Chief Administrative Officer, USPTO
- Vaishali Udupa, Commissioner for Patents, USPTO
- David S. Gooder, Commissioner for Trademarks, USPTO
- Dennis J. Hoffman, Chief Financial Officer, USPTO
- Henry J. Holcombe, Chief Information Officer, USPTO
- David L. Berdan, General Counsel, USPTO
- Scott D. Ewalt, Interim Chief Public Engagement Officer, USPTO
- Sharon Israel, Chief Policy Officer and Director for International Affairs, USPTO
- Gerard F. Rogers, Chief Administrative Trademark Judge, USPTO
- Scott R. Boalick, Chief Administrative Patent Judge, USPTO

Bismarck Myrick, Director of the Office of Equal Employment Opportunity and Diversity, USPTO

Cara Duckworth, Chief Corporate Communications Officer, USPTO

Shirin Bidel-Niyat, Chief of Staff, USPTO

Alternates:
Robin Evans, Deputy Commissioner for Patents, USPTO
Amy Cotton, Deputy Commissioner for Trademark Examination Policy, USPTO

Katherine K. Vidal,
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.
[FR Doc. 2024–23315 Filed 10–8–24; 8:45 am]
BILLING CODE 3510–16–P

DEPARTMENT OF ENERGY

Senior Executive Service Performance Review Board

AGENCY: Department of Energy.
ACTION: Designation of performance review board chair.

SUMMARY: This notice provides the Performance Review Board Chair designee for the Department of Energy. This listing supersedes all previously published lists of Performance Review Board Chair.

DATES: This appointment is effective as of October 3, 2024.

Dennis M. Miotla (Primary)
Terri E. Lee (Alternate)

Signing Authority

This document of the Department of Energy was signed on October 3, 2024, by Farhana Hossain, Director of the Office of Corporate Executive Management within the Office of the Chief Human Capital Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 3, 2024.
Jennifer Hartzell,
Alternate Federal Register Liaison Officer, U.S. Department of Energy.
[FR Doc. 2024–23268 Filed 10–8–24; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service Performance Review Board

AGENCY: Department of Energy.
ACTION: Designation of performance review board standing register.

SUMMARY: This notice provides the Performance Review Board (PRB) Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

DATES: This appointment is effective as of October 3, 2024.

- Al-Daouk, Ahmad M.
- Bell, Melody C.
- Bishop, Tracey A.
- Budney, Michael D.
- deBeauclair, Geoffrey G.
- Durant III, James M.
- Hine, Scott E.
- Hoffman, Patricia A.
- Kinsey, Marlys L.
- Konieczny, Katherine L.
- Martin, Stephanie K.
- Miller, Michael P.
- Montoya, Michael M.
- Plasynski, Sean I.
- Richards, Jocelyn E.
- Schultz, Douglas W.
- Shoulta, Jeffrey L.
- Susut, Ceren
- William, West F.

Signing Authority

This document of the Department of Energy was signed on October 3, 2024, by Farhana Hossain, Director of the Office of Corporate Executive Management within the Office of the Chief Human Capital Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 3, 2024.

Jennifer Hartzell,

*Alternate Federal Register Liaison Officer,
U.S. Department of Energy.*

[FR Doc. 2024–23267 Filed 10–8–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2459–286]

Lake Lynn Generation, LLC; Notice of Effectiveness of Withdrawal of Request for Temporary Variance

On July 16, 2024, Lake Lynn Generation, LLC filed a temporary variance request for the Lake Lynn Hydroelectric Project No. 2459. On September 11, 2024, Lake Lynn Generation, LLC filed a notice of withdrawal of the request for temporary variance.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow the withdrawal. Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,¹ the withdrawal of the request for temporary variance became effective on September 26, 2024, and this proceeding is hereby terminated.

Dated: October 2, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–23296 Filed 10–8–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–455–001]

Equitrans, L.P.; Notice of Request for Extension of Time

Take notice that on October 2, 2024, Equitrans, L.P. (Equitrans) requested that the Commission grant an extension of time, until January 31, 2025, to complete its Well 3660 Plug and Abandonment Project (Project) located in Greene County, Pennsylvania as authorized in the Order Denying Protests and Authorizing Abandonment (Order).¹ The Order authorized Equitrans to proceed with the Project under its Part 157 blanket certificate. By Rule, the Project should have been

completed within one year of the Order date, or by October 23, 2024.

Equitrans states that, pursuant to a court order in ongoing litigation involving Well 3660 and pending in the Court of Common Pleas of Greene County, Pennsylvania (Court), Equitrans was required to preserve physical evidence, which includes the well. Equitrans received an order from the Court lifting the preservation order on September 9, 2024. Equitrans asserts that it is finalizing written protocols for plugging and abandonment to submit to the parties to the litigation prior to commencement of plugging activities. Thus, Equitrans requests an extension of time, until January 31, 2025, to complete the abandonment activities.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Equitrans' request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,² the Commission will aim to issue an order acting on the request within 45 days.³ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁴ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁵ At the time a pipeline requests

² Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

³ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁴ *Id.* at P 40.

⁵ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.⁶ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments in lieu of paper using the “eFile” link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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 courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to

⁶ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

¹ 18 CFR 385.216(b) (2024).

² *Equitrans, L.P.*, 185 FERC ¶ 61,040 (2023).

contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Comment Date: 5:00 p.m. Eastern Time on October 18, 2024.

Dated: October 3, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23388 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
Cross Town Energy Storage, LLC.	EG24-219-000
Cranberry Point Energy Storage, LLC.	EG24-220-000
Morrow Lake Solar, LLC	EG24-221-000
Solar Star 3, LLC	EG24-222-000
Solar Star 4, LLC	EG24-223-000
Ash Creek Solar, LLC	EG24-226-000
Prairie Mist Solar Project, LLC.	EG24-227-000
Buckeye Plains Solar Project, LLC.	EG24-228-000
Pickaway County Solar Project, LLC.	EG24-229-000
BCD 2024 Fund 5 Lessee, LLC.	EG24-230-000
Envoy Solar, LLC	EG24-231-000
Hill Solar 1, LLC	EG24-232-000
Western Maine Renewables, LLC.	EG24-233-000
RE Papago LLC	EG24-234-000
BT Signal Ranch, LLC	EG24-235-000
Lockhart CL ESS I, LLC	EG24-236-000
Lockhart CL ESS II, LLC	EG24-237-000
Gravel Pit Solar III, LLC	EG24-240-000
Gravel Pit Solar IV, LLC	EG24-241-000
Gravel Pit Solar, LLC	EG24-242-000
DESRI Gravel Pit Construction Borrower, L.L.C.	EG24-243-000
Ray Ranch Solar LLC	EG24-244-000
Twin Lakes Solar LLC	EG24-245-000
Duane Arnold Solar II, LLC	EG24-246-000
69SV 8me LLC	EG24-247-000
Blue Bird Solar, LLC	EG24-248-000

Take notice that during the month of September 2024, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2024).

Dated: October 3, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23386 Filed 10-8-24; 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: RP24-1124-000.

Applicants: Young Gas Storage

Company, Ltd.

Description: Compliance filing: Operational Purchase and Sales Report 2024 to be effective N/A.

Filed Date: 9/30/24.

Accession Number: 20240930-5376.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP24-1125-000.

Applicants: Wyoming Interstate

Company, L.L.C.

Description: Compliance filing: Operational Purchase and Sale Report 2024 to be effective N/A.

Filed Date: 9/30/24.

Accession Number: 20240930-5377.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25-36-000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Update of Fuel Retention Rates to be effective 10/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002-5126.

Comment Date: 5 p.m. ET 10/8/24.

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: October 3, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23389 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22-468-001]

Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC; Notice of Request for Extension of Time

Take notice that on September 26, 2024, Trailblazer Pipeline Company LLC (Trailblazer) and Rockies Express Pipeline LLC (Rockies Express), requested that the Commission grant an extension of time, until December 23, 2024, to construct and place into service its Trailblazer Conversion Project (Project) located in Weld County, Colorado and Kimball County, Nebraska as authorized in the October 23, 2023 Order Issuing Certificate and Granting Abandonment (Order).¹ The Order required Trailblazer and Rockies Express to complete the construction of the Project and make it available for service within one year of the date of the Order or by October 23, 2024.

Construction of the Project commenced on January 4, 2024, and the Applicants have completed construction of all Project facilities except for the Hereford Ranch and Redtail Compressor Stations, which are currently 65-75% complete. Due to delays in receiving the necessary permits required for construction and the relocation of certain facilities as the result of negotiations with landowners, the Applicants require additional time to finish construction of the compressor stations. Therefore, the Applicants believe an extension until December 23, 2024 should be sufficient to complete the construction of the Project facilities and place them into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to

¹ Trailblazer Pipeline Company LLC (Trailblazer) and Rockies Express Pipeline LLC (Rockies Express), 185 FERC ¶ 61,039.

comment on Trailblazer and Rockies Express's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,² the Commission will aim to issue an order acting on the request within 45 days.³ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁴ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁵ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.⁶ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

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.reference@ferc.gov.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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 courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on October 18, 2024.

Dated: October 3, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23387 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24-134-000]

Puget Sound Energy, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 2, 2024, the Commission issued an order in Docket No. EL24-

134-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Puget Sound Energy, Inc.'s market-based rate authority in the Seattle City Light balancing authority area is unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. *Puget Sound Energy, Inc.*, 189 FERC ¶ 61,008 (2024).

The refund effective date in Docket No. EL24-134-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24-134-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2024), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC'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 FERC'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.reference@ferc.gov.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy

² Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

³ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁴ *Id.* at P 40.

⁵ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

⁶ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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Dated: October 2, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23299 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC24-95-000.

Applicants: Big Rock ESS Assets, LLC.

Description: Supplement to 06/25/2024 Application for Authorization Under Section 203 of the Federal Power Act of Big Rock ESS Assets, LLC.

Filed Date: 10/1/24.

Accession Number: 20241001-5352.

Comment Date: 5 p.m. ET 10/11/24.

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

Docket Numbers: EG25-1-000.

Applicants: AES Pike County Energy Storage, LLC.

Description: AES Pike County Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/3/24.

Accession Number: 20241003-5076.

Comment Date: 5 p.m. ET 10/24/24.

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

Docket Numbers: ER17-1320-006; ER17-2281-005; ER17-2282-005; ER19-135-005; ER20-64-005; ER20-65-005; ER21-653-005; ER21-654-005; ER21-856-006; ER21-857-006; ER21-1396-004; ER21-1397-004; ER21-2689-004; ER21-2690-004; ER21-2764-004; ER21-2769-004; ER22-19-004; ER22-

20-004; ER22-215-004; ER22-216-004; ER22-2399-003; ER22-2400-003; ER22-2401-003; ER22-2403-003; ER22-2404-003; ER22-2405-003; ER22-2406-003; ER22-2407-003; ER22-2410-003; ER22-2411-003; ER22-2412-003; ER22-2413-003; ER22-2816-003; ER22-2817-003; ER23-726-003; ER23-727-003; ER23-1413-003; ER23-1414-003; ER23-1415-003; ER23-1416-003; ER23-2130-003; ER23-2133-003; ER23-2933-003; ER23-2934-003; ER24-672-004; ER24-673-004.

Applicants: PGR 2022 Lessee 5, LLC, Moonshot Solar, LLC, PGR 2022 Lessee 4, LLC, Cane Creek Solar, LLC, PGR 2022 Lessee 9, LLC, Glover Creek Solar, LLC, PGR 2022 Lessee 1, LLC, Virginia Line Solar, LLC, PGR 2021 Lessee 18, LLC, Landrace Holdings, LLC, PGR 2022 Lessee 2, LLC, Fresh Air Energy XXIII, LLC, Eastover Solar LLC, PGR 2021 Lessee 17, LLC, PGR 2021 Lessee 9, LLC, Bulldog Solar, LLC, PGR 2021 Lessee 13, LLC, Sonny Solar, LLC, PGR 2021 Lessee 19, LLC, Allora Solar, LLC, PGR 2021 Lessee 15, LLC, Gunsight Solar, LLC, PGR 2021 Lessee 12, LLC, Cabin Creek Solar, LLC, PGR 2021 Lessee 11, LLC, Phobos Solar, LLC, PGR 2021 Lessee 2, LLC, Beulah Solar, LLC, PGR 2021 Lessee 1, LLC, Stanly Solar, LLC, PGR 2021 Lessee 7, LLC, Highest Power Solar, LLC, PGR 2021 Lessee 5, LLC, Lick Creek Solar, LLC, PGR 2020 Lessee 8, LLC, Sugar Solar, LLC, Trent River Solar, LLC, PGR Lessee P, LLC, PGR Lessee O, LLC, Centerfield Cooper Solar, LLC, TWE Bowman Solar Project, LLC, PGR Lessee L, LLC, Peony Solar LLC, Champion Solar, LLC, Swamp Fox Solar, LLC, Odyssey Solar, LLC.

Description: Notice of Non-Material Change in Status of Odyssey Solar, LLC et al.

Filed Date: 9/30/24.

Accession Number: 20240930-5381.

Comment Date: 5 p.m. ET 10/21/24.

Docket Numbers: ER20-2878-019.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: WAPA Offer of Settlement Compliance Filing (TO SA 59) to be effective 1/1/2025.

Filed Date: 10/3/24.

Accession Number: 20241003-5072.

Comment Date: 5 p.m. ET 10/24/24.

Docket Numbers: ER20-2878-020.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: WAPA Offer of Settlement Compliance Filing (WDT SA 17) to be effective 1/1/2025.

Filed Date: 10/3/24.

Accession Number: 20241003-5075.

Comment Date: 5 p.m. ET 10/24/24.

Docket Numbers: ER22-282-003.

Applicants: El Paso Electric Company.

Description: Compliance filing: Compliance Filing to Set Effective Date of Commission-Approved Settlement Tariff to be effective 9/2/2024.

Filed Date: 10/3/24.

Accession Number: 20241003-5044.

Comment Date: 5 p.m. ET 10/24/24.

Docket Numbers: ER24-2805-001.

Applicants: AEP Texas Inc.

Description: Tariff Amendment: AEPTX-HyFuels Green Lake Wind Generation Interconnection Agr—Amend Pending to be effective 7/24/2024.

Filed Date: 10/3/24.

Accession Number: 20241003-5059.

Comment Date: 5 p.m. ET 10/24/24.

Docket Numbers: ER24-2933-000.

Applicants: CPV Maple Hill Solar, LLC.

Description: CPV Maple Hills Solar submits a Waiver Request of the 90-Day Prior Notice Requirement with a request for Expedited Processing.

Filed Date: 8/29/24.

Accession Number: 20240829-5232.

Comment Date: 5 p.m. ET 10/8/24.

Docket Numbers: ER25-17-000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Docket Numbers: ER25-17-000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits Construction Agmnts, SA No. 7179, 7181, 7183 to be effective 12/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002-5253.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25-18-000.

Applicants: AEP Indiana Michigan Transmission Company, Inc.

Description: § 205(d) Rate Filing: AIMTC-Pioneer (Greentown) O&M Agreement to be effective 12/31/9998.

Filed Date: 10/3/24.

Accession Number: 20241003-5043.

Comment Date: 5 p.m. ET 10/24/24.

Docket Numbers: ER25-19-000.

Applicants: FirstEnergy Service Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: FirstEnergy Service Company submits tariff filing per 35.13(a)(2)(iii): Potomac Edison's Request for Order Authorizing Abandoned Plant Incentive to be effective 12/3/2024.

Filed Date: 10/3/24.

Accession Number: 20241003-5047.

Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–20–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 6770; Queue No. AE2–071/AF1–203 (amend) to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5051.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–21–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 923 to be effective 9/5/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5063.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–22–000.
Applicants: OTCF, LLC.
Description: Tariff Amendment: Notice of Cancellation of Market-Based Rates to be effective 10/4/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5079.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–23–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP-Firefly Energy, LLC ASOA SA 446 to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5087.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–24–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA Service Agreement No. 7309, W2–018 to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5093.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–25–000.
Applicants: Hunterstown Generation, LLC.
Description: Compliance filing: Notice of Succession and Request for Waiver to be effective 9/16/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5103.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–26–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 7026; AF2–243 to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5105.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–27–000.
Applicants: Hunterstown Generation, LLC.

Description: Compliance filing: Notice of Succession and Request for Waiver to be effective 9/16/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5109.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–28–000.
Applicants: Potter Road Powerhouse LLC.
Description: Tariff Amendment: Notice of Termination of Potter Road Powerhouse LLC (MBR Tariff) to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5112.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–29–000.
Applicants: Federal Way Powerhouse LLC.
Description: Tariff Amendment: Notice of Termination of Federal Way Powerhouse LLC (MBR Tariff) to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5115.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–30–000.
Applicants: Puget Sound Energy, Inc.
Description: § 205(d) Rate Filing: Bellingham Cold Storage—NITSA, NOA, IA: Roeder package to be effective 10/1/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5131.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–31–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 6738; Queue No. AC2–090 to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5142.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–32–000.
Applicants: Puget Sound Energy, Inc.
Description: § 205(d) Rate Filing: Bellingham Cold Storage—Orchard—NITSA, NOA, IA to be effective 10/1/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5150.
Comment Date: 5 p.m. ET 10/24/24.
Docket Numbers: ER25–33–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6956; AE2–181 to be effective 12/3/2024.
Filed Date: 10/3/24.
Accession Number: 20241003–5157.
Comment Date: 5 p.m. ET 10/24/24.
 The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/>

fercsearch.asp) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: October 3, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–23390 Filed 10–8–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC24–146–000]

Florida Power & Light Company; Notice of Filing

Take notice that on September 30, 2024, Florida Power & Light Company (FPL), submitted a petition to the Chief Accountant of the Federal Energy Regulatory Commission (Commission or FERC) seeking an eight year extension of a limited duration waiver of the use of Account 593, Maintenance of Overhead Lines, to permit capitalization of approximately \$304 million of anticipated costs for the transfer of existing conductors and other utility assets to new, storm-hardened distribution poles associated with FPL's Storm Protection Plan, for the period January 1, 2025 to December 31, 2032.

FPL previously obtained a waiver in Docket No. AC18–23–000 to capitalize such costs for a seven-year period from January 1, 2018 through December 31, 2024.

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

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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 courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on October 24, 2024.

Dated: October 3, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–23391 Filed 10–8–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–16–000]

Commission Information Collection Activities (FERC–725Y); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725Y, Mandatory Reliability Standard (Personnel Performance, Training, and Qualifications). The 60-day notice comment period ended on September 23, 2024; no comments were received.

DATES: Comments on the collection of information are due November 8, 2024.

ADDRESSES: Send written comments on FERC–725Y to OMB through www.reginfo.gov/public/do/PRAMain. Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0279) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC24–16–000) by one of the following methods:

Electronic filing through <https://www.ferc.gov>, is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by other delivery methods:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- All other delivery methods: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at www.reginfo.gov/public/do/PRAMain. Using the search function under the

"Currently Under Review" field, select Federal Energy Regulatory Commission; click "submit," and select "comment" to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: <https://www.ferc.gov/ferc-online/overview>. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <https://www.ferc.gov/ferc-online/overview>.

FOR FURTHER INFORMATION CONTACT:

Kayla Williams may be reached by email at DataClearance@FERC.gov, telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: FERC–725Y, Mandatory Reliability Standard (Personnel Performance, Training, and Qualifications).

OMB Control No.: 1902–0279.

Type of Request: Three-year extension of the FERC–725Y information collection requirements with no changes to the reporting requirements.

Abstract: The FERC–725Y information collection is intended to help ensure the safe and reliable operation of the interconnected grid through the retention of suitably trained and qualified personnel in positions that can impact the reliable operation of the Bulk-Power System. The Commission uses the FERC–725Y to implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. FERC–725Y ensures that personnel performing or supporting real-time operations on the Bulk Electric System (BES) are trained using a systematic approach. The Reliability Standard requires entities to maintain records subject to review by the Commission and North American Electric Reliability Corporation (NERC) to ensure compliance with the Reliability Standard.

Reliability Standard PER–003–2 purpose is to ensure that System Operators performing the reliability-related tasks of the Reliability Coordinator, Balancing Authority, and Transmission Operator are certified through the NERC System Operator Certification Program when filling a Realtime operating position responsible for control of the Bulk Electric System. This standard includes three requirements that are listed below:

• R1. Each Reliability Coordinator shall staff its Real-time operating positions performing Reliability Coordinator reliability-related tasks with System Operators who have demonstrated minimum competency in the areas listed by obtaining and maintaining a valid NERC Reliability Operator certificate.

• R2. Each Transmission Operator shall staff its Real-time operating positions performing Transmission Operator reliability-related tasks with System Operators who have demonstrated minimum competency in the areas listed by obtaining and maintaining one of the following valid NERC certificates.

• R3. Each Balancing Authority shall staff its Real-time operating positions performing Balancing Authority reliability-related tasks with System Operators who have demonstrated minimum competency in the areas listed by obtaining and maintaining one of the following valid NERC certificates.

Reliability Standard PER-005-2 requires entities to maintain records subject to review by the Commission and NERC to ensure compliance with the Reliability Standard. This Reliability Standard contains of six Requirements:

• R1 requires reliability coordinators, balancing authorities, and transmission operators to develop and implement a training program for system operators

• R2 requires transmission owners to develop and implement a training program for system operators

• R3 requires reliability coordinators, balancing authorities, transmission operators and transmission owners to verify the capabilities of their identified personnel

• R4 requires reliability coordinators, balancing authorities, transmission operators and transmission owners to provide those personnel with emergency operations training using simulation technology

• R5 requires reliability coordinators, balancing authorities, and transmission operators develop and implement training for system operators whose job functions can impact BES real-time reliability tasks.

• R6 requires applicable generator operators to develop and implement training for certain of their dispatch personnel at a centrally located dispatch center.

Reliability Standard PER-006-1 ensures that personnel are trained on specific topics essential to reliability to perform or support Real-Time operations of the Bulk Electric System and has one requirement:

• R1 identifies generator operator plant personnel responsible for Real-time control and carrying out Operating instructions are trained on the operational functionality of Protection Systems and Remedial Action Schemes that affect the output of generating facility(ies) it operates.

Type of Respondents: Transmission owners and generator owners.

*Estimate of Annual Burden:*¹ Our estimate below regarding the number of respondents is based on the NERC compliance registry as of April 16, 2024. In general, the number of respondents has increased from previous renewal as each entity may have multiple responsibilities under these standards and those responsibilities are counted separately.

When the original PER-003-0 was approved in Order No. 693 the associated manhours were part of the 83 NERC Reliability Standards approved at one time.² In the two revisions done PER-003-1 and PER-003-2 it was determined at that there was no change in burden specific to PER-003. To increase clarity, manhours associated with the original PER-003-0 are being moved from the 725A collection and being added into the 725Y collection. The next update to 725A (2024) will reflect the change in burden associated with PER-003 and moving manhours from 725A into 725Y.

The Commission estimates the additional annual reporting burden and cost as follows:^{3 4}

• Electrical Engineer (Occupation Code: 17-2071): \$77.29 (to calculate the reporting requirements)

• Office and Administrative Support (Occupation Code: 43-0000): \$45.59 (to calculate the recordkeeping requirements).

	Number and type of respondents ³	Annual number of responses per respondent	Total number of responses	Avg. burden & cost per response ⁴	Total annual burden hours & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	

FERC-725Y in Docket No. IC24-16-000 Reliability Standard PER-003-2

Annual Review of Credentials	12 (RC)	1	12	60 hrs. \$4,637.40 ...	720 hrs. \$55,648.80	\$4,637.40
	98 (BA)	1	98	60 hrs. 4,637.40	5,880 hrs. 454,465.20	4,637.40
	165 (TOP)	1	165	60 hrs. 4,637.40	9,900 hrs. 765,171.00	4,637.40
	(RC, BA, TOP) 275	1	275	60 hrs. 2,735.40	16,500 hrs. 752,235.00	2,735.40
Record Retention						
Total					33,000 hrs. 2,027,520.00 ...	

FERC-725Y(Reliability Standard PER-005-2)

Annual Evaluation, Update of Training Program.	12 (RC)	1	12	14 hrs.; 1,082.06	168 hrs.; 12,984.72	1,082.06
	98 (BA)	1	98	14 hrs.; 1,082.06	1,372 hrs.; 106,041.88	1,082.06
	165 (TOP)	1	165	14 hrs.; 1,082.06	2,310 hrs.; 178,539.90	1,082.06
	324 (TO)	1	324	14 hrs.; 1,082.06	4,536 hrs.; 350,587.44	1,082.06
	1028 (GOP)	1	1028	14 hrs.; 1,082.06	14,392 hrs.; 1,112,357.68 ...	1,082.06

¹ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

² Order No. 693 Mandatory Reliability Standards for the Bulk-Power System—approved March 16, 2007.

³ For PER-003-2, PER-005-2, and PER-006-1: RC=Reliability Coordinator; BA=Balancing Authority; TOP=Transmission Operator; TO=Transmission Owner; GOP=Generator Operator. The NERC compliance registry table April 16, 2024, was used to perform analysis.

⁴ The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2023. The estimates for cost per response are loaded hourly wage figure (includes benefits) based on two occupational categories for 2023 found on the Bureau of Labor Statistics website (http://www.bls.gov/oes/current/naics2_22.htm):

	Number and type of respondents ³	Annual number of responses per respondent	Total number of responses	Avg. burden & cost per response ⁴	Total annual burden hours & total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	
Annual Evaluation and Update of Training Program.	(RC, BA, TOP, TO, GOP) 1627.	1	1627	8 hrs.; 364.72	13,016 hrs.; 593,399.44	364.72
Retention of Records	(RC, BA, TOP, TO, GOP) 1627.	1	1627	10 hrs.; 455.90	16,270 hrs.; 741,749.30	455.90
Total .....	.....	.....	.....	.....	68,892 hrs.; 3,095,660.36 ...	.....
FERC-725Y (Reliability Standard PER-006-1)						
GOP; Reporting, Record-keeping Req.	1028	1	1028	14 hrs.; 1,082.06	14,392 hrs.; 1,112,357.68 ...	1,082.06
GOP; Reporting Req. R1	1028	1	1028	5 hrs.; 386.45	5,140 hrs.; 397,270.60	386.45
GOP; Recordkeeping Req.	⁵ 1028	1	1028	10 hrs.; 455.90	10,280 hrs.; 468,665.20	455.90
Total .....	.....	.....	.....	.....	29,812 hrs.; \$1,978,293.48	.....

⁵ The number of US unique GOPs is 1028 taken from the NERC compliance registry information of April 16, 2024.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 2, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23298 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24-133-000]

Puget Sound Energy, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On October 2, 2024, the Commission issued an order in Docket No. EL24-133-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Puget Sound Energy, Inc.'s market-based rate authority in the Seattle City Light balancing authority area is unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. *Puget Sound Energy, Inc.*, 189 FERC ¶ 61,007 (2024).

The refund effective date in Docket No. EL24-133-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24-133-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2024), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC'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 FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments, protests

and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: October 2, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-23300 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC24-127-000.

Applicants: Great Plains Windpark Legacy, LLC, Marathon Digital Holdings, Inc.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Great Plains Windpark Legacy, LLC.

Filed Date: 9/27/24.

Accession Number: 20240927–5302.

Comment Date: 5 p.m. ET 10/18/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–149–000.

Applicants: Baltimore Gas & Electric Company, PECO Energy Company.

Description: Petition for Declaratory Order of Baltimore Gas & Electric Company and PECO Energy Company.

Filed Date: 9/30/24.

Accession Number: 20240930–5354.

Comment Date: 5 p.m. ET 10/30/24.

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

Docket Numbers: ER24–1761–001.

Applicants: Harmony Florida Solar II, LLC.

Description: Tariff Amendment: Response to Deficiency Letter (ER24–1761) to be effective 8/15/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5179.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–1762–001.

Applicants: Storey Bend Solar, LLC.

Description: Tariff Amendment: Response to Deficiency Letter (ER24–1762) to be effective 8/15/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5168.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–1763–002.

Applicants: FRP Tupelo Solar, LLC.

Description: Tariff Amendment: Response to Deficiency Letter (ER24–1763) to be effective 8/15/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5171.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–2072–002.

Applicants: The Empire District Electric Company, Southwest Power Pool, Inc.

Description: Compliance filing: Southwest Power Pool, Inc. submits tariff filing per 35: The Empire District Electric Company's Second Amended Order No. 864 Comp. Filing to be effective 1/27/2020.

Filed Date: 10/1/24.

Accession Number: 20241001–5387.

Comment Date: 5 p.m. ET 10/22/24.

Docket Numbers: ER24–2824–002.

Applicants: RE Papago LLC.

Description: Tariff Amendment: Supplement to Application for Market-

Based Rate Authority to be effective 10/22/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5357.

Comment Date: 5 p.m. ET 10/22/24.

Docket Numbers: ER24–3160–000.

Applicants: New England Power Company.

Description: Notice of Cancellation of Service Agreements of New England Power Company.

Filed Date: 9/27/24.

Accession Number: 20240927–5304.

Comment Date: 5 p.m. ET 10/18/24.

Docket Numbers: ER24–3161–000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of Transmission Owner Service Agreement No. 28 with Metcalf Energy Center, LLC of Pacific Gas and Electric Company.

Filed Date: 9/18/24.

Accession Number: 20240918–5173.

Comment Date: 5 p.m. ET 10/9/24.

Docket Numbers: ER25–8–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4330 OG&E GIA to be effective 9/23/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5016.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–9–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2024–10–02 SA 4358 ATC-Marathon Wind Farm GIA (J1508) to be effective 9/23/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5033.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–10–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits Construction Agmnts, SA No. 7207, 7223, 7225 to be effective 12/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5149.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–11–000.

Applicants: Basin Electric Power Cooperative.

Description: § 205(d) Rate Filing: Basin Electric Power Cooperative, Submission of Revised Rate Schedule A to be effective 1/1/2025.

Filed Date: 10/2/24.

Accession Number: 20241002–5174.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–12–000.

Applicants: Dynegy Energy Services Mid-Atlantic, LLC.

Description: § 205(d) Rate Filing: Notice of Succession and Revised MBR Tariff to be effective 10/3/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5191.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–13–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits Construction Agmnts, SA No. 7214 and 7215 to be effective 12/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5196.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–14–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, SA No. 7067; Queue No. AF1–146/AF2–322 to be effective 12/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5204.

Comment Date: 5 p.m. ET 10/23/24.

Docket Numbers: ER25–15–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Balancing Accounts Update 2025 (TRBAA, RSBAA, ECRBAA) to be effective 1/1/2025.

Filed Date: 10/2/24.

Accession Number: 20241002–5205.

Comment Date: 5 p.m. ET 10/23/24.

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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landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Dated: October 2, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-23304 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24-523-000]

Cheyenne Plains Gas Pipeline Company, LLC and Natural Gas Pipeline Company of America, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on September 20, 2024, Cheyenne Plains Gas Pipeline Company, LLC (Cheyenne Plains), P.O. Box 1087, Colorado Springs, Colorado 80944 and Natural Gas Pipeline Company of America, LLC (Natural), 1001 Louisiana St., Suite 1000, Houston, Texas 77002 filed a joint application under sections 7(c) and 7(b) of the Natural Gas Act (NGA), and part 157 of the Commission's regulations requesting authorization to allow Cheyenne Plains and Natural to enter into an operating lease agreement (Capacity Lease Agreement) wherein Cheyenne Plains will lease 75,000 Dekatherms per day (Dth/day) of firm transportation capacity (Leased Capacity) on Natural's system.¹ Concurrently, Natural requests authorization to abandon 75,000 Dth/day of existing unsubscribed capacity on its system to provide the Leased Capacity to Cheyenne Plains. The Capacity Lease Agreement would allow Cheyenne Plains to provide a new firm service (combining transportation and storage services) to Southwestern Public Service Company to support its Harrington Power Plant electric generation facility,² all as more fully set

forth in the application, which is on file with the Commission and open for 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 regarding the proposed project should be directed to Francisco Tarin, Director, Regulatory, Cheyenne Plains Gas Pipeline Company, LLC, P.O. Box 1087, Colorado Springs, Colorado 80944, by phone at (719) 667-7517 or email at francisco_tarin@kindermorgan.com or to Rahul Singh, Director, Regulatory, Natural Gas Pipeline Company of America, LLC, 1001 Louisiana St., Suite 1000, Houston, Texas 77002, by phone at (713) 420-3721 or email at rahul_singh@kindermorgan.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,³ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state

agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on October 23, 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*.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)⁴ and 385.211⁵ of the Commission's regulations under the NGA, any person⁶ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁷ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before October 23, 2024.

There are three methods you can use to submit your comments or protests to

⁴ 18 CFR 157.10(a)(4).

⁵ 18 CFR 385.211.

⁶ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁷ 18 CFR 385.2001.

¹ The Capacity Lease Agreement provides for firm, natural gas transportation capacity between an existing interconnect between Cheyenne Plains and Natural in Ford County, Kansas and Natural's SPS Brickplant Road Delivery Point in Potter County, Texas.

² SPS's Harrington Power Plant is a 1,018-megawatt power generation facility located in Potter County, Texas that is in the process of being

converted from a coal-fired facility to a natural gas-fired power facility.

³ 18 CFR (Code of Federal Regulations) 157.9.

the Commission. In all instances, please reference the Project docket number CP24–523–000 in your submission.

(1) 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;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. 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 "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number CP24–523–000.

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 courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, 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. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses,

municipalities, and other entities,⁸ 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 Procedure⁹ and the regulations under the NGA¹⁰ by the intervention deadline for the project, which is October 23, 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>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24–523–000 in your submission.

(1) You may file your motion to intervene 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 "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–523–000.

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 courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of motions to intervene (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 applicants either by mail or email at: to Francisco Tarin, Director, Regulatory, Cheyenne Plains Gas Pipeline Company, LLC, P.O. Box 1087, Colorado Springs, CO 80944, or email at francisco_tarin@kindermorgan.com, or to Rahul Singh, Director, Regulatory, Natural Gas Pipeline Company of America, LLC, 1001 Louisiana St., Suite 1000, Houston, Texas 77002, or email at rahul_singh@kindermorgan.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. Service can be via email with a link to the document.

All timely, unopposed¹¹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹² 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.¹³ 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.

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

¹¹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹² 18 CFR 385.214(c)(1).

¹³ 18 CFR 385.214(b)(3) and (d).

⁸ 18 CFR 385.102(d).

⁹ 18 CFR 385.214.

¹⁰ 18 CFR 157.10.

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.

Intervention Deadline: 5:00 p.m. Eastern Time on October 23, 2024.

Dated: October 2, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–23301 Filed 10–8–24; 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: PR25–2–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: § 284.123 Rate Filing: COH Rates eff 8–28–2024 to be effective 8/28/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5237.

Comment Date: 5 p.m. ET 10/22/24.

Docket Numbers: RP25–18–000.

Applicants: Roaring Fork Interstate Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Annual FL&U Reimbursement Percentage Filing to be effective 11/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5244.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–19–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—Con Ed to Nextera eff 10–1–24 to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5261.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–20–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Aethon 52454 to Scona 58487) to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5276.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–21–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—Texican

No. 2—Oct 2024 to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5304.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–22–000.

Applicants: Cimarron River Pipeline, LLC.

Description: § 4(d) Rate Filing: CRP—2024 Winter Fuel Reimbursement to be effective 11/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5309.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–23–000.

Applicants: Elba Express Company, L.L.C.

Description: § 4(d) Rate Filing: EEC Negotiated Rate Filing—SNG—Oct 2024 to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5314.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–24–000.

Applicants: Carlsbad Gateway, LLC.

Description: § 4(d) Rate Filing: Carlsbad Gateway Annual Fuel Use—Lost Gas Adjustment Filing to be effective 11/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5322.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–25–000.

Applicants: ConocoPhillips Company.

Description: Petition for Limited Waiver of Capacity Release Regulations, et al. of ConocoPhillips Company.

Filed Date: 10/1/24.

Accession Number: 20241001–5339.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–27–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Annual Cash-Out Report Period Ending July 31, 2024, to be effective N/A.

Filed Date: 10/1/24.

Accession Number: 20241001–5356.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–28–000.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—Nicor Gas Company to be effective 11/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5368.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–29–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt and Cap Rel Agmt (Colorado Bend 46260 eff 10–1–2024) to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5382.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–30–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Superseding Negotiated Rate Agreement (Constellation 38117) to be effective 10/1/2024.

Filed Date: 10/1/24.

Accession Number: 20241001–5409.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–31–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 10.2.24 Negotiated Rates—Emera Energy Services, Inc. R–2715–95 to be effective 11/1/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5041.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–32–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 10.2.24 Negotiated Rates—Emera Energy Services, Inc. R–2715–96 to be effective 11/1/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5043.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–33–000.

Applicants: Mississippi Hub, LLC.

Description: Annual Report of Penalty Revenues of Mississippi Hub, LLC.

Filed Date: 10/2/24.

Accession Number: 20241002–5094.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–34–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: § 4(d) Rate Filing: MEP Nextera and Targa Negotiated Rate Filing to be effective 8/1/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5088.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP25–35–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera eff 10–2–24 to be effective 10/2/2024.

Filed Date: 10/2/24.

Accession Number: 20241002–5090.

Comment Date: 5 p.m. ET 10/15/24.

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 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: <https://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or *OPP@ferc.gov*.

Dated: October 2, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-23302 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24-494-000]

Black Bayou Gas Storage, LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Black Bayou Gas Storage Project

On July 17, 2024, Black Bayou Gas Storage, LLC filed an application in Docket No. CP24-494-000 requesting a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline and storage facilities in Cameron Parish and Calcasieu Parish, Louisiana. The proposed project is known as the Black Bayou Gas Storage Project (Project), and would create four salt storage caverns, with a total working gas capacity of 34.7 billion cubic feet (Bcf), 1.6 Bcf of peak daily natural gas injection capability, and 2.0 Bcf of peak daily natural gas deliverability, with an ability to cycle between injection and withdrawal services on short notice.

On July 31, 2024, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application

for the Project. Among other things, that notice alerted agencies issuing Federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a Federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.¹ The EA will be issued for a 30-day comment period.

Schedule for Environmental Review

Issuance of EA February 14, 2025
90-day Federal Authorization Decision
Deadline² May 15, 2025

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would include the following facilities in Cameron and Calcasieu Parishes, Louisiana:

- four underground salt dome natural gas storage caverns;
- a central operations site inside the natural gas storage area, to include:
 - a 44,000-horsepower natural gas-powered reciprocating compressor station;
 - a brine leaching plant;
 - an electrical supply facility;
- nine freshwater wells;
- nine saltwater disposal wells on three pads;
- associated freshwater and brine piping and valve settings;
- two 27.1-mile-long, 24-inch-diameter, looped bi-directional header pipelines;³
- ten metering and regulation stations;
- five mainline valve sites; and
- permanent and temporary access roads.

¹ In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1726746869. 40 CFR 1501.5(c)(4) (2024).

² The Commission's deadline applies to the decisions of other Federal agencies, and state agencies acting under federally delegated authority, that are responsible for Federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by Federal law.

³ A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

Background

On August 28, 2024, the Commission issued a "Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Black Bayou Gas Storage Project and Notice of Public Scoping Session" (Notice of Scoping). The Notice of Scoping was sent to affected landowners; Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received comments from the Sierra Club, Fishermen Involved in Sustaining our Heritage (FISH), For a Better Bayou, Habitat Recovery Project, Healthy Gulf, Micah Six Eight Mission, Vessel Project of Louisiana, Restore Explicit Symmetry To Our Ravaged Earth (RESTORE), Louisiana Oil & Gas Association, Teamsters National Pipeline Labor Management Cooperation Trust, The Laborers' International Union of North America, Cameron Parish Police Jury, and Black Bayou Land Company, LLC. The primary issues raised by the commenters are impacts on fisheries, surface and groundwater pollution, pollution that will deter engagement in outdoor activities, air pollution, visual impacts, noise, traffic, destabilization of salt domes, positive and negatives economic impacts, and cumulative impacts on public health. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

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*.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (*i.e.*, CP24-494), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 2, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-23303 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15364-000]

Desert Bloom Energy Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 14, 2024, Desert Bloom Energy Storage, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Desert Bloom Energy Storage Project (Desert Bloom Project or project) to be located near the city of Las Vegas in Clark County, Nevada. The proposed project would occupy federal land managed by the Bureau of Land Management. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would be a closed-loop pumped storage project that would consist of the following: (1) a new upper reservoir with a maximum elevation of 4,810 feet above mean sea level (MSL), and a storage capacity of 4,900 acre-feet; (2) a new lower reservoir with a maximum elevation of 3,320 feet MSL, and a storage capacity of 4,900

acre-feet; (3) a 21-foot-diameter, 4,300-foot-long concrete and steel penstock; (4) a powerhouse with approximate dimensions of 200 feet by 100 feet and 150 feet high, and containing two vertical single-stage reversible Francis-type pump/turbine units with a total installed capacity of 450 megawatts; (5) a 132-kilovolt, 3.5-mile-long transmission line; and (6) appurtenant facilities. The water used to initially fill the reservoirs and supplement evaporative losses will either be hauled or piped in from a yet-to-be-determined source. The estimated annual generation of the Desert Bloom Project would be 1,170 gigawatt-hours.

Applicant Contact: Jonathan Blum, Desert Bloom Energy Storage, LLC; 10000 West Charleston Blvd., Suite 230, Las Vegas, Nevada 89135; (702) 910-3329.

FERC Contact: Lee Baker; email: everard.baker@ferc.gov; phone: (202) 502-8554.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

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 filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Acting Secretary Debbie-Anne A. Reese, Federal Energy

Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Acting Secretary Debbie-Anne A. Reese, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-15364-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-15364) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 3, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-23385 Filed 10-8-24; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2024-0446; FRL-12268-01-OAR]

Notice of Pending Approval for Other Use of Phosphogypsum

AGENCY: Office of Air and Radiation, Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (the EPA or the Agency) seeks public comment on its pending approval of a request for a "Small-scale Road Pilot Project on Private Land in Florida" submitted by Mosaic Fertilizer, LLC in March 2022, and updated by the "Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project", submitted in August 2023. The Agency's review found that Mosaic's request is complete per the requirements of EPA's National Emissions Standards for Hazardous Air Pollutants under the Clean Air Act, and that the potential radiological risks from conducting the pilot project meet the regulatory requirement that the project is at least as protective of public health as maintaining the phosphogypsum in a stack. On October 9, 2024 the EPA issued a pending approval of the request subject to certain conditions. The EPA is soliciting public comments on the pending approval.

DATES: Comments may be submitted on or before November 8, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-

OAR–2024–0446 by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- *Email:* a-and-r-Docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2024–0446 in the subject line of the message.
- *U.S. Postal Service Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OAR–2024–0446. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document. Copies of Mosaic's request, supporting materials, and the EPA's analysis are available on the EPA's phosphogypsum website at <https://www.epa.gov/radiation/phosphogypsum#aap>.

FOR FURTHER INFORMATION CONTACT: Jonathan Walsh, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9238; Walsh.Jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2024–0446, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section.

Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA generally will not consider comments or their contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the notice by docket number, subject heading, **Federal Register** date, and page number.
- Provide a brief description of yourself and your role or organization.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Illustrate your concerns with specific examples and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

Phosphogypsum is the waste byproduct of wet acid phosphorus production. It contains elevated concentrations of the radionuclide radium, which decays to form radon gas. The EPA's regulations under the Clean Air Act at 40 CFR part 61, subpart R (hereafter "Subpart R") require that phosphogypsum must be disposed of in engineered piles, called stacks, to limit public exposure to its radioactive components. Subpart R allows the removal of phosphogypsum from stacks for outdoor agricultural purposes and indoor research and development, subject to conditions and restrictions. Any other use of phosphogypsum requires prior approval from the EPA. The EPA may approve a request for a specific use of phosphogypsum if it

determines that the proposed use is at least as protective of public health as placement of phosphogypsum in a stack. The processes for requesting such an approval are described in 40 CFR 61.206.

Mosaic Fertilizer, LLC submitted a request for a Small-scale Road Pilot Project on Private Land in Florida in March 2022, and submitted a Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project in August 2023. Mosaic has proposed to construct a small-scale pilot project at its New Wales facility in Polk County, Florida. Mosaic's plan is to construct four sections of test road having varying mixtures of phosphogypsum (PG) in the road base "to demonstrate the range of PG road construction designs that meet the Florida Standard Specifications for Road and Bridge construction" (Request for Approval of Additional Uses of Phosphogypsum Pursuant to 40 CFR 61.206, Small-scale Road Pilot Project on Private Land in Florida, Docket #). The pilot project will be constructed in the place of an existing facility road near the phosphogypsum stack, and the study will be conducted in conjunction with researchers from the University of Florida.

The EPA has performed a complete review of Mosaic's request, documented in "Review of the Small-scale Road Pilot Project on Private Land in Florida Submitted by Mosaic Fertilizer, LLC" (E-Docket EPA–HQ–OAR–2024–0446). The Agency's review found that Mosaic's request is complete per the requirements of 40 CFR 61.206(b). Further, the review found that Mosaic's risk assessment is technically acceptable, and that the potential radiological risks from the proposed project meet the regulatory requirements of 40 CFR 61.206(c); that is, the project is at least as protective of public health as maintaining the phosphogypsum in a stack. Therefore, the Agency has issued a pending approval of the small-scale pilot project per 40 CFR 61.206. The pending approval is available at E-Docket EPA–HQ–OAR–2024–0446. This approval is pending a 30-day public comment period. Approval by the Agency is specific to the pilot project as described in the Mosaic request and indicates only that this project meets the approval requirements of Subpart R.

III. Request for Comments

The Agency is soliciting public comment on its pending approval. Electronic copies of the application, the EPA's review, and relevant background materials are available in the public docket¹ and on the EPA phosphogypsum website.² The EPA's decision to approve or deny a request for other use under 40 CFR 61.206 is not a rulemaking. In December 2005, the EPA issued a guidance document, "Applying to EPA for Approval of Other Uses of Phosphogypsum: Preparing and Submitting a Complete Petition Under 40 CFR 61.206, A Workbook" (December 2005). Although this guidance is not binding, the EPA is seeking public comment on this pending approval. Physical copies of the Mosaic request and the EPA's technical evaluation have been placed for public review in the Mulberry Public Library, 905 NE 5th Street, Mulberry, FL 33860.

The Agency will accept comment until November 8, 2024. Upon receipt of public comments, EPA will review all comments for their relevance to the pending design and determine if they contain information that would lead to a concern for human health or environmental impacts not previously considered. Comments must be specific to the small-scale pilot project as it is described in Mosaic's request and the EPA's pending approval. Should the EPA receive significant adverse comments on aspects of this specific pilot project, the EPA will give the applicant the opportunity to amend the analysis or request. If the comments can be successfully addressed, the EPA will publish a response to comments and notify the public. The EPA's complete process of soliciting and addressing comments is described in Section 2.4 of "Applying to EPA for Approval of Other Uses of Phosphogypsum: Preparing and Submitting a Complete Petition Under 40 CFR 61.206, A Workbook".

Joseph Goffman,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2024-23294 Filed 10-8-24; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OA-2024-0043; FRL-12321-01-OA]

National Environmental Youth Advisory Council; Notification of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Youth Advisory Council (NEYAC) will meet on the date and time described below. The meeting is open to the public. For additional information about registering to attend the meeting or to provide a public comment, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document. *Due to unforeseen administrative circumstances, EPA is announcing this meeting with less than 15 calendar days' notice.*

DATES: The NEYAC will convene a virtual public meeting on Tuesday, October 22, 2024. A public comment period relevant to the NEYAC will be considered by the NEYAC at the meeting (see **SUPPLEMENTARY INFORMATION**). Members of the public who wish to participate during the public comment period must register by 11:59 p.m., eastern time, Tuesday, October 15, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OA-2024-0043, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- **Email:** neyac@epa.gov. Include Docket ID No. EPA-HQ-OA-2024-0043 in the subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this public meeting. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. Comments must be submitted by 11:59 p.m. eastern time on Tuesday, November 5, 2024. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

The virtual meeting will be through an online audio and video platform. The

meeting will convene on Tuesday, October 22, from 12 p.m. to 4:00 p.m. eastern time. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT:

Carissa Cyran, NEYAC Designated Federal Officer (1702A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566-1353; email address: cyran.carissa@epa.gov. Additional information about the NEYAC is available at <https://www.epa.gov/faca/national-environmental-youth-advisory-council-neyac>.

SUPPLEMENTARY INFORMATION: The NEYAC will present the final recommendations to EPA on the topics the council has been deliberating, which include environmental justice and youth, climate change and environmental justice, and food loss and waste. EPA will also present the next set charge questions to the NEYAC. An agenda and meeting material will be posted online at <https://www.epa.gov/faca/national-environmental-youth-advisory-council-neyac-meetings>.

I. Public Participation

Individual registration is required for the public meeting. No two individuals can share the same registration link. Members of the public wishing to attend or participate virtually must contact neyac@epa.gov with your name, organization, city and state, and email address to receive a link to the meeting. Please also indicate whether you would like to provide public comment during the meeting, or if you are submitting written comments. Registration to attend the meeting is available until the scheduled end time of the meeting. Registration to speak during the public comment period will close at 11:59 p.m., eastern time, on Tuesday, October 15, 2024. Information on how to register is located at <https://www.epa.gov/faca/national-environmental-youth-advisory-council-neyac>.

A. Written Comments

Submit your comments, identified by Docket ID No. EPA-HQ-OA-2024-0043, at https://www.regulations.gov (our preferred method), or the other methods identified in the **ADDRESSES** section. Comments must be submitted by 11:59 p.m. eastern time on Tuesday, November 5, 2024. 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

¹ Docket ID No. EPA-HQ-OAR-2024-0446.

² <https://www.epa.gov/radiation/phosphogypsum#aup>.

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). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

B. Participation Virtually Public Meeting

The NEYAC will hear comments from the public from approximately 2:45 p.m.–3:15 p.m. eastern time. EPA will begin pre-registering speakers for the public meeting upon publication of this document in the **Federal Register**. To register to speak, please use the online registration form available at <https://www.epa.gov/faca/national-environmental-youth-advisory-council-neyac>. The last day to pre-register to speak at the public meeting will be at 11:59 p.m., eastern time, on Tuesday, October 15, 2024.

Time will be allotted on a first-come first-served basis, and the total period for comments may be extended if the number of requests for appearances requires it. EPA will make every effort to follow the schedule as closely as possible on the day of the public meeting; however, please plan for the meeting to run either ahead of schedule or behind schedule.

Individuals or groups making remarks during the public comment period will be limited to two (2)–three (3) minutes. Please be prepared to briefly describe your issue and your recommendation relevant to the current charges, topics, and questions under consideration by the NEYAC. EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket.

Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public meeting.

Please note that any updates made to any aspect of the public meeting are posted online at <https://www.epa.gov/faca/national-environmental-youth->

advisory-council-neyac. While EPA expects the public meeting to go forward as set forth above, please monitor our website. EPA does not intend to publish a document in the **Federal Register** announcing updates.

C. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

To request special accommodations for a disability or other assistance, please submit your request at least five (5) working days prior to the meeting to give EPA sufficient time to process your request. All requests should be sent to the email listed in the **FOR FURTHER INFORMATION CONTACT** section. *Due to unforeseen administrative circumstances, EPA is announcing this meeting with less than 15 calendar days' notice.*

Jessica Loya,

Deputy Associate Administrator, Office of Public Engagement and Environmental Education, Office of the Administrator.

[FR Doc. 2024–23314 Filed 10–8–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of filing of the following agreement under the Shipping Act of 1984.

Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreement are available through the Commission's website (www.fmc.gov) or by contacting the Office of Agreements at (202) 523–5793 or tradeanalysis@fmc.gov.

Agreement No.: 201227–006.

Title: Pacific Ports Operational Improvements Agreement.

Parties: Ocean Carrier Equipment Management Association, Inc., FMC Agreement No. 011284; West Coast MTO Agreement, FMC Agreement No. 201143; Maersk Line A/S; CMA CGM S.A., American President Lines, LLC.; COSCO SHIPPING Lines Co., Ltd.; Evergreen Line Joint Service Agreement, FMC Agreement No. 011982; Hapag-Lloyd AG, Hapag-Lloyd USA (acting as

a single party); HMM Company Limited; Zim Integrated Shipping Services; MSC Mediterranean Shipping Company SA; Matson Navigation Company, Inc.; Ocean Network Express Pte. Ltd.; Wan Hai Lines Ltd.; APM Terminals Pacific, LLC; Fenix Marine Services, Ltd.; International Transportation Service LLC; LBCT LLC dba Long Beach Container Terminal LLC; Everport Terminal Services, Inc.; Total Terminals International LLC; West Basin Container Terminal LLC; Pacific Maritime Services, L.L.C.; SSA (Pier A), LLC; Trapac LLC; Yusen Terminals, LLC; SSA Terminals, LLC; SSA Terminals (Oakland), LLC; SSA Terminals (Seattle), LLC; Sea Star Stevedoring Company, Inc.; Washington United Terminals, Inc.

Filing Party: Joshua Stein, Esq.; Cozen O'Connor; 1200 19th Street, NW; Washington, DC 20036.

Synopsis: The Amendment makes several updates to the membership of the Agreement. Specifically, the Amendment adds Ocean Network Express Pte. Ltd. and Wan Hai Lines Ltd. as Parties to the Agreement. The Amendment also deletes APL Co. Pte. Ltd.; Hamburg-Süd KG; Alianca Navegacao e Logistica Ltda.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha Line; Kawasaki Kisen Kaisha, Ltd. as parties to the Agreement. In addition, the Amendment reflects changes to the names and/or addresses of American President Lines, LLC; Hapag-Lloyd USA; HMM Company Limited; APM Terminals Pacific LLC; Fenix Marine Services, Ltd.; International Transportation Service LLC; LBCT LLC dba Long Beach Container Terminal LLC; Total Terminals International LLC; SSA (Pier A), LLC; Trapac LLC; and Yusen Terminals LLC.

Proposed Effective Date: 11/11/2024.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/16276>.

Dated: October 4, 2024.

Alanna Beck,

Federal Register Alternate Liaison Officer.

[FR Doc. 2024–23396 Filed 10–8–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than October 24, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to Comments.applications@chi.frb.org:

1. *The James D. Ruge Revocable Trust dated 3/28/2013, James Ruge, as trustee, both of Beverly Shores, Indiana; Thomas Ruge, Monrovia, Indiana; FBO Thomas R. Ruge IRA, Thomas Ruge, as beneficiary, both of Monrovia, Indiana; The Kathleen A. Scott Family Wealth Trust dated 11/22/2016, Kathleen Scott, as trustee, both of Fairport, New York; The Ruge Trust dated 6/01/2016, Dawn Ruge, as trustee, both of Burns Harbor, Indiana; Pamela Strudas and Jacqueline Ruge-Perkins, both of Chesterton, Indiana; Ana Ruge-Rodela, Elgin, Illinois; Celina Clements, Mooresville, Indiana; Margaret McLaughlin, Andover, Massachusetts; Dawn Hernandez, Naples, Florida; the Michael and Suzanne Mahaffey Revocable Trust dated 1/21/2022, Michael Mahaffey and*

Suzanne Mahaffey, as trustees, all of Porter, Indiana; and Roy Krizek, Beverly Shores, Indiana; to join the Ruge Family Control Group, a group acting in concert, to retain voting shares of the First State Bank of Porter, Porter, Indiana.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024-23352 Filed 10-8-24; 8:45 am]

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FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW,

Washington, DC 20551-0001, not later than November 8, 2024.

A. *Federal Reserve Bank of Atlanta* (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to Applications.Comments@atl.frb.org:

1. *Builtwell Bancorp, Inc., Chattanooga, Tennessee; to merge with Bradley County Financial Corp., and thereby indirectly acquire Bank of Cleveland, both of Cleveland, Tennessee.*

2. *Waterfall Bancorp, Inc., Clearwater, Florida; to become a bank holding company by acquiring Waterfall Bank, also of Clearwater, Florida.*

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024-23353 Filed 10-8-24; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

[Notice MV-2024-01; Docket No. 2024-0002; Sequence No. 47]

Notice of the Federal Acquisition Regulatory Council (FAR Council) In-Person and Virtual Listening Session

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

ACTION: In-person and Virtual FAR Council Listening Session notice.

SUMMARY: In accordance with the Office of Federal Procurement Policy (OFPP) Act, the Federal Acquisition Regulatory Council (FAR Council) assists in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government. The FAR Council is chaired by the Office of Federal Procurement Policy, and consists of the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration.

DATES: Wednesday, December 4, 2024, from 9 a.m. to 12 p.m. eastern time (ET).

ADDRESSES: The listening session will be held in-person at the GSA Auditorium (1st Floor), 1800 F Street NW, Washington, DC 20405. The call-in information for virtual attendees will be made available to registrants.

FOR FURTHER INFORMATION CONTACT: Frederick Landry at frederick.landry@gsa.gov or at 202-227-1958.

SUPPLEMENTARY INFORMATION:

Registration

The FAR Council is committed to engaging with industry partners and the public with regards to FAR Council policies and issues relevant to current and future Federal Acquisition Regulation cases, including suggestions and concerns with new and existing policies. In addition, the FAR Council is interested in hearing views on topics such as: (1) new laws or draft legislation on which it should focus; (2) how it can improve the acquisition process; and (3) how to better integrate commercial practices into Federal acquisition. To that end, the FAR Council is hosting a hybrid in-person and virtual listening session on December 4, 2024.

Industry partners and the public wishing to attend in-person or virtually must register. Registrants who would like to attend in-person must do so no later than November 15, 2024. Registrants who would like to address the FAR Council must register in advance and no later than November 8, 2024. The FAR Council would like to hear the views of as many voices as practicable and will select questions/comments keeping in mind the number received, the limited time available and the order received. Industry partners and the public are asked to only register to speak to one of these categories:

- New policies the FAR Council should consider
- Existing policies the FAR Council should amend
- Concerns/suggestions regarding rules in process
- Concerns/suggestions regarding the use of emerging technology
- Concerns/suggestions regarding the process of rulemaking
- Other concerns/suggestions

To register to attend the listening session VIRTUALLY, do so at: https://gsa.zoomgov.com/webinar/register/7117272728587/WN_NU9vFABzQqmJ9mGtyUsNsQ.

To register to attend the listening session In-Person, do so at: <https://forms.gle/yZj5RLdPdHRp5EnU8>.

After registering, to request to speak on one of the previously listed categories, do so at: <https://forms.gle/eFLwVcDb6K4EiKSG7>.

Members of the press, in addition to registering for this event, must RSVP to press@gsa.gov by November 8, 2024.

Format

The in-person and virtual listening session will feature panel leaders from the FAR Council. Please complete the speaking request form to provide a brief summary of your comments in a specified category no later than 5 p.m.

(ET) November 8, 2024. Registered participants that are selected to address the FAR Council will receive a confirmation and a timeframe to present.

In-person FAR Council Listening Session Panelists will be:
Jeffrey A. Koses, Senior Procurement Executive, General Services Administration
John M. Tenaglia, Principal Director, Defense Pricing, Contracting, and Acquisition Policy, Office of the Secretary of Defense, Department of Defense

Karla S. Jackson, Assistant Administrator for Procurement, NASA Headquarters

Agenda

- 9:00: Welcome and Introduction of the FAR Council
- 9:15: Facilitated opportunities for attendees to engage with the FAR Council
- 11:45: Closing remarks by FAR Council

Special Accommodations

This virtual meeting is accessible to people with disabilities using the Zoom close captioned feature.

Frederick Landry,

Analyst, Office of the Procurement Ombudsman, General Services Administration.

[FR Doc. 2024-23343 Filed 10-8-24; 8:45 am]

BILLING CODE 6820-61-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: The Agency for Healthcare Research and Quality has modified its organizational structure.

SUPPLEMENTARY INFORMATION: Part E, chapter E (Agency for Healthcare Research and Quality), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (61 FR 15955-58) April 10, 1996, most recently amended at 81 FR 22271 on April 15, 2016) is amended to reflect recent organizational changes. The specific amendments are as follows:

I. Under Section E-10, Organization, delete all components and replace them with the following:

- Office of the Director.
- Center for Evidence and Practice Improvement.
- Center for Quality Improvement and Patient Safety.
- Center for Financing, Access, and Cost Trends.
- Office of Communications.
- Office of Extramural Research, Education, and Priority Populations.
- Office of Management Services.

II. Under Section E-20, Functions, delete Center for Evidence and Practice Improvement, Center for Financing, Access, and Cost Trends, Center for Quality Improvement and Patient Safety, and Office of the Director in its entirety and replace with the following:

Center for Evidence and Practice Improvement. Conducts and supports research on health care delivery and practice improvement across the continuum of care from prevention to chronic care management to end-of-life care. Specifically: (1) Synthesizes evidence and translates science for multiple stakeholders; (2) advances decision and communication sciences to facilitate informed treatment and healthcare decision-making by patients and their healthcare providers; (3) explores how digital healthcare research can improve clinical decision-making and health care quality; (4) catalyzes and promotes sustainability of improvements in clinical practice across health care settings through research, demonstration projects, and partnership development; (5) studies the roles that health professionals, health systems, and organizations play in the provision of health care services; (6) examines the role of health systems in improving quality and efficiency of health care services; and (7) operates the National Center for Excellence in Primary Care Research.

Shall be organized into the following four divisions:

Division of Evidence-Based Practice Centers: Produces evidence syntheses by conducting systematic evidence reviews using robust and rigorous methodologies and advances evidence synthesis methods to ensure scientific rigor and unbiased reviews.

Division of U.S. Preventive Services Task Force: Provides scientific, administrative, and dissemination support for the independent U.S. Preventive Services Task Force, enabling the Task Force to make evidence-based recommendations on clinical preventive services.

Division of Digital Healthcare Research: Utilizes advanced analytics to

enhance healthcare decision-making and research how facets of the evolving digital healthcare ecosystem can best create transformational value for patients and their families in delivering safe and effective care.

Division of Practice Improvement: Advances the science of clinical practice improvement, including shared decision-making; evaluates and supports innovative models of practice transformation in diverse settings; facilitates communities of learning to promote the implementation of evidence for practice improvement; and serves as a trusted source of evidence and tool development for methods, measures, and evaluation of practice improvement.

Center for Financing, Access, and Cost Trends. Conducts and supports studies of the use of and expenditures for healthcare services, the sources of payment for that care, the availability and cost of health insurance, and access to healthcare. Administers large-scale surveys and develops large data sets to support health care policy and behavioral research and analysis.

Shall be organized into the following four divisions:

Division of Statistical Research and Methods (DSRM): Provides a wide range of statistical activities for designing and implementing the Medical Expenditure Panel Survey (MEPS) and for planning and researching to help guide and improve these data collection and analysis.

Division of Research and Modeling (DRM): Conducts studies on access to, costs, and financing of healthcare services. Provides ongoing analytic support to MEPS design and implementation. Develops and maintains various simulation models, components, databases, tools, and research products that enhance the value of the AHRQ data. Utilizes these models and databases to conduct microsimulation analyses of the effects, on households and individuals, of health policies embodied in current law and the potential impacts of healthcare policies embodied in generic versions of proposed healthcare reforms.

Division of Survey Operations (DSO): Oversees the MEPS data collection, processing, and distribution activities. Directs data collection for the major MEPS surveys, prepares data files for public use, and conducts workshops on the appropriate use of MEPS data. Publishes statistical briefs, research findings, and a series of methodological reports. Manages a data center for researchers that houses MEPS data and maintains liaisons with Federal and non-federal individuals and

organizations engaged in health services research.

Division of Healthcare Delivery and Systems Research (DHDSR): Develops new evidence, tools, and measures to understand how health care is delivered in the U.S., emphasizing the roles that physicians, physician practices, hospitals, health systems, other medical professionals, and organizations play in the provision of health care services.

Center for Quality Improvement and Patient Safety. Measures the performance of the U.S. health care system; identifies, promotes, and supports evidence-based research; and provides information used to improve the safety and quality of health care. Collaborates with stakeholders across the health care system to implement evidence-based practices and accelerate and amplify improvements in quality, including patient and workforce safety.

Shall be organized into the following five divisions:

Division of General Patient Safety: Leads research efforts on the risks and harms inherent in delivering healthcare services in various settings. Develops, tests, and facilitates understanding and use of evidence-based tools and information to improve the quality and safety of health care and reduce the risk of patient harm.

Division of Patient Safety Organizations: Administers the Patient Safety Organization (PSO) Program per the Patient Safety and Quality Improvement Act 2005. Approves and oversees PSOs that apply for official federal "listing." Publishes Common Formats for measuring adverse events in hospitals.

Division of Healthcare-Associated Infections: Leads research studies and implementation projects that prevent, reduce, and ultimately eliminate healthcare-associated infections (HAIs) and combat antibiotic resistance. It fosters the creation of new knowledge and the generation of evidence to develop improved methods for preventing healthcare-associated infections and improving antibiotic use in multiple settings. It promotes the wide-scale implementation of effective interventions for preventing HAIs and promoting antibiotic stewardship in all these care settings.

Division of Quality Measurement and Improvement: Conducts quality measurement and evaluates improvement activities to improve healthcare delivered in the United States. Seeks opportunities to integrate various measurement efforts to provide a complete picture of quality and safety. Promotes enhanced collaboration and coordination of measurement efforts,

including integration where possible, to serve the needs of multiple stakeholders who use measurements, such as front-line clinicians, patients, safety and quality experts, administrators, researchers, payers, policymakers, and others. Conducts focused measurement programs, including the Consumer Assessment of Healthcare Providers and Systems, Surveys on Patient Safety Culture programs, and the AHRQ Quality Indicators.

Division of Healthcare Data and Analytics (DHDA): Leads the development, production, and improvement of healthcare delivery data and tools for use in research and policy analysis focused on HCUP and the supply side of the medical care market. Directs, conducts, and supports research on health care delivery and utilization to examine issues related to access, utilization, cost, safety, and quality of hospital, physician, and other services. Disseminates data, tools, and statistics to facilitate and inform public and private health policy analysis, clinical studies, and socioeconomic research.

Office of the Director (OD). Provides leadership of the Agency and is responsible for planning, managing, and coordinating Agency programs and activities in fulfillment of AHRQ's mission. Principal activities include ensuring the overall scientific integrity and objectivity of the Agency's research and programs; directing and coordinating the Agency's programs, research, training programs, and dissemination activities; ensuring Agency programs support Administration goals and objectives; representing the Agency within the Department, at the highest levels of Government, and to the public.

Shall be organized into the following two sub-offices:

Immediate Office of the Director (IOD). Provides overall leadership of the Agency and plans, manages, and coordinates the programs and activities of all AHRQ components. The IOD supports the Director and Deputy Director in achieving the Agency's mission. Specifically, (1) provides strategic advice to the Director in support of agency priorities; (2) coordinates the legislative activities of the Agency; (3) manages the day-to-day operations of the Office of the Director and provides administrative support services; and (4) controls the flow of correspondence and official documents entering and leaving the Agency.

Office of Policy, Planning, and Evaluation. Directs and coordinates AHRQ's policy, planning, and evaluation. Specifically, (1) directs and coordinates program planning activities

in fulfillment of the Agency's mission; (2) plans and manages the program evaluation activities of the Agency, including evaluations of dissemination, training, and research programs; (3) provides support and management for the activities of the Agency's National Advisory Council; and (4) maintains ongoing liaison with public and private sector producers and users of health services research.

All delegations and redelegations of authority to officers and employees of the Agency for Healthcare Research and Quality officers and employees immediately before the effective date of this reorganization shall continue in effect pending further redelegation, provided they are consistent with this reorganization.

These changes are effective upon the date of signature.

Dated: October 3, 2024.

Robert Otto Valdez,

Director.

[FR Doc. 2024-23316 Filed 10-8-24; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-10142 and CMS-10203]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be

collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 9, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see

ADDRESSES).

CMS-10142 Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP)
CMS-10203 Medicare Health Outcomes Survey

Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing "bid" for each plan offered to Medicare beneficiaries for approval by CMS. The MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the "The Medicare Prescription Drug, Improvement, and Modernization Act" (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June, and the release of the Part D and RPPO benchmarks, which typically occurs in August. *Form Number:* CMS-10142 (OMB control number: 0938-0944); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 460; *Total Annual Responses:* 11,700; *Total Annual Hours:* 406,000. (For policy questions regarding this collection contact Rachel Shevland at 410-786-3026 or rachel.shevland@cms.hhs.gov.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Health Outcomes Survey; *Use:* The HOS is a longitudinal patient-reported outcome measure (PROM) that assesses self-reported beneficiary quality of life and daily functioning. As a PROM, the HOS measures the impact of services provided by MAOs, whereas process and patient experience measures only provide a snapshot of activities or experiences at a specific point in time. PROM data collected by the HOS allows CMS to continue to assess the health of the Medicare Advantage population. This older population is at increased risk of adverse health outcomes, including chronic diseases and mobility impairments that may significantly

hamper quality of life. The HOS supports CMS’s commitment to improve health outcomes for beneficiaries while reducing burden on providers. CMS accomplishes this by focusing on high-priority areas for quality measurement and improvement established in the agency’s Meaningful Measures Framework. The HOS uses quality measures that ask beneficiaries about health outcomes related to specific mental and Physical Conditions. *Form Number:* CMS–10203 (OMB control number: 0938–0701); *Frequency:* Yearly; *Affected Public:* Individuals and Households; *Number of Respondents:* 1,275; *Total Annual Responses:* 663,150; *Total Annual Hours:* 212,208. (For policy questions regarding this collection contact Alyssa Rosen at 410–786–8559 or Alyssa.Rosen@cms.hhs.gov.)

William N. Parham III,
Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.
[FR Doc. 2024–23395 Filed 10–8–24; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget (OMB) Review; Community Services Block Grant (CSBG) Annual Report (OMB No. 0970–0492)

AGENCY: Office of Community Services, Administration for Children and Families, U.S. Department of Health and Human Services.
ACTION: Request for public comments.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF) requests an extension with substantial changes to the currently approved Community Services Block Grant (CSBG) Annual Report. This is specific to a significantly revised version (Annual Report 3.0), to begin as an option for use in Fiscal Year (FY) 2026 and to be required beginning in FY2027.
DATES: *Comments due* November 8, 2024. OMB must make a decision about the collection of information between 30

and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.
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. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.
SUPPLEMENTARY INFORMATION:
Description: Section 678E of the CSBG Act requires States, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories, to annually prepare and submit a report on the measured performance of the State and the eligible entities in the State. Prior to the participation of the State in the performance measurement system, the State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the CSBG program, including an accounting of funds spent on administrative costs by the State and the eligible entities, and funds spent by the eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under the subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State.
Section 3(b) of the Government Performance and Results (GPRA) Modernization Act of 2010 (GPRAMA) requires OCS, as an office under the U.S. Department of Health and Human Services, to collect performance information for the CSBG.
OCS has updated the Annual Report for future years, the CSBG Annual Report 3.0. This updated version was originally planned to be submitted in

conjunction with the extension of version 2.1, but in an effort to be responsive to the public comments received during the 60-day comment period (89 FR 29339), OCS delayed submission of version 3.0. OCS has reviewed all comments and applied revisions to the instrument as a result of the feedback.
This request includes the final proposed CSBG Annual Report 3.0, which is a substantial revision of the current Annual Report form. This updated version streamlines State administrative information, as well as National Performance Indicators for individuals and families as reported by eligible entities. The proposed revisions seek to lessen the burden of the previous iteration of the report by decreasing the amount of data points collected, clarifying data points by using plain language, removing items not pertinent to annual report data collection, and improving data points to reflect industry standards in measuring the reduction of poverty. This revision would be an optional collection instrument in FY 2026 to support incremental implementation and minimize burden to the public and would become the required sole collection instrument in FY 2027. Copies of the proposed collections of information can be obtained by visiting: <http://www.acf.hhs.gov/programs/ocs/programs/csbg>.
There are no changes proposed to the other versions of the Annual Report, which can be found here: https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202406-0970-004.
Respondents: State governments, including the District of Columbia, the Commonwealth of Puerto Rico, U.S. territories, directly funded federally and State-recognized tribes and CSBG eligible entities.
Annual Burden Estimates
Below is the estimated annual burden for data collection for all versions of the CSBG Annual Report, including Tribal reports. Please note that there are no changes to the Annual Report 2.1, the Tribal Annual Report or the Tribal Short Form. In FY24, States and Tribal grant recipients would be required to complete the current versions of the Annual Reports.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
CSBG Annual Report 3.0 (States)	56	2	124	13,888	4,629.3
CSBG Annual Report 3.0 (Eligible Entities)	1,000	2	426	852,000	284,000

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
CSBG Annual Report 2.1 (States)	56	1	198	11,088	3,696
CSBG Annual Report 2.1 (Eligible Entities)	1,000	1	493	493,000	164,333.3
CSBG Tribal Annual Report	24	3	111	7,992	2,664
CSBG Tribal Annual Report Short Form	30	3	40	3,600	1,200
Total Estimates .....	.....	.....	.....	1,381,568	460,522.60

Comments: The Department specifically requests comments on the following:

1. Whether the proposed collection of information is necessary for the proper performance measurement of Federal, State, or local agencies.

2. The quality of the information to be collected.

3. The clarity of the information to be collected.

4. Does the information to be collected produce significant burden? If so, how could the burden be minimized on respondents, including using automated collection techniques or other forms of technology?

5. The accuracy of the agency's estimate of the burden of the proposed collection of information.

6. What, if any, additions, revisions, or modifications to the information collection would you suggest?

Consideration will be given to comments and suggestions submitted within 30 days of this publication.

Authority: 112 Stat. 2729; 42 U.S.C. 9902(2).

Mary C. Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2024-23271 Filed 10-8-24; 8:45 am]

BILLING CODE 4184-27-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Announcing the Intent To Award a Single-Source Supplement for University Center for Excellence in Developmental Disabilities Core Function Activities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current grant held by the Oregon Health and Science University Center for Excellence in Developmental Disabilities. The purpose of this supplemental funding is

to support one or more core function activities to address the needs of and provide support for individuals with intellectual and developmental disabilities (I/DD) who use Augmentative and Alternative Communication (AAC) or could benefit from AAC to ensure access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life. The administrative supplement for fiscal year 2024 will amount to \$270,000.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Pamela O'Brien, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Disabilities, (202) 795-7417 or via email Pamela.OBrien@acl.hhs.gov.

SUPPLEMENTARY INFORMATION: This supplementary funding will expand the engagement and technical assistance efforts around supporting people who use AAC devices to live well in the community. It will increase the capacity of the Oregon Health and Science University for Excellence in Developmental Disabilities (OHSU UCEDD) to broaden its reach and increase its impact by carrying out activities that address the needs of an unserved/underserved population—people with I/DD who use AAC or could benefit from AAC.

As a result of this funding, ACL expects the OHSU UCEDD will carry out one or more of the four core functions activities, which could include but are not limited to:

- *Interdisciplinary Training:* Training of future practitioners about the benefits of AAC and how to support access to AAC.

- *Community Service:* Supporting a community of AAC users for peer-to-peer networking, support, and exchange of ideas for addressing barriers to accessing AAC.

- *Research:* Conducting research such as research on the benefits of peer connections amongst AAC users.

- *Information Dissemination:* Developing and disseminating materials to assist others in accessing AAC and sharing findings from research with the UCEDD network and DD Community.

This supplement will fund enhanced efforts related to developing a network of AAC users to connect them where they otherwise would not be able to connect with each other.

Program Name: University Center for Excellence in Developmental Disabilities Education, Research and Service.

Recipient: Oregon Health and Science University Center for Excellence in Developmental Disabilities.

Period of Performance: The supplement award will be issued from September 30, 2024, through September 29, 2025.

Total Supplement Award Amount: \$270,000.

Award Type: Grant.

Statutory Authority: This program is authorized under 42 U.S.C 15062(d).

Basis for Award: Due to the low incidence of communication disabilities associated with the use of AAC, there are very few experts in this specialty area. OHSU is a designated UCEDD with extensive expertise and experience in AAC. The UCEDD has conducted research and led teams on development of assistive technology, intervention planning, AAC peer support models, and assessment protocols for both children and adults. The UCEDD completed several AAC externally funded innovative projects that addressed public health, device development and evaluation, and interventions for young children. The UCEDD is currently developing a network of AAC users to connect them where they otherwise would not be able to connect with each other. The supplemental funding will leverage the experience and expertise of the OHSU UCEDD to focus on this unserved/underserved population and strengthen the UCEDD's work in this area.

Dated: October 3, 2024.

Alison Barkoff,

Principal Deputy Administrator for the Administration for Community Living, performing the delegable duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2024–23377 Filed 10–8–24; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Evaluation of the Maternal and Child Health Bureau Pediatric Mental Health Care Access Program and the Screening and Treatment for Maternal Mental Health and Substance Use Disorders Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than November 8, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Evaluation of the Maternal and Child

Health Bureau Pediatric Mental Health Care Access Program and the Screening and Treatment for Maternal Mental Health and Substance Use Disorders Program, OMB No. 0906–xxxx—New.

Abstract: This notice describes information collection requests for two of HRSA's Maternal and Child Health Bureau programs: the Pediatric Mental Health Care Access (PMHCA) program and the Screening and Treatment for Maternal Mental Health and Substance Use Disorders (MMHSUD) program. The PMHCA program aims to promote behavioral health integration into pediatric primary care by developing and supporting state, regional, and tribal pediatric mental health care teleconsultation access programs. The MMHSUD program aims to support maternity care providers and clinical practices by supporting the development, improvement, and/or maintenance of statewide or regional behavioral health networks. Both programs support health professionals (HPs)¹ in their delivery of high-quality and timely screening, assessment, treatment, and referrals for their targeted populations (e.g., children, adolescents, and young adults for PMHCA programs; pregnant and postpartum people for MMHSUD programs) through the provision of clinical behavioral health teleconsultation, care coordination support/navigation (i.e., resource identification and referrals), and training and education. Additionally, the PMHCA and MMHSUD programs focus on reducing racial, ethnic, and geographic disparities in access to care, especially in rural and other underserved areas.

The information will be collected from PMHCA and MMHSUD award recipient programs funded in 2021, 2022, or 2023 and from participants in and stakeholders of those programs:

- The 2021 and 2022 PMHCA programs are authorized by 42 U.S.C. 254c–19 (sec. 330M of the Public Health Service Act), using funding provided by Section 2712 of the American Rescue Plan Act of 2021 (Pub. L. 117–2).
- The 2023 PMHCA programs are authorized by 42 U.S.C. 254c–19 (sec. 330M of the Public Health Service Act), as amended by Section 11005 of the Bipartisan Safer Communities Act (Pub. L. 117–159).

¹ HPs may include, but are not limited to, pediatricians, family physicians, adult primary care clinicians, obstetrician-gynecologists, physician assistants, advanced practice nurses/nurse practitioners, licensed practical nurses, registered nurses, nurse midwives, counselors, behavioral health clinicians, social workers, care coordinators, medical assistants, and patient care navigators.

- The 2023 MMHSUD programs are authorized by 42 U.S.C. 247b–13a (sec. 317L–1 of the Public Health Service Act).

To evaluate progress made toward the programs' goals, this data collection will use the following eight instruments: (1) HP Survey, (2) Practice-Level Survey, (3) Program Implementation Survey, (4) Behavioral Health Consultation Provider Semi-Structured Interview (SSI), (5) Care Coordinator SSI, (6) Champion SSI, (7) Community-Based and Other Resources SSI, and (8) Program Implementation SSI.

A 60-day notice was published in the **Federal Register** on May 28, 2024, 89 FR 46143–44. HRSA received two public comments, which included 13 recommendations. All recommendations were considered, as detailed below, and no changes were made to the current information collection described in this notice as a result of the recommendations.

Two recommendations focused on defining terms. One recommended use of the term “mental and behavioral health” in place of “behavioral health” and “infant, child, and adolescent” in place of “child and adolescent” in any survey language. HRSA selected “behavioral health” as the most concise and accepted term after consideration of definitions from national associations, federal agencies, and experts in the field. HRSA noted that the “child and adolescent” terminology is not used in the surveys for the HRSA evaluation of the PMHCA and MMHSUD programs. Another recommended that HRSA define PMHCA program training activities. In the Notices of Funding Opportunity that awardees responded to, HRSA describes various modalities/formats for training (e.g., Project Extension for Community Health Care Outcomes, Resource for Advancing Children's Health, learning collaboratives, in person, synchronous, asynchronous) as well as potential topics for training (e.g., psychiatric disorders and medications, screening and treatment protocols, practice transformation processes, trauma-informed care). Reflective of training-related program requirements, HRSA will collect data on the number of trainings attended by HPs, modality for training received, the number of providers trained, the number of trainings by topic, training methods, and materials used. Training is defined in the surveys using the survey question response options (e.g., in-person training event, webinar, self-study with program resources, video conferencing, learning collaborative [Project Extension for Community Health Care Outcomes,

Resource for Advancing Children's Health], and others).

Three recommendations discussed data: the need for data to be comparable across PMHCA programs while still considering differences across these programs; ensuring data collection is conducted in a manner that is clear and relevant for the full range of anticipated data collection participants (e.g., HPs, program champions, community resource representatives); and the value of data to inform understanding of differences in rural, urban, and suburban access to behavioral health care. No changes will be made to the information collection forms in response to these recommendations because the data collection instruments are already responsive to these points. First, HRSA will record and analyze program differences such as program structure, funding, history, and size to help inform data findings across program types. Second, HRSA will collect data about settings in which patients live, and about practice setting, with response options including urban, suburban, rural, and frontier. Surveys also collect the ZIP Code of the primary clinical practice. While specific data on travel for mental and behavioral health care will not be collected, the Care Coordinator SSIs will provide qualitative insights on barriers to referrals, geographic areas of referrals, and strategies to mitigate barriers, which may include addressing travel time.

One recommendation expressed concerns about HRSA's plan to assess changes over time in health practitioners' capacity to address patients' mental and behavioral health and access to mental and behavioral health care through screening indicating that PMHCA programs are typically most valuable after the need for mental or behavioral health interventions has been identified rather than in conducting initial screenings. For this data collection, HRSA has operationalized capacity broadly as behavioral health knowledge, skills, practice, and attitudes. Evaluation questions focus on change in knowledge and skills; screening, assessment, treatment, and referral; attitudes about providing behavioral health care; and how change over time differed based on frequency and modality of program access, treatment location, demographics, and treatment settings. These questions allow HRSA to measure changes in these different aspects of provider capacity and describe how these changes differ across the contexts listed above (e.g., treatment location, treatment settings).

Four recommendations supported collecting patient-level data and the use of accessible automated collection techniques and minimally invasive software and strategies. HRSA disclosed that patient level data will not be collected under this information collection. All technology used for the survey administration will meet federal requirements for Section 508 accessibility. Survey data collection for the evaluation will be primarily through web-linked survey administered via email and via survey platform. Qualitative data collection and SSIs will be conducted virtually (e.g., Microsoft Teams, Zoom).

One recommendation supported the proposed mixed evaluation plan and approach. HRSA will implement outcome and process evaluations, using a mixed-methods design, with primary and secondary quantitative and qualitative data collection activities across all awardees.

One recommendation expressed support of the estimated burden and asked how grantees will proceed if they do not employ a likely respondent. HRSA will not require participation in that data collection activity if an awardee does not employ a likely respondent.

One recommendation suggested that HRSA brand HRSA-MMHSUD programming in marketing leading up to the evaluation so that providers can more easily respond to questions. HRSA has developed a promotion packet of materials with branding guidance and customizable messages for awardees to use to (1) increase HP and practice engagement with their programs and (2) encourage participation in evaluation surveys. Additionally, the surveys will be customized for each program with the program name and logo, as applicable.

Need and Proposed Use of the Information: HRSA needs this information to evaluate the PMHCA and MMHSUD programs to guide future decisions regarding increasing HPs' capacity to address patients' behavioral health and access to behavioral health services. Specifically, data collected for the evaluation will be used to study the efforts of the PMHCA and MMHSUD programs to achieve key outcomes (e.g., increase in access to behavioral health services; HPs trained; identification of community-based resources, including counselors or family service providers) and to measure whether and to what extent awardee programs are associated with changes in these outcomes. The evaluation will examine changes over time across PMHCA and MMHSUD programs, regarding the PMHCA- and

MMHSUD-enrolled/participating HPs' and practices' (1) capacity to address patients' behavioral health and access to behavioral health care, through screening, assessment, treatment, and referral for behavioral health conditions; and (2) use of program services (e.g., consultation, care coordination, training).

Likely Respondents:

- HP Survey: Pediatricians, family physicians, obstetrician-gynecologists, physician assistants, advanced practice nurses/nurse practitioners, licensed practical nurses, registered nurses, counselors, social workers, medical assistants, and patient care navigators
- Practice-Level Survey: Practice managers (e.g., office managers, office leadership, nurse champions)
- Program Implementation Survey: Cooperative agreement-funded project directors/principal investigators
- Behavioral Health Consultation Provider SSI: PMHCA and MMHSUD program-level behavioral health consultation providers
- Care Coordinator SSI: PMHCA and MMHSUD program-level care coordinators
- Champion SSI: PMHCA and MMHSUD program champions (e.g., HPs, community, and social service specialists)
- Community-Based and Other Resources SSI: PMHCA and MMHSUD program-level community resource partner representatives (e.g., counselors, social workers, other community and social service specialists, other HPs/support workers, practice/organization managers)
- Program Implementation SSI: Cooperative agreement-funded project directors/principal investigators

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The burden estimates below have changed from the estimates of burden provided in the previous notice (60-day notice published on May 28, 2024, 89

FR 46143–44). The estimated burden total is slightly higher in this revised

notice because it incorporates estimates for an MMHSUD program that was

funded following submission of the previous notice.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HP Survey	23,256	1	23,256	0.33	7,674.48
Practice-Level Survey	6,172	1	6,172	0.33	2,036.76
Program Implementation Survey	67	1	67	0.33	22.11
Behavioral Health Consultation Provider SSI	67	1	67	0.75	50.25
Care Coordinator SSI	67	1	67	0.75	50.25
Champion SSI	67	1	67	0.50	33.50
Community-Based and Other Resources SSI	50	1	50	0.50	25.00
Program Implementation SSI	134	1	134	1.00	134.00
Total	29,880	.....	29,880	.....	10,026.35

Amy P. McNulty,

Deputy Director, Executive Secretariat.

[FR Doc. 2024–23293 Filed 10–8–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; SCORCH (Single Cell Opioid Responses in the Context of HIV) Program: Data Coordination, Analysis, and Scientific Outreach; Data Mining and Functional Validation.

Date: November 15, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Caitlin Elizabeth Angela Moyer, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet

Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, caitlin.moyer@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Ending the Epidemic: New Models of Integrated HIV/AIDS, Addiction, and Primary Care Services.

Date: November 15, 2024.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Trinh T. Tran, Ph.D., Scientific Review Officer, Scientific Review Branch, Office of Extramural Policy, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–5843, trinh.tran@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: November 19, 2024.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Li Rebekah Feng, Ph.D., Scientific Review Officer, Scientific Review Branch, Office of Extramural Policy, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–7245, rebekah.feng@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA).

Date: November 21, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of

Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, sheila.pirooznia@nih.gov.

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel; NIDA Avant-Garde Program for HIV and Substance Use Disorder Research; NIDA Avenir Award Program for HIV and Substance Use Disorder Research.

Date: December 9, 2024.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, sheila.pirooznia@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Avant-Garde Program for HIV and Substance Use Disorder Research; NIDA Avenir Award Program for HIV and Substance Use Disorder Research.

Date: December 12, 2024.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, sheila.pirooznia@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research

Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–23322 Filed 10–8–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44 Clinical Trial Required).

Date: November 7, 2024.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Tara Capece, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41, Rockville, MD 20892, 240–191–4281, capecet2@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–23323 Filed 10–8–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: NIH Medical Scientist Partnership Program (FM1).

Date: October 31–November 1, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raj K Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, (301) 435–1047, krishna@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Clinical Neuroscience.

Date: November 4, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, bsokolov@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 23–077: Collaborative Program Grant for Multidisciplinary Teams (RM1).

Date: November 4, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158,

MSC 7806, Bethesda, MD 20892, 301–435–1180, ruvinser@csr.nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Drug Discovery and Molecular Pharmacology A Study Section.

Date: November 5–6, 2024.

Time: 8:30 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Address: DoubleTree by Hilton McLean Tysons, 1960 Chain Bridge Rd., McLean, VA 22102.

Contact Person: Bidyottam Mitra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–0000, bidyottam.mitra@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: November 5–6, 2024.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, gubina@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Infectious Disease Drug Development and Molecular Pharmacology.

Date: November 5–6, 2024.

Time: 10:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ekaterina Mikhailovna Nestorovich, Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–1367, ekaterina.nestorovich@nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Anti-Infective Resistance and Targets Study Section.

Date: November 6–7, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Jui Pandhare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7735, pandharej2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuroimmune and Neuroinflammation involved in Neurodegenerative Disorders.

Date: November 6–7, 2024.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mariam Zaka, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 435-1042, zakam2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: HEAL Initiative Advanced Postdoctoral-to-Independent Career Transition Award in PAIN and SUD Research to Promote Diversity Review.

Date: November 6, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Katherine M Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, (301) 435-0912, malindakm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Panel: Respiratory Sciences.

Date: November 6-7, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301-451-0132, bloomm2@mail.nih.gov.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Bacterial-Host Interactions Study Section.

Date: November 6-7, 2024.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Uma Basavanna, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-1398, uma.basavanna@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Aging, Neurodegeneration, and Neurotoxicology.

Date: November 6-7, 2024.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301-435-1766, bennettc3@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Analytics and Statistics for Population Research Panel B Study Section.

Date: November 6-7, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Victoriya Volkova, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 594-7781, volkovav2@csr.nih.gov.

Dated: October 3, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-23354 Filed 10-8-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Biologics Contract Review Meeting.

Date: November 4, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Address: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Mirela Milesescu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301-496-5720, mirela.milesescu@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Interdisciplinary Team Science to Uncover the Mechanisms of Pain Relief by Medical Devices (RM1 Clinical Trial Optional).

Date: November 7, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Name of Committee: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Nilkantha Sen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301-496-9223, nilkantha.sen@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: October 3, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-23355 Filed 10-8-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Centers for Research in Emerging Infectious Diseases (CREID) Network (U01 Clinical Trial Not Allowed).

Date: November 6-8, 2024.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A,

Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20892, 240-627-3390, aabbey@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-23361 Filed 10-8-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Preclinical Medications Screening in Dependence Models of Alcohol Use Disorders.

Date: November 1, 2024.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga V. Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, 6700 B Rockledge Drive, Room 2114, National Institutes of Health, Bethesda, MD 20892, (301) 451-2067, srinivar@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS)

Dated: October 3, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-23321 Filed 10-8-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Pathophysiology of Obesity and Metabolic Disease Study Section, October 29, 2024, 10:00 a.m. to October 30, 2024, 06:30 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on October 01, 2024, 89 FR 79935.

This meeting is being amended to change the contact person from Dr. Heather Marie Brockway to Elaine Sierra-Rivera. The meeting is closed to the public.

Dated: October 3, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-23350 Filed 10-8-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2024-0027]

MSA Delineations Used in FEMA's Grant Programs

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comment.

SUMMARY: Consistent with the Metropolitan Areas Protection and Standardization Act of 2021, the Federal Emergency Management Agency (FEMA) requests public comment on the adoption of updated Metropolitan Statistical Area delineations for use in certain of FEMA's grant programs.

DATES: Comments must be received no later than December 9, 2024.

ADDRESSES: You may submit comments, identified by Docket ID: FEMA-2024-

0027, via the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Edgardo Santos, Risk Methodology Branch Chief, Federal Emergency Management Agency, *FEMA-MSA-Process@fema.dhs.gov*, (800) 368-6498.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this notice by submitting comments and related materials. We will consider all comments and materials received during the comment period.

If you submit a comment, include the Docket ID, indicate the specific section of this document to which each comment applies, and give the reason for each comment. All submissions may be posted, without change, to the Federal e-Rulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. For more about privacy and the docket, visit <https://www.regulations.gov/privacy-notice>.

For access to the docket to read background documents or comments received, go to the Federal e-Rulemaking Portal at <https://www.regulations.gov>.

II. Background

A. FEMA Grant Programs and Core Based Statistical Areas

FEMA has the statutory authority to deliver numerous disaster and non-disaster financial assistance programs in support of its mission, and that of the U.S. Department of Homeland Security (DHS), largely through grants and cooperative agreements. Preparedness grants¹ support our citizens and first responders to ensure we work together as a nation to build, sustain and improve our capability to prepare for, protect against, respond to, recover from and mitigate terrorism and other high-consequence disasters and emergencies.

When determining eligibility for the Urban Area Security Initiative, the Tribal Homeland Security Grant Program, the Nonprofit Security Grant Program, the Port Security Grant Program, the Transit Security Grant

¹ For the purposes of this notice, the relevant grants programs are the Urban Area Security Initiative, the Tribal Homeland Security Grant Program, the Nonprofit Security Grant Program, the Port Security Grant Program, the Transit Security Grant Program, and the Regional Catastrophic Preparedness Grant Program. FEMA's authority to administer these programs is provided below.

Program, and the Regional Catastrophic Preparedness Grant Program, one factor is the applicant's location with respect to a given set of Metropolitan Statistical Areas (MSAs).² MSAs are a type of core based statistical area (CBSA). The general concept of a CBSA is that of an area containing a large population nucleus, or urban area, and adjacent communities that have a high degree of integration with that nucleus. CBSAs are composed of entire counties: "central counties" that contain the population nucleus, and "outlying counties" that qualify to join a central county based on demonstrating sufficient commuting ties with the central county or counties of the area.³

The Office of Management and Budget (OMB) establishes and maintains these statistical areas to provide a nationally consistent set of delineations for collecting, tabulating, and publishing Federal statistics for geographic areas. OMB establishes standards for defining CBSAs and then applies those standards to U.S. Census Bureau data to delineate individual CBSAs. Every decade, OMB reviews the CBSA standards and, if warranted, revises them, and then applies the new standards to new decennial census data to produce updated CBSA delineations. OMB published the 2020 Standards for Delineating Core Based Statistical Areas on July 16, 2021,⁴ and published revised CBSA delineations on July 21, 2023.⁵

Between censuses, OMB releases annual updates, which make minor changes to the delineations (or no changes, if warranted by the data) and five-year updates that address broader revisions that generally include more changes to the delineations.⁶

Under the Homeland Security Grant Program,⁷ the FEMA Administrator designates high-risk urban areas to receive Urban Area Security Initiative

(UASI) grants.⁸ To determine which areas should receive assistance each fiscal year, the Administrator is directed to assess the relative threat, vulnerability, and consequences from acts of terrorism faced by each "eligible metropolitan area."⁹ The HSA defines "Eligible Metropolitan Area" to mean any of the 100 most populous metropolitan statistical areas¹⁰ and defines "Metropolitan Statistical Area" to mean a metropolitan statistical area, as defined by OMB.¹¹

Before the Department of Homeland Security Appropriations Act, 2024 (FY24 DHS Appropriations Act),¹² the Nonprofit Security Grant Program (NSGP)¹³ functioned as a "carve-out" of UASI, so eligibility for NSGP was tied to the MSA delineations in the same way as UASI. Pursuant to the FY24 DHS Appropriations Act, fiscal year 2024 NSGP awards are authorized under 6 U.S.C. 609a.¹⁴ Currently, as a matter of policy, FEMA ties eligibility for assistance under the program to the MSA framework. The fiscal year 2024 NSGP Notice Funding Opportunity (NOFO) states that eligible nonprofit subapplicants may be eligible for assistance specifically because of their location with respect to an MSA.¹⁵

Under the Tribal Homeland Security Grant Program (THSGP),¹⁶ the FEMA Administrator may make awards "to directly eligible tribes" under the State Homeland Security Grant Program.¹⁷ The definition of a "directly eligible tribe" provides four area-based criteria, one of which must be met in order for a Tribal Nation to be eligible for assistance under THSGP.¹⁸ One of those four criteria is that the Tribal Nation is located within or contiguous to 1 of the 50 most populous metropolitan statistical areas in the United States.¹⁹ Thus, although many Tribal Nations that are eligible for THSGP will be

eligible through one of the other criteria, some Tribal Nations will be eligible for THSGP assistance specifically because of their location with respect to an MSA.

FEMA's Regional Catastrophic Preparedness Grant Program (RCPGP),²⁰ as a matter of policy, ties eligibility for assistance under the program to the MSA framework. The fiscal year 2023 RCPGP NOFO states that eligible applicants must be either a State or Territory that contains one or more of the 100 most populous MSAs or be a local government located within one of the 100 most populous MSAs.²¹

Eligibility and allocation of funding under the Port Security Grant Program (PSGP)²² and the Transit Security Grant Program (TSGP)²³ are informed by risk, which is calculated using methodologies that include threat, vulnerability, and consequence components that align with the UASI risk methodology. Both grant programs use the MSA delineations as part of the threat component through using the UASI counterterrorism threat levels and values. The threat level and value that DHS Intelligence & Analysis and FEMA assign to the 100 most populous MSAs is assigned to any PSGP port and transit agency within that MSA. The TSGP risk methodology also uses the MSA delineations as part of the vulnerability component through using the Special Events Metric (SEM). The SEM value for bus entities is based on the SEM value of the MSA they serve (as assessed for the most recent UASI risk assessment).²⁴

²⁰ Consolidated Appropriations Act, 2023, Public Law 117-328, Division F—Department of Homeland Security Appropriations Act, 2023, Title III—Protection, Preparedness, Response, and Recovery, Federal Emergency Management Agency, Federal Assistance.

²¹ See DHS NOFO Fiscal Year 2023 Regional Catastrophic Preparedness Grant Program (RCPGP) (May 24, 2023), <https://www.fema.gov/grants/preparedness/regional-catastrophic/fy-23-nofo>. NOFOs for affected FEMA grants programs issued since the enactment of the MAPS Act have used the 2020 MSA delineations.

²² Section 102 of the Maritime Transportation Security Act of 2002, as amended, Public Law 107-295, 46 U.S.C. 70107.

²³ Section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, 6 U.S.C. 1135.

²⁴ For more information on these risk methodologies, see Fiscal Year 2023 SHSP/UASI Risk Methodology Updates (Feb. 27, 2023), https://www.fema.gov/sites/default/files/documents/fema_gpd-shsp-fy-23-risk-methodology-updates.pdf.

² See, e.g., 6 U.S.C. 601(5), 604(b).

³ For more information, see U.S. Census Bureau, *Metropolitan and Micropolitan, About* (July 25, 2023), <https://www.census.gov/programs-surveys/metro-micro/about.html>.

⁴ 86 FR 37770 (July 16, 2021).

⁵ OMB Bulletin No. 23-01 (July 21, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>.

⁶ For more information, see 86 FR at 37775.

⁷ Homeland Security Act of 2002, as amended, Public Law 107-296, Title XX, 6 U.S.C. 321a, 603, 604, 605, 607, 608, 609; section 702 of the Security and Accountability For Every Port Act of 2006, Public Law 109-347, 6 U.S.C. 470.

⁸ Section 2003 of the HSA, 6 U.S.C. 604(b)(1).

⁹ 6 U.S.C. 604(b)(2)(A).

¹⁰ 6 U.S.C. 601(5).

¹¹ 6 U.S.C. 601(8).

¹² Public Law 118-47, Div. C.

¹³ Section 2009 of the HSA, 6 U.S.C. 609a.

¹⁴ Public Law 118-47, Div. C, Title III.

¹⁵ See DHS NOFO Fiscal Year 2024 Nonprofit Security Grant Program (Apr. 16, 2024), <https://www.fema.gov/grants/preparedness/nonprofit-security/fy-24-nofo>.

¹⁶ Section 2005 of the HSA, 6 U.S.C. 606.

¹⁷ 6 U.S.C. 606(a).

¹⁸ See 6 U.S.C. 601(4)(A)(iii).

¹⁹ 6 U.S.C. 601(4)(A)(iii)(III).

B. Metropolitan Areas Protection and Standardization Act of 2021

The Metropolitan Areas Protection and Standardization Act of 2021 (MAPS Act),²⁵ enacted on December 5, 2022, prohibits changes to the standards of CBSA delineations to propagate²⁶ automatically for any non-statistical use by any domestic assistance program and instead requires changes to propagate if they are affirmatively adopted through notice and comment rulemaking pursuant to 5 U.S.C. 553, by a relevant agency that determines such a propagation supports the purposes of the program and is in the public interest.²⁷

Since an applicant's eligibility for certain of FEMA's grant programs (*i.e.*, UASI, NSGP, PSGP, TSGP, THSGP, and RCPGP) depends in part on the applicant's location with respect to specific MSAs, changing which version of the MSA delineations is used could change which applicants are eligible. Consistent with the requirements of the MAPS Act, FEMA is now requesting comment on whether the use of the latest editions of OMB's MSA delineations in these grant programs supports the purposes of the programs and is in the public's interest.

III. 2023 CBSA Delineations

OMB published revised CBSA delineations on July 21, 2023, based on the application of the 2020 Standards to Census Bureau data from the 2020 Decennial Census, the American Community Survey, and Census Population Estimates Program for 2020 and 2021.²⁸ The 2023 delineations update and supersede the previous version of the delineations issued on March 6, 2020,²⁹ and make the following changes:

1. The Springfield, MA, and New Haven, CT, MSAs are no longer among the 100 most populous MSAs due to

changes to the county composition of some MSAs.

2. The Jackson, MS, and Fayetteville, AR, MSAs now do qualify as part of the 100 most populous MSAs due to either changes in county composition or due to changes in population values.

3. Twenty-seven MSAs changed their name due to changes in principal city population or due to changes in which States are part of the MSA. For example, Chicago-Naperville-Elgin, IL-IN-WI MSA is now Chicago-Naperville-Elgin, IL-IN MSA due to the removal of the one Wisconsin county that was part of the MSA.³⁰

4. MSAs in Connecticut were updated to use the new planning regions in place of counties.³¹

5. The composition of 29 MSAs, including the 2 MSAs that join the top-100 list and the 2 that drop off, changed because counties or county equivalents were added or removed from the MSA delineations. For example, Virginia Beach-Norfolk-Newport News, VA-NC MSA lost two counties and gained another and is now Virginia Beach-Chesapeake-Norfolk, VA-NC MSA.

5.1. There are 22 counties removed from MSAs, of which 6 are old Connecticut counties that get replaced by the 5 new planning regions.

5.2. There are 30 counties added to MSAs, of which 5 are the new Connecticut planning regions and 11 are in the MSAs of Jackson, MS, and Fayetteville, AR.

FEMA's assessment of the changes in the 2023 MSA delineations found that there would be no changes in the geographic eligibility for any Tribal Nations under THSGP.

The revisions in the 2023 MSA delineations change which MSAs qualify as the 100 most populous MSAs considered for the UASI risk assessment. Changes to this list impact which jurisdictions are eligible to receive funding, the overall risk methodology, the resultant risk scores, and the allocations. In addition to the UASI grant program, the MSA delineations are also used to determine eligibility for THSGP, NSGP, PSGP, TSGP, and RCPGP.

Based on a review of FEMA historical grant data, there was no UASI data

available for the 22 counties that were removed from the 2023 MSA delineations, which indicates that FEMA did not provide any UASI funding for these areas in the past 10 years. Therefore, FEMA expects that the removal of these counties would not impact grant allocations under the 2023 delineations. Furthermore, we do not have any grant data for the 30 counties that were newly added due to MSA updates, so we are unable to measure the impact of these changes on grant allocations. Because UASI funding is capped, any economic impacts would result in a different distribution of funds (the newly added counties would become eligible while the removed counties would lose eligibility), but total funding would not change.

Consistent with the requirements of the MAPS Act, FEMA seeks public comment on the use of the 2023 MSA delineations for the following FEMA grant programs: UASI, NSGP, PSGP, TSGP, THSGP, and RCPGP. Stakeholders are encouraged to provide specific feedback on whether using the 2023 MSA delineations would support the purposes of these grant programs and be in the public interest.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024-23365 Filed 10-8-24; 8:45 am]

BILLING CODE 9111-78-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-NEW]

Agency Information Collection Activities; New Collection: USCIS Adult Citizenship Educator of the Year

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and

²⁵ Public Law 117-219, 136 Stat. 2271.

²⁶ Propagate is defined as reproduce or spread information., Black's Law Dictionary, <https://thelawdictionary.org/propagate/> (last accessed July 24, 2024). Here, this refers to how statutory, regulatory, or administrative provisions referring to CBSAs, but not specifying a particular version of the CBSA standards or delineations, should be read—do these provisions always mean the latest versions of the CBSA standards or delineations, or some older versions? The MAPS Act requires that these provisions not be read to refer to CBSA delineations issued after the enactment of the MAPS Act, unless an agency follows the appropriate processes.

²⁷ See 31 U.S.C. 6309.

²⁸ OMB Bulletin No. 23-01 (July 21, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>.

²⁹ OMB Bulletin No. 20-01 (Mar. 6, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf>.

³⁰ For more information on principal cities and Metropolitan and Micropolitan Statistical Area titles, see U.S. Census Bureau, *Metropolitan and Micropolitan, About* (July 25, 2023), <https://www.census.gov/programs-surveys/metro-micro/about.html>.

³¹ For more information on Connecticut planning regions, see State of Connecticut Office of Policy and Management, *Planning Regions and Regional Councils of Governments*, <https://portal.ct.gov/opm/igpp/org/planning-regions/planning-regions-overview> (last accessed July 25, 2024).

resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until December 9, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–NEW in the body of the letter, the agency name and Docket ID USCIS–2024–0007. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS–2024–0007.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS–2024–0007 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* USCIS Adult Citizenship Educator of the Year.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1607NO; G–1607NE; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals or households. USCIS will notify the public that this new award and information collection has been created to seek nominations for the ACEY Award. USCIS will seek nominations by publishing an announcement to the public via various media outreach options typically used by USCIS to inform the public of new programs and initiatives. The individual or organization will use the Form G–1607NO, USCIS Adult Citizenship Educator of the Year (ACEY) Nomination Form to submit their nominee for the ACEY Award. USCIS would then send the potential nominee the Form G–1607NE, USCIS Adult Citizenship Educator of the Year (ACEY) Award Nominee Form, as applicable, to complete if the potential nominee is interested in accepting the award.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1607NO is 200 and the estimated hour burden per response is 0.5 hours; the estimated total number of respondents for the information collection G–1607NE is 200 and the estimated hour burden per response is 0.85 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 270 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0. The interaction of the form incurs no cost as the submission process and communications are all transmitted electronically.

Dated: October 3, 2024.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2024–23374 Filed 10–8–24; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2024–0141; FXIA16710900000–245–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by November 8, 2024.

ADDRESSES: *Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at <https://www.regulations.gov> in Docket No. FWS–HQ–IA–2024–0141.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *internet:* <https://www.regulations.gov>. Search for and

submit comments on Docket No. FWS–HQ–IA–2024–0141.

• *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2024–0141; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Timothy MacDonald, by phone at 703–358–2185 or via email at DMAFR@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) those supported by quantitative information or studies, and (2) those that include citations and analyses of the applicable laws and regulations.

B. May I view comments submitted by others?

You may view and comment on others' public comments at <https://www.regulations.gov> unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at <https://www.regulations.gov>, your entire comment, including any personal information you include, will be posted on the website. *Regulations.gov* does not require personal information if a submitter chooses to submit a comment anonymously. If you submit a hardcopy comment that includes personal information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public view. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17 (50 CFR 17).

III. Permit Applications

We invite comments on the following applications.

Applicant: Mitchel Kalmanson, Sorrento, FL; Permit No. PER12003722

The applicant requests a permit to import four male and three female captive-bred African lions (*Panthera leo leo*) from Zoo Animalia, Saint-Edouard-de-Maskinonge, Quebec, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Fresno's Chaffee Zoo, Fresno, CA; Permit No. PER12575644

The applicant requests a permit to import from Singapore one male

captive-born tiger (*Panthera tigris*) for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Zoo Atlanta, Atlanta, GA; Permit No. PER12275493

The applicant requests a permit to export biological samples extracted from captive-born giant pandas (*Ailuropoda melanoleuca*) for the purpose of scientific research. This notification is for a single export.

Applicant: Zoological Society of San Diego, San Diego, CA; Permit No. PER12097590

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Great green macaw ..	<i>Ara ambiguus</i>
Blue-throated macaw ..	<i>Ara glaucogularis</i>
Cheetah	<i>Acinonyx jubatus</i>
Bahaman or Cuban parrot.	<i>Amazona leucocephala</i>
Chinese alligator	<i>Alligator sinensis</i>
Brush-tailed rat-kangaroo.	<i>Bettongia penicillata</i>
Banteng	<i>Bos javanicus</i>
Fiji banded iguana	<i>Brachylophus fasciatus</i>
Lowland anoa	<i>Bubalus depressicornis</i>
White cockatoo	<i>Cacatua alba</i>
Salmon-crested cockatoo.	<i>Cacatua moluccensis</i>
White-winged wood duck.	<i>Cairina scutulata</i>
Southern white rhino	<i>Ceratotherium simum simum</i>
Galapagos tortoise	<i>Geochelone nigra</i>
Jamaican iguana	<i>Cyclura collei</i>
Maned wolf	<i>Chrysocyon brachyurus</i>
Blue-billed curassow	<i>Crax alberti</i>
Bontebok	<i>Damaliscus pygargus (=dorcus) dorcus</i>
Aye-aye	<i>Daubentonina madagascariensis</i>
Black rhinoceros	<i>Diceros bicornis</i>
Asian Elephant	<i>Elephas maximus</i>
African wild ass	<i>Equus africanus</i>
Przewalski's horse	<i>Equus przewalski</i>
Grevy's zebra	<i>Equus grevyi</i>
Collared brown lemur	<i>Eulemur collaris</i>
Black-footed cat	<i>Felis nigripes</i>
Gavial	<i>Gavialis gangeticus</i>
Slender-horned gazelle.	<i>Gazella leptoceras</i>
Madagascar radiated tortoise.	<i>Geochelone radiata</i>
Spotted pond turtle ...	<i>Geoclemys hamiltonii</i>
Northern bald ibis	<i>Geronticus eremita</i>
Gorilla	<i>Gorilla gorilla</i>
Japanese crane	<i>Grus japonensis</i>
Harpy eagle	<i>Harpia harpyja</i>
Red lechwe	<i>Kobus leche</i>

Common name	Scientific name
Ring-tailed lemur	<i>Lemur catta</i>
Golden lion tamarin ...	<i>Leontopithecus rosalia</i>
Rothschild's (myna) starling.	<i>Leucopsar rothschildi</i>
Lion-tailed macaque ..	<i>Macaca silenus</i>
Maleo megapode	<i>Macrocephalon maleo</i>
Parma wallaby	<i>Macropus parma</i>
Mandrill	<i>Mandrillus (=Papio) sphinx</i>
African slender-snouted crocodile.	<i>Crocodylus cataphractus</i>
Clouded leopard	<i>Neofelis nebulosa</i>
Red-cheeked gibbon	<i>Nomascus gabriellae</i>
Arabian oryx	<i>Oryx leucoryx</i>
African dwarf crocodile.	<i>Osteolaemus tetraspis tetraspis</i>
Pygmy chimpanzee ...	<i>Pan paniscus</i>
Lion	<i>Panthera leo melanochaita</i>
Leopard	<i>Panthera pardus</i>
Tiger	<i>Panthera tigris</i>
Snow leopard	<i>Uncia (=Panthera) uncia</i>
Yellow-footed rock wallaby.	<i>Petrogale xanthopus</i>
Koala	<i>Phascolarctos cinereus</i>
Orangutan	<i>Pongo abelii</i>
Orangutan	<i>Pongo pygmaeus</i>
Coquerel's sifaka	<i>Propithecus coquereli</i>
Rodrigues fruit bat ...	<i>Pteropus rodricensis</i>
Pudu	<i>Pudu pudu</i>
Blue-throated parakeet.	<i>Pyrhura cruentata</i>
Kagu	<i>Rhynchotus jubatus</i>
Swamp deer	<i>Cervus duvauceli</i>
Eld's brow-antlered deer.	<i>Cervus eldi</i>
African penguin	<i>Spheniscus demersus</i>
Siamang	<i>Symphalangus syndactylus</i>
Central American tapir.	<i>Tapirus bairdii</i>
Asian tapir	<i>Tapirus indicus</i>
Gelada baboon	<i>Theropithecus gelada</i>
Guam (=Sihek) kingfisher.	<i>Todiramphus cinnamominus</i>
Francois' langur	<i>Trachypithecus (=Presbytis) francoisi</i>
Blyth's tragopan pheasant.	<i>Tragopan blythii</i>
Komodo Island monitor.	<i>Varanus komodoensis</i>
Andean condor	<i>Vultur gryphus</i>

Applicant: Georgia Safari Conservation Park, Madison, GA; Permit No. PER12289890

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Hartmann's mountain zebra (*Equus zebra hartmannae*) and southern white rhinoceros (*Ceratotherium simum simum*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

- *Applicant:* Keith R. Warren, Seguin, TX; Permit No. PER12017464
- *Applicant:* Daniel Macerelli, McKeesport, PA; Permit No. PER12034356
- *Applicant:* Robert Arthur Sparks, Empire, CO; Permit No. PER12331219
- *Applicant:* Brian Arnold, Augusta, GA; Permit No. PER12415938
- *Applicant:* Michael Merchant, Oxford, MS; Permit No. PER12428370
- *Applicant:* Drew O'Connor Dennison, St. Louis, MO; Permit No. PER12540160
- *Applicant:* Max S. Buck, Molt, MT; Permit No. PER12540321

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching <https://www.regulations.gov> for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to [regulations.gov](https://www.regulations.gov) and search for "12345A".

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Timothy MacDonald,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2024-23344 Filed 10-8-24; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038840; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: University of Tennessee, Department of Anthropology, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Tennessee, Department of Anthropology (UTK) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 8, 2024.

ADDRESSES: Dr. Ellen Lofaro, University of Tennessee, Office of Repatriation, 5723 Middlebrook Pike, Knoxville, TN 37921-6053, telephone (865) 974-3370, email nagpra@utk.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of UTK, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On October 27, 1992, the remains were discovered by two children on the side of a road in Bradley County, TN. They notified the police, and on November 11, 1992, a detective from the Bradley County Sheriff's Department contacted William Bass at UTK for his assistance in examining the remains. The detective sent the remains to Bass at UTK, where they were received on November 20. After Bass verified that the remains were not of medicolegal concern (not a missing person or crime victim), and that they were Native American, the remains were retained by the UTK Forensic Anthropology Center (FAC) as case 92-30 where they remained until they were recently transferred to the UTK Office of Repatriation (OR). Some of the remains were "repaired" using an unknown glue, but to our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On an unknown date, this individual was removed from an unknown rock shelter in Cumberland County, Tennessee. The shelter reportedly had a

history of extensive looting by pothunters. On August 20, 1998, an investigator from the Cumberland County Sheriff's Office brought the individual to the UTK Forensic Anthropology Center (FAC) for examination. After FAC staff determined that the individual was Native American, and not of medicolegal concern, they were retained by the FAC as case 98–32. They remained at the FAC until they were recently transferred to the UTK Office of Repatriation (OR). To our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On February 19, 1990, a landowner found the individual in a rock shelter in DeKalb County, TN, and reported them to the police. The following day, a Tennessee Bureau of Investigation (TBI) Special Agent contacted William Bass at the FAC for assistance in recovering and assessing any human remains present. Graduate students Murray Marks and Lee Meadows went to the rock shelter and removed the individual. After the individual was determined to be Native American and not of medicolegal concern, they were retained by the FAC as case 90–11. They remained at the FAC until they were recently transferred to the OR. Some of the remains were “repaired” using an unknown adhesive, but to our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On an unknown date, the individual was found by a high school student in a cave in Grainger County, TN, and turned over to Knoxville police. On November 3, 1987, a Knoxville police officer brought the individual to Bass at the FAC for examination. Once they were determined to be Native American and not of medicolegal concern, this individual was retained by the FAC as case 87–15. They remained at the FAC until they were recently transferred to the OR. To our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of lithics. The remains were found among a deceased person's belongings in Hamilton County, TN, on May 18, 2011, and were reported to the police. The Chattanooga Medical Examiner, Roger Wilkey, contacted the FAC for aid in determining if the remains were Native American. Wilkey

transferred the remains to the FAC on June 1, 2011. Once the FAC examined the remains and verified that the remains were Native American, and not of medicolegal concern, they were retained by the FAC as case 11–11. They remained at the FAC until they were recently transferred to the OR. Some of the remains have been treated with a light layer of an unknown grayish preservative. The lithics were treated with an unknown adhesive, and some of the remains were “repaired” with an unknown adhesive, but to our knowledge, the remains and associated funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least, three individuals have been identified. The one associated funerary object is one lot of lithics. On March 18, 1996, a man contacted law enforcement after his children found human remains in Jefferson County, TN. A Jefferson County Sheriff's detective sergeant called Murray Marks at the FAC and subsequently transferred the remains for assessment. Once they were determined to be Native American and not of medicolegal concern, they were retained by the FAC as case 96–14. They remained at the FAC until they were recently transferred to the OR. A gray, paper-like substance adheres to some of the remains, but to our knowledge the remains and funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On January 12, 2000, this individual was found in a plastic bag in Jefferson County, TN. The Dandridge, TN, 911 service contacted the FAC, and the individual was transferred to the FAC for analysis. Once the individual was determined to be Native American and not of medicolegal concern, they were retained by the FAC as case 00–1. They remained at the FAC until they were recently transferred to the OR. To our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. Around the 1980s, a man found this individual in or near a graveyard by Douglas Lake, in Jefferson County, TN. On January 7, 2011, the man transferred this individual to a dentist for examination. On January 17, 2011, the dentist transferred the individual to the Blount County Sheriff's Office. On January 19, 2011, an investigator from the Sheriff's Office brought the individual to the FAC where they were

examined by Dr. Lee Meadows Jantz and graduate student Miriam Soto. After the examination, this individual was retained by the FAC as case 11–01. FAC staff recently determined this individual to be Native American. They remained at the FAC until they were recently transferred to the OR. To our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. On April 24, 1995, an undergraduate student of Murray Marks (then a UTK professor) brought in these individuals, which she claimed had been found in an abandoned house in west Knox County, TN. Marks and Lee Meadows examined the remains and determined that they were Native American and not of medicolegal concern. The FAC retained these individuals as case 95–13. They remained at the FAC until they were recently transferred to the OR. Some of the remains were “repaired” using an unknown glue, but to our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On March 15, 1997, this individual was discovered in a shed in Knoxville, Knox County, TN. Knoxville police were notified, and they reached out to Bass for assistance. Bass took this individual to the FAC, and once his examination was complete, this individual was retained by the FAC as case 97–10. FAC staff recently determined that this individual was Native American, and not of medicolegal concern. The individual remained at the FAC until they were recently transferred to the OR. To our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. At an unknown date, a resident of Loudon County, TN, reportedly purchased these remains at a flea market believing they were fake, but after more careful observation, realized that they were real and contacted law enforcement. A TBI special agent brought the individual to the FAC for examination on August 25, 2008. After Lee Meadows Jantz and Kevin Hufnagel examined the individual and determined that they were Native American and not of medicolegal concern, they were retained by the FAC as case 08–14. They remained at the FAC until they were recently transferred

to the OR. To our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, six individuals have been identified. The one associated funerary object is one lot of burial soil. At an unknown date, these remains were removed by an unknown party from an unknown site. On January 27, 1981, they were left on the porch of the McMinn County, TN, Courthouse. The McMinn County Medical Examiner, William Foree, contacted Bass and had the remains transferred to UTK for examination on January 27. After Patrick Willey examined the remains and determined that they were Native American and not of medicolegal concern, they were retained as FAC case 81–3. The remains were recently transferred from the FAC to the OR. Some of the remains were “repaired” using an unknown glue, but to our knowledge, the remains and funerary object were not treated with any potentially hazardous substances.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. On an unknown date, likely in spring 1981, these remains were left by an unknown party on the doorstep of the Tennessee Valley Authority office in Athens, McMinn County, TN. The remains were turned over to the Athens Police Department, who transferred them to Patrick Willey and Lorna Watkins at UTK for examination on June 15, 1981. After the remains were determined to be Native American, and not of medicolegal concern, they were retained as FAC case 81–15. The remains were recently transferred from the FAC to the OR. To our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. These individuals were confiscated in the fall of 2002 by police during a raid of a home in Monroe County, TN. A deputy from the Monroe County Sheriff's Department transferred the individuals to the FAC for examination. Once Lee Meadows Jantz and Richard Jantz examined the individuals and determined they were Native American and not of medicolegal concern, they were retained by the FAC as case 02–43. They remained at the FAC until they were recently transferred to the OR. Some of the remains were “repaired” using an unknown adhesive and unknown glue, but to our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. On August 15, 1983, a woman contacted Bass about these individuals, which were found in a landfill in Morgan County, TN. At an unknown date, the individuals were transferred to the FAC, and they were retained by the FAC as case 83–19. Recently FAC staff determined that these individuals were Native American and not of medicolegal concern. They remained at the FAC until they were recently transferred to the OR. Some of these remains were “repaired” using an unknown glue, but to our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. On April 12, 1977, a man digging along the bank of the Tennessee River in Rhea County, TN, found these remains and reported them to law enforcement. On that same day, the District Attorney General of the 18th Judicial District and a Tennessee Bureau of Investigation Agent reached out to Bass and requested his help in identifying the remains. The remains were sent to Bass, who received them in mid-April. Bass examined the remains and determined they were Native American and not of medicolegal concern. The remains were retained as FAC case 77–1. The remains were treated with an unknown preservative and some of them were “repaired” with an unknown adhesive, but to our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. The three associated funerary objects are one lot of faunal remains, one lot of lithics, and one lot of ceramics. At an unknown date, likely in July 1990, an unknown person found the burial eroding from the bank of a river in Rhea County, TN, and contacted law enforcement. An investigator from the Rhea County Sheriff's Department contacted Bass for assistance in assessing the burial on July 22, 1990. Bass sent two graduate students, Lee Meadows and Murray Marks, to visit the site with the investigator on July 24, 1990. By the time they arrived, people had begun to loot the site. Meadows and Marks removed the remains and took them back to the FAC for examination. They determined that the remains were Native American, and not of medicolegal concern. Based off the associated funerary objects, the FAC determined the remains dated to around

1200 CE. The remains were retained by the FAC as case 90–27. They remained at the FAC until they were recently transferred to the OR. To our knowledge, the remains and funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of faunal remains. On an unknown date, this individual was found along a river in Roane County, TN. On January 29, 1980, the Roane County Sheriff's Department requested Bass's help in identifying the remains, and they were transferred to Bass that same day. Once Bass determined that they were Native American and not of medicolegal concern, they were retained by the FAC as case 80–3. They remained at the FAC until they were recently transferred to the OR. Some of the remains may have been treated with an unknown preservative, but to our knowledge the remains and funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On March 3, 1993, a sergeant from the Oak Ridge, TN, Police Department brought this individual to Bass for examination. It is unclear whether this individual came from the Anderson County side or the Roane County side of Oak Ridge. After Bass determined the individual was Native American and not of medicolegal concern, they were retained by the FAC as case 93–12. They remained at the FAC until they were recently transferred to the OR. Some of the remains were “repaired” using an unknown glue, and the remains may have been treated with an unknown preservative, but to our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least one individual have been identified. No associated funerary objects are present. In April 1986, a physician at the University of Tennessee Memorial Hospital received the remains from a patient who had removed them from site 40SV28, in Sevier County, TN, on an unknown date. The physician transferred the remains to a radiologist at the hospital, who contacted Bass. Bass received the remains from the radiologist on April 16, 1986. On May 2, 1986, UTK professor Patrick Willey went to the cave with the patient to ascertain if the remains were of forensic interest and reportedly found burial(s) containing at least four individuals. These individuals were left in the cave. The remains previously removed from

the cave were determined to be Native American and not of medicolegal concern and were retained by the FAC as case 86–9. They remained at the FAC until they were recently transferred to the OR. To our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least two individuals have been identified. The one associated funerary object is one lot of faunal remains. On an unknown date, children found the remains in a cave in Sevier County, TN. On March 19, 1993, the Sevier County Sheriff's Office transferred the remains to the FAC for analysis. After Bass and Meadows determined the remains were Native American and not of medicolegal concern, they were retained by the FAC as case 93–14. They remained at the FAC until they were recently transferred to the OR. To our knowledge the remains and funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least two individuals have been identified. No associated funerary objects are present. On May 23, 1998, a fisherman found the remains on an island in Sevier County, TN, and alerted law enforcement. A detective from the Sevier County Sheriff's Office delivered the remains to the FAC later that same day. After Bass determined the remains were Native American and not of medicolegal concern, they were retained by the FAC as case 98–24. They remained at the FAC until they were recently transferred to the OR. To our knowledge the remains were not treated with any potentially hazardous substances.

Human remains representing, at least two individuals have been identified. The four associated funerary objects are one lot of rock, one lot of charcoal, and two lots of faunal remains. When and where these individuals were removed from is unknown, but they were potentially removed from an unknown site in Sevier County, TN in 1986. Two residents of Sevierville, TN sent the remains to the FAC, where they were received on September 16, 1998. After a graduate student examined the remains and determined they were Native American and not of medicolegal concern, they were retained by the FAC as case 98–36. They remained at the FAC until they were recently transferred to the OR. Some of the remains were “repaired” using an unknown glue, but to our knowledge the remains and funerary objects were not treated with any potentially hazardous substances.

Human remains representing, at least one individual have been identified. No

associated funerary objects are present. On November 21, 1985, caretakers for a house in Rock Island, Warren County, TN, contacted police after finding the remains in the garage. The origin of these remains is unknown; they were reportedly left behind by previous short-term rental tenants. A Criminal Investigator for the Warren County Sheriff's Office sent the remains to UTK, where they were received on November 26, 1985. After a doctoral student determined the remains were Native American and not of medicolegal concern, they were retained by the FAC as case 85–33. They remained at the FAC until they were recently transferred to the OR. To our knowledge, the remains were not treated with any potentially hazardous substances.

Human remains representing, at least five individuals have been identified. The four associated funerary objects are one lot of lithics, one lot of ochre, one lot of ceramics, and one lot of faunal remains. In April 1998, children playing in a rock shelter in Warren County, TN, found some of the remains and took them to their parents. The parents contacted the police and a lieutenant from the Warren County Sheriff's Department called Bass for assistance in examining the remains. On April 16, Bass and two of his students met with staff from the Sheriff's Office, who showed them the remains the children had removed. Bass's group then went to the site where they identified extensive looting activities and removed additional remains exposed on the ground surface. All of the removed remains were transferred to the FAC for examination. Once Bass and the graduate students determined the remains were Native American and not of medicolegal concern, they were retained as case 98–19. They remained at the FAC until they were recently transferred to the OR. To our knowledge the remains and associated funerary objects were not treated with any potentially hazardous substances.

Cultural affiliation between these human remains and funerary objects, and the Indian Tribes listed in this notice was established via anthropological information, archaeological information, historical information, geographical information, and oral tradition. Bradley, Cumberland, DeKalb, Grainger, Hamilton, Jefferson, Knox, Loudon, McMinn, Monroe, Morgan, Rhea, Roane, Sevier, and Warren counties are part of the aboriginal lands of the Cherokee and the Muscogee (Creek).

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

UTK has determined that:

- The human remains described in this notice represent the physical remains of 44 individuals of Native American ancestry.
- The 16 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Cherokee Nation; Eastern Band of Cherokee Indians; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, UTK must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. UTK is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–23369 Filed 10–8–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NAGPRA–NPS0038839;
PPWOCRADN0–PCU00RP14.R50000]**

Notice of Inventory Completion: The Fort Ticonderoga Association, Ticonderoga, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), The Fort Ticonderoga Association has completed an inventory of human remains and has determined that there is no lineal descendant and no Indian Tribe or Native Hawaiian organization with cultural affiliation.

DATES: Upon request, repatriation of the human remains in this notice may occur on or after November 8, 2024.

ADDRESSES: Miranda Peters, The Fort Ticonderoga Association, 30 Fort Ti Road, Ticonderoga, NY 12883, telephone (518) 585–1015, email mpeters@fort-ticonderoga.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of The Fort Ticonderoga Association, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On an unknown date, this individual was donated and housed at Fort Ticonderoga. In April 2024, this individual was identified. A handwritten label in their box reads, "Indian scalps." While the label reads multiple individuals present, during the review in April 2024, only one individual was determined to be present. No institutional records of provenance exist for this individual.

Consultation

Invitations to consult were sent to Cayuga Nation; Delaware Nation, Oklahoma; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Saint Regis Mohawk Tribe; Seneca Nation of Indians; Seneca-Cayuga Nation; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca; and the Tuscarora Nation. No parties responded to the invitation, but the Oneida Nation and the Stockbridge Munsee Community, Wisconsin attended consultation with Stockbridge Munsee Community, Wisconsin taking the lead.

Cultural Affiliation

The following types of information about the cultural affiliation of the human remains in this notice are available: geographical. The information, including the results of consultation, identified:

1. No earlier group connected to the human remains.
2. No Indian Tribe or Native Hawaiian organization connected to the human remains.
3. No relationship of shared group identity between the earlier group and the Indian Tribe or Native Hawaiian organization that can be reasonably traced through time.

Determinations

The Fort Ticonderoga Association has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- No known lineal descendant who can trace ancestry to the human remains in this notice has been identified.
- No Indian Tribe or Native Hawaiian organization with cultural affiliation to the human remains in this notice has been clearly or reasonably identified.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Upon request, repatriation of the human remains in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, the Fort Ticonderoga Association must

determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Fort Ticonderoga Association is responsible for sending a copy of this notice to any consulting lineal descendant, Indian Tribe, or Native Hawaiian organization.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–23368 Filed 10–8–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NAGPRA–NPS0038837;
PPWOCRADN0–PCU00RP14.R50000]**

Notice of Inventory Completion: The Fort Ticonderoga Association, Ticonderoga, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), The Fort Ticonderoga Association has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Essex County, NY.

DATES: Repatriation of the human remains in this notice may occur on or after November 8, 2024.

ADDRESSES: Miranda Peters, The Fort Ticonderoga Association, 30 Fort Ti Road, Ticonderoga, NY 12883, telephone (518) 585–1015, email mpeters@fort-ticonderoga.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of The Fort Ticonderoga Association, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. On an unknown date, this individual was found in washout at the top of the hill due north of the northeast corner of the French Lines on the Carillon Battlefield. Since that date they have been housed at Fort Ticonderoga. On April 10, 2024, this individual was identified by an osteologist.

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. On December 5, 2000, this individual was removed on, near, or within the East Terreplein during construction for a new visitors' center. Since that date they have been housed at Fort Ticonderoga. On April 10, 2024, this individual was identified by an osteologist.

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. In early May 2001, the individual was first discovered on a ledge on the south side of the Northeast Bastion and was removed in November 2001. The tooth was surrounded by fine fill that was possibly removed from the East Terreplein in November 2000 during construction for a new visitors' center. Since that date they have been housed at Fort Ticonderoga. On April 10, 2024, this individual was identified by an osteologist.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location and acquisition history of the human remains described in this notice.

Determinations

The Fort Ticonderoga Association has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Cayuga Nation; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Saint Regis Mohawk Tribe; Seneca Nation of Indians; Seneca-Cayuga Nation; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca; and the Tuscarora Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, the Fort Ticonderoga Association must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Fort Ticonderoga Association is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-23366 Filed 10-8-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038838; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: The Fort Ticonderoga Association, Ticonderoga, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), The Fort Ticonderoga Association has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Essex County, NY.

DATES: Repatriation of the human remains in this notice may occur on or after November 8, 2024.

ADDRESSES: Miranda Peters, The Fort Ticonderoga Association, 30 Fort Ti Road, Ticonderoga, NY 12883, telephone (518) 585-1015, email mpeters@fort-ticonderoga.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of The Fort Ticonderoga Association, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, 16 individuals have been reasonably identified. No associated funerary objects are present. On unknown dates, likely prior to the 1970's, individuals were removed during restoration work and were housed at Fort Ticonderoga. On April 9 & 10, 2024, these individuals were identified by an osteologist.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location of the human remains described in this notice.

Determinations

The Fort Ticonderoga Association has determined that:

- The human remains described in this notice represent the physical remains of 16 individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Cayuga Nation; Delaware Nation, Oklahoma; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Saint Regis Mohawk Tribe; Seneca Nation of Indians; Seneca-Cayuga Nation; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca; and the Tuscarora Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, the Fort Ticonderoga Association must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Fort Ticonderoga Association is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-23367 Filed 10-8-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038843;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Army Garrison Fort Cavazos, Fort Cavazos, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Army Garrison Fort Cavazos (formerly, Fort Hood) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary object and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary object in this notice may occur on or after November 8, 2024.

ADDRESSES: Ricky C. Robinson, Archaeologist, Fort Cavazos, Building 4612 Engineer Drive, Fort Cavazos, TX 76544, telephone (254) 287-1092, email ricky.c.robinson2.civ@army.mil.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Fort Cavazos and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, one associated funerary object is present. The one cultural item, a single bone awl, was removed from Bell County, TX. In 1990, the remains of an adult female individual, along with the partial and fragmentary remains of five other individuals, were removed from site 41BL671 by a University of Texas field school. The individual was discovered in a tightly flexed position and a bone pin was found in the abdominal area. The individuals were documented in a Notice of Inventory Completion published in the **Federal Register** on August 14, 1995, returned to the Tonkawa Tribe of Indians of Oklahoma, and reburied in the Comanche National Indian Cemetery on post. The bone awl, currently housed in Fort Cavazos' curation facility, was not returned, and was found in Fort Cavazos' archaeological collections in 2021. No known substances were used to treat the associated funerary object.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the cultural item. The site from which the cultural item originates, 41BL671, has been previously identified as being culturally affiliated with the Tonkawa Tribe of Indians of Oklahoma based on oral traditions and historic accounts of their occupation in central Texas and through consultation with representatives of the Tonkawa Tribe of Indians of Oklahoma.

Determinations

Fort Cavazos has determined that:

- The one cultural item described in this notice is reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is reasonable connection between the cultural item described in this notice and the Tonkawa Tribe of Indians of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the associated funerary object in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the associated funerary object in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, Fort Cavazos must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary object are considered a single request and not competing requests. Fort Cavazos is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-23372 Filed 10-8-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038841;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Hastings Museum, Hastings, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Hastings Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects

in this notice may occur on or after November 8, 2024.

ADDRESSES: Teresa Kreutzer-Hodson, Hastings Museum, 1330 North Burlington Avenue, Hastings, NE 68901, telephone (402) 461-2399, email tkreutzerhodson@cityofhastings.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Hastings Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. The 26 associated funerary objects are the clothes remaining on the body as well as a mixture of tribally made items and US military gear. The clothing consists of a US military long coat with cape, red striped long sleeve cotton shirt, leather belt and loin cloth with beaded leggings, and beaded moccasins. Other funerary objects found with the body include tepee poles, bison robe, pipe bag, hoof rattle, lariat, several other leather bags, trade knife, willow back rest, bow and arrows and a Henry Rifle.

In July 1921, human remains representing one individual and associated funerary objects were removed from a rock ledge overlooking the Powder River near Barnum, Johnson County, Wyoming by Adam Keith. The human remains and associated funerary objects were brought to the Hastings Museum by Albert Brooking and Ray Cole and cataloged in 1930 (09211-09224). These remains were identified in the 1920s as belonging to High Back Wolf III, a Cheyenne warrior killed in 1865. However, there is compelling evidence that this is the body could be of a different Cheyenne man known as Eagle Chef, killed in 1876. Once in the Museum care, the body and associated funerary objects were fumigated on multiple occasions and treated with a mixture of formaldehyde, alcohol and bichloride of mercury. It is highly likely other poisonous substances were used up through the 1970s to prevent insect infestation.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human

remains and associated funerary objects described in this notice.

Determinations

The Hastings Museum has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 26 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Cheyenne and Arapaho Tribes, Oklahoma and the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, the Hastings Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Hastings Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-23370 Filed 10-8-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038842; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM, and New Mexico Junior College—Western Heritage Museum and Lea County Cowboy Hall of Fame, Hobbs, NM

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office (BLM), and New Mexico Junior College—Western Heritage Museum and Lea County Cowboy Hall of Fame (NMJC) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after November 8, 2024.

ADDRESSES: Cynthia Herhahn, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 761-8938, email cherhahn@blm.gov, and Laura Hockensmith, New Mexico Junior College—Western Heritage Museum and Lea County Cowboy Hall of Fame, 1 Thunderbird Circle, Hobbs, NM 88240, telephone (575) 492-2679, email lhockensmith@nmjc.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the BLM and NMJC, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, four individuals have been reasonably identified. Between 1960 and 1970, the individuals were removed from the Lusk Ranch Site (NM-06-2099; LA43721), Eddy County, New Mexico, by Calvin C. Smith, the father of the previous Executive Director of the

Western Heritage Museum. In 2013, the individuals were encountered by volunteer staff at the NMJC. The land from which the individuals were removed is under the control of the BLM and was at the time of removal. The NMJC has no knowledge or record of any potentially hazardous substances being used to treat the human remains. No associated funerary objects are present.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location of the human remains described in this notice.

Determinations

The BLM and NMJC has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Santo Domingo Pueblo; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after November 8, 2024. If competing requests for repatriation are received, the BLM and NMJC must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The BLM and NMJC is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 30, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–23371 Filed 10–8–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–452 and 731–TA–1129–1130 (Third Review)]

Raw Flexible Magnets From China and Taiwan; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the countervailing duty order on raw flexible magnets from China and the antidumping duty orders on raw flexible magnets from China and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: September 6, 2024.

FOR FURTHER INFORMATION CONTACT:

Alexis Yim (202–708–1446), Office of Investigations, U.S. International Trade Commission, 500 E Street SW,

Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On September 6, 2024, the Commission determined that the domestic interested party group response to its notice of institution (89 FR 47607, June 3, 2024) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).²

For further information concerning the conduct of these reviews and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on November 20, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission’s rules.

Written submissions.—As provided in § 207.62(d) of the Commission’s rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,³ and any party other than an interested party to the reviews may file written comments with

¹ A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s website.

² Commissioner Johanson voted to conduct full reviews.

³ The Commission has found the response submitted on behalf of Magnum Magnetic Corporation to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on November 29, 2024, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by November 29, 2024. However, should the Department of Commerce (“Commerce”) extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce’s final results is three business days after the issuance of Commerce’s results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s *Handbook on Filing Procedures*, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission’s rules.

By order of the Commission.

Issued: October 3, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–23273 Filed 10–8–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1361]

Certain Wi-Fi Routers, Wi-Fi Devices, Mesh Wi-Fi Network Devices, and Hardware and Software Components Thereof; Notice of a Commission Determination To Grant a Joint Motion To Terminate the Investigation Based on a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to grant a joint motion to terminate the investigation based on a settlement agreement. The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT:

Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 8, 2023, based on a complaint filed on behalf of Netgear Inc. of San Jose, California (“Netgear”). 88 FR 29693–94 (May 8, 2023). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain Wi-Fi routers, Wi-Fi devices, mesh Wi-Fi network devices, and hardware and software components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,936,714 (“the ‘714 patent’”); 10,681,698 (“the ‘698 patent’”); 10,278,179 (“the ‘179 patent’”); 9,468,205; 10,327,242; and 10,356,681. The complaint further alleged that a domestic industry exists. The Commission’s notice of investigation named as respondents: TP-Link

Technologies Co., Ltd. of Shenzhen, China; TP-Link Corporation Limited, f/k/a TP-Link International Limited of Kowloon, Hong Kong; TP-Link USA Corporation of Irvine, California; and TP-Link Research Institute USA Corp. d/b/a TP-Link Research America Corp. of San Jose, California (collectively, “TP-Link”). The Office of Unfair Import Investigations is not participating in this investigation.

On May 30, 2024, the presiding administrative law judge issued a final initial determination finding a violation of section 337 with respect to claim 13 of the ‘714 patent and claims 12, 15, 17, and 19 of the ‘698 patent, but no violation with respect to claim 11 of the ‘179 patent.

On September 10, 2024, Netgear and TP-Link filed a joint motion to terminate the investigation based on a settlement agreement. On September 11, 2024, Netgear and TP-Link filed a public version of their joint motion to terminate, attaching a redacted version of their settlement agreement.

The Commission has determined to grant the joint motion to terminate because it complies with the requirements of Commission Rule 210.21(b) (19 CFR 210.21(b)). Specifically, the Commission finds that the joint motion includes confidential and public versions of the parties’ settlement agreement and a statement that “[o]ther than a stipulation regarding joint discovery cross-use in the 1405 investigation and stipulations relating to procedural and discovery matters, importation and inventory, hearing procedures, and exhibits in this investigation,” there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. The Commission further finds that there are no extraordinary circumstances that would warrant denial of the requested termination, and termination would not be contrary to the public interest pursuant to Commission Rule 210.50(b)(2) (19 CFR 210.50(b)(2)). The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on October 3, 2024.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 3, 2024.

Lisa Barton,
Secretary to the Commission.
[FR Doc. 2024–23326 Filed 10–8–24; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1200 (Second Review)]

Large Residential Washers From Mexico

Determination

On the basis of the record ¹ developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty order on large residential washers from Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on April 1, 2024 (89 FR 22455) and determined on July 5, 2024, that it would conduct an expedited review (89 FR 67669, August 21, 2024). The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on October 4, 2024. The views of the Commission are contained in USITC Publication 5552 (October 2024), entitled *Large Residential Washers from Mexico: Investigation No. 731–TA–1200 (Second Review)*. By order of the Commission. Issued: October 4, 2024.

Lisa Barton,
Secretary to the Commission.
[FR Doc. 2024–23379 Filed 10–8–24; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Toxic Substances Control Act

On September 30, 2024, the Department of Justice lodged a proposed Consent Decree (the “Consent Decree”) with the District Court of the Southern District of New York in a lawsuit

¹ The record is defined in § 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

entitled *United States of America v. Rose Demolition & Carting Inc.*, Civil Action No. 24–7375. In this action, the United States seeks, injunctive relief from Rose Demolition & Carting Inc., in connection with the defendant’s unlawful work practices during renovations governed by the Renovation, Repair, and Painting Rule, 40 CFR part 745, a rule promulgated under Toxic Substances Control Act (“TSCA”). The proposed consent decree resolves the United States’ claims, requires Rose Demolition & Carting Inc. to pay a \$100,000 penalty, and imposes injunctive relief. The publication of this notice opens the public comment on the proposed settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. Rose Demolition & Carting Inc.*, DJ #90–5–1–1–11139. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Eric D. Albert,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.
[FR Doc. 2024–23034 Filed 10–8–24; 8:45 am]
BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 30, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United*

States v. EMR (USA Holdings) Inc.; Camden Iron & Metal, Inc.; SPC Corporation; Atlas Traders, LLC; Rhino Recycling, Inc.; Delco Metals, Inc.; Tioga Real Estate, LLC; United Compressed Steel Company; Sims Group USA Holdings Corporation; Simsmetal East LLC f/k/a Hugo Neu Schnitzer East; Metal Management Northeast, Inc; and Mercer Group International of New Jersey, Inc., Civil Action No. 1:24–CV–09545–KMW–MJS. The proposed Consent Decree resolves the United States’ claims on behalf of the Environmental Protection Agency (“EPA”) under section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), regarding the Shamrock Enterprises Superfund Site (“Site”), located at 281 Clearfield Avenue, Franklinville, Gloucester County, New Jersey, comprised of 4 lots collectively approximately 52 acres in size and identified as Block 1802, Lots 30, 31, 32, 33 on the Tax Map of Franklin Township, New Jersey. EPA in 2018 removed approximately 3000 compressed gas cylinders containing hazardous substances such as acetylene, ethylene oxide, hydrogen chloride, hydrogen, sulfide, and silane accumulated at the Site. The United States incurred at least \$1,516,119 in response costs at the Site. The settling defendants are generators who sent cylinders containing hazardous substances to the Site and will collectively pay \$900,000.00 to resolve their liability. The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. EMR (USA Holdings) Inc., et al.*, D.J. Ref. No. Number 90–11–3–12494. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Eric D. Albert,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024-23324 Filed 10-8-24; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On September 30, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Utah in the lawsuit entitled *United States and State of Utah v. Ovintiv USA Inc.*, Civil Action No. 2:24-cv-00723-CMR.

The United States and the State of Utah have filed a complaint concurrently with the proposed Consent Decree. The Complaint (ECF No. 1) alleges that Defendant Ovintiv violated requirements of Section 111 of the Clean Air Act, 42 U.S.C. 7411, and its implementing regulations at 40 CFR part 60, subparts OOOO and OOOOa; the Utah Air Conservation Act, Utah Code Ann. section 19-2-101 *et seq.*, and its implementing regulations at Utah Administrative Code r. R307-101-1 *et seq.*; and approval orders issued pursuant to a permitting program in Utah's federally-approved State Implementation Plan, for unlawful emissions of volatile organic compounds ("VOCs") from certain storage vessels and their associated vapor control systems that are or were part of Ovintiv's oil and natural gas production systems in the Uinta Basin. The Consent Decree will require Ovintiv to take specified actions at 139 of its facilities in Utah and pay a civil penalty of \$5,500,000.00 and take pollution mitigation actions to reduce volatile organic compound emissions.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Utah v. Ovintiv USA Inc.*, D.J. Ref. No. 90-5-2-1-12416. All comments must be

submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Jason A. Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024-23306 Filed 10-8-24; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Organization and Auxiliary Reports; Correction

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Notice of information collection; correction.

SUMMARY: The Office of Labor-Management Standards published a document in the **Federal Register** of October 3, 2024, concerning request for comments on amending a current information collection request to include employment identification numbers. The document contained an incorrect address for public comments.

FOR FURTHER INFORMATION CONTACT:

Karen Torre, Chief of the Division of Interpretations and Regulations, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5609, Washington, DC 20210, by telephone at (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD), or by email at olms-public@dol.gov.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 3, 2024, in FR. Doc. 2024-22805, on page 80606, make the following correction:
In the first column, under the heading Addresses, in the fifth line "www.reginfo.gov/public/do/PRAMain." should read "www.regulations.gov/commenton/LMSO-2024-0001-0001." Under the same heading Addresses, starting in the sixth line "Find this particular information collection by selecting 'Currently under 60-day Review—Open for Public Comments' or by using this search function" should be deleted.

Dated: October 3, 2024.

Jeffrey Freund,

Director, Office of Labor-Management Standards.

[FR Doc. 2024-23346 Filed 10-8-24; 8:45 am]

BILLING CODE 4510-86-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Secure Transfer, Research-Use Data Lake

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Chief Evaluation Office (CEO)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before November 8, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and

clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT:

Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The Chief Evaluation Office of the U.S.

Department of Labor is designing and implementing a data lake that will safely promote and expand restricted-use DOL data access to facilitate timely, accurate, and informative analysis, research, and program evaluation. In brief, the project involves: (1) developing a data-sharing infrastructure named Secure Transfer, Research-Use Data Lake (STRUDL); (2) supporting, onboarding, and training of approved STRUDL users for their research; and (3) providing privacy and statistical expertise to evaluate and ensure that research products from STRUDL are protected against disclosure risks and are publicly released in a timely manner. CEO has changed the proposed name of this information collection from “Department of Labor’s Restricted Use Data Access program” to the “Secure Transfer, Research-Use Data Lake” in this submission to OMB. For additional substantive information about this ICR, see the related notices published in the **Federal Register** on August 24, 2023 (89 FR 57975) and September 25, 2024 (89 FR 78337).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–CEO.

Title of Collection: Secure Transfer, Research-Use Data Lake.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 15.

Total Estimated Number of Responses: 105.

Total Estimated Annual Time Burden: 188 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–23364 Filed 10–8–24; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0088]

Proposed Extension of Information Collection; Ventilation Plans, Tests, and Examinations in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information, in accordance with the Paperwork Reduction Act of 1995. This program 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection entitled Ventilation Plans, Tests, and Examinations in Underground Coal Mines.

DATES: All comments must be received on or before December 9, 2024.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2024–0022.

- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and

Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S.

Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at

MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal, and nonmetal mines.

B. Information Collection

In order to fulfill the statutory mandates to promote miners’ health and safety, MSHA requires the collection of information under the information collection request entitled Ventilation Plans, Tests, and Examinations in Underground Coal Mines. The information collection is intended to ensure that required ventilation-related tests and examinations are made and that ventilation systems in underground coal mines are maintained.

Section 303(a) of the Mine Act, 30 U.S.C. 863(a), requires that all underground coal mines be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and that such equipment be examined daily, and a record be kept of such examination.

Underground coal mines present potentially harsh and hostile working environments. The mine ventilation system is the most vital life support system in underground mining and a properly operating ventilation system is essential for maintaining a safe and healthy working environment. Lack of

adequate ventilation in underground mines can result in fatalities from asphyxiation and explosions.

An underground mine is a series of tunnels that must be adequately ventilated with fresh air to provide a safe environment for miners. Methane, and other noxious gases and dusts are liberated from the strata during blasting, operating diesel equipment, and from other mining activities. The explosive and noxious gases and dusts must be diluted, rendered harmless, and carried to the surface by the ventilating currents. Sufficient air must be provided to maintain the level of respirable dust at or below specific exposure limits and air quality must be maintained in accordance with MSHA standards. Mechanical ventilation equipment of sufficient capacity must be operating at all times while miners are in the mine. Additionally, ground conditions are subject to frequent changes; thus, frequent tests and examinations are necessary to ensure the integrity of the ventilation system and to detect any changes that may require adjustments to the system.

Records of tests and examinations are necessary to ensure that the ventilation system is being maintained and changes that could adversely affect the integrity of the ventilation system or the safety of the miners are not occurring. These examination, reporting, and recordkeeping requirements found in 30 CFR 75.310, 75.312, 75.342, 75.351, 75.360 through 75.364, 75.370, 75.371, and 75.382 incorporate examinations of other critical aspects of the underground coal mine work environment such as roof conditions and electrical equipment, that have historically caused numerous fatalities when not properly maintained and operated.

1. Installation of Main Mine Fans (30 CFR 75.310)

Maintaining proper ventilation is essential to miner safety. To ensure that ventilation systems are functioning properly, MSHA requires that main mine fan monitoring system records be continuously collected and reviewed on the surface by a responsible person designated by the operator with adequate communication channels, under 30 CFR 75.310(a)(4) and (c).

Under 30 CFR 75.310(a)(4), mine operators are required to equip each main mine fan with a pressure recording device or system. If a device or system other than a circular pressure recorder is used to monitor main mine fan pressure, the device or system used must provide a continuous graph or continuous chart of the pressure as a function of time. At not more than 7-day

intervals, a hard copy of the continuous graph or chart must be generated, or the record of the fan pressure must be stored electronically. When records of fan pressure are stored electronically, the system used to store these records must be secure, not susceptible to alteration, and be capable of storing the required data. Records of the fan pressure must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Under 30 CFR 75.310(c), if a main mine fan monitoring system is used under section 75.312, the system must:

- (1) record the mine ventilating pressure;
- (2) monitor bearing temperature, revolutions per minute, vibration, electric voltage, and amperage;
- (3) provide a printout of the monitored parameters, including the mine ventilating pressure within a reasonable period, not to exceed the end of the next scheduled shift during which miners are underground; and
- (4) be equipped with an automatic device that signals when an electrical or mechanical deficiency exists in the monitoring system or a sudden increase or loss in mine ventilating pressure occurs.

Under 30 CFR 75.310(c)(5), the main mine fan monitoring system must provide monitoring, records, printouts, and signals required by paragraphs (c)(1) through (c)(4) at a surface location at the mine where a responsible person designated by the operator is always on duty and where signals from the monitoring system can be seen or heard while anyone is underground. This person must be provided with two-way communication with the working sections and workstations where persons are routinely assigned to work for the majority of a shift.

2. Main Mine Fan Examinations and Records (30 CFR 75.312)

Main mine fans are used in all underground coal mines and can move large volumes of air through mines to expel methane and other noxious gases. These mine fan systems are integral to maintaining air quality to ensure miners' health and safety.

2–1. Main Mine Fan Daily Examinations and Records (30 CFR 75.312(a) and (g)(1))

To ensure that main mine fans are functioning properly, each main mine fan and its components must be examined each day that the mine is

operational, and the records must be documented.

Under 30 CFR 75.312(a), to assure their electrical and mechanical reliability, each main mine fan and its associated components, including devices for measuring or recording mine ventilation pressure, must be examined for proper operation by a trained person designated by the operator. Examinations of main mine fans must be made at least once each day that the fan operates, unless a fan monitoring system is used. No examination is required on any day when no one, including certified persons, goes underground, except that an examination must be completed prior to anyone entering the mine.

Under 30 CFR 75.312(g)(1), by the end of the shift on which the examination is made, persons making main mine fan examinations must record all uncorrected defects that may affect the operation of the fan that are not corrected by the end of that shift. Records must be maintained in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

2–2. Main Mine Fan at Use Examination and Records (30 CFR 75.312(b) and (g)(2))

Regular review of the fan monitoring system data is important to miner health and safety so that any issues can be averted in a timely manner. A trained individual must review data on the main mine fan monitoring system daily, examine each main mine fan every 7 days, create certified copies of the data, and make records of any malfunction that occurs. These are required under 30 CFR 75.312(b) and (g)(2).

Under 30 CFR 75.312(b)(1)(i), if a main mine fan monitoring system is used, a trained person designated by the operator must at least once each day review the data provided by the fan monitoring system to assure that the fan and the fan monitoring system are operating properly. No review is required on any day when no one, including certified persons, goes underground, except that a review of the data must be performed prior to anyone entering the underground portion of the mine. Data reviewed must include the fan pressure, bearing temperature, revolutions per minute, vibration, electric voltage, and amperage.

Under 30 CFR 75.312(b)(1)(ii), a trained person must at least every 7 days test the monitoring system for proper operation and examine each main mine fan and its associated components to assure electrical and

mechanical reliability of main mine fans. Under 30 CFR 75.312(b)(2), if the monitoring system malfunctions, the malfunction must be corrected, or examined by a trained person as defined in 75.312(a).

Under 30 CFR 75.312(g)(2)(i), when a fan monitoring system is used in lieu of the daily fan examination, the certified copies of data produced by fan monitoring systems must be maintained separate from other computer-generated reports or data. Under 30 CFR 75.312(g)(2)(ii) a record must be made of any fan monitoring system malfunctions, electrical or mechanical deficiencies in the monitoring system and any sudden increase or loss in mine ventilating pressure. The record must be made by the end of the shift on which the review of the data is completed and must be maintained in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

2–3. Main Mine Fan Monthly Examination and Records (30 CFR 75.312(c), (d) and (g)(3))

To ensure that the automatic fan signal device and automatic doors on each main mine fan are working, mine operators must test these systems monthly by those qualified to do so. This testing is required under 30 CFR 75.312(c) and (d), and the record of that test is required under 30 CFR 75.312(g)(3).

Under 30 CFR 75.312(c) and (d), at least every 31 days, the automatic fan signal device for each main mine fan and automatic closing doors in multiple main mine fan systems must be tested by stopping the fan. Only persons necessary to evaluate the effect of the fan stoppage or restart, or to perform maintenance or repair work that cannot otherwise be made while the fan is operating, is permitted underground. Notwithstanding the provisions of section 75.311, underground power may remain energized during this test provided no one is underground. If the fan is not restarted within 15 minutes, underground power must be deenergized and no one is allowed to enter any underground area of the mine until the fan is restarted and an examination of the mine is conducted as described in paragraphs 75.360 (b) through (e) and the mine has been determined to be safe.

Under 30 CFR 75.312(g)(3), by the end of the shift on which the monthly test of the automatic fan signal device or the automatic closing doors is completed, persons making these tests must record the results of the tests. Records must be

maintained in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

2–4. Certification (30 CFR 75.312(f)(1) and (f)(2))

Documentation of main mine fan examinations must be kept under 30 CFR 75.312(f)(1) along with documentation of the data review from the main mine fan monitoring system under 30 CFR 75.312(f)(2).

Under 30 CFR 75.312(f)(1), persons making main mine fan examinations must certify by initials and date at the fan or another location specified by the operator that the examinations were made. Each certification must identify the main mine fan examined.

Under 30 CFR 75.312(f)(2), persons reviewing data produced by a main mine fan monitoring system must certify by initials and date on a printed copy of the data from the system that the review was completed. In lieu of certification on a copy of the data, the person reviewing the data may certify electronically that the review was completed. Electronic certification must be by handwritten initials and date in a computer system so as to be secure and not susceptible to alteration.

2–5. Retention Periods (30 CFR 75.312(h))

Mine records must be retained for 1 year so that issues can be properly investigated if needed. Under 30 CFR 75.312(h), records, including records of mine fan pressure and the certified copies of data produced by fan monitoring systems, must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

3. Methane Monitors (30 CFR 75.342(a))

Methane monitors are an important warning system throughout mines and must be installed and maintained in order to ensure miner safety.

Under 30 CFR 75.342(a)(1), MSHA approved methane monitors must be installed on all face cutting machines, continuous miners, longwall face equipment, loading machines, and other mechanized equipment used to extract or load coal within the working place.

Under 30 CFR 75.342(a)(4), methane monitors must be maintained in permissible and proper operating condition and must be calibrated with a known air-methane mixture at least once every 31 days. To assure that methane monitors are properly

maintained and calibrated, the operator must:

(i) Use persons properly trained in the maintenance, calibration, and permissibility of methane monitors to calibrate and maintain the devices.

(ii) Maintain a record of all calibration tests of methane monitors. Records must be maintained in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

(iii) Retain the record of calibration tests for 1 year from the date of the test. Records must be retained at a surface location at the mine and made available for inspection by authorized representatives of the Secretary and the representative of miners.

4. Atmospheric Monitoring Systems (30 CFR 75.351)

Regular documentation of the atmospheric monitoring system is necessary due to the importance of the Atmospheric Monitoring System (AMS) to miner safety and health. Regular maintenance and any signals or malfunctions must be recorded, and operators must be trained on an annual basis.

Under 30 CFR 75.351(o)(1), when an AMS is used to comply with 30 CFR 75.323(d)(1)(ii), 75.340(a)(1)(ii), 75.340(a)(2)(ii), 75.350(b), 75.350(d), or 75.362(f), individuals designated by the mine operator must make the following records by the end of the shift in which the following event(s) occur:

(i) If an alert or alarm signal occurs, a record of the date, time, location and type of sensor, and the cause for the activation.

(ii) If an AMS malfunctions, a record of the date, the extent and cause of the malfunction, and the corrective action taken to return the system to proper operation.

(iii) A record of the seven-day tests of alert and alarm signals; calibrations; and maintenance of the AMS must be made by the person(s) performing these actions.

Under 30 CFR 75.351(o)(2), the person entering the record must include their name, date, and signature in the record. Under 30 CFR 75.351(o)(3), the records required by this section must be kept either in a secure book that is not susceptible to alteration, or electronically in a computer system that is secure and not susceptible to alteration. These records must be maintained separately from other records and identifiable by a title, such as the 'AMS log.'

Under 30 CFR 75.351(p), records must be retained for at least 1 year at a surface

location at the mine and made available for inspection by miners and authorized representatives of the Secretary.

Under 30 CFR 75.351(q)(1), all AMS operators must be trained annually in the proper operation of the AMS, conducted as part of a miner's part 48 new miner training (30 CFR 48.5), experienced miner training (30 CFR 48.6), or annual refresher training (30 CFR 48.8). Recordkeeping requirements related to training records requirements are covered in two currently approved ICRs under:

- OMB Control Number 1219–0009, Certificate of Training, which covers miners working in underground mines (30 CFR part 48 Subpart A) and surface mines and surface areas of underground mines (30 CFR part 48 Subpart B).

- OMB Control Number 1219–0131, Training Plans, New Miner Training, Newly-hired Experienced Miner Training, which covers miners engaged in shell dredging or employed at sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mines (30 CFR part 46).

5. Preshift Examinations at Fixed Intervals (30 CFR 75.360)

Examining the work area where miners will work or travel underground is imperative to establishing a safe work environment. In most cases, a work area must be examined by a certified person within 3 hours of the start of a shift, though there are exceptions. Documentation of hazardous conditions and any violations must be documented before any non-certified individuals enter the underground area.

Under 30 CFR 75.360(a)(1), except as provided in paragraph (a)(2) of this section, a certified person designated by the operator must make a preshift examination within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. No person other than certified examiners may enter or remain in any underground area unless a preshift examination has been completed for the established 8-hour interval. The operator must establish 8-hour intervals of time subject to the required preshift examinations.

Under 30 CFR 75.360(a)(2), preshift examinations of areas where pumbers are scheduled to work or travel are not required prior to the pumber entering the areas if the pumber is a certified person and the pumber conducts an examination for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (b)(11) of this section, tests for methane and oxygen deficiency, and

determines if the air is moving in its proper direction in the area where the pumber works or travels. The examination of the area must be completed before the pumber performs any other work. A record of all hazardous conditions and violations of the mandatory health or safety standards found by the pumber must be made and retained in accordance with 30 CFR 75.363.

Under 30 CFR 75.360(b), the person conducting the preshift examination must examine for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (b)(11) of this section, test for methane and oxygen deficiency, and determine if the air is moving in its proper direction at the locations described in sections 30 CFR 75.360(b)(1) through (10).

Under 30 CFR 75.360(f), at each working place examined, the person doing the preshift examination must certify by initials, date, and the time, that the examination was made. In areas required to be examined outby a working section, the certified person must certify by initials, date, and the time at enough locations to show that the entire area has been examined.

Under 30 CFR 75.360(g), a record of the results of each preshift examination, including a record of hazardous conditions and violations of the nine mandatory health or safety standards and their locations found by the examiner during each examination, and of the results and locations of air and methane measurements, must be made on the surface before any persons, other than certified persons conducting examinations required by this subpart, enter any underground area of the mine. The results of methane tests must be recorded as the percentage of methane measured by the examiner. The record must be made by the certified person who made the examination or by a person designated by the operator. If the record is made by someone other than the examiner, the examiner must verify the record by initials and date by or at the end of the shift for which the examination was made. A record must also be made by a certified person of the action taken to correct hazardous conditions and violations of mandatory health or safety standards found during the preshift examination. All preshift and corrective action records must be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The records required by this section must be made in a secure book that is not susceptible to alteration

or electronically in a computer system so as to be secure and not susceptible to alteration.

Under 30 CFR 75.360(h), these records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

6. On-Shift Examinations (30 CFR 75.362)

During periods of multiple shifts, several examinations must take place between shifts or shortly after a shift change. Examinations for respirable dust controls, hazardous conditions and violations of mandatory health or safety standards, methane and oxygen deficiency, and proper air movement must take place and be certified and countersigned by the mine foreman.

6–1. On-Shift Examinations for Hazardous Conditions (30 CFR 75.362(a)(1))

Under 30 CFR 75.362(a)(1), at least once during each shift, or more often if necessary for safety, a certified person designated by the operator must conduct an on-shift examination of each section where anyone is assigned to work during the shift and any area where mechanized mining equipment is being installed or removed during the shift. The certified person must check for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (a)(3) of this section, test for methane and oxygen deficiency, and determine if the air is moving in its proper direction.

6–2. On-Shift Examinations for Respirable Dust (30 CFR 75.362(a)(2))

Under 30 CFR 75.362(a)(2), a person designated by the operator must conduct an examination and record the results and the corrective actions taken to assure compliance with the respirable dust control parameters specified in the approved mine ventilation plan. In those instances when a shift change is accomplished without an interruption in production on a section, the examination must be made anytime within 1 hour after the shift change. In those instances when there is an interruption in production during the shift change, the examination must be made before production begins on a section. Deficiencies in dust controls must be corrected before production begins or resumes. The examination must include: Air quantities and velocities; water pressures and flow rates; excessive leakage in the water delivery system; water spray numbers

and orientations; section ventilation and control device placement; roof bolting machine dust collector vacuum levels; scrubber air flow rate; work practices required by the ventilation plan; and any other dust suppression measures. Measurements of the air velocity and quantity, water pressure and flow rates are not required if continuous monitoring of these controls is used and indicates that the dust controls are functioning properly.

6–3. Certification (30 CFR 75.362(g))

Documentation of on-shift examinations in belt haulage entries must be made and retained under 30 CFR 75.362(g).

Under 30 CFR 75.362(g)(1), the person conducting the on-shift examination in belt haulage entries must certify by initials, date, and time that the examination was made. The certified person must certify by initials, date, and the time at enough locations to show that the entire area has been examined.

Under 30 CFR 75.362(g)(2), the certified person directing the on-shift examination to assure compliance with the respirable dust control parameters specified in the approved mine ventilation plan must:

(i) Certify by initials, date, and time on a board maintained at the section load-out or similar location showing that the examination was made prior to resuming production; and

(ii) Verify, by initials and date, the record of the results of the examination required under (a)(2) of this section to assure compliance with the respirable dust control parameters specified in the mine ventilation plan. The verification must be made no later than the end of the shift for which the examination was made.

Under 30 CFR 75.362(g)(3), the mine foreman or equivalent mine official must countersign each examination record required under (a)(2) of this section after it is verified by the certified person under (g)(2)(ii) of this section, and no later than the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

Under 30 CFR 75.362(g)(4), records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

7. Supplemental Examinations for Hazardous Conditions and Violations of Mandatory Health or Safety Standards (30 CFR 75.361 and 75.363)

Supplemental examinations must be made when violations and hazardous conditions are identified during regular examinations. Hazardous conditions that are identified must be posted with a danger sign until the conditions are corrected. Records of these incidents must be made by a certified individual or other authorized individual and must be kept for 1 year.

7–1. Supplemental Examination for Hazardous Conditions (30 CFR 75.361 and 75.363(a))

Under 30 CFR 75.361(a)(1), except for certified persons conducting examinations required by this subpart, within 3 hours before anyone enters an area in which a preshift examination has not been made for that shift, a certified person must examine the area for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (a)(2) of this section, determine whether the air is traveling in its proper direction and at its normal volume, and test for methane and oxygen deficiency.

Under 30 CFR 75.361(a)(2) supplemental examinations must include examinations to identify violations of the standards listed below: roof control; ventilation, methane; accumulations of combustible materials and application of rock dust; other safeguards, limited to maintenance of travelways along belt conveyors, off track haulage roadways, and track haulage, track switches, and other components for haulage; guarding moving machine parts; and maintenance of belt conveyor components.

Under 30 CFR 75.361(b), at each working place examined, the person making the supplemental examination must certify by initials, date, and the time, that the examination was made. In areas required to be examined outby a working section, the certified person must certify by initials, date, and the time at enough locations to show that the entire area has been examined.

Under 30 CFR 75.363(a), any hazardous condition found by the mine foreman or equivalent mine official, assistant mine foreman or equivalent mine official, or other certified persons designated by the operator for the purposes of conducting examinations under this subpart D—Ventilation, must be posted with a conspicuous danger sign where anyone entering the areas would pass. A hazardous condition must be corrected immediately or the

area must remain posted until the hazardous condition is corrected. If the condition creates an imminent danger, everyone except those persons referred to in section 104(c) of the Mine Act must be withdrawn from the area affected to a safe area until the hazardous condition is corrected. Only persons designated by the operator to correct or evaluate the hazardous condition may enter the posted area. Any violation of a mandatory health or safety standard found during a preshift, supplemental, on-shift, or weekly examination must be corrected.

7–2. Violations of Mandatory Health or Safety Standards (30 CFR 75.363(b))

Under 30 CFR 75.363(b), a record must be made of any hazardous condition and any violation of the nine mandatory health or safety standards found by the mine examiner. This record must be kept in a book maintained for this purpose on the surface at the mine. The record must be made by the completion of the shift on which the hazardous condition or violation of the nine mandatory health or safety standards is found and must include the nature and location of the hazardous condition or violation and the corrective action taken. This record is not required for shifts when no hazardous conditions or violations of the nine mandatory health or safety standards are found.

7–3. Recordkeeping and Retention (30 CFR 75.363(c) and (d))

Under 30 CFR 75.363(c), the record must be made by the certified person who conducted the examination or a person designated by the operator. If made by a person other than the certified person, the certified person must verify the record by initials and date by or at the end of the shift for which the examination was made. Records must be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

Under 30 CFR 75.363(d), records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

8. Weekly Examinations (30 CFR 75.364)

Weekly examinations are another component of keeping miners safe and healthy. Examinations of unsealed worked-out areas must include the measurements of methane and oxygen concentrations and other measurements such as air quantity. The results of the examinations must be recorded before the end of the shift during which they were performed. In addition, hazardous conditions examinations must take place weekly, and any hazardous conditions identified must be corrected immediately. If the hazard poses danger, all unnecessary individuals must be removed from the area. Finally, the records of these examinations must be recorded and certified.

8–1. Weekly Examination of Worked-Out Areas (30 CFR 75.364(a) and (h))

Under 30 CFR 75.364(a)(1), at least every 7 days, a certified person must examine unsealed worked-out areas where no pillars have been recovered by traveling to the area of deepest penetration; measuring methane and oxygen concentrations and air quantities and making tests to determine if the air is moving in the proper direction in the area. The locations of measurement points where tests and measurements will be performed must be included in the mine ventilation plan and must be adequate in number and location to assure ventilation and air quality in the area. Air quantity measurements must also be made where the air enters and leaves the worked-out area. An alternative method of evaluating the ventilation of the area may be approved in the ventilation plan.

Under 30 CFR 75.364(h), at the completion of any shift during which a portion of a weekly examination is conducted, a record of the results of each weekly examination, including a record of hazardous conditions and violations of the nine mandatory health or safety standards found during each examination and their locations, the corrective action taken, and the results and location of air and methane measurements, must be made. The results of methane tests must be recorded as the percentage of methane measured by the examiner. The record must be made by the person making the examination or a person designated by the operator. If made by a person other than the examiner, the examiner must verify the record by initials and date by or at the end of the shift for which the examination was made. The record must be countersigned by the mine foreman or equivalent mine official by the end of

the mine foreman's or equivalent mine official's next regularly scheduled working shift. The records required by this section must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

8–2. Weekly Examination of Hazardous Conditions (30 CFR 75.364(b) and (d))

Under 30 CFR 75.364(b), at least every 7 days, an examination for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (b)(8) of this section must be made by a certified person designated by the operator at locations listed in paragraphs (b)(1) through (b)(7) of this section.

Under 30 CFR 75.364(d), hazardous conditions must be corrected immediately. If the condition creates an imminent danger, everyone except those persons referred to in section 104(c) of the Mine Act must be withdrawn from the area affected to a safe area until the hazardous condition is corrected. Any violation of the nine mandatory health or safety standards found during a weekly examination must be corrected.

8–3. Certification, Recordkeeping and Retention (30 CFR 75.363(g), (h), and (i))

Under 30 CFR 75.364(g), the person making the weekly examinations must certify by initials, date, and the time that the examination was made. Certifications and times must appear at enough locations to show that the entire area has been examined.

Under 30 CFR 75.364(i), records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

9. Submission and Approval of Mine Ventilation Plan (30 CFR 75.370 and 75.371)

Mine operators must create a written ventilation plan for each mine to control methane and respirable dust. The written plan must be approved by the district manager along with any revisions. To best protect miners, the ventilation plan must be given to the representative of miners at least 5 days before submitting the plan and allowed feedback from the representative. Finally, the plan must be approved by the district manager and reviewed by MSHA every 6 months.

9–1. Mine Ventilation Plans (30 CFR 75.370(a)(1) and (2))

Under 30 CFR 75.370(a)(1), the mine operator must develop and follow a ventilation plan approved by the district manager. The plan must be designed to control methane and respirable dust and must be suitable to the conditions and mining system at the mine. The ventilation plan must consist of two parts, the plan content as prescribed in 30 CFR 75.371 and the ventilation map with information as prescribed in section 75.372. Only that portion of the map which contains information required under 30 CFR 75.371 will be subject to approval by the district manager.

Under 30 CFR 75.370(a)(2), the proposed ventilation plan and any revision to the must be submitted in writing to the district manager. When revisions to a ventilation plan are proposed, only the revised pages, maps, or sketches of the plan need to be submitted. When required in writing by the district manager, the operator must submit a fully revised plan by consolidating the plan and all revisions in an orderly manner and by deleting all outdated material.

9–2. Mine Ventilation Plan Contents for Diesel-Powered Equipment (30 CFR 75.371)

The contents of mine ventilation plan are described in detail in 30 CFR 75.371. Mine operators utilizing diesel-powered equipment in underground coal mines must submit to the appropriate MSHA District Manager a revised ventilation plan or appropriate amendments to the existing plan, in accordance with requirements in 30 CFR 75.325 (air quality) and 70.1900 (exhaust gas monitoring) for approval.

If diesel-powered equipment is used in underground coal mines, the mine ventilation plan must include the following information:

(1) The minimum quantity of air that will be provided during the installation and removal of mechanized mining equipment, the location where this quantity will be provided, and the ventilation controls that will be used (*see* 30 CFR 75.371(r)).

(2) Location where the air quantity will be maintained at the section loading point (*see* 30 CFR 75.371(tt)).

(3) Areas designated by the district manager where measurements of CO and NO₂ concentrations will be made (*see* 30 CFR 75.371(ss)).

(4) Any additional location(s) required by the district manager where a minimum air quantity must be maintained for an individual unit of

diesel-powered equipment. (*see* 30 CFR 75.371(uu)).

(5) The minimum air quantities that will be provided where multiple units of diesel-powered equipment are operated (*see* 30 CFR 75.371(vv)).

(6) The diesel-powered mining equipment excluded from the calculation under 30 CFR 75.325(g) (*see* 30 CFR 75.371(ww)).

(7) Action levels higher than the 50 percent level specified by 30 CFR 70.1900(c) (*see* 30 CFR 75.371(xx)).

9–3. Miner Notification; Copies of Ventilation Plan Revisions 30 CFR 75.370

Under 30 CFR 75.370(a)(3), the mine operator must notify the representative of miners at least 5 days prior to submission of a mine ventilation plan and any revision to a mine ventilation plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification. In the event of a situation requiring immediate action on a plan revision, notification of the revision must be given, and if requested, a copy of the revision must be provided, to the representative of miners by the operator at the time of submittal. A copy of the proposed ventilation plan, and a copy of any proposed revision, submitted for approval must be made available for inspection by the representative of miners. A copy of the proposed ventilation plan, and a copy of any proposed revision, submitted for approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn or denied.

Under 30 CFR 75.370(b), following receipt of the proposed plan or proposed revision, the representative of miners may submit timely comments to the district manager, in writing, for consideration during the review process. A copy of these comments must also be provided to the operator by the district manager upon request.

Under 30 CFR 75.370(c), the district manager will notify the operator in writing of the approval or denial of approval of a proposed ventilation plan or proposed revision. A copy of this notification will be sent to the representative of miners by the district manager. If the district manager denies approval of a proposed plan or revision, the deficiencies of the plan or revision must be specified in writing and the operator will be provided an opportunity to discuss the deficiencies with the district manager.

Under 30 CFR 75.370(f), the approved ventilation plan and any revisions must be:

- (i) Provided upon request to the representative of miners by the operator following notification of approval;
- (ii) Made available for inspection by the representative of miners; and
- (iii) Posted on the mine bulletin board within 1 working day following notification of approval. The approved plan and revisions must remain posted on the bulletin board for the period that they are in effect.

9–4. Ventilation Plan Reviewed by MSHA (30 CFR 75.370(g))

Under 30 CFR 75.370(g), the ventilation plan for each mine must be reviewed every 6 months by an authorized representative of the Secretary to assure that it is suitable to current conditions in the mine.

10. Mechanical Escape Facilities (30 CFR 75.382)

In order to ensure that mechanical escape facilities are operational, they must be equipped with certain controls, examined weekly during the daily examination (under 30 CFR 75.1400–3) by a certified person and documentation of that certification must be recorded.

Under 30 CFR 75.382(a), (b), and (c), mechanical escape facilities must be provided with overspeed, overwind, and automatic stop controls. Every mechanical escape facility with a platform, cage, or other device must be equipped with brakes that can stop the fully loaded platform, cage, or other device. Mechanical escape facilities, including automatic elevators, must be examined weekly. The weekly examination of this equipment may be conducted at the same time as a daily examination required by 30 CFR 75.1400–3. The weekly examination must include an examination of the headgear, connections, links and chains, overspeed and overwind controls, automatic stop controls, and other facilities. At least once each week, the hoist must be run through one complete cycle of operation to determine that it is operating properly.

Under 30 CFR 75.382(g), the person making the examination as required by paragraph (c) of this section must certify by initials, date, and the time that the examination was made. Certifications must be made at or near the facility examined.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Ventilation Plans, Tests, and Examinations in

Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The information collection request will be available on <https://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns provisions for Ventilation Plans, Tests, and Examinations in Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0088.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 225.
Frequency: On occasion.

Number of Annual Responses: 1,910,978.
Annual Time Burden: 150,674 hours.
Annual Other Burden Costs: \$69,865.
Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at <https://www.reginfo.gov>.

Song-ae Aromie Noe,
Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2024-23373 Filed 10-8-24; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2021-0003]

COVID-19 Recordkeeping and Reporting in Healthcare Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the COVID-19 Recordkeeping and Reporting in Healthcare Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by December 9, 2024.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to <https://www.regulations.gov>. Documents in the docket are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the websites. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202)

693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2021-0003) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to protect workers from the grave danger posed by COVID-19 in healthcare.

The COVID-19 Recordkeeping and Reporting in Healthcare Standard (29 CFR 1910.502; hereafter, "the Standard") contains information collection requirements that require employers to: establish and maintain a COVID-19 log of each instance identified by the employer in which an employee is COVID-19 positive, regardless of whether the instance is connected to exposure to COVID-19 at work; make available upon employee request, the individual COVID-19 log entry for examination and copying to that requested authorized employee and to anyone having written consent of that employee by the end of the day; report to OSHA each work-related COVID-19 fatality within 8 hours of the employer and each work-related COVID-19 in-patient hospitalization within 24 hours of the employer learning about the in-patient hospitalization.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the COVID-19 Recordkeeping and Reporting in Healthcare Standard. The agency is requesting an adjustment decrease in burden from 23,715 to 23,714 hours, a difference of one hour. This reduction is due to rounding up the totals from decimals to whole numbers.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: COVID-19 Recordkeeping and Reporting in Healthcare Standard.

OMB Control Number: 1218-0277.

Affected Public: Business or other for-profits.

Number of Respondents: 748,814.

Number of Responses: 207,860.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 23,714.

Estimated Cost (Operation and Maintenance): \$0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2021-0003). You may supplement electronic submission by uploading document files electronically.

Comments and submissions are posted without change at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <https://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <https://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link.

Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627 for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8-2020 (85 FR 58393).

Signed at Washington, DC, on October 2, 2024.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024-23363 Filed 10-8-24; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24-070]

Agency Information Collection: NASA Communications Research

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of new information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, under the Paperwork Reduction Act, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by November 8, 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 30-day Review-Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256-714-8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection supports NASA's efforts to implement the National Aeronautics and Space Act, as amended, 51 U.S.C. 20112(a)(3) to better understand and inform strategies to improve the outcomes in how we "provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof." Through this effort, NASA seeks to collect information that will help best understand the current results of its communications to the

American public, and how to apply resources to most efficiently and effectively fulfill that foundational function of NASA. This data collection is part of an effort to have an audience-oriented and data-driven approach to assessing NASA's performance against this mandate in a manner that is objective, standardized, and repeatable.

This information will be used by NASA to measure the American public's knowledge of the agency, its activities, the overall sector and the government's role in it, and how those factors vary across demographics. This type of research is standard in the commercial communications industry. NASA will use the information to adjust its communication strategies and methods, widen dissemination, better reach demographics with low awareness or misinformation, and tailor information to specific appropriate audiences, ensuring more effective and equitable dissemination.

II. Methods of Collection

Web-based, email, and telephone.

III. Data

Title: NASA Communications Research.

OMB Number: 2700-xxxx.

Type of review: New Information Collection.

Affected Public: Individuals in the U.S. Population.

Estimated Annual Number of Activities: 1,500.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 1,500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 375 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–23338 Filed 10–8–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–069; NASA Docket Number: NASA–2024–0012]

Agency Information Collection: NASA Assurance of Civil Rights Compliance

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a renewal for information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by December 9, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at <http://www.regulations.gov> and search for NASA Docket NASA–2024–0012.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity and the Office of Procurement, in accordance with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, requires grant awardees to submit an assurance of non-discrimination (NASA Form 1206) as part of their initial grant application package.

The requirement for assurance of nondiscrimination compliance

associated with federally assisted programs is long standing, derives from civil rights implementing regulations, and extends to the grant recipient's sub-grantees, contractors, successors, transferees, and assignees. Grant selectees are required to submit compliance information triennially when their award period exceeds 36 consecutive months. This information collection will also be used to enable NASA to conduct post-award civil rights compliance reviews.

II. Methods of Collection

Electronic.

III. Data

Title: NASA Assurance of Civil Rights Compliance.

OMB Number: 2700–0148.

Type of review: Extension of a previously approved information collection.

Affected Public: Business, other for-profit, or not-for-profit.

Estimated Annual Number of Activities: 50.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 50.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 200 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–23333 Filed 10–8–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–0021; NARA–2024–056]

Records Schedules; Notice of Withdrawal

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice; withdrawal.

SUMMARY: On October 1, 2024, the National Archives and Records Administration (NARA) published a **Federal Register** notice to allow public comment on the records schedules listed at the end of this notice. The notice is hereby withdrawn.

DATES: The document published at 89 FR 79966 on October 1, 2024, is withdrawn as of October 9, 2024.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Strategy and Performance Division, by email at regulation_comments@nara.gov. For information about records schedules, contact Records Management Operations by email at request.schedule@nara.gov or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We publish notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

When the records schedule notice was published on October 1, 2024, at 89 FR 79966, the link to the URL for the [regulations.gov](https://www.regulations.gov) docket for the schedules was incorrect. Due to this clerical error, the notice will be withdrawn and the schedules will be reposted as soon as possible in a new notice, allowing the full 45-day comment period for the public to submit comments.

Schedules Withdrawn

1. Department of Energy, Southeastern Power Administration, Environmental Retention Program (DAA–0388–2024–0007).

2. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Medical Countermeasures (DAA–0611–2023–0003).

3. Department of Justice, Office of the Deputy Attorney General, Justice Manual Records (DAA–0060–2024–0016).

4. Export-Import Bank of the United States, Agency-wide, Records of the Office of the Inspector General (DAA-0275-2024-0001).

5. Library of Congress, Agency-wide, Library Archives and Research 2024 updates (DAA-0297-2024-0008).

6. Library of Congress, Agency-wide, Outreach 2024 Updates (DAA-0297-2024-0009).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2024-23329 Filed 10-8-24; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold twenty-six meetings, by video conference, of the Humanities Panel, a Federal advisory committee, during November 2024. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5 p.m. on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; evoyatzis@neh.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. 10), notice is hereby given of the following meetings:

1. Date: November 1, 2024

This video meeting will discuss applications on the topics of Arts and Culture, for the Media Projects: Production Grants program, submitted to the Division of Public Programs.

2. Date: November 1, 2024

This video meeting will discuss applications on the topic of Health Humanities, for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs Access.

submitted to the Division of Education Programs Access.

3. Date: November 1, 2024

This video meeting will discuss applications on the topic of Environmental Humanities, for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

4. Date: November 4, 2024

This video meeting will discuss applications on the topics of Language, Culture, and History, for Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

5. Date: November 5, 2024

This video meeting will discuss applications on the topic of Art History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

6. Date: November 7, 2024

This video meeting will discuss applications on the topic of U.S. History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

7. Date: November 7, 2024

This video meeting will discuss applications on the topic of Indigenous Studies, for the Public Humanities Project: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

8. Date: November 7, 2024

This video meeting will discuss applications on the topics of Justice, Law, and Digital Humanities, for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

9. Date: November 7, 2024

This video meeting will discuss applications on the topics of Civic Engagement, Law, and Religion, for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

10. Date: November 12, 2024

This video meeting will discuss applications on the topic of Environmental Humanities, for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

11. Date: November 13, 2024

This video meeting will discuss applications on the topics of Health Humanities and Philosophy, for the Humanities Connections Implementation Grants program, submitted to the Division of Education Programs.

12. Date: November 13, 2024

This video meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

13. Date: November 13, 2024

This video meeting will discuss applications on the topic of Art History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

14. Date: November 14, 2024

This video meeting will discuss applications on the topic of African American Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

15. Date: November 14, 2024

This video meeting will discuss applications on the topic of U.S. History, for the Public Humanities Projects: Exhibitions (Implementation) grant program, submitted to the Division of Public Programs.

16. Date: November 14, 2024

This video meeting will discuss applications on the topics of AI and Communication, for the Dangers and Opportunities of Technology: Perspectives from the Humanities (Collaborative) grant program, submitted to the Office of Digital Humanities.

17. Date: November 14, 2024

This video meeting will discuss applications on the topics of AI, Technology, Computer Science, for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

18. Date: November 14, 2024

This video meeting will discuss applications on the topics of Gen Ed and Digital Humanities Business, for the Humanities Connections Planning Grants program, submitted to the Division of Education Programs.

19. Date: November 15, 2024

This video meeting will discuss applications on the topic of American

Studies, for the Media Projects: Production Grants program, submitted to the Division of Public Programs.

20. Date: November 18, 2024

This video meeting will discuss applications on the topics of Critical Data and Cultural Studies, for the Dangers and Opportunities of Technology: Perspectives from the Humanities (Collaborative) grant program, submitted to the Office of Digital Humanities.

21. Date: November 18, 2024

This video meeting will discuss applications for the Dynamic Language Infrastructure—Documenting Endangered Languages Fellowships grant program, submitted to the Division of Research Programs.

22. Date: November 19, 2024

This video meeting will discuss applications on the topic of Ethnography, for the Archaeological and Ethnographic Field Research grant program, submitted to the Division of Research Programs.

23. Date: November 19, 2024

This video meeting will discuss applications on the topics of AI and Media, for the Dangers and Opportunities of Technology: Perspectives from the Humanities (Collaborative) grant program, submitted to the Office of Digital Humanities.

24. Date: November 19, 2024

This video meeting will discuss applications on the topic of U.S. History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

25. Date: November 25, 2024

This video meeting will discuss applications on the topic of Ethics, for the Dangers and Opportunities of Technology: Perspectives from the Humanities (Collaborative) grant program, submitted to the Office of Digital Humanities.

26. Date: November 26, 2024

This video meeting will discuss applications on the topic of World Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections

552b(c)(4) and 552b(c)(6) of title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: October 4, 2024.

Jessica Graves,
Paralegal Specialist, National Endowment for the Humanities.

[FR Doc. 2024–23362 Filed 10–8–24; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0194]

Information Collection: Financial Protection Requirements and Indemnity Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Financial Protection Requirements and Indemnity Agreements.”

DATES: Submit comments by November 8, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0194 when contacting the NRC about the availability of information for this

action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2023–0194.
- **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. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML24211A167 and ML23319A325.

- **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.

- **NRC's Clearance Officer:** A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "Part 140 of title 10 of the Code of Federal Regulations (10 CFR), Financial Protection Requirements and Indemnity Agreements." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 18, 2024, 89 FR 51556.

1. *The title of the information collection:* Part 140 of title 10 of the Code of Federal Regulations (10 CFR), Financial Protection Requirements and Indemnity Agreements.

2. *OMB approval number:* 3150-0039.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* Annually, and on occasion, as needed for applicants and licensees to meet their responsibilities called for in Sections 170 and 193 of the Atomic Energy Act of 1954, as amended (AEA).

6. *Who will be required or asked to respond:* Each applicant for or holder of a license issued under 10 CFR parts 50 or 54, to operate a nuclear reactor, or the applicant for or holder of a combined license issued under 10 CFR parts 52 or 54, as well as licensees authorized to possess and use plutonium in a plutonium processing and fuel fabrication plant. In addition, licensees authorized to construct and operate a uranium enrichment facility in accordance with 10 CFR parts 40 and 70.

7. *The estimated number of annual responses:* 110.

8. *The estimated number of annual respondents:* 110.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 768 hours.

10. *Abstract:* Part 140 of 10 CFR specifies the information to be submitted by licensees that enables the NRC to assess: (a) financial protection required by licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to Section 170 of the AEA, as amended; and (b) the liability insurance required opinion.

Dated: October 3, 2024.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024-23342 Filed 10-8-24; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council Virtual Hybrid Public Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Federal Salary Council (Council) will hold a hybrid (virtual/in-person) meeting on Monday, November 18, 2024, at the time shown below. The Council will consider relevant data in the meeting and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay areas and boundaries for 2026.

DATES: The hybrid meeting will be held on Monday, November 18, 2024, beginning at 10 a.m. eastern standard time.

ADDRESSES: This meeting will convene virtually or in person at: Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by email at paypolicy@opm.gov or by telephone at (202) 606-2858.

SUPPLEMENTARY INFORMATION: The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under 5 U.S.C. 5304. The Council's recommendations

cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

Public Participation: The November 18, 2024, meeting of the Federal Salary Council is open to the public through advanced registration at <https://events.gcc.teams.microsoft.com/event/81392f11-52ca-4a08-90ba-d83bed827995@844ef997-7b63-48f0-882a-7dc8162e363b>. All individuals who plan to attend the hybrid public meeting must register no later than Monday, November 11, 2024.

Members of the press, in addition to registering for this event, must also RSVP to media@opm.gov by November 11, 2024.

A confirmation email will be sent upon receipt of the registration. If you do not receive the confirmation email within a business day of registering, please check your spam filter or junk email folder.

Individuals who wish to provide testimony or present material at the meeting should indicate so when registering (an OPM staff member will be in contact with you to discuss providing testimony). In addition, please be aware that the Council may need to set limits on the time that will be provided for hearing oral testimony in the meeting. However, the Council can consider lengthier input in written material provided in advance of the public meeting. There are no restrictions on format for such written input.

Meeting Agenda: The Council will hear public testimony about the locality pay program, review the results of pay comparisons, and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay areas and boundaries for 2026.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024-23348 Filed 10-8-24; 8:45 am]

BILLING CODE 6325-39-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2024-426; MC2025-11 and K2025-11; MC2025-15 and K2025-15; MC2025-16 and K2025-16; MC2025-17 and K2025-17; MC2025-18 and K2025-18; MC2025-20 and K2025-19; MC2025-21 and K2025-20; MC2025-23 and K2025-22; MC2025-24 and K2025-23; MC2025-25 and K2025-24]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 11, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2024-426; *Filing Title:* USPS Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 153, with Material Filed Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 CFR 3041.505; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 11, 2024.

2. *Docket No(s):* MC2025-11 and K2025-11; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 427 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* October 11, 2024.

3. *Docket No(s):* MC2025-15 and K2025-15; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 430 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 11, 2024.

4. *Docket No(s):* MC2025-16 and K2025-16; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 431 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 11, 2024.

5. *Docket No(s):* MC2025-17 and K2025-17; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 432 to the Competitive Product List and Notice of Filing Materials Under Seal;

Filing Acceptance Date: October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Jana Slovinska; *Comments Due:* October 11, 2024.

6. *Docket No(s):* MC2025-18 and K2025-18; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 433 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Samuel Robinson; *Comments Due:* October 11, 2024.

7. *Docket No(s):* MC2025-20 and K2025-19; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 373 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Samuel Robinson; *Comments Due:* October 11, 2024.

8. *Docket No(s):* MC2025-21 and K2025-20; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 434 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 11, 2024.

9. *Docket No(s):* MC2025-23 and K2025-22; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 436 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 11, 2024.

10. *Docket No(s):* MC2025-24 and K2025-23; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 437 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Gregory Stanton; *Comments Due:* October 11, 2024.

11. *Docket No(s):* MC2025-25 and K2025-24; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 438 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public*

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

Representative: Jennaca D. Upperman;
Comments Due: October 11, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024-23398 Filed 10-8-24; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101238; File No. SR-NASDAQ-2024-045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Modify the Application of the Minimum Bid Price Compliance Periods and the Delisting Appeals Process for Bid Price Non-Compliance in Listing Rules 5810 and 5815 Under Certain Circumstances

October 3, 2024.

On August 6, 2024, The Nasdaq Stock Market LLC (“Nasdaq”) 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 modify the application of the minimum bid price compliance periods and the delisting appeals process for bid price non-compliance in Nasdaq Listing Rules 5810 and 5815 under certain circumstances. The proposed rule change was published for comment in the **Federal Register** on August 23, 2024.³

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is October 7,

2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates November 21, 2024, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NASDAQ-2024-045).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-23287 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101244; File No. SR-CboeBYX-2024-035]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation Date of Functionality That Will Provide Members and Clearing Members With the Option To Utilize Additional Credit Risk Settings Under Interpretation and Policy .03 of Rule 11.13 (“Aggregate Credit Risk Checks”)

October 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2024, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to extend the implementation date of functionality that will provide Members and Clearing Members with the option to utilize additional credit risk settings under Interpretation and Policy .03 or Rule 11.13 (“Aggregate Credit Risk Checks”).

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/byx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal to extend the implementation date of functionality providing Members and Clearing Members with the option to utilize additional Aggregate Credit Risk Checks. The functionality relating to these additional risk settings was submitted by the Exchange on an immediately effective basis on May 29, 2024.³

The Aggregate Credit Risk Checks offered under Interpretation and Policy .03 or Rule 11.13, provide Members and Clearing Members with additional, optional credit risk settings, at the Market Participant Identifier (“MPID”) level and/or to a subset of orders identified within the MPID level (the “risk group identifier” level) that authorizes the Exchange to take automated action if a designated limit for a Member is breached. These risk

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 100767 (Aug. 19, 2024), 89 FR 68228. Comments on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nasdaq-2024-045/srnasdaq2024045.htm>.

⁴ 15 U.S.C. 78s(b)(2).

³ See Securities Exchange Act Release No. 100317 (June 11, 2024), 89 FR 51380 (June 17, 2024) (SR-CboeBYX-2024-017).

settings will provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange. Specifically, the Exchange intends to offer two aggregate credit risk settings as follows:

- The “Aggregate Gross Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and
- The “Aggregate Net Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The Exchange initially proposed to implement the Aggregate Credit Risk Checks by October 31, 2024. While this date is not included in the relevant rule text codifying the Aggregate Credit Risk Checks, the Exchange separately notates in its rulebook when it plans to implement new functionality that was either immediately effective upon rule filing, or approved by the SEC. Estimated implementation dates are sometimes necessary so because implementing new functionality sometimes requires additional time to develop, test, and deploy, and such timeline may not always coincide with the statutory rule filing process. As such, the Exchange provides estimated implementation dates to make Members aware that certain rule text is subject to amendment post implementation of the new functionality, as well as to provide Members with sufficient notice so that they can make any necessary technological or operational adjustments to their systems (if applicable). However, more time is needed to design, test, and implement the Aggregate Credit Risk Checks. Accordingly, the Exchange proposes to implement the Aggregate Credit Risk Checks on or after November 22, 2024. The Exchange would issue a Trade Desk Notice announcing the exact implementation date to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the

objectives of Section 6(b) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange’s proposal to delay the implementation of Aggregate Credit Risk Checks to on or after November 22, 2024, is consistent with the Act and protection of investors and general public because it will permit the Exchange additional time to ensure the Exchange can properly develop, test, and deploy the Aggregate Credit Risk Checks. Moreover, the Aggregate Credit Risk Checks themselves were previously approved [sic] by the Commission,⁵ and this proposal does not change the substance of those functionalities. As noted, the Exchange would issue a Trade Desk Notice announcing the exact implementation date to members and member organizations.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the purpose of this proposal is simply to extend the implementation date for the additional aggregate credit risk settings so that the Exchange has additional time for development, testing, and deployment.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b–4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if

consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b–4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b–4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that more time is required to ensure optimal design, testing, and implementation for the Aggregate Credit Risk Checks, and thus, waiver of the operative delay will provide Exchange with such additional time. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would ensure that the Exchange has extra time to properly deploy these new aggregate credit risk functionalities, which is to the benefit of market participants that will eventually utilize the Aggregate Credit Risk Checks. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b–4(f)(6).

¹¹ 17 CFR 240.19b–4(f)(6)(iii).

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78s(b)(2)(B).

⁴ 15 U.S.C. 78f(b).

⁵ *Supra* note 3.

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b–4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBYX-2024-035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2024-035, and should be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101246; File No. SR-OCC-2024-014]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Partial Amendment No. 1, by the Options Clearing Corporation Concerning Its Process for Adjusting Certain Parameters in Its Proprietary System for Calculating Margin Requirements During Periods When the Products It Clears and the Markets It Serves Experience High Volatility

October 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 24, 2024, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. On October 1, 2024, OCC filed a partial amendment ("Partial Amendment No. 1") to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Partial Amendment No. 1 (hereafter the "proposed rule change") from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would codify OCC's process for adjusting certain parameters in its proprietary system for calculating margin requirements during periods when the products OCC clears and the markets it serves experience high volatility. Proposed changes to OCC's Margin Policy are submitted in Exhibit 5 to File

¹⁴ 17 CFR 200.30-3(a)(12), (59).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Partial Amendment No. 1, OCC submitted a revised Exhibit 3D to SR-OCC-2024-014 without changing the substance of the proposed rule change. Partial Amendment No. 1 does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

No. SR-OCC-2024-014. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁴

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). These clearing activities could expose OCC to financial risks if a Clearing Member fails to fulfil its obligations to OCC. In its role as guarantor for all transactions cleared through OCC, one of the more material risks related to a Clearing Member's failure to perform is credit risk arising from the activity of the Clearing Members whose performance OCC guarantees. OCC manages these financial risks through financial safeguards, including the collection of margin collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member's positions during the period of time OCC has determined it would take to liquidate those positions.

OCC has established a proprietary system, the System for Theoretical Analysis and Numerical Simulation ("STANS"), that runs various models used to calculate each Clearing

⁴ OCC's By-Laws and Rules can be found on OCC's public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Member's margin requirements. However, OCC maintains broad discretion under its rules to set and adjust margin requirements to protect the respective interests of Clearing Members, OCC, and the public.⁵ This discretion is important because all models are subject to assumptions and limitations. For that reason, regulations applicable to OCC require it to establish policies and procedures related to the review of OCC's model parameters and assumptions during periods of time when the products cleared or markets served display high volatility, report the results of its analysis to appropriate decisionmakers, and use the results to evaluate the adequacy of and adjust its margin methodology, model parameters, and other relevant aspects of its credit risk management framework.⁶

One of OCC's margin models generates variance forecasts for the returns on individual equity securities, the result of which OCC then includes as one of the inputs to the margin calculation. As discussed in more detail below, OCC has observed that this particular model may produce results that are "procyclical," which means the tendency of margin requirements to increase during periods of market stress and decrease during calm periods that, if not appropriately addressed, could threaten the stability of its members during periods of heightened volatility.⁷ A sudden, extreme increase in margin requirements could stress a Clearing Member's ability to obtain liquidity to meet its obligations to OCC, particularly in periods of high volatility. If that Clearing Member subsequently defaulted, its positions, including the positions of its customers, would be subject to liquidation as part of OCC's default management processes.⁸ In addition, the resulting suspension and liquidation of the defaulting Clearing Member's positions could result in losses chargeable to the mutualized Clearing Fund.⁹ Charging a loss to the

Clearing Fund may result in unexpected costs for non-defaulting Clearing Members, stressing their ability to obtain liquidity to meet their own financial obligations in stressed market conditions.

To mitigate procyclical margin requirements during periods when OCC's cleared products or the markets it serves experience high volatility, OCC has established regular and high volatility control settings. OCC's price return model employs bounds (*i.e.*, the "control sets" implemented under regular or high volatility settings) for certain parameters that are calculated daily based on current market data.¹⁰ OCC applies bounds to these parameters calibrated using historical data to mitigate the reactivity of the model volatility forecast, which is a primary driver of margin requirements. When OCC implements high volatility control settings, those parameters are bounded differently than under regular control settings. In general, these control settings help to prevent significant overestimation of Clearing Member margin requirements.¹¹

To determine when implementation of high volatility control settings may be appropriate, OCC monitors the volatility of the products it clears and the markets it serves. Based on the results of this monitoring, OCC may determine to implement high volatility control settings for those model parameters. Under OCC's margin methodology, these high volatility control settings may be applied to individual securities, which are among several "risk factors" under OCC's margin methodology, or globally across all risk factors or a class or sector of risk factors (*e.g.*, equities, indexes, volatility-based products, etc.).

To ensure that OCC's rules include a sufficient level of detail about material aspects of OCC's margin system,¹² OCC proposes to amend its Margin Policy, which is filed as a rule with the Commission,¹³ to define material

aspects of OCC's high volatility control setting process. This proposed rule change would amend the Margin Policy to describe the process, including: (1) how OCC sets and reviews the regular and high volatility control sets; (2) how OCC monitors for market volatility and idiosyncratic price moves and establishes thresholds to escalate the results of such monitoring for consideration of whether high volatility control settings are warranted; and (3) OCC's internal governance for implementing and terminating high volatility control settings. OCC does not believe that proposed revisions to its Margin Policy would have any practical effect on Clearing Members or other market participants because OCC is not proposing significant changes to its current practices for setting member margin requirements.

(1) Purpose

Background

STANS is OCC's proprietary risk management system for calculating Clearing Member margin requirements.¹⁴ The STANS methodology utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a Clearing Member's margin requirement.¹⁵ STANS margin requirements are calculated at the portfolio level of each Clearing Member account with positions in marginable securities and are comprised of an estimate of a 99% expected shortfall¹⁶ over a two-day time horizon, among other components. OCC uses the STANS methodology to measure the exposure of portfolios of products cleared by OCC and cash instruments in margin collateral.¹⁷

2022–012); 96566 (Dec. 22, 2022), 87 FR 80207 (Dec. 29, 2022) (SR–OCC–2022–010); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR–OCC–2020–016); 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (SR–OCC–2020–014); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR–OCC–2019–010); 86436 (July 23, 2019), 84 FR 36632 (July 29, 2019) (SR–OCC–2019–006); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR–OCC–2019–004); 83799 (Aug. 8, 2018), 83 FR 40379 (Aug. 14, 2018) (SR–OCC–2018–011); 82658 (Feb. 7, 2018), 83 FR 6646 (Feb. 14, 2018) (SR–OCC–2017–007).

¹⁴ An overview of the STANS methodology is on OCC's public website: <https://www.theocc.com/Risk-Management/Margin-Methodology>.

¹⁵ See OCC Rule 601.

¹⁶ The expected shortfall component is established as the estimated average of potential losses higher than the 99% value at risk threshold. The term "value at risk" or "VaR" refers to a statistical technique that is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon.

¹⁷ Pursuant to OCC Rule 601(e)(1), OCC also calculates initial margin requirements for segregated futures accounts on a gross basis using

Continued

⁵ See, *e.g.*, OCC Rule 601(c) ("Notwithstanding any other provisions of this Rule 601, [OCC] may fix the margin requirements for any account or any class of cleared contracts at such amount as it deems necessary or appropriate under the circumstances to protect the respective interests of Clearing Members, [OCC], and the public.").

⁶ See 17 CFR 240.17Ad–22(e)(6)(vi)(C), (D).

⁷ See Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70816 n.318 (S7–03–14) ("In this context, procyclicality typically refers to changes in risk-management practices that are positively correlated with market, business, or credit cycle fluctuations that may cause or exacerbate financial [in]stability.").

⁸ See OCC Rules Ch. XI.

⁹ A mutualized, pre-funded guaranty fund comprised of deposits from each member, such as OCC's Clearing Fund, is another financial safeguard

commonly employed by central counterparties to address credit risk as the guarantor of the products it clears.

¹⁰ See *infra* notes 24–27 (describing the parameters to which the bounds are applied).

¹¹ See *infra* notes 41–42 and accompanying text (detailing examples in which high volatility control settings were implemented).

¹² OCC previously described its use of high volatility control settings within STANS in its filing to establish its STANS Methodology Description. The STANS Methodology Description, however, does not provide details concerning the governance and process for setting or applying high volatility control settings.

¹³ See Exchange Act Release Nos. 100998 (Sept. 11, 2024), 89 FR 76171 (Sept. 17, 2024) (SR–OCC–2024–009); 99169 (Dec. 14, 2023), 88 FR 88163 (Dec. 20, 2023) (SR–OCC–2023–008); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR–OCC–

Forecasted returns on individual risk factors are an input to OCC's calculation of margin requirements. A "risk factor" within STANS is a product or attribute for which historical data is used to estimate and simulate the risk for an associated product. Risk factors include the returns on individual equity securities, returns on equity indexes, and returns on implied volatility risk factors, among others.

OCC uses a GARCH¹⁸ model to generate variance forecasts for price risk factors for all products and implied volatility with respect to certain products. Following February 5, 2018, when the market experienced extreme levels of volatility that caused a significant spike in margin requirements, OCC's analysis demonstrated that GARCH is extremely sensitive to sudden spikes in volatility, which can result in margin requirements that OCC believes are unreasonable and procyclical.¹⁹ For example, OCC observed that its GARCH model for forecasting implied volatility²⁰ produced forecasts for particular S&P 500 Index ("SPX") options that were four-fold larger than the comparable market index. This led to margin requirements increasing by 80% overnight, with some margin requirements increasing ten-fold. In reviewing OCC's analysis, the Commission acknowledged that the size of such margin requirement increases

was not necessarily commensurate with the risk of those Clearing Member's portfolios, and that imposing such a large, unexpected increase could impose a large, unexpected stress on a Clearing Member during a period of high volatility.²¹ Since then, OCC has taken several measures to mitigate such procyclicality, including changes to its GARCH-based implied volatility model,²² and a new model to replace GARCH for simulating implied volatility for SPX-based options and volatility index futures.²³ Even with such revisions, however, the GARCH model may produce procyclical margin results that are not commensurate with the risk of the products, portfolios, or markets that OCC seeks to manage.²⁴

To mitigate such procyclicality, OCC also applies numerical bounds to certain statistical parameters that inform the model's reaction to market volatility. Specifically, the GARCH model uses statistical alpha (α),²⁵ beta (β),²⁶ and gamma (γ)²⁷ parameters as part of its econometric model for updating risk factors to reflect the most recent market data. Those statistical parameters are calculated daily based on updated price data.²⁸ As described in OCC's STANS Methodology Description,²⁹ OCC applies numerical bounds (*i.e.*, "control settings") to these GARCH parameters after their initial calibration to mitigate the reactivity of the model volatility forecast, which is a primary driver of margin requirements for any equity or index.³⁰ These bounds apply to the

GARCH parameters that are used to calculate margin for each Clearing Member.

OCC refers to the bounds for the parameters applicable under normal market conditions as "regular" control settings. Because the regular control settings are designed for daily application, the bounds cover large ranges or parameter values obtained from the 95th percentile of historical parameter calibrations for representative risk factors. However, the large values of the parameter's upper bounds under the regular control settings make the GARCH-based model susceptible to procyclicality. For instance, the largest day-to-day margin coverage³¹ changes tend to happen at the onset of a high volatility period, when the existing volatility is close to the long-run floor level and a large return shock causes significant volatility increase. To address this phenomenon, the STANS Methodology Description provides that OCC maintains projections of various market conditions in which pre-determined bounds (*i.e.*, a control set) are appropriate and that specification of those conditions and the control sets are based on continual quantitative research and may be specific to risk factor types (*e.g.*, equities or volatility indexes). The STANS Methodology Description further provides that the assumptions and individual application of the parameter controls for risk factors and classes of risk factors are subject to periodic review and approval by OCC's Model Risk Working Group ("MRWG"), a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk comprised of representatives from relevant OCC business units, including Quantitative Risk Management, Model Risk Management, and Corporate Risk Management. OCC refers to implementation of high volatility control settings to an individual risk factor as "idiosyncratic" control settings and implementation across all or a class or sector of risk factors as "global" control settings.

The high volatility control settings are determined by simulating two-day coverage changes by product type (*e.g.*, index, equities or volatility products) based on price shocks. The current price

may be placed on the GJR-GARCH parameters after their initial calibration. GARCH volatility forecasting models can be very reactive in certain market environments. As a result, OCC may implement parameter controls for risk factors and classes of risk factors, which are subject to periodic review and approval by the MRWG.³²

³¹ In this context, the coverage rate for a security is the change in risk of the security expressed as a percentage of the price of the security when the market closes.

the Standard Portfolio Analysis of Risk Margin Calculation System ("SPAN"). CFTC Regulation 39.13(g)(8), requires, in relevant part, that a derivatives clearing organization ("DCO") collect initial margin for customer segregated futures accounts on a gross basis. While OCC uses SPAN to calculate initial margin requirements for segregated futures accounts on a gross basis, OCC believes that margin requirements calculated on a net basis (*i.e.*, permitting offsets between different customers' positions held by a Clearing Member in a segregated futures account using STANS) affords OCC additional protections at the clearinghouse level against risks associated with liquidating a Clearing Member's segregated futures account. As a result, OCC calculates margin requirements for segregated futures accounts using both SPAN on a gross basis and STANS on a net basis, and if at any time OCC staff observes a segregated futures account where initial margin calculated pursuant to STANS on a net basis exceeds the initial margin calculated pursuant to SPAN on a gross basis, OCC collateralizes this risk exposure by applying an additional margin charge in the amount of such difference to the account. See Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR-OCC-2014-13).

¹⁸ The acronym "GARCH" refers to an econometric model that can be used to estimate volatility based on historical data.

¹⁹ See Exchange Act Release No. 84879 (Dec. 20, 2018), 83 FR 67392, 67393 (Dec. 29, 2018) (SR-OCC-2018-014).

²⁰ In general, the implied volatility of an option is a measure of the expected future volatility of the option's underlying security at expiration, which is reflected in the current option premium in the market.

²¹ See Exchange Act Release No. 84879, 83 FR at 67394.

²² See *id.* at 67393.

²³ See Exchange Act Release No. 95319 (July 19, 2022), 87 FR 44167 (July 25, 2022) (SR-OCC-2022-001).

²⁴ See *supra* note 10 and accompanying text.

²⁵ Alpha is the weight attached to the contribution to the forecast variance from the price risk factor. Together with gamma, it controls the model's reaction to recent market moves.

²⁶ Beta is the weight attached to the contribution to the forecast variance from the previous day's forecast. As such, it concerns the persistence of volatility.

²⁷ Gamma is the additional weight attached to the contribution to the forecast variance from a negative return in the price risk factor. Together with alpha, it controls the model's reaction to recent market moves.

²⁸ See Exchange Act Release No. 83326 (May 18, 2018), 83 FR 25081 (May 31, 2018) (SR-OCC-2017-022); Exchange Act Release No. 83305 (May 23, 2018), 83 FR 24536 (May 29, 2018) (SR-OCC-2017-811).

²⁹ The STANS Methodology Description is intended to provide a comprehensive description of the material aspects of OCC's risk-based margin system. See Exchange Act Release No. 91079, 86 FR at 9410 (SR-OCC-2020-016).

³⁰ See Exchange Act Release No. 85788 (Dec. 21, 2020), 85 FR 85788, 85793 (Dec. 29, 2020) (SR-OCC-2020-016) ("The STANS Methodology Description would also describe the controls that

shocks for index and volatility products are based on the largest observed downward and upward price moves, respectively. The current return shocks for equities is a negative 15% return, which represents large price shocks for risk-factors in corresponding categories. Assuming different parameter values, OCC calculates corresponding values of two-day coverages and selects the bounds that keep the day-over-day change in 2-day expected shortfall coverage within a factor of approximately 1.5.

When OCC implements idiosyncratic control settings for a single risk factor, it uses the high volatility control settings that correspond to that risk factor's product type rather than the regular control settings. However, when OCC implements global control settings for a class or sector of risk factors, it is OCC's practice to blend the high volatility and regular control settings based on a weighted percentage between them. Such a "blended" or "weighted" approach allows OCC's risk managers, when appropriate, to select bounds that provide more conservative margin coverage when applying high volatility control settings globally across multiple risk factors. The blended approach also allows the OCC risk managers to decrease the weight attached to the high volatility parameter control settings (and correspondingly increase the weight attached to the regular control settings) as they evaluate the appropriateness of the application of the global control settings in the days following their initial application.

In practice, OCC determines whether to implement idiosyncratic control settings to a single risk factor based on daily automated reports that project margin coverage for risk factors that have experienced significant day-over-day price movements, or for which idiosyncratic control settings are already in effect, under both regular and high volatility control settings, along with the actual margin coverage for that risk factor from the previous day's margin calculations. Individual risk factors are flagged for potential idiosyncratic control settings based on certain thresholds (as defined and discussed below, the "Idiosyncratic Thresholds")³² based on, among other things, the returns for that risk factor and the day-to-day change in margin coverage rates. If those thresholds are met, then OCC generally applies the high volatility control settings. In general, the high volatility control settings remain in place for that risk factor until the coverage rate under the

regular control set converges with the initial coverage rate when idiosyncratic control settings were first implemented or when the coverage rates decline to or below the coverage rate under the Idiosyncratic Thresholds that triggered the idiosyncratic control settings.

The practice of retaining idiosyncratic parameters until the coverage rates for regular and idiosyncratic control settings converge is supported by OCC's empirical observations with respect to margin coverage.³³ However, with respect to low-priced securities (*i.e.*, less than \$1), which tend to have high coverage rates and relatively low risk exposure for OCC, OCC has observed that the coverage rates may not converge.³⁴ As a result, the risk factor for such securities may stay on idiosyncratic volatility control settings for an extended or indefinite period of time, which could result in additional backtesting exceedances for the low-priced security when the idiosyncratic control setting remains on.³⁵ Consistent with the governance surrounding turning off the idiosyncratic control settings proposed below,³⁶ the MRWG has approved conditions for reverting back to regular control settings or for maintaining regular control settings when the current price of the underlying is below a threshold specified by procedure, which would initially be set at 10 cents.

Consistent with regulations applicable to OCC,³⁷ OCC has also established thresholds related to high market volatility, among other factors (as defined and discussed below, the "CCA Monitoring Thresholds"),³⁸ which, if breached, require OCC's MRWG, comprised of risk managers across OCC's first- and second-line business units, to meet and consider the adequacy of its model parameters. When the CCA Monitoring Thresholds related to high volatility are met, the MRWG meets to consider whether global control settings would be appropriate for all risk factors or a class or sector of risk factors.³⁹ When evaluating whether

global control settings would be appropriate, the MRWG considers reports that show the previous day's actual margin coverage for top risk factors with their projected margin coverage for that day under different blends or weights between regular control settings and high volatility control settings (*e.g.*, 100% high volatility control settings; 75% high volatility/25% regular control settings; 50% high volatility/50% regular control settings, etc.). In practice, when the MRWG determines in its judgment and discretion that application of global control settings is appropriate, the MRWG selects the blended control value set that generates coverage levels that converge with the implied volatility of the SPX. When global control settings are implemented, MRWG meets each day thereafter to consider whether they remain appropriate. As with the idiosyncratic control settings, global control settings generally remain in place until the coverage rates under the regular control set converges with the initial coverage rate when global control settings were first implemented. However, with respect to the global control settings, MRWG maintains discretion to change the weights under the blended approach as appropriate based on developing market conditions.

Implementation of global settings is infrequent. For example, OCC implemented global control settings from March 9, 2020 until April 9, 2020 in connection with the market volatility associated with the onset of the COVID-19 pandemic and on January 27, 2021 for volatility-based products in connection with market volatility caused by the so-called "meme stock" episode. On March 9, 2020, for example, when the SPX experienced a return of approximately -7.5%, coverage for SPX under regular control settings would have increased from long coverage of -11.77% and short coverage of 11.69% to -18.54% and 19.44%, respectively.⁴⁰ MRWG approved implementing global control settings based on a 50% weighting between regular and high volatility control settings, resulting in long and short coverage of -13.60% and

³³ OCC has included the periodic reviews presented to MRWG since 2020 in confidential Exhibit 3E to File No. SR-OCC-2024-014, including a 2024 review of the conditions for turning off idiosyncratic control settings in which FRM concluded that the convergence of the regular and high volatility control settings works for most risk factors for which idiosyncratic control settings were implemented during the review period.

³⁴ *Id.*

³⁵ *Id.*

³⁶ See *infra* note 64 and accompanying text.

³⁷ See *supra* note 5 and accompanying text.

³⁸ See *infra* notes 55-58 and accompanying text.

³⁹ The CCA Monitoring Thresholds establish when MRWG must meet. However, the CCA Monitoring Thresholds should not be read to limit

the MRWG from meeting on a more frequent basis than monthly during times periods when the markets OCC serves or the products OCC clears experience high volatility, including to consider application of high volatility parameters, based on the judgement and experience of the MRWG, even if the CCA Monitoring Thresholds then in effect are not met.

⁴⁰ OCC has included as confidential Exhibit 3A to File No. SR-OCC-2024-014 responses to questions from OSC concerning drafts of this proposed rule change, including data concerning the coverage rates under control sets reviewed by the MRWG on March 9, 2020.

³² See *infra* notes 59-60 and accompanying text.

14.42%.⁴¹ These coverages were selected based on their alignment with the two-day short and long coverage determined from SPX implied volatility; -13% and 14%, respectively.⁴² Aggregate margin requirements calculated using the global control settings were \$84.2 billion, compared to \$103.2 billion had OCC used regular control settings.⁴³

OCC has implemented idiosyncratic control settings for individual risk factors more frequently.⁴⁴ For example, on April 28, 2023, FRM applied idiosyncratic control settings to a risk factor for a security that experienced multi-day jumps in stock price,⁴⁵ including from \$6.72 to \$20 on April 27, 2023 and from \$20 to \$108.20 on April 28, 2023, which resulted in corresponding short coverage levels under regular control settings increasing from 98% to 5695%.⁴⁶ After implementing idiosyncratic control settings for that risk factor, aggregate margin requirements decreased \$2.6

⁴¹ Following implementation of the global control settings on March 9, 2020, MRWG met daily from March 9 through April 9, 2020 to review daily reports providing historical and forecasted margin coverage rates for selected risk factors with alternative control settings. Based on its review of daily reports providing historical and forecasted margin coverage rates for selected risk factors with alternative control settings, MRWG approved modifications to the weights attached to the regular and HVP control settings. For example, MRWG increased the weighting for the HVP control setting, which was initially 50%, to 75% following March 16, 2024, when VIX spiked 43% to 86.69 and SPX fell 12%. In the days that followed, MRWG approved increasing the weight attached to the regular control settings until reverting to regular control settings for VIX-based products on March 27, 2020 and Equity risk factors on April 9, 2024.

⁴² OCC has also included as confidential Exhibit 3B to SR-OCC-2024-014 an internal OCC memorandum concerning high volatility control settings describing, among other things, how when implementing global control settings on March 9, 2020, the MRWG compared resulting coverages from different weightings against the coverage rates that could be derived through implied option volatility to evaluate of coverage rates under alternative parameters sets.

⁴³ OCC has included as confidential Exhibit 3C to SR-OCC-2024-014 responses to questions from Staff of the Commission's Office of Clearance and Settlement ("Staff") dated November 20, 2020 concerning OCC's March 9, 2020 implementation of global control settings, including, among other things, as assessment of the impact on margin.

⁴⁴ From December 2019 to August 2023, for example, OCC implemented high volatility control settings lasting various durations (ranging from a single day to 190 days, with a median period of 10 days) for more than 200 individual risk factors. See Exhibit 3A, *supra* note 39 (providing a list of instances in which OCC implemented global and idiosyncratic control settings).

⁴⁵ While no options were listed on the security, certain Clearing Members maintained cleared stock loan positions and collateral deposits in that security.

⁴⁶ See Exhibit 3A, *supra* note 39 (providing responses concerning an April 28, 2023 implementation of idiosyncratic control settings).

billion. FRM turned off the idiosyncratic control settings on May 30, 2023 when it observed the coverage rate for regular and idiosyncratic control settings converge.⁴⁷ OCC did not observe any daily backtesting exceedances associated with the idiosyncratic control settings for this risk factor.

As another example, from January 27, 2021 to March 16, 2021, FRM applied idiosyncratic control settings to a risk factor for a security that experienced an initial large market move corresponding to a 138.9% one-day return, which caused the two-day short coverage using regular control settings to increase to 300%, compared to the previous business day's two-day short coverage of 54%. Over the following business days, through February 9, 2021, the security went through a volatile period with additional large one-day price moves.⁴⁸ Once this volatility period passed, the coverages based on regular and high volatility control settings gradually converged around the same level on March 16, 2021, when the MRWG approved reverting back to regular control settings.⁴⁹ OCC did not observe any additional daily backtesting exceedances associated with the idiosyncratic control settings for this risk factor.

In general, OCC has not observed backtesting exceedances attributable to the implementation of global or idiosyncratic volatility control settings. Currently, OCC monitors margin sufficiency at the Clearing Member account level to identify backtesting exceedances. Account exceedances are investigated to determine the cause of the exceedance, including whether the exceedance can be attributed to the implementation of high volatility control settings. No account level exceedance has been attributed to the implementation of high volatility control settings. OCC also performs model backtesting on all risk factors with listed derivatives or stock loan positions, or securities pledged as collateral within Clearing Member accounts, including for risk factors subject to high volatility control settings. Model backtesting has not identified an issue with the adequacy of margin coverage associated with the implementation of idiosyncratic control settings. OCC also conducted instrument-level backtesting over a two-year time horizon on securities for which idiosyncratic control settings were implemented. Of the 14 out of 244 securities for which 2-day expected

shortfall coverages was less than 99%, OCC found that the coverages with regular control settings would not have been significantly different.⁵⁰ Only one risk factor had 2-day expected shortfall short coverage under 99% while on idiosyncratic control settings that would have been above 99% on regular control settings, driven by one additional 2-day expected shortfall short exceedance.⁵¹ However, this single occurrence did not contribute to any Clearing Member account-level exceedance. Based on this study, OCC believes that application of high volatility control settings does not have a significant negative effect on the sufficiency of OCC's margin coverage.

Proposed Changes

OCC proposes to amend its Margin Policy to add a new section⁵² addressing control settings so that OCC's rules would include a sufficient level of detail about the high volatility control setting process currently maintained in other internal OCC procedures, including (a) how OCC sets and reviews the regular and high volatility control sets; (b) how OCC monitors for market volatility and idiosyncratic price moves and establishes thresholds to escalate the results of such monitoring for consideration of whether high volatility control settings are warranted; and (c) OCC's internal governance for implementing and terminating high volatility control settings.

(a) How OCC Sets and Reviews Regular and High Volatility Control Sets

First, OCC proposes to amend the Margin Policy to add a subsection under the new control settings section that would address how OCC reviews and sets the regular and high volatility control sets (*i.e.*, the bounds applied to the GARCH parameters under regular and idiosyncratic control settings).⁵³ The Margin Policy would require that FRM conduct a review of the control

⁵⁰ See Exhibit 3A, *supra* note 39 (providing responses to requests for backtesting data and analysis).

⁵¹ *Id.*

⁵² This new section would be added to the "Margin Calls and Adjustments" section of the Margin Policy, before a section on "Additional Margin Adjustments," which would be renumbered to reflect the addition.

⁵³ The high volatility control value sets are sometimes referred to as idiosyncratic control settings because, in practice, the high volatility control set is what OCC applies when implementing idiosyncratic control settings. As discussed above, when implementing global control settings, MRWG evaluates and selects a control setting with different weightings between the regular control set and high volatility control set based on an assessment of which blended approach generates a coverage level that converges with the implied volatility of the SPX. See *supra* note 41 and accompanying text.

⁴⁷ See *id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

sets on an at-least annual basis, and any recommended changes would require MRWG approval. With respect to the regular control set, the Margin Policy would further provide that such review would assess whether the GARCH parameter bounds are appropriately risk-based, including, but not limited to, assessing whether they align with the 95th percentile of the parameter calibrations over the prior review period. The Margin Policy would further provide that the review of the high volatility control set would assess whether the control settings effectively mitigate procyclicality while remaining appropriately risk-based, including, but not limited to, whether the bounds keep the day-over-day change in 2-day expected shortfall coverage within a factor of approximately 1.5 assuming price shocks based on observed returns for top risk factors.⁵⁴ These additions to the Margin Policy are intended to describe OCC's current process and internal procedures for setting the regular and idiosyncratic control sets.⁵⁵

(b) How OCC Monitors for and Escalates High Volatility to Appropriate Decisionmakers

OCC currently conducts daily monitoring for high market volatility and idiosyncratic price moves for individual securities against thresholds that, if breached, would require escalation to appropriate decisionmakers to evaluate the adequacy of and make adjustments to OCC's model parameters. Specifically, Pursuant to the Clearing Fund Methodology Policy and the procedures thereunder, OCC has established thresholds related to high market volatility, low market liquidity, and significant increases in position size or concentration that would trigger an intra-month meeting of the MRWG to review stress test results.⁵⁶ The

underlying procedure refers to such thresholds as "CCA Monitoring Thresholds" because they are associated with SEC requirements for when a covered clearing agency must perform certain required monthly reviews on a more frequent basis.⁵⁷

While these thresholds are set in accordance with the Clearing Fund Methodology Policy with respect to its stress testing procedures, OCC uses the same thresholds as triggers for review of its risk-based margin system, including (1) more frequent sensitivity analysis of its margin model and a review of OCC's parameters and assumptions for backtesting, and (2) with respect to the high volatility threshold, escalation to the MRWG for consideration of whether to implement global control settings. However, unlike the Clearing Fund Methodology Policy, the Margin Policy does not currently reference how the thresholds are set. As proposed to be amended, the "Margin Monitoring" section of the Margin Policy would be amended to add a discussion of the CCA Monitoring Thresholds.⁵⁸ That section would refer to the CCA Monitoring Thresholds established under the Clearing Fund Methodology Policy and its underlying procedure. The Margin Policy would further provide that the CCA Monitoring Thresholds are reviewed annually by the MRWG and the Stress Testing Working Group ("STWG") to ensure they remain adequate to identify periods of high market volatility,⁵⁹ low market liquidity, and significant increases in position size/concentration. The MRWG and STWG would be required to approve any changes to the thresholds.

To monitor for volatility experienced by individual risk factors that may merit

the products cleared or markets served display high volatility," among other possible triggers).

⁵⁷ See 17 CFR 17Ad-22(e)(4)(iv)(C) (with respect to stress testing); 17Ad-22(e)(6)(vi)(C) (with respect to the risk-based margin system); 17Ad-22(e)(7)(vi)(C) (with respect to liquidity resource sufficiency).

⁵⁸ The subsections in the "Margin Monitoring" section would be renumbered accordingly to reflect this addition.

⁵⁹ With respect to the high market volatility thresholds relevant to this filing, OCC's current thresholds are based on a statistical 1-in-18 month return calculated daily from the previous 10 years of market data for the S&P 500 and VIX indexes. As of August 3, 2023, the thresholds translated to a 38.12% return for VIX and a -4.52% return for the SPX. Developmental evidence supporting the CCA Monitoring Threshold for high volatility has been provided in the model whitepaper. See Exhibit 3D, *supra* note 53. However, as discussed above, the CCA Monitoring Thresholds and the method for reviewing and updating them would be maintained in the procedures supporting the Clearing Fund Methodology Policy. As such, OCC believes the CCA Monitoring Thresholds for high volatility and updates thereto consistent with the Margin Policy would be reasonably and fairly implied by the Margin Policy.

implementing idiosyncratic control settings, the Margin Policy would require FRM to monitor securities against thresholds for idiosyncratic price moves that would be established in its procedures ("Idiosyncratic Thresholds").⁶⁰ The Idiosyncratic Thresholds may employ a tiered structure that takes into account the type and magnitude of OCC's risk exposure to the security (*e.g.*, whether it is an optionable security with open interest, accepted as collateral, and/or an Eligible Security under OCC's Stock Loan Programs), the value of the security, the magnitude of the price move, and the coverage rates.⁶¹ The Margin Policy would further reflect that on an at-least annual basis, FRM reviews whether the Idiosyncratic Thresholds, and the related instances when idiosyncratic control settings were applied during the review period, appropriately capture products experiencing high volatility. Any change to the Idiosyncratic Thresholds would require MRWG review and approval.

(c) How OCC Implements and Terminates High Volatility Control Settings

When the monitoring thresholds discussed above are breached, appropriate decisionmakers at OCC determine whether to implement idiosyncratic or global control settings. Specifically, for breaches of the CCA Monitoring Threshold for high volatility, the Margin Policy would require that FRM escalate the matter to the MRWG and make a recommendation as to whether global control settings

⁶⁰ OCC has included a copy of these procedures as confidential Exhibit 3F to File No. SR-OCC-2024-014, which are redlined with anticipated changes arising from feedback received from Staff in connection with a review of a draft of this proposed rule change.

⁶¹ See *id.* Currently, FRM staff reviews a daily report of projected coverages for selected risk factors (excluding securities that do not have listed options and are not eligible as either collateral or as part of OCC's Stock Loan Programs) with an absolute value of simple return greater than 20% or, for securities under \$1 or are missing a current or prior days' closing price, with an absolute value of log return greater than 100%. Securities meeting these thresholds are then filtered to identify those with more than \$100 million in prior day risk exposure and a greater-than 3 times day-over-day increase in coverage. In addition, the thresholds filter for those securities for which regular parameter short coverages is greater than 350%. With respect to securities without listed options, the short coverage threshold also requires that the prior day risk exposure be greater than \$10 million. As discussed below, the Idiosyncratic Thresholds would be maintained in procedures supporting the Margin Policy, reviewed at-least annually, and updated with MRWG approval. As such, OCC believes the Idiosyncratic Thresholds and updates thereto consistent with the Margin Policy would be reasonably and fairly implied by the Margin Policy.

⁵⁴ The return shocks are maintained in and updated in accordance with model whitepapers that support the STANS Methodology Description. OCC has included the model whitepaper as confidential Exhibit 3D to File No. SR-OCC-2024-014. The whitepaper is redlined with anticipated updates based on the most recent annual review of the high volatility control setting process and edits intended to capture feedback from Staff in connection with its review of a draft of this proposal.

⁵⁵ OCC has included the periodic reviews presented to MRWG since 2020 in confidential Exhibit 3E to File No. SR-OCC-2024-014. OCC believes that such changes to the control sets would be reasonably and fairly implied by the Margin Policy, as proposed to be amended.

⁵⁶ See Exchange Act Release No. 83406 (June 11, 2018), 83 FR 83406 (June 15, 2018) (SR-OCC-2018-008) (describing how the Clearing Fund Methodology Policy "would require that OCC maintain procedures for determining whether, and in which circumstances" stress testing review must be completed more frequently than monthly "when

should be applied to all risk factors or a class or sector of risk factors. The Margin Policy would require MRWG approval to implement global control settings. In making that determination, the Margin Policy would describe how MRWG would review coverage rates under potential control settings generated by taking a weighting of the bounds for regular and high volatility control sets. The Margin Policy would further require that MRWG make this determination considering factors including, but not limited to, which blended control value sets generate coverage levels that converge with the implied volatility of the SPX.

The Margin Policy would also provide for how OCC would revert back to regular control settings after having implemented global control settings. Such reversion would also require MRWG approval. The Margin Policy would further provide that when making a determination that market volatility has decreased to a level where global control settings are no longer required, the MRWG would consider factors including, but not limited to, whether SPX coverage rates produced under regular control settings have converged with the initial coverage rates when global control settings were first implemented.

With respect to breaches of the Idiosyncratic Thresholds, the Margin Policy would provide that OCC generally would apply idiosyncratic control settings if the Idiosyncratic Thresholds are breached. Implementation of such idiosyncratic high volatility control settings would require approval of an FRM Officer.⁶² In practice, FRM almost always applies the high volatility control set to a risk factor when the Idiosyncratic Thresholds are breached. However, the FRM Officer would retain authority under the Margin Policy to maintain regular control settings in the case of exceptional circumstances, including, for example, due to implementation of global control settings, operational issues such as production processing problems, or edge cases for which the FRM Officer determines that further refinement of the Idiosyncratic Thresholds is warranted. If the FRM Officer determines not to implement idiosyncratic control settings in edge cases, the Margin Policy would require that the FRM Officer present proposed changes to the Idiosyncratic Thresholds

that reflect the exception within 30 days to the MRWG for review and, subject to MRWG discretion, approval. The Margin Policy would also provide for an FRM Officer's authority to approve idiosyncratic control settings or revert from idiosyncratic control settings to regular control settings based on additional considerations such as market moves, expected shortfall risk contribution, and changes in Clearing Member positions.⁶³

Finally, the Margin Policy would provide for reversion from idiosyncratic control settings to regular control settings. Specifically, the Margin Policy would provide that generally, OCC will revert to regular control settings when the coverage rates under the regular control set converges with the initial coverage rate when idiosyncratic control settings were first implemented or when the coverage rates decline to or below the coverage rate under the Idiosyncratic Thresholds that triggered the idiosyncratic control settings.⁶⁴ Reverting to regular control settings would require FRM Officer approval. However, to account for possible unforeseen and unanticipated situations, the Margin Policy would provide that idiosyncratic control settings may be applied for a longer or shorter period at the discretion of the FRM Officer. The Margin Policy would further provide that the MRWG may establish other thresholds for reverting back to regular control settings, including, but not limited to, when a low-priced security falls below certain thresholds, as discussed above.⁶⁵

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act⁶⁶ and the rules and regulations thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act⁶⁷ requires, in part, that the rules of a

clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest. The proposed changes are intended to codify OCC's process for adjusting parameters in STANS in response to broad market volatility or idiosyncratic price moves for individual securities. As discussed above, the GARCH model has been observed to overreact to changes in volatility.⁶⁸ Such sudden increases in margin requirements may stress certain Clearing Members' ability to obtain liquidity to meet those requirements, particularly in periods of high volatility, and could result in a Clearing Member being delayed in meeting, or ultimately failing to meet, its daily settlement obligations to OCC. A resulting suspension of a defaulting Clearing Member may result in losses chargeable to the mutualized Clearing Fund deposits of non-defaulting Clearing Members, which could result in unexpected costs for those Clearing Members. The proposed changes are intended to support the high volatility control settings process designed to mitigate the procyclicality of its GARCH model that may cause or exacerbate such financial instability. For these reasons, OCC believes the proposed changes to OCC's rules would support processes reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest, in accordance with Section 17A(b)(3)(F) of the Act.⁶⁹

OCC believes that the proposed changes are also consistent with SEC Rule 17Ad-22(e)(6), which requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.⁷⁰ Commission guidance with respect to SEC Rule 17Ad-22(e)(6) further provides that a covered clearing agency should consider whether its margin model, "to the extent practicable and prudent, limits the need for destabilizing, procyclical changes."⁷¹

⁶² Officers are identified in OCC's By-Laws. See OCC By-Law Art IV. In this context, an FRM officer would include any member of FRM appointed by the Chief Executive Officer or Chief Operating Officer, including a Managing Director, Executive Director or Executive Principal. See *id.* § 9.

⁶³ For example, an FRM Officer may use this authority to implement hypothetical scenarios for securities in cases where the securities fell just short of one element in the Idiosyncratic Thresholds' tiered structure, but where breaches of other elements weighed in favor of applying idiosyncratic control settings in the FRM Officer's judgment. See Exhibit 3A, *supra* note 39 (detailing an example in which an FRM Officer used this authority when a security was just below the \$100 million threshold for prior day risk exposure, but an FRM Officer approved implementing idiosyncratic control settings based on the significant day-over-day increase to short coverage combined with the size of the exposure).

⁶⁴ For example, under the current Idiosyncratic Control Settings, discussed above in note 60, an FRM Officer would approve reverting to regular control settings when the short coverage declines to 350% or below.

⁶⁵ See *supra* notes 33–35 and accompanying text.

⁶⁶ See 15 U.S.C. 78q–1.

⁶⁷ 15 U.S.C. 78q–1(b)(3)(F).

⁶⁸ See *supra* notes 18–22, 42–43, and accompanying text.

⁶⁹ *Id.*

⁷⁰ See 17 CFR 240.17Ad-22(e)(6)(i).

⁷¹ Standards for Covered Clearing Agencies, Exchange Act Release No. 78961, 81 FR at 70819.

As noted above, OCC's GARCH model demonstrates sensitivity to sudden spikes in volatility, which can at times result in overreactive margin requirements that OCC believes are unreasonable and procyclical.⁷² Based on its analysis,⁷³ OCC believes that the high volatility control settings reduce the oversensitivity of the variance forecasts for price risk factors while continuing to produce margin levels commensurate with the risks presented during periods of sudden, extreme volatility, consistent with Rule 17Ad-22(e)(6)(i).⁷⁴

SEC Rule 17Ad-22(e)(6) further requires that a covered clearing agency's policies and procedures be reasonably designed to monitor its risk-based margin system on an ongoing basis, including by conducting a review of its parameters during periods of time when the products cleared or markets served display high volatility, reporting the results to appropriate decisionmakers, and using the results to evaluate the adequacy of and adjust its model parameters.⁷⁵ The proposed changes to the Margin Policy would require that (i) FRM monitor for periods when the products cleared or markets served display high volatility; (ii) FRM escalate the results of its monitoring to appropriate decisionmakers; and (iii) FRM or MRWG may implement high volatility control settings to adjust the GARCH model parameters based on specified criteria. OCC believes that FRM and MRWG are the appropriate decisionmakers for making determinations about these margin parameter adjustments because they are the subject matter experts most familiar with the performance of and risks associated with OCC's margin models. In addition, OCC believes it appropriate that implementation of global control settings require MRWG approval. MRWG is comprised of both first- and second-line personnel, including personnel in OCC's Model Risk Management business unit, who, under OCC's Risk Management Framework, are responsible for evaluating model parameters and assumptions and providing effective and independent challenge through OCC's model lifecycle.⁷⁶ Accordingly, OCC believes that this cross-departmental group is the

appropriate governing body for reviewing and approving such adjustments to OCC's model parameters during periods of high market volatility, consistent with Rules 17Ad-22(e)(6)(vi).⁷⁷

In addition, OCC believes that proposed changes to promote aspects of the high volatility control setting process to OCC's rule-filed Margin Policy are consistent with Section 19(b) of the Exchange Act⁷⁸ and SEC Rule 19b-4⁷⁹ thereunder, which require a self-regulatory organization to file proposed rule changes with the Commission. In particular, SEC Rule 19b-4 provides that proposed rule changes subject to this filing requirement include stated policies, practices and interpretations of the self-regulatory organization, which the Commission defines to include, among other things, "any material aspect of the operation of the facilities of the self-regulatory organization,"⁸⁰ regardless of whether the stated policy, practice or interpretation is made generally available. SEC Rule 19b-4 provides certain exceptions to the filing requirement, including if the stated policy, practice or interpretation is "reasonably and fairly implied by an existing rule of the self-regulatory organization."⁸¹ OCC's use of high volatility control settings is currently addressed in OCC's STANS Methodology Description, a rule of OCC.⁸² This proposed rule change would describe other aspects of the high volatility control setting process, including (1) how OCC establishes and maintains regular and high volatility control sets; (2) how OCC monitors for and escalates high market volatility and idiosyncratic price moves to appropriate decisionmakers for consideration of whether high volatility control settings are warranted; and (3) OCC's internal governance for implementing and terminating high volatility control settings. OCC believes that promoting these aspects of the high volatility control setting process to the Margin Policy would ensure that its rules contain sufficient detail about material aspects of its margin system.

OCC further believes that other internal procedures and technical documents concerning the execution of the high volatility control settings would be reasonably and fairly implied by its rules, as amended—including the

regular and high volatility control sets, the thresholds used to escalate price movements and market volatility to appropriate decisionmakers to consider implementing high volatility control settings, and the method for reviewing and updating those control sets and thresholds based on the latest market data.⁸³ Continuing to maintain these details in OCC internal procedures that are reasonably and fairly implied by OCC's rules would allow OCC to adjust the high volatility control settings process in response to novel situations, changing market conditions and additional quantitative research as OCC's processes mature. Accordingly, OCC believes that the proposed rule change is consistent with Section 19(b) of the Exchange Act⁸⁴ and the regulations thereunder.

For the above reasons, OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act⁸⁵ and the rules and regulations thereunder applicable to OCC.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act⁸⁶ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes merely codify requirements related to the administration of OCC's high volatility control settings, which, when implemented, apply to all Clearing Members that hold cleared positions within the scope of the high volatility control settings. Accordingly, OCC does not believe that the proposed rule change would unfairly inhibit access to OCC's services.

While high volatility control settings implemented under the proposed changes may impact different accounts to a greater or lesser degree depending on the composition of positions in each account, OCC does not believe that such impact would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As discussed above, OCC is obligated under the Exchange Act and the regulations thereunder to review its model parameters during periods of time when the products cleared or markets served display high volatility, report the results to appropriate decisionmakers, and use the results to evaluate the adequacy of

⁷² See *supra* notes 18–20 and accompanying text.

⁷³ See *supra* notes 49–50 and accompanying text.

⁷⁴ 17 CFR 240.17Ad-22(e)(6)(i).

⁷⁵ 17 CFR 240.17Ad-22(e)(6)(vi).

⁷⁶ See Exchange Act Release No. 95842, 87 FR at 58413 (File No. SR-OCC-2022-010) (filing to establish OCC's Risk Management Framework). OCC Risk Management Framework is available on OCC's public website: <https://www.theocc.com/risk-management/risk-management-framework>.

⁷⁷ 17 CFR 240.17Ad-22(e)(6)(vi).

⁷⁸ 15 U.S.C. 78s(b).

⁷⁹ 17 CFR 240.19b-4.

⁸⁰ 17 CFR 240.19b-4(a)(6)(i).

⁸¹ 17 CFR 240.19b-4(c)(1).

⁸² See *supra* notes 28–29 and accompanying text.

⁸³ See *supra* notes 54, 58, and 60.

⁸⁴ 15 U.S.C. 78s(b).

⁸⁵ 15 U.S.C. 78q-1.

⁸⁶ 15 U.S.C. 78q-1(b)(3)(I).

and adjust its model parameters.⁸⁷ As discussed above, OCC believes the proposed changes to its rules support a high volatility control setting process that is reasonably designed to monitor volatility in the products and markets served by OCC and escalate the results of that monitoring to appropriate OCC decisionmakers, who would evaluate whether adjustments to OCC's model parameters through use of control settings is warranted. In addition, the changes would support a process designed to mitigate procyclicality observed with the GARCH model, which OCC believes would help ensure that its margin requirements remain commensurate with the risks presented by its Clearing Members' activity, consistent with SEC Rule 17Ad-22(e)(6)(i).⁸⁸ Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-OCC-2024-014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-OCC-2024-014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to SR-OCC-2024-014 and should be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁹

Vanessa Countryman,
Secretary.

[FR Doc. 2024-23292 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101243; File No. SR-CboeBZX-2024-093]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation Date of Functionality That Will Provide Members and Clearing Members With the Option To Utilize Additional Credit Risk Settings Under Interpretation and Policy .03 of Rule 11.13 ("Aggregate Credit Risk Checks")

October 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2024, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to extend the implementation date of functionality that will provide Members and Clearing Members with the option to utilize additional credit risk settings under Interpretation and Policy .03 of Rule 11.13 ("Aggregate Credit Risk Checks").

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

⁸⁷ See 17 CFR 240.17Ad-22(e)(6)(vi)(C)-(D).

⁸⁸ 17 CFR 240.17Ad-22(e)(6)(i).

⁸⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal to extend the implementation date of functionality providing Members and Clearing Members with the option to utilize additional Aggregate Credit Risk Checks. The functionality relating to these additional risk settings was submitted by the Exchange on an immediately effective basis on May 29, 2024.³

The Aggregate Credit Risk Checks offered under Interpretation and Policy .03 or Rule 11.13, provide Members and Clearing Members with additional, optional credit risk settings, at the Market Participant Identifier ("MPID") level and/or to a subset of orders identified within the MPID level (the "risk group identifier" level) that authorizes the Exchange to take automated action if a designated limit for a Member is breached. These risk settings will provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange. Specifically, the Exchange intends to offer two aggregate credit risk settings as follows:

- The "Aggregate Gross Credit Exposure Limit", which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and
- The "Aggregate Net Credit Exposure Limit", which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The Exchange initially proposed to implement the Aggregate Credit Risk Checks by October 31, 2024. While this date is not included in the relevant rule text codifying the Aggregate Credit Risk Checks, the Exchange separately notates

in its rulebook when it plans to implement new functionality that was either immediately effective upon rule filing, or approved by the SEC. Estimated implementation dates are sometimes necessary so because implementing new functionality sometimes requires additional time to develop, test, and deploy, and such timeline may not always coincide with the statutory rule filing process. As such, the Exchange provides estimated implementation dates to make Members aware that certain rule text is subject to amendment post implementation of the new functionality, as well as to provide Members with sufficient notice so that they can make any necessary technological or operational adjustments to their systems (if applicable). However, more time is needed to design, test, and implement the Aggregate Credit Risk Checks. Accordingly, the Exchange proposes to implement the Aggregate Credit Risk Checks on or after November 22, 2024. The Exchange would issue a Trade Desk Notice announcing the exact implementation date to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange's proposal to delay the implementation of Aggregate Credit Risk Checks to on or after November 22, 2024, is consistent with the Act and protection of investors and general public because it will permit the Exchange additional time to ensure the Exchange can properly develop, test, and deploy the Aggregate Credit Risk Checks. Moreover, the Aggregate Credit Risk Checks themselves were previously approved [sic] by the Commission,⁵ and this proposal does not change the substance of those functionalities. As noted, the Exchange would issue a Trade Desk Notice announcing the exact implementation date to members and member organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the purpose of this proposal is simply to extend the implementation date for the additional aggregate credit risk settings so that the Exchange has additional time for development, testing, and deployment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that more time is required to ensure optimal design, testing, and implementation for the Aggregate Credit Risk Checks, and thus, waiver of the operative delay will

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

³ See Securities Exchange Act Release No. 100308 (June 10, 2024), 89 FR 50658 (June 14, 2024) (SR-ChoeBZX-2024-043).

⁴ 15 U.S.C. 78f(b).

⁵ *Supra* note 3.

provide Exchange with such additional time. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would ensure that the Exchange has extra time to properly deploy these new aggregate credit risk functionalities, which is to the benefit of market participants that will eventually utilize the Aggregate Credit Risk Checks. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2024-093 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2024-093. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2024-093, and should be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-23290 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35350; 812-15615]

Sound Point Alternative Income Fund, Felicitas Private Markets Fund and Skypoint Capital Advisors, LLC

October 4, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of an application for an order pursuant to 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, pursuant to sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and pursuant to section 17(d) of the Act and rule 17d-1 thereunder.

Summary of Application: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of

shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

Applicants: Sound Point Alternative Income Fund, Felicitas Private Markets Fund and Skypoint Capital Advisors, LLC.

Filing Dates: The application was filed on August 19, 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 October 29, 2024, and should be accompanied by proof of 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: Brian Smith, c/o Skypoint Capital Advisors, LLC, bsmith@skypointfunds.com, with copies to Harry S. Pangas, Esq., Dechert LLP, harry.pangas@dechert.com and Philip T. Hinkle, Esq., Dechert LLP, philip.hinkle@dechert.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 August 19, 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.

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78s(b)(2)(B).

¹⁴ 17 CFR 200.30-3(a)(12), (59).

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2024-23375 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101241; File No. SR-CboeEDGA-2024-038]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation Date of Functionality That Will Provide Members and Clearing Members With the Option To Utilize Additional Credit Risk Settings Under Interpretation and Policy .03 of Rule 11.10 ("Aggregate Credit Risk Checks")

October 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2024, Cboe EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the "Exchange" or "EDGA") proposes to extend the implementation date of functionality that will provide Members and Clearing Members with the option to utilize additional credit risk settings under Interpretation and Policy .03 of Rule 11.10 ("Aggregate Credit Risk Checks").

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal to extend the implementation date of functionality providing Members and Clearing Members with the option to utilize additional Aggregate Credit Risk Checks. The functionality relating to these additional risk settings was submitted by the Exchange on an immediately effective basis on May 29, 2024.³

The Aggregate Credit Risk Checks offered under Interpretation and Policy .03 or Rule 11.10, provide Members and Clearing Members with additional, optional credit risk settings, at the Market Participant Identifier ("MPID") level and/or to a subset of orders identified within the MPID level (the "risk group identifier" level) that authorizes the Exchange to take automated action if a designated limit for a Member is breached. These risk settings will provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange. Specifically, the Exchange intends to offer two aggregate credit risk settings as follows:

- The "Aggregate Gross Credit Exposure Limit", which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and
- The "Aggregate Net Credit Exposure Limit", which refers to a pre-established maximum daily dollar amount for

purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The Exchange initially proposed to implement the Aggregate Credit Risk Checks by October 31, 2024. While this date is not included in the relevant rule text codifying the Aggregate Credit Risk Checks, the Exchange separately notates in its rulebook when it plans to implement new functionality that was either immediately effective upon rule filing, or approved by the SEC. Estimated implementation dates are sometimes necessary so because implementing new functionality sometimes requires additional time to develop, test, and deploy, and such timeline may not always coincide with the statutory rule filing process. As such, the Exchange provides estimated implementation dates to make Members aware that certain rule text is subject to amendment post implementation of the new functionality, as well as to provide Members with sufficient notice so that they can make any necessary technological or operational adjustments to their systems (if applicable). However, more time is needed to design, test, and implement the Aggregate Credit Risk Checks. Accordingly, the Exchange proposes to implement the Aggregate Credit Risk Checks on or after November 22, 2024. The Exchange would issue a Trade Desk Notice announcing the exact implementation date to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange's proposal to delay the implementation of Aggregate Credit Risk Checks to on or after November 22, 2024, is consistent with the Act and protection of investors and general public because it will permit the Exchange additional time to ensure the Exchange can properly develop, test, and deploy the Aggregate Credit Risk Checks. Moreover, the Aggregate Credit Risk Checks themselves were previously

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 100303 (June 10, 2024), 89 FR 50640 (June 14, 2024) (SR-CboeEDGA-2024-017).

⁴ 15 U.S.C. 78f(b).

approved [sic] by the Commission,⁵ and this proposal does not change the substance of those functionalities. As noted, the Exchange would issue a Trade Desk Notice announcing the exact implementation date to members and member organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the purpose of this proposal is simply to extend the implementation date for the additional aggregate credit risk settings so that the Exchange has additional time for development, testing, and deployment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant

to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that more time is required to ensure optimal design, testing, and implementation for the Aggregate Credit Risk Checks, and thus, waiver of the operative delay will provide Exchange with such additional time. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would ensure that the Exchange has extra time to properly deploy these new aggregate credit risk functionalities, which is to the benefit of market participants that will eventually utilize the Aggregate Credit Risk Checks. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGA-2024-038 on the subject line.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78s(b)(2)(B).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeEDGA-2024-038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGA-2024-038, and should be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-23288 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

⁵ *Supra* note 3.

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 200.30-3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101237; File No. SR–IEX–2024–19]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Supplementary Material .17 to IEX Rule 5.110 (Supervision), so That Any Location That Is the Private Residence of a Person Associated With a Member at Which Supervisory Activities Are Conducted, Which the Member Has Designated as a Residential Supervisory Location Pursuant to FINRA Rule 3110.19, Would Also Be Considered a Non-Branch Location Pursuant to IEX's Rules

October 3, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on September 20, 2024, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b–4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to adopt Supplementary Material .17 to IEX Rule 5.110 (Supervision), so that any location that is the private residence of a person associated with a Member⁶ at which supervisory activities are conducted, which the Member has designated as a Residential Supervisory Location (“RSL”) pursuant to FINRA Rule 3110.19, would also be considered a non-branch location pursuant to IEX's rules.

The text of the proposed rule change is available at the Exchange's website at www.iextrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

IEX proposes to adopt Supplementary Material .17 to IEX Rule 5.110, which would allow a location that is the private residence of a person associated with a Member where supervisory activities are conducted, including those described in IEX Rule 5.110(f)(1)(D) through (G) or IEX Rule 5.110(f)(2), that satisfies the conditions for designation as a RSL set forth in FINRA Rule 3110.19 to also be considered a non-branch location (*i.e.*, an unregistered office) for those activities under IEX rules. Without this proposed rule change, any private residence at which a person associated with a member conducts supervisory activities is subject to registration, an annual inspection and, in some cases, additional licensing requirements.⁷ As described below, adding Proposed Supplementary Material .17 to IEX Rule 5.110 would harmonize IEX's internal inspections obligations for its Members⁸ with FINRA's comparable obligations for its members, thereby avoiding confusion to IEX Members with respect to the applicability of FINRA's new RSL designation with respect to compliance with IEX Rule 5.110.⁹ Additionally, because Proposed Supplementary Material .17 to IEX Rule 5.110 incorporates by reference FINRA Rule 3110.19, this rule change enables IEX Rule 5.110 to continue to be incorporated into the agreement between IEX and FINRA to allocate regulatory responsibility for common rules (the “17d–2 Agreement”).¹⁰

⁷ See IEX Rules 5.110(a)(4) and 5.110(c)(1)(A).

⁸ See IEX Rule 1.160(s).

⁹ IEX notes that all IEX Members are currently FINRA members, or in the process of becoming FINRA members.

¹⁰ See Securities Exchange Act Release No. 93324 (October 14, 2021), 86 FR 58110 (October 20, 2021)

Background

Early in 2020, the COVID–19 pandemic prompted FINRA to provide temporary relief to member firms from certain regulatory requirements to address the public health crisis.¹¹ FINRA subsequently adopted temporary relief to allow remote inspections of an Office of Supervisory Jurisdiction (“OSJ”), branch office, or non-branch location for calendar years 2020 and 2021;¹² FINRA extended the temporary relief several times to include calendar years 2022, 2023, and the first half of 2024.¹³ IEX, following FINRA, offered its Members the same temporary relief to allow remote inspections of OSJs, branch offices, and non-branch locations for calendar years 2021, 2022, 2023, and until June 30, 2024.¹⁴ FINRA replaced the temporary remote inspections relief with the Remote Inspections Pilot Program¹⁵ that impacts the internal inspections requirements of FINRA Rule 3110(c); IEX subsequently amended its supervision rules such that any IEX Member that participates in the FINRA pilot shall be deemed to satisfy the

(File No. 4–700). The 17d–2 Agreement includes a certification by IEX that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable.

¹¹ Among the temporary regulatory relief provided, FINRA adopted relief pertaining to branch office registration requirements through Form BR (Uniform Branch Office Registration Form) and FINRA Rule 3110(c) inspection requirements. Specifically, FINRA temporarily suspended the requirement for member firms to submit branch office applications on Form BR for any newly opened temporary office locations or space-sharing arrangements established as a result of the pandemic. See Regulatory Notice 20–08 (March 2020). With respect to inspection obligations, FINRA adopted temporary Rule 3110.16 that provided additional time for member firms to complete their calendar year 2020 inspection obligations. See Securities Exchange Act Release No. 89188 (June 30, 2020), 85 FR 40713 (July 7, 2020) (SR–FINRA–2020–019).

¹² See Securities Exchange Act Release No. 90454 (November 18, 2020), 85 FR 75097 (November 24, 2020) (SR–FINRA–2020–040).

¹³ See Securities Exchange Act Release No. 96241 (November 4, 2022), 87 FR 67969 (November 10, 2022) (SR–FINRA–2022–030); Securities Exchange Act Release No. 93002 (September 15, 2021), 86 FR 52508 (September 21, 2021) (SR–FINRA–2021–023); Securities Exchange Act Release No. 94018 (January 20, 2022), 87 FR 4072 (January 26, 2022) (SR–FINRA–2022–001); and Securities Exchange Act Release No. 98560 (September 27, 2023), 88 FR 68258 (October 3, 2023) (SR–FINRA–2023–012).

¹⁴ See Securities Exchange Act Release No. 92222 (June 22, 2021), 86 FR 34069 (June 28, 2021) (SR–IEX–2021–09); Securities Exchange Act Release No. 96460 (December 7, 2022), 87 FR 76222 (December 13, 2022) (SR–IEX–2022–12); Securities Exchange Act Release No. 96606 (January 6, 2023), 88 FR 2140 (January 12, 2023) (SR–IEX–2022–14); and Securities Exchange Act Release No. 99383 (January 17, 2024), 89 FR 4355 (January 23, 2024) (SR–IEX–2024–02).

¹⁵ See FINRA Rule 3110.18.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b–4.

⁶ See IEX Rule 1.160(y).

equivalent internal inspection requirements in IEX Rule 5.110(c).¹⁶

In response to the pandemic, many private and government employers closed their offices and their employees continued with their work from alternative locations such as private residences. IEX, like FINRA, believes this model will endure, irrespective of the state of the pandemic. The pandemic accelerated reliance on technological advances in surveillance and monitoring capabilities and prompted significant changes in lifestyles and work habits, including the growing expectation for workplace flexibility. Moreover, the technology advancements that facilitated the transition to working outside the conventional office setting on a broad scale have not only effected a profound change in lifestyle and workplace practices for member firms, but provided SROs such as FINRA and IEX an opportunity to consider aspects of their supervision rules that may benefit from modernization.¹⁷ As such, IEX, like FINRA, believes measured changes to its regulatory approach would allow firms to effectively and more efficiently carry out their supervisory responsibilities to review the activities of each office or location while preserving investor protections.

Current IEX Requirements to Register and Inspect Offices

Currently, IEX Rule 5.110 (Supervision) requires a Member, regardless of size or type, to have a supervisory system for the activities of its associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, and IEX rules.¹⁸ The rule sets forth the minimum requirements of a Member's supervisory system that includes registering a location as an OSJ or branch office that meets the definitions under IEX Rule 5.110(f) and inspecting all offices and locations in accordance with IEX Rule 5.110(c). The rule categorizes offices or locations as an OSJ or supervisory branch office, a non-supervisory branch office, or a non-

branch location.¹⁹ The requirements to register, inspect and have a principal on-site vary based on the categorization. Specifically, the rule requires the registration and designation as an OSJ or branch office of each location, including the main office, that meets their respective definition under paragraphs (f)(1) and (f)(2) of IEX Rule 5.110, as described in more detail below.²⁰

An OSJ is a type of branch office. IEX defines a "branch office" as "any location where one or more associated persons of a member firm regularly conducts the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or is held out as such[.]"²¹ In addition, any location that is responsible for supervising the activities of persons associated with the member at one or more non-branch locations of the member is considered to be a supervisory branch office.²² A location registered as a branch office must have one or more appropriately registered representatives or principals in each office, and is subject to an inspection at least every three years, unless it is a supervisory branch office in which case it is subject to at least an annual inspection.²³

Depending upon the functions occurring at a branch office, it may be further classified as an OSJ, which IEX Rule 5.110(f)(1) defines as a member's business location at which any one or more of the following functions take place: (1) order execution or market making; (2) structuring of public offerings or private placements; (3) maintaining custody of customers' funds or securities; (4) final acceptance (approval) of new accounts on behalf of the member; (5) review and endorsement of customer orders, pursuant to IEX Rule 5.110(b)(2); (6) final approval of retail communications for use by Persons Associated with the Member, pursuant to IEX Rule 3.280, except for an office that solely conducts final approval of research reports; or (7) responsibility for supervising the activities of persons associated with the member at one or more other branch offices of the Member.²⁴ An office designated as an OSJ must have an appropriately registered principal on-site at the location, and must be inspected at least annually.²⁵

However, subject to specified conditions, an office or location may be deemed a "non-branch location," and excluded from registration as a branch office. Currently, IEX Rule 5.110(f)(2) sets forth seven exclusions—often referred to as unregistered offices or non-branch locations—of which two pertain to residential locations.²⁶ One such exclusion appears under IEX Rule 5.110(f)(2)(B) and exempts from registration as a branch office an associated person's primary residence subject to the following express conditions: (1) only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location; (2) the location is not held out to the public as an office and the associated person does not meet with customers at the location; (3) neither customer funds nor securities are handled at that location; (4) the associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications and other communications to the public by such associated person; (5) the associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with IEX Rule 5.110; (6) electronic communications (e.g., email) are made through the Member's electronic system; (7) all orders are entered through the designated branch office or an electronic system established by the Member that is reviewable at the branch office; (8) written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the Member; and (9) a list of the residence locations is maintained

¹⁶ See Securities Exchange Act Release No. 101025 (September 16, 2024); *see also* Supplementary Material .16 to IEX Rule 5.110.

¹⁷ See Securities Exchange Act Release No. 97237 (March 31, 2023), 88 FR 20568 n. 8 (April 6, 2023) (SR-FINRA-2023-006) ("FINRA RSL Proposal") (describing FINRA's "practice of periodically reviewing its rules to ensure they continue to promote their intended investor protection objectives in a manner that is effective and efficient, without imposing undue burdens, particularly in light of technological, industry and market changes.")

¹⁸ See IEX Rule 5.110(a).

¹⁹ See IEX Rule 5.110(f).

²⁰ See IEX Rule 5.110(a)(3) and Supplementary Material .01 to IEX Rule 5.110.

²¹ See IEX Rule 5.110(f)(2).

²² See IEX Rule 5.110(f)(4).

²³ See IEX Rule 5.110(c)(1)(A) & (B).

²⁴ See IEX Rule 5.110(f)(1)(A)–(G).

²⁵ See IEX Rules 5.110(a)(4) and 5.110(c)(1)(A).

²⁶ See generally IEX Rule 5.110(f)(2)(A) and IEX Rule 5.110(f)(2)(D)–(G) which, in addition to the primary residence and the non-primary residence exclusions that are further described, excludes the following from the definition of "branch office": (1) any location that is established solely for customer service or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office; (2) any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office; (3) any location that is used primarily to engage in non-securities activities and from which the associated person(s) effects no more than 25 securities transactions in any one calendar year; provided that any retail communication identifying such location also sets forth the address and telephone number of the location from which the associated person(s) conducting business at the non-branch locations are directly supervised; (4) the Floor of a registered national securities exchange where a member conducts a direct access business with public customers; or (5) a temporary location established in response to the implementation of a business continuity plan.

by the Member (“primary residence exclusion”).²⁷ The second exclusion that pertains to a residential location appears under IEX Rule 5.110(f)(2)(C) is any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided that the Member complies with the conditions described in (1) through (8) above (“non-primary residence exclusion”).²⁸ In general, the non-primary residence exclusion typically refers to a vacation or second home.²⁹ A non-branch location must be inspected on a periodic schedule, presumed to be at least every three years.³⁰

Notwithstanding either of these two residential exclusions or the other exclusions listed under Rule 5.110(f)(2)(A),³¹ a primary or non-primary residence location that is responsible for either the supervisory activities set forth in the OSJ definition or for supervising the activities of persons associated with the Member at one or more non-branch locations of the Member is considered an OSJ or (supervisory) branch office, respectively.³² Consequently, such residential supervisory offices are subject to registration, an annual inspection and, in some cases, additional licensing requirements.³³

FINRA Residential Supervisory Location Rule

Effective June 1, 2024, FINRA implemented a rule change that establishes a new Residential Supervisory Location (“RSL”) designation for a private residence at which an associated person engages in specified supervisory activities, subject to specified investor protection safeguards and limitations.³⁴ This new non-branch location targets the subset of residential locations that have many of the attributes contained in the primary residence exclusion, but must be registered as an OSJ or branch office because of the supervisory functions taking place there.

As described in the FINRA RSL Proposal, the definition of an RSL is based largely on several existing aspects of FINRA Rule 3110(f) (and therefore on the functionally identical IEX Rule 5.110(f)). In particular, the RSL definition incorporates the existing supervisory functions appearing in the OSJ definition (FINRA Rule 3110(f)(1)) and branch office definition (FINRA Rule 3110(f)(2)(A) with the existing residential exclusions set forth in the branch office definition to classify an RSL as a non-branch location. Under current IEX rules, a private residence at which these supervisory functions occur must be registered and designated as a branch office or OSJ under IEX Rule 5.110(a)(3), and inspected at least annually under IEX Rule 5.110(c)(1)(A). By treating such location as a non-branch location, the private residence would become subject to inspections on a regular periodic schedule under IEX Rule 5.110(c)(1)(C), presumed to be every three years.³⁵

FINRA Rule 3110.19 incorporates some existing safeguards and limitations members must already satisfy to rely on the primary residence exclusion.³⁶ As described in the FINRA RSL Proposal, FINRA intends for the terms underlying the RSL designation to be interpreted consistently with their meaning in FINRA Rule 3110(f) and existing related guidance.³⁷ The requirements for designation of a location as an RSL, which are set forth in FINRA Rule 3110.19, include the following key elements:

- A location where supervisory activities are conducted shall be considered for those activities a non-branch location provided that:³⁸
 - only one associated person (or members of the same immediate family) may conduct business at the location;³⁹
 - the location is not held out to the public as an office;⁴⁰
 - the associated person does not meet with customers or prospective customers at the location;⁴¹
 - any sales activity that takes place at the location complies with the conditions set forth under FINRA Rule 3110(f)(2)(A)(ii) (the primary residence exclusion⁴²) or FINRA Rule

3110(f)(2)(A)(iii) (the non-primary residence exclusion⁴³);⁴⁴

- neither customer funds nor securities are handled at that location;⁴⁵
- the associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications and other communications to the public by such associated person;⁴⁶
- the associated person’s correspondence and communications with the public are subject to the firm’s supervision in accordance with FINRA’s supervision rule;⁴⁷
- the associated person’s electronic communications are made through the member’s electronic system;⁴⁸
- the member must have a recordkeeping system to make and keep current, and preserve records required to be made and kept current, and preserved under applicable securities laws and regulations, FINRA rules, and the member’s own written supervisory procedures under Rule 3110; such records are not physically or electronically maintained and preserved at the office or location; and the member has prompt access to such records;⁴⁹ and

○ the member must determine that its surveillance and technology tools are appropriate to supervise the types of risks presented by each Residential Supervisory Location, and these tools may include but are not limited to: firm-wide tools such as, electronic recordkeeping system; electronic surveillance of email and correspondence; electronic trade blotters; regular activity-based sampling reviews; and tools for visual inspections; tools specific to the RSL based on the activities of associated person assigned to the location, products offered, restrictions on the activity of the RSL; and system tools such as secure network connections and effective cybersecurity protocols.⁵⁰

• FINRA members shall not be eligible to designate an office or location as an RSL if, among other things, the FINRA member is designated as: (i) Restricted Firm under FINRA Rule 4111 or (ii) a Taping Firm under FINRA Rule 3170. Additionally, firms with suspended or new (effective less than 12 months) FINRA memberships or that

²⁷ See IEX Rule 5.110(f)(2)(B)(i)–(ix). The primary residence exclusion is also set forth in FINRA Rule 3110(f)(2)(A)(ii).

²⁸ See IEX Rule 5.110(f)(2)(C). The non-primary residence exclusion is also set forth in FINRA Rule 3110(f)(2)(A)(iii).

²⁹ See NASD [FINRA] Notice to Members 06–12 (March 2006).

³⁰ See IEX Rule 5.110(c)(1)(C) and Supplementary Material .13 to IEX Rule 5.110.

³¹ See generally IEX Rule 5.110(f)(2)(A) and IEX Rule 5.110(f)(2)(D)–(G).

³² See IEX Rule 5.110(f)(1)(D)–(G) and IEX Rule 5.110(f)(4).

³³ See IEX Rules 5.110(a)(4) and 5.110(c)(1)(A).

³⁴ See FINRA Regulatory Notice 24–02.

³⁵ See IEX Rule 5.110(c)(1)(C) and Supplementary Material .13 to IEX Rule 5.110.

³⁶ See FINRA Rule 3110(f)(2)(A)(ii)a., b., c., d., e., f., and i.

³⁷ See, e.g., NASD [FINRA] Notice to Members 06–12 (March 2006).

³⁸ See FINRA Rule 3110.19(a).

³⁹ See FINRA Rule 3110.19(a)(1).

⁴⁰ See FINRA Rule 3110.19(a)(2).

⁴¹ See FINRA Rule 3110.19(a)(3).

⁴² See IEX Rule 5.110(f)(2)(B)(i)–(ix).

⁴³ See IEX Rule 5.110(f)(2)(C).

⁴⁴ See FINRA Rule 3110.19(a)(4).

⁴⁵ See FINRA Rule 3110.19(a)(5).

⁴⁶ See FINRA Rule 3110.19(a)(6).

⁴⁷ See FINRA Rule 3110.19(a)(7).

⁴⁸ See FINRA Rule 3110.19(a)(8).

⁴⁹ See FINRA Rule 3110.19(a)(9).

⁵⁰ See FINRA Rule 3110.19(a)(10).

have been found within the past three years by the SEC or FINRA to have violated FINRA Rule 3110(c) are ineligible to participate.⁵¹

- An office or location shall not be eligible for designation as an RSL if one or more associated persons at such office or location:⁵²

- is a designated supervisor who has less than one year of direct supervisory experience with the member, or an affiliate or subsidiary of the member that is registered as a broker-dealer or investment adviser;⁵³

- is functioning as a principal for a limited period in accordance with FINRA Rule 1210.04;⁵⁴

- is subject to a mandatory heightened supervisory plan under the rules of the SEC, FINRA or state regulatory agency;⁵⁵

- is statutorily disqualified, unless such disqualified person has been approved (or is otherwise permitted pursuant to FINRA rules and the federal securities laws) to associate with a member and is not subject to a mandatory heightened supervisory plan under FINRA Rule 3110.19(c)(3) or otherwise as a condition to approval or permission for such association;⁵⁶

- has an event in the prior three years that required a “yes” response to any item in Questions 14A(1)(a) and 2(a), 14B(1)(a) and 2(a), 14C, 14D and 14E on Form U4;⁵⁷ or

- has been notified in writing that such associated person is now subject to, any Investigation or Proceeding, as such terms are defined in the Explanation of Terms for the Form U4 (Uniform Application for Securities Industry Registration or Transfer), by the SEC, an SRO, including FINRA, or state securities commission (or agency or office performing like functions) (each, a “Regulator”) expressly alleging they have failed reasonably to supervise another person subject to their supervision, with a view to preventing the violation of any provision of the Securities Act, the Exchange Act, the Investment Advisers Act, the Investment Company Act, the Commodity Exchange Act, any state law pertaining to the regulation of securities or any rule or regulation under any of such Acts or laws, or any of the rules of the MSRB or other self-regulatory organization, including FINRA; provided, however, such office or

location may be designated or redesignated as an RSL subject to the requirements of FINRA Rule 3110.19 upon the earlier of: (i) the member’s receipt of written notification from the applicable Regulator that such Investigation has concluded without further action; or (ii) one year from the date of the last communication from such Regulator relating to such Investigation.⁵⁸

- FINRA members that elect to designate an office or location of the member as an RSL shall provide FINRA with a current list of all locations designated as RSLs by the 15th day of the month following each calendar quarter in the manner and format as FINRA may prescribe.⁵⁹

- FINRA members must conduct a risk assessment prior to designating an office or location as an RSL. Specifically, the FINRA member must develop a reasonable risk-based approach to designating such office or location as an RSL, and conduct and document a risk assessment for the associated person assigned to that office or location. The assessment must document the factors considered, including among others, whether the associated person at such office or location is now subject to: (1) customer complaints, taking into account the volume and nature of the complaints; (2) heightened supervision other than where such office or location is ineligible for RSL designation under FINRA Rule 3110.19(c)(3); (3) any failure to comply with the member’s written supervisory procedures; (4) any recordkeeping violation; and (5) any regulatory communications from a Regulator, indicating that the associated person at such office or location failed reasonably to supervise another person subject to their supervision, including but not limited to, subpoenas, preliminary or routine regulatory inquiries or requests for information, deficiency letters, “blue sheet” requests or other trading questionnaires, or examinations. The FINRA member must take into account any higher risk activities that take place or a higher risk associated person that is assigned to that office or location. Consistent with its obligation under FINRA Rule 3110(a), the member’s supervisory system must take into consideration any indicators of irregularities or misconduct (*i.e.*, “red flags”) when designating an office or location as an RSL. Red flags should also be reviewed in determining whether it is reasonable to maintain the RSL designation of such office or

location in accordance with the requirements of FINRA Rule 3110.19 and the member should consider evidencing steps taken to address those red flags where appropriate.⁶⁰

Proposal

IEX proposes to adopt Supplementary Material .17 to IEX Rule 5.110. This proposed new supplementary material reads as follows:

Residential Supervisory Location. Notwithstanding any other provisions of IEX Rule 5.110(f), a location that is the private residence of a person associated with a Member where supervisory activities are conducted, including those described in IEX Rule 5.110(f)(1)(D) through (G) or IEX Rule 5.110(f)(2)(B), which satisfies the conditions for designation as a Residential Supervisory Location set forth in FINRA Rule 3110.19 shall also be considered a non-branch location for those activities pursuant to IEX’s Rules.⁶¹

As stated in proposed new Supplementary Material .17 to IEX Rule 5.110, any location that an IEX Member designates as an RSL pursuant to FINRA Rule 3110.19 shall also be considered a non-branch location for those activities pursuant to IEX’s rules.

Pursuant to this proposed rule change, IEX Members will be required to share information about designated RSLs with FINRA on a quarterly basis. IEX is not proposing to add the entire FINRA Residential Supervisory Location designation rule to its rules, because it would be unnecessarily duplicative and burdensome for IEX Members to share the same quarterly RSL designation information with IEX. Based upon conversations with FINRA staff, IEX understands that adopting Proposed Supplementary Material .17 to IEX Rule 5.110 would update IEX Rule 5.110 so that it remains substantially similar to FINRA Rule 3110, such that they remain common rules subject to the 17d–2 Agreement. As a result, regulatory responsibility for IEX Rule 5.110 would continue to be allocated to FINRA.

IEX, like FINRA, believes that the current work environment merits a reevaluation of the regulatory benefit of requiring firms to designate a private residence, at which specified supervisory functions occur, as an OSJ or branch office. IEX’s proposal to incorporate by reference FINRA’s RSL designation is intended to reflect a pragmatic balance between the hybrid workforce model and the parameters that should ensure that all locations,

⁵¹ See FINRA Rule 3110.19(b).

⁵² See FINRA Rule 3110.19(c).

⁵³ See FINRA Rule 3110.19(c)(1).

⁵⁴ See FINRA Rule 3110.19(c)(2).

⁵⁵ See FINRA Rule 3110.19(c)(3).

⁵⁶ See FINRA Rule 3110.19(c)(4).

⁵⁷ See FINRA Rule 3110.19(c)(5).

⁵⁸ See FINRA Rule 3110.19(c)(6).

⁵⁹ See FINRA Rule 3110.19(d).

⁶⁰ See FINRA Rule 3110.19(e).

⁶¹ Proposed Supplementary Material .17 to IEX Rule 5.110.

including residential locations, are appropriately supervised.

Separate and apart from the classification of the office or location and the attendant inspection obligations, Members will continue to have an ongoing obligation to supervise the activities of each associated person in a manner reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable IEX and FINRA rules.⁶² IEX, like FINRA, emphasizes that member firms have a statutory duty to supervise their associated persons, regardless of their location, compensation or employment arrangement, or registration status, in accordance with the IEX and FINRA rules.⁶³

IEX notes that although FINRA's RSL designation first became available on June 1, 2024, the first action required by FINRA members is the October 15, 2024 deadline for submitting the first list of designated RSLs to FINRA.⁶⁴ As described below, IEX is seeking waiver of the 30-day operative delay for this rule change proposal, so that IEX Members that designate any locations as RSLs by October 15, 2024 will know that the designation also applies to IEX's supervision rules.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)⁶⁵ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act⁶⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange's rule proposal is intended to harmonize IEX's supervision rules, specifically with respect to designation of certain non-branch offices as Residential Supervisory Locations, with those of FINRA, on which they are based. As discussed in the Purpose section, because Proposed Supplementary Material .17 to IEX Rule 5.110 incorporates by reference FINRA Rule 3110.19, this rule change enables IEX Rule 5.110 to continue to be incorporated into the 17d-2 Agreement, resulting in less burdensome and more

efficient regulatory compliance. Specifically, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules insofar as a Member's compliance with FINRA Rule 3110.19 shall mean the Member is also in compliance with Supplementary Material .17 to IEX Rule 5.110, thus promoting the application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to the 17d-2 Agreement. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Section 6(b)(5) of the Act.⁶⁷

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but rather to provide greater harmonization among IEX and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory performance on the pending 17d-2 Agreement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)⁶⁸ of the Act and Rule 19b-4(f)(6)⁶⁹ thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-

4(f)(6) thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.⁷⁰

A proposed rule change filed under Rule 19b-4(f)(6)⁷¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁷² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to harmonize its rules with FINRA, as described herein, upon effectiveness of the proposed rule filing.

The Exchange stated that this proposed rule change is non-controversial because it does not present any new or novel issues. In particular, IEX is harmonizing its supervision rules with those of FINRA, on which they are based and which have been previously approved by the Commission. By conforming the Exchange's rules to FINRA's, the proposed rule change would promote the application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to the 17d-2 Agreement. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Exchange Act Section 6(b)(5).

In addition, the Exchange stated that since FINRA first made its Residential Supervisory Location designation available to its members on June 1, 2024, waiving the 30-day operative delay would provide assurances to IEX members who wish to designate certain private residences as RSLs that they can plan the remainder of their 2024 inspection program under a harmonized rule set, particularly because the first list of designated RSLs is not due to FINRA until October 15, 2024,⁷³ while at the same time assuring that IEC members continue to perform their supervisory obligations. Further, the Exchange stated that waiver of the operative delay should avoid any

⁶² See Supplementary Material .12 to IEX Rule 5.110.

⁶³ See 15 U.S.C. 78o(b)(4)(E) and 15 U.S.C. 78o(b)(6)(A).

⁶⁴ See FINRA Regulatory Notice 24-02.

⁶⁵ 15 U.S.C. 78f.

⁶⁶ 15 U.S.C. 78f(b)(5).

⁶⁷ 15 U.S.C. 78f(b)(5).

⁶⁸ 15 U.S.C. 78s(b)(3)(A).

⁶⁹ 17 CFR 240.19b-4(f)(6).

⁷⁰ 17 CFR 240.19b-4(f)(6)(iii).

⁷¹ 17 CFR 240.19b-4(f)(6).

⁷² 17 CFR 240.19b-4(f)(6)(iii).

⁷³ See FINRA Regulatory Notice 24-02.

potential confusion that may otherwise occur on the part of IEX members as to the applicable rules governing inspections of branch offices and other locations. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposed rule change is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.⁷⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) ⁷⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2024-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-IEX-2024-19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-IEX-2024-19 and should be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-23286 Filed 10-8-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101242; File No. SR-CboeEDGX-2024-060]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation Date of Functionality That Will Provide Members and Clearing Members With the Option To Utilize Additional Credit Risk Settings Under Interpretation and Policy .03 of Rule 11.10 ("Aggregate Credit Risk Checks")

October 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2024, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule

change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") proposes to extend the implementation date of functionality that will provide Members and Clearing Members with the option to utilize additional credit risk settings under Interpretation and Policy .03 or Rule 11.10 ("Aggregate Credit Risk Checks").

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal to extend the implementation date of functionality providing Members and Clearing Members with the option to utilize additional Aggregate Credit Risk Checks. The functionality relating to these additional risk settings was submitted by the Exchange on an immediately effective basis on May 29, 2024.³

The Aggregate Credit Risk Checks offered under Interpretation and Policy .03 or Rule 11.10, provide Members and Clearing Members with additional, optional credit risk settings, at the Market Participant Identifier ("MPID")

⁷⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷⁵ 15 U.S.C. 78s(b)(2)(B).

⁷⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 100304 (June 10, 2024), 89 FR 50637 (June 14, 2024) (SR-CboeEDGX-2024-028).

level and/or to a subset of orders identified within the MPID level (the “risk group identifier” level) that authorizes the Exchange to take automated action if a designated limit for a Member is breached. These risk settings will provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange. Specifically, the Exchange intends to offer two aggregate credit risk settings as follows:

- The “Aggregate Gross Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and
- The “Aggregate Net Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The Exchange initially proposed to implement the Aggregate Credit Risk Checks by October 31, 2024. While this date is not included in the relevant rule text codifying the Aggregate Credit Risk Checks, the Exchange separately notates in its rulebook when it plans to implement new functionality that was either immediately effective upon rule filing, or approved by the SEC. Estimated implementation dates are sometimes necessary so because implementing new functionality sometimes requires additional time to develop, test, and deploy, and such timeline may not always coincide with the statutory rule filing process. As such, the Exchange provides estimated implementation dates to make Members aware that certain rule text is subject to amendment post implementation of the new functionality, as well as to provide Members with sufficient notice so that they can make any necessary technological or operational adjustments to their systems (if applicable). However, more time is needed to design, test, and implement the Aggregate Credit Risk Checks. Accordingly, the Exchange proposes to implement the Aggregate Credit Risk Checks on or after November 22, 2024. The Exchange would issue a Trade Desk Notice announcing the exact implementation date to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange’s proposal to delay the implementation of Aggregate Credit Risk Checks to on or after November 22, 2024, is consistent with the Act and protection of investors and general public because it will permit the Exchange additional time to ensure the Exchange can properly develop, test, and deploy the Aggregate Credit Risk Checks. Moreover, the Aggregate Credit Risk Checks themselves were previously approved [sic] by the Commission,⁵ and this proposal does not change the substance of those functionalities. As noted, the Exchange would issue a Trade Desk Notice announcing the exact implementation date to members and member organizations.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the purpose of this proposal is simply to extend the implementation date for the additional aggregate credit risk settings so that the Exchange has additional time for development, testing, and deployment.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii)

impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that more time is required to ensure optimal design, testing, and implementation for the Aggregate Credit Risk Checks, and thus, waiver of the operative delay will provide Exchange with such additional time. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would ensure that the Exchange has extra time to properly deploy these new aggregate credit risk functionalities, which is to the benefit of market participants that will eventually utilize the Aggregate Credit Risk Checks. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴ 15 U.S.C. 78f(b).

⁵ *Supra* note 3.

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

under Section 19(b)(2)(B) ¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–CboeEDGX–2024–060 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. All submissions should refer to file number SR–CboeEDGX–2024–060. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGX–2024–060, and should

be submitted on or before October 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024–23289 Filed 10–8–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20705 and #20706;
VIRGINIA Disaster Number VA–20011]

Presidential Declaration of a Major
Disaster for the Commonwealth of
Virginia

AGENCY: U.S. Small Business
Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–4831–DR), dated October 1, 2024.

DATES: Issued on October 1, 2024.
Physical Loan Application Deadline
Date: December 2, 2024.

Economic Injury (EIDL) Loan
Application Deadline Date: July 1, 2025.

ADDRESSES: Visit the MySBA Loan
Portal at <https://lending.sba.gov> to
apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:
Alan Escobar, Office of Disaster
Recovery & Resilience, U.S. Small
Business Administration, 409 3rd Street
SW, Suite 6050, Washington, DC 20416,
(202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is
hereby given that as a result of the
President’s major disaster declaration on
10/01/2024, applications for disaster
loans may be submitted online using the
MySBA Loan Portal [https://
lending.sba.gov](https://lending.sba.gov) or other locally
announced locations. Please contact the
SBA disaster assistance customer
service center by email at
disastercustomerservice@sba.gov or by
phone at 1–800–659–2955 for further
assistance.

Incident: Tropical Storm Helene.
Incident Period: September 25, 2024
and continuing.

The following areas have been
determined to be adversely affected by
the disaster:

Primary Counties (Physical Damage and
Economic Injury Loans): Giles,
Grayson, Smyth, Tazewell,
Washington, Wythe and the
Independent City of Galax.

Contiguous Counties (Economic Injury
Loans Only):
Virginia: Bland, Buchanan, Carroll,
Craig, Montgomery, Pulaski,
Russell, Scott and the Independent
City of Bristol.
North Carolina: Alleghany, Ashe,
Surry.
Tennessee: Johnson, Sullivan.
West Virginia: McDowell, Mercer,
Monroe, Summers.
The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.625
Homeowners without Credit Avail- able Elsewhere	2.813
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Avail- able Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations with- out Credit Available Else- where	3.250

The number assigned to this disaster
for physical damage is 207058 and for
economic injury is 207060.

(Catalog of Federal Domestic Assistance
Number 59008)

Rafaela Monchek,
Deputy Associate Administrator, Office of
Disaster Recovery & Resilience.

[FR Doc. 2024–23345 Filed 10–8–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2025–2406; Summary
Notice No. –2024–43]

Petition for Exemption; Summary of
Petition Received; International Aero
Engines, LLC

AGENCY: Federal Aviation
Administration (FAA), Department of
Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a
summary of a petition seeking relief
from specified requirements of Federal
Aviation Regulations. The purpose of
this notice is to improve the public’s
awareness of, and participation in, the
FAA’s exemption process. Neither

¹³ 15 U.S.C. 78s(b)(2)(B).

¹⁴ 17 CFR 200.30–3(a)(12), (59).

publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 29, 2024.

ADDRESSES: Send comments identified by docket number FAA–2024–2406 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William Andrews, 202–267–8181, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Dan Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2024–2406.

Petitioner: International Aero Engines, LLC.

Section(s) of 14 CFR Affected: §§ 33.76(c)(6)(i) and 33.76(c)(7)(vii).

Description of Relief Sought: International Aero Engines, LLC seeks relief to enable certification of current and future variants of the PW1100G–JM series engines for installation on Airbus A320neo family aircraft models incorporating reduced thrust go-around and would like to exercise the privileges of the relief outside the United States.

[FR Doc. 2024–23337 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0016]

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 November 8, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2024–0016 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov, insert the docket number (FMCSA–2024–0016) 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–2024–0016), 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-2024-0016>. 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–2024–0016) 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

Ricky Allen

Ricky Allen, 49, holds a class C driver's license in Oregon.

Cyle Carter

Cyle Carter, 35, holds a class D driver's license in Oklahoma.

Joshua Edwards

Joshua Edwards, 27, holds a class D driver's license in Alabama.

Zachary Garner

Zachary Garner, 33, holds a class F driver's license in Missouri.

Zachrey Gill

Zachrey Gill, 27, holds a class E.O. driver's license in Michigan.

Maher Hamida

Maher Hamida, 43, holds a class D driver's license in Illinois.

Ryan Jolly

Ryan Jolly, 35, holds a class B commercial driver's license (CDL) in New York.

Stetson McBirnie

Stetson McBirnie, 32, holds a class C driver's license in California.

David Monterastelli

David Monterastelli, 56, holds a class A CDL in Illinois.

Kevin Torppey

Kevin Torppey, 54, holds a class D driver's license in New York.

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. 2024–23357 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–EX–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 final disposition.

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.

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. 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.

B. 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

On August 30, 2024, FMCSA published a notice announcing its decision to renew exemptions for 15 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (89 FR 70682). The public comment period ended on September 30, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

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).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 15 renewal exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41 (b)(11).

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 (89 FR 70682).

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 (89 FR 70682). 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.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–23360 Filed 10–8–24; 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 final disposition.

SUMMARY: FMCSA announces its decision to exempt 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: The exemptions are applicable October 5, 2024. The exemptions expire on October 5, 2026.

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, fmcamedical@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. 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, sort the results by “Posted (Older-Newer),” 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 in 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.

B. 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

On August 30, 2024, FMCSA published a notice announcing receipt of applications from 10 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (89 FR 70684). The public comment period ended on September 30, 2024 and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

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).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

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 Agency's decision regarding these exemption applications is based on relevant scientific information and literature, and the 2008 Evidence Report, "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety." The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System, for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety would likely be achieved by permitting each of these drivers to drive in interstate commerce, the Agency finds the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds further that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document

and include the following: (1) each driver must report any crashes or accidents as defined in § 390.5T; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver is 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.

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 10 exemption applications, FMCSA exempts the following drivers from the hearing standard; in § 391.41(b)(11), subject to the requirements cited above:

Kevin Finlayson (AL)
Andre Hood (CA)
Stephen Justice (DE)
Marcos Ibarra (TX)
Roberto Nunez (CA)
Gary Gessner (MN)
Marshall Marcee (TX)
Konstantino Koutoufaris (PA)
Gary Michel (KY)
Eric Rutter (KS)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–23356 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2024–0027]****Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders**

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 11 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 8, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2024–0027 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov/, insert the docket number (FMCSA–2024–0027) 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, 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–2024–0027), 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-2024-0027>. Next, 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–2024–0027) 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 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. 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 11 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). 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 epilepsy found in § 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 (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person’s condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician.

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>.

Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.*, drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication, and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, "Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders," (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate 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." Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Ethan Abbott

Ethan Abbott is a 22-year-old class C license holder in Pennsylvania. They have a history of provoked seizures and have been seizure free since November 2015. They take anti-seizure medication with the dosage and frequency remaining the same since July 25, 2022. Their physician states that they are supportive of Ethan Abbott receiving an exemption.

Blake Bourgeois

Blake Bourgeois is a 40-year-old class A commercial driver's license (CDL) holder in Louisiana. They have a history of epilepsy and have been seizure free since 2015. They take anti-seizure medication with the dosage and frequency remaining the same since March 2015. Their physician states that they are supportive of Blake Bourgeois receiving an exemption.

Richard Henry

Richard Henry is a 58-year-old class F license holder in Missouri. They have a history of epilepsy and have been seizure free since 2003. They take anti-seizure medication with the dosage and frequency remaining the same since 2014. Their physician states that they are supportive of Richard Henry receiving an exemption.

Justin Knall

Justin Knall is a 36-year-old class A CDL holder in Arkansas. They have a history of epilepsy and have been seizure free since February 2016. They take anti-seizure medication with the dosage and frequency remaining the same since March 14, 2022. Their physician states that they are supportive of Justin Knall receiving an exemption.

Mark Merhalski

Mark Merhalski is a 73-year-old class D license holder in Wisconsin. They have a history of epilepsy and have been seizure free since 2016. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Mark Merhalski receiving an exemption.

Andrew Murphy

Andrew Murphy is a 36-year-old class D license holder in New York. They have a history of seizure disorder and have been seizure free since January 2010. They take anti-seizure medication with the dosage and frequency remaining the same since 2010. Their physician states that they are supportive

of Andrew Murphy receiving an exemption.

Scott Oehlschlaeger

Scott Oehlschlaeger is a 53-year-old class A CDL holder in California. They have a history of epilepsy and have been seizure free since October of 1991. They take anti-seizure medication with the dosage and frequency remaining the same since 1992. Their physician states that they are supportive of Scott Oehlschlaeger receiving an exemption.

Steven Outing

Steven Outing is a 57-year-old class A CDL holder in North Carolina. They have a history of focal left temporal lobe epilepsy and have been seizure free since March 2013. They take anti-seizure medication with the dosage and frequency remaining the same since March 2013. Their physician states that they are supportive of Steven Outing receiving an exemption.

Kristopher Parker

Kristopher Parker is a 37-year-old class R license holder in Mississippi. They have a history of seizure disorder and have been seizure free since 2009. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Kristopher Parker receiving an exemption.

Nathaniel Price

Nathaniel Price is a 35-year-old class D license holder in Ohio. They have a history of non-intractable epilepsy and have been seizure free since 2007. They take anti-seizure medication with the dosage and frequency remaining the same for over 20 years. Their physician states that they are supportive of Nathaniel Price receiving an exemption.

Ashley Wagner

Ashley Wagner is a 38-year-old class D license holder in Wisconsin. They have a history of generalized convulsive epilepsy and have been seizure free since 2003. They take anti-seizure medication with the dosage and frequency remaining the same since 2013. Their physician states that they are supportive of Ashley Wagner receiving an exemption.

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. 2024–23358 Filed 10–8–24; 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 final disposition.

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 were applicable on September 16, 2024. The exemptions expire on September 16, 2026.

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. 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.

B. 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

On August 30, 2024, FMCSA published a notice announcing its decision to renew exemptions for eight individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (89 FR 70685). The public comment period ended on September 30, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 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

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>.

conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the eight renewal exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

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 (89 FR 70685):

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 were applicable as of September 16, 2024 and will expire on September 16, 2026.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being 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).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–23359 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0090]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice

that by letters received August 16, 2024, and August 30, 2024, Norfolk Southern Corporation's operating subsidiary, Norfolk Southern Railway Company (NS), petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). The relevant Docket Number is FRA–2019–0090.

Specifically, NS requests to extend the existing waiver, which provides NS certain relief from the requirements of 49 CFR 232.305(b)(2), *Single car air brake tests*, to “permit the replacement of FRA condemnable and other non-FRA condemnable wheelsets on railcars as part of an in-train wheelset replacement program, without the need to also perform the [single car air brake tests (SCABTs)]” as required. The program is only operated on two designated tracks at the NS railyard in Bluefield, West Virginia.

The existing wheelset replacement program aims to “proactively identify and replace wheelsets,” which NS stated, “reduces the number of switching events that would otherwise be required to affect the repairs, reducing the risk of injury and derailment.” NS added that the program permits NS “to replace a greater percentage of wheelsets than currently replaced using traditional techniques.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by December 9, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications

and comments received into any of the Department of Transportation's (DOT) dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2024–23335 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2024–0070]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 7, 2024, TOYX, Inc. (TOYX) petitioned the Federal Railroad Administration (FRA) for a special approval pursuant to 49 CFR part 215 (Railroad Freight Car Safety Standards), and a waiver of compliance from 49 CFR part 223 (Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses). FRA assigned the petition Docket Number FRA–2024–0070.

Specifically, TOYX requests a special approval pursuant to § 215.203, *Restricted cars*, for 6 cars and 4 cabooses that are more than 50 years from the dates of original construction. TOYX also seeks relief from 49 CFR part 223 for safety glazing on the 4 cabooses (and 1 car, TOYX 1001, if required) to operate the equipment for a few days per year on the New York, Susquehanna & Western Railway, Metro-North Railroad, and in equipment moves. In the petition, TOYX states that the equipment for which glazing relief is requested will travel on “lines that are regularly operated and maintained and have no known risk of propelled or fouling objects.”

A copy of the petition, as well as any written communications concerning the

petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by December 9, 2024 will be considered by FRA before final action is taken.

Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of the U.S.

Department of Transportation's (DOT) dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2024–23336 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0089]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 16, 2024, and August 27, 2024, Norfolk Southern Corporation's

operating subsidiary, Norfolk Southern Railway Company (NS), petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231 (Railroad Safety Appliance Standards). The relevant Docket Number is FRA–2019–0089.

In line with the requirements of § 231.6(a)(3)(i), on June 15, 1998, FRA issued Technical Bulletin MP&E 98–69, “Safety Appliance Arrangements on Flat Cars”, recommending an additional handhold for any flat car with a low-mounted side hand brake to allow for the safe operation of the hand brake while the car is in motion. NS seeks continued relief to permit these maintenance-of-way (MW) cars (CR 58535, NS 980011, and NS 986906)¹ to remain in service with their current hand brake arrangement and without the additional handhold outlined in MP&E 98–69.

NS indicated it will not operate the hand brake on these MW cars while the cars are in motion and has added stenciling on the cars reading “DO NOT OPERATE HAND BRAKE WHILE CAR IS IN MOTION.” Additionally, a handling message is added on the NS Internal Alert System to notify employees of the above directive.

NS stated that there have been “no safety incidents involving this equipment” since the waiver was last granted. In support of the petition, NS explained that the cars remaining in service with their current hand brake arrangement reduces the number of switching events that would be required to repair the added handholds. This, in turn, reduces the risk of injury and derailment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the

appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by December 9, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of the U.S. Department of Transportation’s (DOT) dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2024–23334 Filed 10–8–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel’s Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel’s Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Wednesday, November 13, 2024.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that

an open meeting of the Taxpayer Advocacy Panel’s Special Projects Committee will be held Wednesday, November 13, 2024, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024–23309 Filed 10–8–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel’s Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Tuesday, November 12, 2024.

FOR FURTHER INFORMATION CONTACT: Matthew O’Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that an open meeting of the Taxpayer Advocacy Panel’s Taxpayer Assistance Center Improvements (TAC) Project Committee will be held Tuesday, November 12, 2024, at 3:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O’Sullivan. For more

¹ Since the original waiver was approved, NS stated that 5 of the railcars have been retired and dismantled, and a sixth railcar from the original waiver is set to be retired and dismantled this year.

information please contact Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612-5217 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024-23308 Filed 10-8-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference through the Microsoft Teams Platform.

DATES: The meeting will be held Thursday, November 21, 2024.

FOR FURTHER INFORMATION CONTACT: Conchata Holloway at 1-888-912-1227 or 214-413-6550.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, November 21, 2024, at 3 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information, please contact Conchata Holloway at 1-888-912-1227 or 214-413-6550, or write TAP Office, 1114 Commerce St MC 1005 Dallas, TX, 75242 or contact us at the website: <http://www.improveirs.org>.

The agenda will include the potential project referrals from the committees, and discussions on priorities the TAP will focus on for the 2024 year. Public input is welcomed.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024-23313 Filed 10-8-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments Related to Form 12311

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 12311, Repayment of a Federal Government Buyout and Possible Suspension of Severance Pay.

DATES: Written comments should be received on or before December 9, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545-1920 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620-2128, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jason.m.schoonmaker@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Repayment of a buyout prior to re-employment with the Federal Government.

OMB Number: 1545-1920.

Form Number: Forms 12311.

Abstract: This form requests applicants to certify if they ever worked for the Federal Government and if they received a Buyout within the last 5 years. This is to ensure that applicants who meet the criteria are counseled that they are required to pay back the entire Buyout prior to entering on duty with the IRS.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Responses: 6,624.

Estimated Time per Respondent: 5 min.

Estimated Total Annual Burden Hours: 530.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 4, 2024.

Jason M. Schoonmaker,
Tax Analyst.

[FR Doc. 2024-23383 Filed 10-8-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will

be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Thursday, November 14, 2024.

FOR FURTHER INFORMATION CONTACT: Ann Tabat at 1-888-912-1227 or (602) 636-9143.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Thursday, November 14, 2024, at 2:30 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Ann Tabat. For more information, please contact Ann Tabat at 1-888-912-1227 or (602) 636-9143, or write TAP Office, 4041 N. Central Ave Phoenix, AZ 85012 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024-23310 Filed 10-8-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments on Form 8892

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8892, Application for Automatic Extension of Time to File Form 709 or Form 709-NA and/or Payment of Gift/Generation-Skipping Transfer Tax.

DATES: Written comments should be received on or before December 9, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545-1913 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620-2128, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jason.m.schoonmaker@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Application for Automatic Extension of Time To File Form 709 or Form 709-NA and/or Payment of Gift/Generation-Skipping Transfer Tax.

OMB Number: 1545-1913.

Form Number: Form 8892.

Abstract: Form 8892 was created to serve a dual purpose. First, the form enables the taxpayers to request an automatic 6-month extension of time to file Form 709 or Form 709-NA when they are not filing an individual income tax extension using Form 4868. Second, to make a payment of gift tax when you're applying for an extension of time to file Form 709 or 709-NA (including payment of any generation-skipping transfer (GST) tax from Form 709 or 709-NA).

Current Actions: The title of the form is changing. There are no changes to the response time for completing the form. The IRS is adjusting the burden estimates to increase the number of potential respondents to 300.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 41 minutes.

Estimated Total Annual Burden Hours: 204.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection

of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 3, 2024.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2024-23295 Filed 10-8-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Burden Related to Information Reporting for Certain Life Insurance Contract Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the burden related to the information reporting for certain life insurance contract transactions.

DATES: Written comments should be received on or before December 9, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue

Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB Control No. 1545–2281 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this collection should be directed to Jason Schoonmaker, (801) 620–2128, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at jason.m.schoonmaker@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Information Reporting for Certain Life Insurance Contract Transactions.

OMB Number: 1545–2281.

Form Number: Forms 1099–LS and 1099–SB.

Abstract: The collection covers the information reporting requirements for certain life insurance contracts under IRC 6050Y, which was added by the Tax Cuts and Jobs Act (TCJA). Form 1099–LS is used by the acquirer of any interest in a life insurance contract (also known as a life insurance policy) in a reportable policy sale to report the acquisition. Form 1099–SB is used by the issuer of a life insurance contract (also known as a life insurance policy) to report the seller's investment in the contract and surrender amount with respect to an interest in a life insurance contract transferred in a "reportable policy sale" or transferred to a foreign person.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Responses: 13,100.

Estimated Time per Respondent: 7 min.

Estimated Total Annual Burden Hours: 1,572.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 4, 2024.

Jason M. Schoonmaker,

Tax Analyst.

[FR Doc. 2024–23394 Filed 10–8–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Tuesday, November 12, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Tuesday, November 12, 2024, at 11:00 a.m. Eastern Time. The public is

invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information, please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024–23307 Filed 10–8–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Thursday, November 14, 2024.

FOR FURTHER INFORMATION CONTACT: Kelvin Johnson at 1–888–912–1227 or 504–202–9679.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Lines Project Committee will be held Thursday, November 14, 2024, at 4:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Kelvin Johnson. For more information, please contact Kelvin Johnson at 1–888–912–1227 or 504–202–9679, or write TAP Office, 1555 Poydras Street, Suite 12 New Orleans, LA 70112 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024–23312 Filed 10–8–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will be held via teleconference.

DATES: The meeting will be held Thursday, November 14, 2024.

FOR FURTHER INFORMATION CONTACT: Jose Cintron-Santiago at 1–888–912–1227 or 787–522–8607.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, November 14, 2024, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Jose Cintron-Santiago. For more information, please contact Jose Cintron-Santiago at 1–888–912–1227 or 787–522–8607, or write TAP Office, 48 Carr 165 Suite 2000, Guaynabo, PR 00968–8000 or contact us at the website: <http://www.improveirs.org>. The agenda will include TAP 2024 committee project focus areas.

Dated: October 1, 2024.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2024–23311 Filed 10–8–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0609]

Agency Information Collection Activity: Survey of Veteran Enrollees' Health and Use of Health Care

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, 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 December 9, 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: Survey of Veteran Enrollees' Health and Use of Health Care.

OMB Control Number: 2900–0609.
https://www.reginfo.gov/public/do/

PRA Search (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: The VA Survey of Veteran Enrollees' Health and Use of Health Care gathers information from Veterans enrolled in the VA Health Care System about factors that influence their health care utilization choices. The original authority for this information collection is from Public Law 104, Section 262, Veterans' Health Care Eligibility Reform Act of 1996. Data collected are used to gain insights into Veteran preferences and to provide VA and Veterans Health Administration (VHA) management guidance in preparing for future Veteran needs. In addition to factors influencing health care choices, the data collected include enrollees' perceived health status and need for assistance, available insurances, self-reported utilization of VA services versus other health care services, reasons for using VA, barriers to seeking care, ability and comfort level with accessing virtual care, as well as general demographics and family characteristics that may influence utilization but cannot be accessed elsewhere. Based upon historical program data, the survey has been revised to remove some questions and add other questions, and certain questions are asked only in alternating years. Further, the target sample of respondents has been decreased to reduce costs and reduce burden on Veterans, while maintaining the integrity of the data. Information provided through the survey supports critical VA policy decisions.

Affected Public: Individuals or Households.

Estimated Annual Burden: 13,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 40,000.

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

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt.), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–23380 Filed 10–8–24; 8:45 am]

BILLING CODE 8320–01–P

**DEPARTMENT OF VETERANS
AFFAIRS****Advisory Committee on Prosthetics
and Special-Disabilities Programs,
Notice of Meeting**

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that a virtual meeting of the Federal Advisory Committee on Prosthetics and Special-Disabilities Programs will be held on October 21–22, 2024. The meeting sessions will begin at 8:30 a.m. Eastern Standard Time (EST) and end at 3:00 p.m. EST on both days. The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetics programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special-disabilities programs, which are defined as any program administered by the Secretary to serve Veterans with spinal cord injuries, blindness or visual impairments, loss of extremities or loss of function, deafness or hearing impairment, and other serious incapacities in terms of daily life functions.

On Monday October 21, 2024, the Committee will convene open (virtual) sessions with introductory remarks from the Committee Chair; the Executive Director for Rehabilitation and Prosthetic Services; Department Senior Leaders and a presentation from the Advisory Committee Management Office. The Committee will hear presentations from various Veterans Health Administration National Program Offices on National Veterans Sports Programs and Special Events, Extended Care for Aging Populations, Integration of Sensory Health into Whole Health, and VA Care Across the Continuum from Amputation Prevention to Life-Long Care.

On Tuesday October 22, 2024, the Committee will hear presentations on Collaborative Pain Management for Veterans with Disabilities, creative arts, adaptive sports programs, and blind and low vision Veterans. An update will be presented from Workforce Management and Consulting on recruitment and retention of rehabilitation and prosthetic professions.

The public is invited to address the Committee during the public comment period, which will be open for 30 minutes from 1:30 p.m. to 2:00 p.m. EST on Tuesday, October 22, 2024. In the interest of time, each speaker will be

held to a 3-minute time limit. Members of the public who are unable to attend virtually may submit one-page summaries of their written statements for Committee review. Written comments may be received no later than October 14, 2024, for Committee discussion and inclusion in the official meeting record. Please send these comments to Ms. Linda Picon, M.C.D., Designated Federal Officer, Rehabilitation and Prosthetic Services, Veterans Health Administration at Linda.Picon@va.gov or 202–870–1155.

Members of the public seeking additional information or those who wish to obtain a copy of the agenda should contact Linda Picon. Members of the public may attend the meeting by joining the WebEx link below:

[https://veteransaffairs.webex.com/
veteransaffairs/j.php?MTID=
m069d89ed3bd8134bcc
42d0655c113194](https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m069d89ed3bd8134bcc42d0655c113194)

Audio Only 404.397.1596/Access Code
2820 175 8989

Dated: October 3, 2024.

LaTonya L. Small,

*Federal Advisory Committee Management
Officer.*

[FR Doc. 2024–23269 Filed 10–8–24; 8:45 am]

BILLING CODE 8320–01–P



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Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program for Appliance Standards: Certification Requirements, Labeling Requirements, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment; Final Rule

DEPARTMENT OF ENERGY**10 CFR Parts 429 and 431****[EERE-2023-BT-CE-0001]****RIN 1904-AF48****Energy Conservation Program for Appliance Standards: Certification Requirements, Labeling Requirements, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment****AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.**ACTION:** Final rule.

SUMMARY: The U.S. Department of Energy (“DOE”) is publishing a final rule to establish and amend the certification provisions, labeling requirements, and enforcement provisions for specific types of consumer products and commercial and industrial equipment, as described in sections II and III of this final rule. DOE is establishing and making amendments to the certification requirements, labeling requirements, and enforcement provisions for these products and equipment to ensure reporting that is consistent with currently applicable energy conservation standards and test procedures and to ensure DOE has the information necessary to determine the appropriate classification of products for the application of standards.

DATES: The effective date of this rule is December 23, 2024. This rule establishes new and amended certification and labeling requirements. For products or equipment for which this rule establishes the initial certification regulations for certifying compliance with new or amended standards, manufacturers must submit the initial certification report for basic models distributed in commerce beginning May 7, 2025. For basic models with existing certification regulations, the amendments to the reporting requirements for certifying compliance with existing standards will be mandatory beginning with the annual certification report submitted on or after May 7, 2025.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available,

such as those containing information that is exempt from public disclosure.

A link to the docket web page can be found at www.regulations.gov/docket/EERE-2023-BT-CE-0001. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-2J, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-5904. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-4798. Email: Eric.Stas@hq.doe.gov.

For further information on how to review the docket contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Authority and Background
 - A. Authority
 - B. Background
- II. Synopsis of the Final Rule
- III. Discussion
 - A. General Comments
 - 1. Rulemaking Process
 - 2. Compliance Timeline
 - 3. Collection of Information
 - 4. Certification Reporting Cost and Burden
 - 5. Calculations for Enforcement Testing
 - 6. Comments on Products/Equipment not Included in the September 2023 CCE NOPR
 - B. Central Air Conditioners and Heat Pumps
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - C. Dishwashers
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - D. Residential Clothes Washers
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - E. Pool Heaters
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - F. Dehumidifiers
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - G. External Power Supplies
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - H. Battery Chargers
 - 1. Reporting
 - 2. Reporting Costs and Impacts
 - I. Computer Room Air Conditioners
 - 1. Reporting
 - 2. Reporting Costs and Impacts

J. Direct Expansion-Dedicated Outdoor Air Systems

- 1. Reporting
- 2. Reporting Costs and Impacts

K. Air-Cooled, Three-Phase, Small Commercial Package Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h and Air-Cooled, Three-Phase, Variable Refrigerant Flow Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h

- 1. Reporting
- 2. Reporting Costs and Impacts

L. Commercial Water Heating Equipment

- 1. Reporting
- 2. Reporting Costs and Impacts

M. Automatic Commercial Ice Makers

- 1. Reporting
- 2. Reporting Costs and Impacts

N. Walk-In Coolers and Freezers

- 1. Reporting
- 2. Reporting Costs and Impacts

O. Commercial and Industrial Pumps

- 1. Reporting
- 2. Reporting Costs and Impacts

P. Portable Air Conditioners

- 1. Reporting
- 2. Reporting Costs and Impacts

Q. Compressors

- 1. Reporting
- 2. Reporting Costs and Impacts

R. Dedicated-Purpose Pool Pump Motors

- 1. Reporting
- 2. Reporting Costs and Impacts

S. Air Cleaners

- 1. Reporting
- 2. Reporting Costs and Impacts

T. Single Package Vertical Units

- 1. Reporting
- 2. Reporting Costs and Impacts

U. Ceiling Fan Light Kits

- 1. Reporting
- 2. Reporting Costs and Impacts

V. General Service Lamps

- 1. Reporting
- 2. Reporting Costs and Impacts

W. Additional Corrections

- 1. Reporting
- 2. Reporting Costs and Impacts

X. Revised Certification Templates

- 1. Reporting
- 2. Reporting Costs and Impacts

Y. Effective and Compliance Dates

- 1. Reporting
- 2. Reporting Costs and Impacts

IV. Procedural Issues and Regulatory Review

- A. Review Under Executive Orders 12866, 13563, and 14094
- B. Review Under the Regulatory Flexibility Act
- C. Review Under the Paperwork Reduction Act of 1995
- D. Review Under the National Environmental Policy Act of 1969
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act of 1995
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 12630
- J. Review Under Treasury and General Government Appropriations Act, 2001
- K. Review Under Executive Order 13211
- L. Review Under Section 32 of the Federal Energy Administration Act of 1974
- M. Congressional Notification
- N. Description of Materials Incorporated by Reference
- V. Approval of the Office of the Secretary

I. Authority and Background

A. Authority

The Energy Policy and Conservation Act, Public Law 94–163, as amended (“EPCA”),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part B of EPCA² established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency, while Title III, Part C of EPCA,³ added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. These products and equipment include central air conditioners and heat pumps (“CAC/HPs”), dishwashers (“DWs”), residential clothes washers (“RCWs”), pool heaters, dehumidifiers, external power supplies (“EPSs”), battery chargers, computer room air conditioners (“CRACs”), direct-expansion dedicated outdoor air systems (“DX–DOASes”), air-cooled, three-phase, small commercial package air conditioners and heat pumps with a cooling capacity of less than 65,000 Btu/h (“three-phase, less than 65,000 Btu/h ACUACs and ACUHPs”) and air-cooled, three-phase variable refrigerant flow air conditioners and heat pumps with a cooling capacity of less than 65,000 Btu/h (“three-phase, less than 65,000 Btu/h VRF”), commercial water heating equipment (“CWHs”), automatic commercial ice makers (“ACIMs”), walk-in coolers and walk-in freezers (“walk-ins”), commercial and industrial pumps, portable air conditioners (“portable ACs”), compressors, dedicated-purpose pool pump motors (“DPPPMs”), air cleaners, single package vertical units (“SPVUs”), ceiling fan light kits (“CFLKs”), and general service lamps (“GSLs”), all of which are subjects of this document. (42 U.S.C. 6292(a)(3), (6–7), (11), and (20); 42 U.S.C. 6295(i)(6), (u), (cc), and (ff); 42 U.S.C. 6311(1)(A–D), (F–G), (K), and (2)(B)(i)).

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal

energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products and equipment must use as the basis for: (1) certifying to DOE that their products or equipment comply with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making other representations about the efficiency of those products or equipment (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the products or equipment comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b); 42 U.S.C. 6296).

EPCA authorizes DOE to enforce compliance with the energy and water conservation standards established for covered products and equipment. (42 U.S.C. 6299–6305; 42 U.S.C. 6316(a)–(b)) DOE has promulgated certification and/or enforcement regulations that include reporting requirements for covered products and equipment including CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, SPVUs, CFLKs, and GSLs. DOE is establishing certification and reporting requirements for DX–DOASes, DPPPMs, and air cleaners. *See* 10 CFR part 429. Additionally, DOE is amending labeling requirements for walk-ins. *See* 10 CFR 431.305. The reporting requirements ensure that DOE has the information it needs to assess whether regulated products and equipment sold in the United States comply with the statutory and regulatory requirements applicable to each covered product and equipment type.

B. Background

DOE’s certification regulations are a mechanism that DOE uses to help ensure compliance with its regulations by collecting information about the

energy and water use characteristics of covered products and covered equipment distributed in commerce in the United States. Manufacturers of most covered products and covered equipment must submit a certification report for the duration of distribution, specifically (1) before a basic model is distributed in commerce, (2) annually thereafter, and (3) if the basic model is redesigned in a manner that increases the consumption or decreases the efficiency of the basic model such that the certified rating is no longer supported by test data. 10 CFR 429.12. Additionally, manufacturers must report when production of a basic model has ceased and is no longer offered for sale as part of the next annual certification report following such cessation. 10 CFR 429.12(f). DOE requires the manufacturer of any covered product or covered equipment to establish, maintain, and retain the records of certification reports, of the underlying test data for all certification testing, and of any other testing conducted to satisfy the requirements of 10 CFR parts 429, 430, and/or 10 CFR part 431 until 2 years after notifying DOE that a model has been discontinued. 10 CFR 429.71. Certification reports provide DOE and consumers with comprehensive, up-to-date efficiency information and support effective enforcement.

To ensure that all covered products and covered equipment distributed in the United States comply with DOE’s energy and water conservation standards and reporting requirements, DOE has promulgated certification, compliance, and enforcement regulations in 10 CFR parts 429 and 431. On March 7, 2011, DOE published in the **Federal Register** a final rule regarding certification, compliance, and enforcement for consumer products and commercial and industrial equipment, which revised, consolidated, and streamlined DOE’s existing certification, compliance, and enforcement regulations for certain consumer products and commercial and industrial equipment covered under EPCA. *See* 76 FR 12422. Since that time, DOE has completed multiple rulemakings regarding certification, compliance, and enforcement for specific covered products or equipment. *See* 79 FR 25486 (the May 5, 2014 Final Rule specific to certification of commercial and industrial heating, ventilation, and air conditioning (“HVAC”), refrigeration, and water heating equipment) and 87 FR 43952 (the July 22, 2022 Final Rule amending certification provisions for CFLKs, general service incandescent lamps, incandescent reflector lamps,

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

³ For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

ceiling fans, consumer furnaces and boilers, consumer water heaters, DWs, commercial clothes washers, battery charges, and DPPPMS).

Additionally, if the Secretary has prescribed test procedures under section 6314 for any class of covered equipment, the Secretary shall prescribe a labeling rule applicable to such class of covered equipment. *See* 42 U.S.C. 6315(a). EPCA, however, also sets out certain criteria that must be met prior to prescribing a given labeling rule. Specifically, to establish these requirements, DOE must determine that: (1) labeling in accordance with section 6315 is technologically and economically feasible with respect to any particular equipment class; (2) significant energy savings will likely result from such labeling; and (3) labeling in accordance with section 6315 is likely to assist consumers in making purchasing decisions. (42 U.S.C. 6315(h))

If these criteria are met, EPCA specifies certain aspects of equipment labeling that DOE must consider in any rulemaking establishing labeling requirements for covered equipment. At a minimum, such labels must include the energy efficiency of the affected equipment, as tested under the prescribed DOE test procedure, and may also require disclosure of the estimated operating costs and energy use. (42 U.S.C. 6315(b)) The labeling provisions shall include requirements the Secretary determines are likely to assist purchasers in making purchasing decisions, such as: requirements and directions for the display of the label; requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such as additional information related to energy efficiency, energy use, and other measures of energy consumption, including instructions for maintenance

and repair of the covered equipment, as the Secretary determines is necessary to provide adequate information to purchasers; and requirements that printed matter displayed or distributed with the equipment at the point of sale also include the information required to be placed on the label. (42 U.S.C. 6315(c)).

DOE published a notice of proposed rulemaking (“NOPR”) in the **Federal Register** on September 29, 2023, that proposed to amend the certification, reporting, and labeling requirements for the products and equipment that are the subjects of this final rule. 88 FR 67458 (“September 2023 CCE NOPR”). DOE held a public meeting related to this NOPR on October 26, 2023 (hereafter, the “NOPR public meeting”).

DOE received comments in response to the September 2023 CCE NOPR from the interested parties listed in Table I.1.

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE SEPTEMBER 2023 CCE NOPR

Commenter(s)	Reference in this final rule	Comment No. in the docket	Commenter type
Air-Conditioning, Heating, & Refrigeration Institute	AHRI	18	Trade Association.
American Lighting Association	ALA	7	Trade Association.
Appliance Standards Awareness Program, Consumer Federation of America (“CFA”), National Consumer Law Center (“NCLC”), National Resource Defense Council (“NRDC”), and Northwest Energy Efficiency Alliance (“NEEA”).	ASAP <i>et al</i>	14	Efficiency Advocacy Organizations.
Association of Home Appliance Manufacturers	AHAM	49, 16, 19	Trade Association.
AHAM, ASAP, American Council for an Energy-Efficient Economy, Alliance for Water Efficiency, CFA, Consumer Reports, Earthjustice, NCLC, NRDC, NEEA, and Pacific Gas and Electric Company (“PG&E”).	Joint Stakeholders ..	17	Trade Association and Efficiency Advocacy Organizations.
Bradford White Corporation	BWC	13	Manufacturer.
Carrier Global Corporation	Carrier	12	Manufacturer.
Grundfos Americas Corporation	Grundfos	10	Manufacturer.
Hydraulic Institute	Hydraulic Institute ...	20	Trade Association.
MJ L	MJ L	11	Individual.
PG&E, Southern California Edison, and San Diego Gas & Electric Company; collectively, the California Investor-Owned Utilities.	CA IOUs	8	Utilities.
Rheem Manufacturing Company	Rheem	15	Manufacturer.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.⁵ To the extent that interested parties have provided written comments that are substantively

⁴ AHAM comment nos. 9 and 19 are identical. Therefore, DOE only cites no. 19 in the discussion section of this final rule.

⁵ The parenthetical reference provides a reference for information located in the docket of DOE’s rulemaking to amend certification, reporting, and labeling requirements for the subject products and equipment. (Docket No. EERE–2023–BT–CE–0001), which is maintained at www.regulations.gov. The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

consistent with any oral comments provided during the NOPR public meeting, DOE cites the written comments throughout this final rule. Any oral comments provided during the webinar that are not substantively addressed by written comments are summarized and cited separately throughout this final rule.

II. Synopsis of the Final Rule

Since the previous final rule amending certification requirements for covered products (87 FR 43952 (July 22, 2022)), DOE has proposed or finalized test procedures and/or energy conservation standards for multiple

products and equipment. In this rulemaking, DOE is revising its certification, labeling, and enforcement regulations for certain covered products and equipment to align with these proposed and finalized amendments.

In this final rule, DOE updates the certification reporting and labeling requirements as follows:

(1) *CAC/HP*. Update the CAC/HP certification reporting requirements at 10 CFR 429.16 to reflect the current version of the test procedure at appendix M1 to subpart B of 10 CFR part 430 (“appendix M1”) including test condition information. Correct discrepancies in CAC/HP sampling plan

to require using Student's t-Distribution Values from appendix A to subpart B of part 429.

(2) *DW*. Align the DW certification reporting requirements with appendix C1 to subpart B of 10 CFR part 430 ("appendix C1"), and with appendix C2 to subpart B of 10 CFR part 430 ("appendix C2"). Manufacturers were required to use the revised appendix C1 test procedure beginning July 17, 2023, and use of appendix C2 is required when certifying compliance with amended energy conservation standards based on appendix C2. Add reporting requirements specific to the energy and water use for DWs with water re-use systems and built-in reservoirs.

(3) *RCWs*. Remove outdated certification reporting requirements for RCWs pertaining to appendix J1 to subpart B of 10 CFR part 430 ("appendix J1"), which has been removed. Update the existing certification reporting requirements pertaining to appendix J2 to subpart B of 10 CFR part 430 ("appendix J2") for consistency with test procedure terminology. Add a reporting requirement for test cloth lot used by a manufacturer for testing/certifying to align with RCW enforcement provisions outlined in 10 CFR 429.134(c). Add new certification reporting requirements specific to appendix J to subpart B of 10 CFR part 430 ("appendix J"), use of which will be required to demonstrate compliance with amended energy conservation standards based on appendix J.

(4) *Pool heaters*. Align pool heater certification reporting requirements with the amended energy conservation standards established in a final rule published on May 30, 2023 (88 FR 34624) to require reporting of thermal efficiency for electric pool heaters and establish new reporting requirements specific to electric pool heaters.

(5) *Dehumidifiers*. Remove outdated certification reporting requirements for dehumidifiers pertaining to appendix X to subpart B of 10 CFR part 430 ("appendix X"), use of which is no longer required.

(6) *EPSs*. Align EPS certification reporting requirements with the amended test procedure at appendix Z to subpart B of 10 CFR part 430 ("appendix Z"), use of which is required beginning February 15, 2023. Add reporting requirements to specify the effective wire gauge and length of the output cord shipped with the EPS (or the manufacturer's recommended output cord specifications). Update the existing EPS certification reporting requirements to align with the energy conservation standards established in

the February 10, 2014 final rule (79 FR 7845), and require output voltage, which is needed to verify the applicable product class. Revise sales reporting requirements for EPSs exempt from energy conservation standards to include the years for which the sales number represents.

(7) *Battery chargers*. Align battery charger certification reporting requirements with appendix Y1 to subpart B of 10 CFR part 430 ("appendix Y1"), use of which would be required for any future amended energy conservation standards for battery chargers.

(8) *CRACs*. Align CRAC certification reporting requirements with amended energy conservation standards established in a final rule published in the **Federal Register** on June 2, 2023 (88 FR 36392) and require submission of a supplemental testing instructions file in PDF format. Establish alternative efficiency determination method ("AEDM") tolerances for CRAC verification tests for net sensible coefficient of performance ("NSenCOP").

(9) *DX-DOASes*. Establish DX-DOAS certification reporting requirements for certifying compliance with the energy conservation standards established in the November 1, 2022 final rule (87 FR 65651), compliance with which is required beginning May 1, 2024. Require submission of a supplemental testing instructions file in PDF format.

(10) *Commercial AC/HPs*. Establish certification reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF aligned with the energy conservation standards established in the final rule published on June 2, 2023 (88 FR 36392), compliance with which would be required beginning January 1, 2025. Correct discrepancies in sampling plan for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to specify that the Student's t-Distribution Values from appendix A to subpart B of part 429 should be used.

(11) *CWHs*. Align CWH certification reporting requirements with amended energy conservation standards proposed in the May 19, 2022 NOPR (87 FR 30610). Add reporting requirements specific to commercial electric instantaneous water heaters. Additionally, add rated input reporting requirement for commercial electric storage water heaters.

(12) *ACIMs*. Align existing ACIM certification reporting requirements with revised "energy use" and "condenser water use" definitions and

terminology adopted in the amended test procedure at 10 CFR 431.134, use of which is required beginning October 27, 2023. Correct ACIM sampling requirements to remove discrepancy and require using the Student's t-Distribution Values for a 95-percent one-tailed confidence interval.

(13) *Walk-Ins*. For walk-in refrigeration systems, add requirement to report whether each refrigeration system meets the definition of a carbon dioxide ("CO₂") unit cooler, detachable single-packaged dedicated system, or an attached split system, consistent with amendments to 10 CFR 431.302. Add requirements for submission of supplementary testing information if necessary to run a valid test and provide an option to report any compressor break-in duration used to obtain certified rating. Additionally, expand the certification reporting requirements for walk-in cooler and freezer doors with anti-sweat heat ("ASH"). Revise labeling requirements for walk-in panels at 10 CFR 431.305.

(14) *Commercial and Industrial Pumps*. Provide minor corrections to the terminology of variables in the certification requirements.

(15) *Portable ACs*. Clarify existing certification reporting requirements for portable ACs and align them with instructions specified in the test procedure at appendix CC to subpart B of 10 CFR part 430 ("appendix CC") and 10 CFR 429.62(a)(5).

(16) *Compressors*. Establish an annual filing date of September 1 for compressors at 10 CFR 429.12(d).

(17) *DPPPMs*. Add certification reporting requirements for DPPPMs when certifying compliance with the energy conservation standards adopted in the September 28, 2023 final rule (88 FR 66966), and establish an annual filing date of September 1 at 10 CFR 429.12(d).

(18) *Air cleaners*. Add certification reporting requirements for air cleaners when certifying compliance with the energy conservation standards adopted in the April 11, 2023 direct final rule, compliance with which was required beginning December 31, 2023, establish an annual filing date of December 1 at 10 CFR 429.12(d), and provide minor correction to sampling provisions at 10 CFR 429.68(a)(2)(ii).

(19) *SPVAC/HPs*. Align SPVAC/HPs certification reporting requirements with amended energy conservation standards proposed in the December 8, 2022 ECS NOPR (87 FR 75388) and add content requirements for supplemental testing instructions file in PDF format.

(20) *CFLKs*. Clarify existing CFLK reporting requirements at 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B).

(21) *GSLs*. Specify certifying compliance to the GSL backstop

requirement of 45 lumens per watt (lm/W) at 10 CFR 430.32(dd).

The adopted amendments are summarized in Table II.1 and compared to the certification, reporting, and labeling requirements prior to the

amendment, as well as the reason for the adopted change. Table II.1 also provides the required compliance date for the certification requirements established in this final rule.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For CAC/HPs, no reporting requirement to indicate whether variable speed coil-only rating is based on non-communicating or communicating control system.	Add reporting requirement to § 429.16(e)(2)(vi) to specify whether variable speed coil-only rating is based on non-communicating or communicating control system.	Required to determine applicable test conditions specified in appendix M1 test procedure.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For CAC/HPs, no reporting requirement to indicate whether system varies blower speeds with outdoor air conditions.	Add reporting requirement to § 429.16(e)(4)(iv) to specify whether system varies blower speeds with outdoor air conditions.	Required to determine applicable test conditions specified in appendix M1 test procedure.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For CAC/HPs, current sampling requirements state to use Student's t-Distribution Values from "Appendix D," whereas appendix A to subpart B of part 429 contains the applicable Student's t-Distribution Values.	Correct § 429.16(b)(3)(i)(B), (ii)(B), and (iii)(A)(2) to specify that the Student's t-Distribution Values in appendix A to subpart B of part 429 should be used.	Removes discrepancy from sampling provisions, improves clarity.	N/A.
For DWs, reporting requirements in § 429.19(b)(2) and (3) and list of materials incorporated by reference in § 429.4 specify ANSI/AHAM DW-1-2010.	Remove referenced standard in § 429.19(b)(2) and from the list of materials incorporated by reference in § 429.4.	Ensures consistency between reporting requirements and DW test procedures.	N/A.
For DWs, reporting requirements do not include cycle selected for energy test.	Add reporting requirements for cycle selected for energy test at heavy, medium, and light soil loads, whether the cycles are soil-sensing, and the options selected for the energy test at these soil loads (when testing in accordance with appendix C2) to § 429.19(b)(3)(iv).	Required to ensure that information reported to DOE is consistent with the tested cycle requirements specified in appendix C2.	On or before April 23, 2027, the compliance date of amended energy conservation standards based on appendix C2.
For DWs, reporting requirements do not include cleaning index.	Add reporting requirement for average cleaning index of sensor heavy response, sensor medium response, and sensor light response test cycles (when testing in accordance with appendix C2) to § 429.19(b)(3)(v).	Required to ensure that the reported test cycle is a valid test cycle that meets the specified cleaning index threshold.	On or before April 23, 2027, the compliance date of amended energy conservation standards based on appendix C2.
For DWs, reporting requirements do not reflect water re-use system DWs.	Add reporting requirements specific to water re-use system DWs to § 429.19(b)(3)(vii), including energy use and water use associated with drain out and clean out events.	Required to account for extra energy use and water use associated with water re-use systems.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For DWs, reporting requirements do not reflect information needed for DWs with built-in reservoirs.	Add reporting requirements specific to DWs with built-in reservoirs to § 429.19(b)(3)(viii), including reservoir capacity, prewash and main wash fill water volume, and total water consumption.	Required to account for water consumption of DWs with built-in reservoirs, and therefore determine compliance with the current energy conservation standards.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For DWs, no rounding requirements are specified in § 429.19.	Add rounding requirements to § 429.19(c).	Improves representativeness, repeatability, and reproducibility.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For RCWs, reporting requirements include outdated requirements associated with appendix J1.	Remove obsolete appendix J1 RCW reporting requirements from § 429.20(b)(2)(i).	Appendix J1 has been removed from 10 CFR part 430.	N/A.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For RCWs, “capacity” is required to be reported.	Update existing requirement to specify “clothes container capacity” rather than “capacity” at § 429.20(b)(2)(ii).	Consistency in terminology between existing test procedure and reporting requirements.	N/A.
For RCWs, reporting requirements do not include test cloth lot used by manufacturer for testing and certifying.	Add reporting requirement to § 429.20(b)(3) for test cloth lot number used during testing to determine other reported values.	Required to ensure that correct remaining moisture content calculation is used for enforcement testing per RCW enforcement provisions specified in § 429.134(c).	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For RCWs, no reporting requirements for RCWs tested in accordance with appendix J test procedure.	Add reporting requirements for energy efficiency ratio, water efficiency ratio, type of control system, remaining moisture content, clothes container capacity, and type of loading when certifying in accordance with appendix J to § 429.20(b)(2)(i).	Required to ensure compliance with amendments to energy conservation standards.	On or before March 1 2028, the compliance date of amended energy conservation standards based on appendix J.
For pool heaters, reporting requirement only includes thermal efficiency for gas-fired pool heaters.	Add reporting requirement for integrated thermal efficiency for both gas-fired and electric pool heaters to § 429.24(b)(2)(i).	Required to determine compliance with the amended energy conservation standards.	On or before May 30, 2028, the compliance date of amended energy conservation standards.
For electric pool heaters, no reporting requirement for active electrical power.	Add reporting requirement for active electrical power for electric pool heaters to § 429.24(b)(2)(ii).	Required to determine compliance with the amended energy conservation standards.	On or before May 30, 2028, the compliance date of amended energy conservation standards.
For dehumidifiers, reporting requirements include outdated requirements associated with appendix X.	Remove obsolete appendix X dehumidifier reporting requirements from § 429.36(b)(2)(i).	Appendix X test procedure is no longer permitted for use to demonstrate compliance with energy conservation standards.	N/A.
For EPSs, no reporting requirement for output cord specifications.	Add reporting requirement for output cord effective wire gauge and length (or for EPSs shipped without an output cord, effective wire gauge and length for the manufacturer’s recommended output cord) to § 429.37(b)(i)–(iv).	Required to conduct amended appendix Z test procedure.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For EPSs, no reporting requirements for output voltage.	Add reporting requirements for output voltage to § 429.37(i) through (iv).	Required to determine compliance with currently applicable energy conservation standards.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For EPSs exempt from the energy conservation standards, only the number of units of exempt external power supplies sold during the most recent 12-calendar-month period ending on July 31, importer or manufacturer name and address, and brand name must be reported.	Add requirement that the year for which the sales number being reported represents to § 429.37(b)(3) and (c).	Improved clarity, consistency with other similar reporting requirements.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For battery chargers, reporting requirements only reflect metrics associated with battery chargers tested in accordance with appendix Y.	Add reporting requirements to § 429.39(b)(5) and (6) for battery chargers tested in accordance with newly adopted appendix Y1, multi-metric approach.	Required to determine compliance with any future amended energy conservation standards for battery chargers.	On or before the compliance date of any future amended energy conservation standards based on appendix Y1.
For CRACs, reporting requirements do not include provisions for certifying compliance with net sensible coefficient of performance standards.	Add reporting requirements specific to net sensible coefficient of performance to § 429.43(b)(2)(ix)(B).	Required to determine compliance with the amended energy conservation standards.	May 7, 2025.
For CRACs, reporting requirements do not include provisions for submitting a supplemental testing instructions file in PDF form.	Add supplemental testing instructions file requirements in PDF form for certification reports to § 429.43(b)(4)(viii).	Required to ensure that testing conditions are met in the case of enforcement testing.	May 7, 2025.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For CRACs, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.43(b)(6)(i).	Required to determine specific individual models distributed in commerce under each basic model.	May 7, 2025.
For CRACs, current AEDM tolerances do not specify tolerances for NSenCOP verification tests.	Add tolerance of 5 percent to table 2 to § 429.70(c)(5)(vi)(B) for CRAC verification tests for NSenCOP.	Required for consistency with allowable AEDMs for other product types and metrics.	May 7, 2025.
For DX–DOASEs, reporting requirements do not include provisions for certifying compliance with integrated seasonal moisture removal efficiency 2 and integrated seasonal coefficient of performance 2 standards.	Add reporting requirements for integrated seasonal moisture removal efficiency 2 and integrated seasonal coefficient of performance 2, as well as rated moisture removal capacity, rated supply airflow rate, and configuration of the basic model to § 429.43(b)(2)(xi)(A) through (C).	Required to determine compliance with the energy conservation standards.	May 7, 2025.
For DX–DOASEs, reporting requirements do not include reporting requirements for systems with ventilation energy recovery systems (“VERS”).	Add reporting requirements for systems with VERS to § 429.43(b)(3)(iii).	Required to fully ensure that enforcement provisions specified at § 429.134(s) for DX–DOASEs are met in the case of enforcement testing.	May 7, 2025.
For DX–DOASEs, reporting requirements do not include provisions for submitting a supplemental testing instructions file in PDF form.	Add supplemental testing instructions file requirements in PDF form for certification reports to § 429.43(b)(4)(x).	Required to ensure that testing conditions are met in the case of enforcement testing.	May 7, 2025.
For DX–DOASEs, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.43(b)(6)(ii).	Required to determine specific individual models distributed in commerce under each basic model.	May 7, 2025.
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, no reporting requirements for seasonal energy efficiency ratio 2 and heating seasonal performance factor 2.	Add reporting requirements for seasonal energy efficiency ratio 2 and heating seasonal performance factor 2 to § 429.67(f)(2).	Required to determine compliance with energy conservation standards.	May 7, 2025.
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.67(f)(4)).	Required to determine specific individual models distributed in commerce under each basic model.	May 7, 2025.
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, reporting requirements do not include provisions for submitting a supplemental testing instructions file in PDF form for outdoor units with no match.	Add supplemental testing instructions file requirements in PDF form for certification reports for outdoor units with no match to § 429.67(f)(3).	Required to ensure that testing conditions are met in the case of enforcement testing.	May 7, 2025.
For three-phase less than 65,000 Btu/h ACUACs three-phase less than 65,000 Btu/h VRF, current sampling requirements state to use the Student’s t-Distribution Values from “appendix D”, whereas appendix A to subpart B of part 429 contains the applicable Student’s t-Distribution Values.	Correct § 429.67(c)(2)(ii)(A)(2) to specify that the Student’s t-Distribution Values in appendix A to subpart B of part 429 should be used.	Removes discrepancy from sampling provisions, improves clarity.	N/A.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For CWHs, no reporting requirements for electric instantaneous water heaters.	Add reporting requirements for electric instantaneous water heaters to § 429.44(c)(2)(vi)–(vii).	Required to determine compliance with energy conservation standards.	May 7, 2025.
For CWHs, no rated input reporting requirement for electric storage water heaters.	Add rated input reporting requirement for electric storage water heaters to § 429.44(c)(2)(i).	Required to determine that models exceed the definitional requirement for electric storage water heaters.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For ACIMs, reporting requirements include “maximum energy use” and “maximum condenser water use”.	Update reporting requirement terminology to specify “energy use” and “condenser water use” in § 429.45(b)(2).	Improved clarity and consistency with definitions.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For ACIMs, no rounding requirements for represented values specified in 10 CFR 429.45.	Add rounding requirements in § 429.45(b)(3) that specify represented values determined in 10 CFR 429.45 must be rounded consistent with the test procedure rounding instructions upon the compliance date of any amended standards.	Improves representativeness, repeatability, and reproducibility.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For ACIMs, sampling provisions require use of the Student’s t-Distribution Values for a 95-percent two-tailed confidence interval from appendix A to subpart B of part 429, whereas appendix A to subpart B of part 429 contains one-tailed Student’s t-Distribution Values.	Revise sampling provisions in 10 CFR 429.45(a)(2) to correct this discrepancy and clarify that the Student’s t-Distribution Values for a 95-percent one-tailed confidence interval from appendix A to subpart B of part 429.	Removes discrepancy from sampling provisions, improves clarity.	N/A.
For walk-in refrigeration systems, no reporting requirement for whether the basic model meets the definition of a CO ₂ unit cooler.	Add reporting requirement for whether the basic model meets the definition of a CO ₂ unit cooler to § 429.53(b)(2)(iii)(G).	Required to ensure test conditions specified in the test procedure are met.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in refrigeration systems, the configuration reporting requirement does not include “detachable single-packaged dedicated system” or “attached split system”.	Modify current configuration reporting requirement in § 429.53(b)(2)(iii)(C) to include “detachable single-packaged dedicated system” and “attached split system”.	Required to ensure test conditions specified in the test procedure are met.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in dedicated condensing systems, no reporting requirement for head pressure controls.	Add reporting requirement in § 429.53(b)(3)(ii) for whether the basic model has head pressure controls.	Required to ensure test conditions specified in the test procedure are met.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
No supplemental testing instructions for walk-in refrigeration systems.	Add requirement in § 429.53(b)(4) for submission of supplement test information in PDF format, if necessary to run a valid test, at the time of certification.	Required to ensure test conditions specified in the test procedure are met.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in refrigeration systems, no reporting requirement for compressor break-in duration used to obtain certified rating.	Add optional reporting requirement to § 429.53(b)(3)(ii) for compressor break-in duration used to obtain certified rating, if applicable.	Improves representativeness, repeatability, and reproducibility.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in doors with anti-sweat heater (ASH) controls, no reporting requirements for conditions at which the controls activate the ASH wire.	Add reporting requirements to § 429.53(b)(2)(i)(H) for conditions (<i>i.e.</i> , temperature, humidity, etc.) at which the controls activate the ASH wire.	Required to ensure applicable enforcement provisions are met in the case of enforcement testing.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in doors, no reporting requirement for thermal conduction load through the door.	Add reporting requirement for thermal conduction load through the door to § 429.53(b)(3)(i)(B).	Required to calculate daily energy consumption.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For walk-in panels, date of manufacturer is not required on a panel’s nameplate or label.	Require panel manufacture date be added to the nameplate or label in § 431.305(a).	Aids enforcement evaluation, as necessary.	When certifying compliance in accordance with the next annual certification report filing date on/after May 7, 2025.
For commercial and industrial pumps, P _i ⁱⁿ is listed as P _i ⁱⁿ .	Amend all instances of P _i ⁱⁿ with P _i ⁱⁿ .	Standardize variables with those used in the test procedure.	N/A.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For portable ACs, reporting requirement for duct configuration lists “ability to operate in both configurations” as an option.	Remove “ability to operate in both configurations” as an option in § 429.62(b)(2) and add reporting requirement for whether model is distributed in commerce with multiple duct configuration options.	Improved clarity, consistency with instructions in appendix CC and 10 CFR 429.62(a)(5).	May 7, 2025.
For portable ACs, no reporting requirement for full-load seasonally adjusted cooling capacity for variable-speed models.	Add reporting requirements for whether the basic model is variable-speed, and if yes; the full-load seasonally adjusted cooling capacity to § 429.62(b)(3).	Required to determine compliance with the energy conservation standards.	May 7, 2025.
For compressors, reporting requirements are included in 10 CFR 429.63, but no annual filing date is specified in 10 CFR 429.12.	Establish an annual filing date of September 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.	September 1, 2025 (first occurrence of September 1st after compliance date of energy conservation standards in January 2025).
For DPPPMs, no reporting requirements outlined in 10 CFR 429.65.	Add reporting requirements for DPPPMs to § 429.65(e).	Required to verify compliance with new energy conservation standards.	On or before September 29, 2025 (for DPPPMs <0.5 THP, ≥1.15 THP, and ≤5 THP), the compliance date of new energy conservation standards. On or before September 28, 2027 (for DPPPMs ≥0.5 THP and <1.15 THP), the compliance date of new energy conservation standards.
For DPPPMs, no rounding requirements outlined in 10 CFR 429.65.	Add rounding requirements for DPPPMs to § 429.65(f).	Improves representativeness, repeatability, and reproducibility.	On or before September 29, 2025 (for DPPPMs <0.5 THP, ≥1.15 THP, and ≤5 THP), the compliance date of new energy conservation standards. On or before September 28, 2027 (for DPPPMs ≥0.5 THP and <1.15 THP), the compliance date of new energy conservation standards.
For DPPPMs, no annual filing date specified in 10 CFR 429.12.	Establish an annual filing date of September 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.	September 1, 2026, (first occurrence of September 1st after compliance date of energy conservation standards in September 2025).
For air cleaners, no reporting requirements outlined in 10 CFR 429.68.	Add reporting requirements for air cleaners to § 429.68(b).	Required to verify compliance with recently adopted energy conservation standards.	May 7, 2025.
For air cleaners, no annual filing date specified in 10 CFR 429.12.	Establish an annual filing date of December 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.	December 1, 2026, (first occurrence of December 1st after required reporting on May 7, 2025).
For air cleaners, 10 CFR 429.68(a)(2)(ii) includes a typographical error and states “equal to the high”.	Correct 10 CFR 429.68(a)(2)(ii) to specify “equal to the lower”.	Corrects typographical error, improves clarity.	N/A.
For SPVUs, reporting requirements do not include provisions for certifying compliance with integrated energy efficiency ratio standards.	Add reporting requirements for certifying compliance with integrated energy efficiency ratio standards to 10 CFR 429.43(b)(2)(v)(B) and (vi)(B).	Required to determine compliance with the energy conservation standards.	On or before the compliance date of any amended SPVU energy conservation standards.

TABLE II.1—SUMMARY OF CHANGES TO CERTIFICATION REPORTING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Amended certification reporting requirements	Attribution	Compliance required
For SPVUs with cooling capacities less than 65,000 Btu/h, reporting requirements do not include whether the unit is weatherized or non-weatherized, and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned.	Add reporting requirements to 10 CFR 429.43(b)(2)(v)(B) and (vi)(B) for whether the unit is weatherized or non-weatherized, and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with 10 CFR 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.	Required to determine whether non-weatherized SPVUs with cooling capacities less than 65,000 Btu/h have met the definitional requirements for airflow rate of outdoor ventilation air which is drawn in and conditioned.	On or before the compliance date of any amended SPVU energy conservation standards.
For SPVUs, existing supplemental testing instruction requirements do not reflect updated integrated energy efficiency ratio test procedure.	Add supplemental testing instruction file content requirements for when certifying compliance with an integrated energy efficiency ratio standard to 10 CFR 429.43(b)(4)(vi)(B) and (vii)(B).	Required to ensure test conditions specified in the test procedure are met.	On or before the compliance date of any amended SPVU energy conservation standards.
For CFLKs, reporting requirements inadvertently omit CFLKs distributed with consumer-replaceable SSL.	Amend reporting requirements in 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) to include CFLKs distributed with consumer-replaceable SSL.	Required to determine compliance with the energy conservation standards.	N/A.
For GSLs, certifying compliance to the 45 lm/W backstop requirement is not required per DOE guidance.	Specify certifying compliance to the GSL backstop requirement.	Required to show compliance with the energy conservation standards.	May 7, 2025.

The finalized regulatory amendments summarized in this section, and that are described in greater detail in section III, pertain to certification reporting and labeling requirements only. DOE is not amending the test procedures or energy conservation standards for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, CFLKs, and GSLs.

The effective date for the amended certification requirements adopted in this final rule is 75 days after publication of this document in the **Federal Register**. Certification reports for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, CFLKs, and GSLs submitted beginning 210 days after publication of this final rule, in accordance with an annual certification

report filing date on or after 210 days after publication of this final rule, or on or after the compliance date of any amended energy conservation standards, as outlined in each of the product-specific sections of section III of this notice, must comply with the applicable certification requirements as amended by this final rule. For certification reports submitted after the effective date of this final rule, but prior to the compliance date, a manufacturer may optionally submit a certification report as required by the amendments in this final rule (*i.e.*, early compliance is permitted). The requirements pertaining to the compliance date and the provision for early compliance apply to all certification reports submitted as required by 10 CFR 429.12 (*i.e.*, annual certifications and certification of new and discontinued basic models).

III. Discussion

Certification of compliance to DOE is a mechanism that helps manufacturers understand their regulatory obligations for distributing basic models of covered products and equipment that are subject to energy conservation standards. Certification also helps consumers obtain information about products' energy performance. Certification

reports include characteristics of covered products or equipment used to determine which standard applies to a given basic model, and they also help DOE identify models and/or regulated entities that may not comply with the applicable regulations.

As discussed in section I.B of this document, DOE proposed amendments to the certification and reporting requirements for certain products and equipment in the September 2023 CCE NOPR. 88 FR 67458. DOE received a number of comments in response to the September 2023 CCE NOPR, including general comments and comments on product/equipment categories that were not included in the September 2023 CCE NOPR. These comments are summarized and discussed in the following sections.

For the covered products and equipment addressed in this final rule, DOE has identified areas in which the certification reporting requirements in 10 CFR part 429 are not consistent with the information required to verify compliance with current energy conservation standards. DOE is amending the certification and reporting provisions for these products and equipment to ensure reporting that is consistent with currently applicable

energy conservation standards and to ensure that DOE has the information necessary to determine the appropriate classification of products for the application and enforcement of standards. In addition to the specific amendments discussed in the following sections, DOE is also adopting minor amendments to ensure consistency among terms used throughout DOE's certification and reporting provisions. Additionally, DOE is adopting labeling requirements for walk-ins.

A. General Comments

ASAP *et al.* commented in support of the September 2023 CCE NOPR. ASAP *et al.* stated that the proposed reporting requirements would ensure that DOE has relevant information to determine whether certified models comply with the corresponding energy conservation standard. ASAP *et al.* commented that clarity in reporting requirements for certification would help to ensure that data reported to the Compliance and Certification Management System ("CCMS") is complete and submitted in a uniform manner. (ASAP *et al.*, No. 14 at pp. 1–2)

AHAM commented it supports many of the changes DOE is suggesting for its certification, labeling, and enforcement provisions that are aimed at ensuring consistency between testing to support certification and testing DOE does to support its enforcement efforts as well as the proposals to ensure consistency in reported data between similar products. (AHAM, No. 16 at p. 1)

AHRI commented that it was largely supportive of the changes proposed in the September 2023 CCE NOPR, but also had several recommendations for improvement and clarification regarding proposed certification requirements. (AHRI, No. 18 at p. 2)

Rheem commented that as an active member of AHRI, it shares several of the concerns noted in AHRI's comments. (Rheem, No. 15 at p. 1)

Carrier generally supported the September 2023 CCE NOPR regarding certification and labeling requirements and enforcement provisions for certain consumer products and commercial equipment, with certain modifications. Carrier also stated that having these requirements provides predictability for manufacturers and valuable information for consumers. (Carrier, No. 12 at p. 1)

AHRI commented requesting DOE to update AHRI's address at 10 CFR 429.4(c) to 2311 Wilson Blvd., Suite 400, Arlington, VA 22201 and added that the phone number and web address remain the same as currently listed in the CFR. (AHRI, No. 18 at p. 13)

DOE is aware of the error and will update AHRI's contact information in a separate rulemaking that amends the materials incorporated by reference at 10 CFR 429.4(c).

1. Rulemaking Process

AHRI commented that review of the September 2023 CCE NOPR raised some questions regarding the process DOE relied upon for establishing certification requirements. Specifically, AHRI provided some suggestions to bring reliability and timeliness to the certification, compliance, and enforcement process and urged that DOE consider issuing a proposal to seek stakeholder feedback on the establishment of a CCE process rule. (AHRI, No. 18 at p. 2) AHRI commented that a general review of the certification and enforcement process would help establish certainty and predictability for all stakeholders. AHRI requested that DOE initiate a rulemaking to develop procedures, interpretations, and policies for consideration of new or revised certification and enforcement rulemakings for consumer products and certain commercial/industrial equipment. AHRI commented that a "process rule" for certification and compliance is as important and necessary to manufacturers and certification bodies as the development of test procedures and energy conservation standards. (AHRI, No. 18 at p. 4)

AHRI commented that stakeholders need certification and enforcement changes proposed more closely to the publication of the final rule and with appropriate time to implement template changes for compliance. AHRI commented that the September 2023 CCE NOPR included several products where the trigger for the compliance and enforcement changes was over 19 months ago. (AHRI, No. 18 at p. 4)

AHRI noted that manufacturers are required to comply with an amended test procedure within 180 days of DOE publishing a final rule in the **Federal Register**. AHRI commented that for such rulemakings, DOE should publish a proposed certification and enforcement rulemaking within 30 days of the test procedure final rule with a final certification and enforcement rulemaking published within 90 days of the test procedure final rule. This timeline, AHRI noted, would allow 30 days for stakeholder feedback to the proposed certification and enforcement rule; 30 days for DOE to incorporate changes and pre-publish a final rule; and 90 days for stakeholders to implement and comply with the changes. (AHRI, No. 18 at p. 5)

Carrier commented that many of the reporting changes in the September 2023 CCE NOPR are the result of test procedure or energy conservation standards rulemakings completed in 2022 with compliance dates that are approaching. Carrier requested that in future rulemakings, DOE publish the associated certification rulemaking NOPR as close as possible to the test procedure and energy conservation standards final rules, ideally within 30 days of final rule issuance to allow time for third-party certification bodies (such as AHRI) and manufacturers to make necessary changes to their systems before compliance is required. Carrier said this would cut down on undue expenses, potential error, and unnecessary rework. (Carrier, No. 12 at p. 2)

DOE recognizes the concerns regarding the timing of certification amendments with respect to test procedure and energy conservation standard amendments. DOE notes that conducting individual certification rulemakings for each product would result in many more rulemaking notices, which would create substantially more administrative burden for commenters with interests in multiple covered products and equipment. In this case, DOE would have needed to publish over 40 separate rulemaking documents if it were to conduct a separate certification rulemaking for each of the product and equipment categories considered in this document. Nonetheless, DOE will continue to evaluate its process for conducting certification rulemakings, while meeting its statutory and regulatory requirements.

AHRI commented that consideration must be given to how and when templates are updated because the timing of template changes impacts not only manufacturers, but also AHRI's certification program. (AHRI, No. 18 at p. 3) AHRI stated that while DOE typically provides 3-to-5 years of lead time before compliance is required, sometimes compliance can be required in as little as 18 months. The commenter stressed that adequate lead time is necessary for the transition to new test procedures and new standards. AHRI commented that it is also necessary to have certification and enforcement rules and templates issued and finalized expeditiously and on a reasonable and predictable schedule, in order for manufacturers to be able to collect necessary data. Consequently, AHRI recommended that DOE issue full draft templates, rather than just column headers and product group codes. Additionally, AHRI stated that clear identification of new or modified

information would also be helpful to assist stakeholders when reviewing templates or even column headers, noting that stakeholders should not be required to presume what the compliance requirements are. (AHRI, No. 18 at p. 4)

In response, DOE issues template column headers and product group codes to assist submitters in preparing for the upcoming template revisions. Because certification reporting requirements may change between the NOPR and final rule, DOE issues templates only at the completion of the final rule to avoid confusion and mitigate burden. Issuing full draft templates that cannot be submitted for compliance purposes may cause confusion amongst certifiers. Further, certifiers would need to review the final version of the template, as there may be modifications not incorporated in the draft template, which increases the potential for invalid certification reports and require certifiers to re-submit using the correct templates, thereby increasing burden on certifiers.

2. Compliance Timeline

Rheem commented requesting DOE to clarify the required filing date for each of the products/equipment covered by this rulemaking, such as by including a table in the final rule that clearly states the required filing date for each product class. (Rheem, No. 15 at pp. 1–2)

AHRI commented that in future rules, special consideration should be given to situations where publication of the proposed and final certification and enforcement rulemaking is close to the first time or annual certification requirement for the products or equipment. AHRI stated concern that template releases for equipment with first time compliance deadlines or annual reporting requirements in the spring of 2024 may be in jeopardy resulting from the timing of the September 2023 CCE NOPR, and ultimately the final rule publication. (AHRI, No. 18 at p. 6)

AHRI recommended that DOE finalize this rulemaking and publish templates no later than January 2, 2024, which would allow stakeholders to have final templates 120 days prior to the spring 2024 first-time compliance and annual reporting deadlines. (AHRI, Public Meeting Transcript, No. 6 at pp. 5–6; AHRI, No. 18 at p. 6)

AHRI commented that annual reporting should not be required within 120 days of publication of a new certification and enforcement rulemaking where templates are revised or impacted. If the certification and enforcement rulemaking cannot be

finalized more than 120 days in advance of the annual reporting deadline, AHRI commented that the deadline for that year should shift to 120 days after publication of the final certification and enforcement rule in the **Federal Register**. AHRI commented that requiring annual reporting for any templates revised in closer proximity to the annual reporting deadline is burdensome to the regulated community. (AHRI, No. 18 at p. 7)

In response, DOE has noted the applicable compliance dates for each of the product or equipment categories that are the subject of this rulemaking in the following sections and in Table II.1 to section II, Synopsis of the Final Rule, of this document. For products such as air cleaners, CRACs, DX–DOAS, three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, electric instantaneous water CWHs, and portable ACs where compliance with new or amended standards is required prior to the required use date of the reporting requirement established in this rule and a template is not currently available to certify compliance, then compliance with the amended certification requirements would not be required until 210 days after publication of this rule. DOE notes that compliance with the amended standards themselves would still be required on and after their applicable compliance date(s). For products and equipment with existing standards and existing reporting requirements, if the annual reporting deadline is prior to the compliance date of this rule (*i.e.*, sooner than 210 days after publication), the annual reporting requirement can be met using the current template. Using the revised templates would not be required until the next annual reporting deadline after the compliance date of this rule. For products and equipment where compliance with new or amended standards is required more than 210 days after publication of this rule, then certification is required by the compliance date of such standard. Through such approach, DOE seeks to minimize associated regulatory burden on manufacturers.

DOE notes that the Department strives to finalize certification templates as expeditiously as possible, in order to provide certifiers sufficient time to prepare for the compliance dates of any upcoming amended energy conservation standards. In this case, although the final templates have not yet been posted for use, DOE has provided certification template draft column headers and product group codes in the docket for this rulemaking to assist certifiers in

preparation for the upcoming compliance dates prior to the publication of this final rule.

3. Collection of Information

AHAM commented that DOE stated in several places of the September 2023 CCE NOPR an intention to collect data which AHAM deems unnecessary to demonstrate compliance with energy conservation standards. AHAM stated DOE should ensure that its information collections are restricted to data necessary for this purpose, and if DOE wishes to collect data for future energy conservation standards rulemaking efforts or for its own information, DOE should collect that data through its energy conservation standard rulemaking process and not through the certification, compliance, and enforcement process. (AHAM, No. 16 at p. 1; AHAM, No. 19 at p. 2)) AHAM commented that many of the proposals in the September 2023 CCE NOPR go beyond the types of information currently collected under 10 CFR 429.14 to 10 CFR 429.63, which are more directly related to demonstrating compliance with standards. (AHAM, No. 16 at p. 2)

AHRI commented that DOE must limit the energy efficiency or energy use information required in certification reports to that which is truly necessary to determine compliance with the test procedure, labeling, and energy efficiency standards. AHRI commented that anything beyond that would fall outside of the information DOE is authorized to collect, and results in an undue burden on manufacturers because it creates a real cost to vet and verify information unrelated to the covered product's compliance with energy conservation standards, which on its face fails the requirement of 42 U.S.C. 6296(d) that DOE collect only necessary data in a manner designed to minimize unnecessary burdens on manufacturers. (AHRI, No. 18 at p. 3)

In response, section 326(d) of EPCA states that the Secretary may require manufacturers to submit information or reports to DOE with respect to energy efficiency or energy use as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such products and to ensure compliance with requirements of this part. (42 U.S.C. 6296(d)(1)) This express statutory language provides DOE with the authority to require manufacturers to submit information pertaining to the energy efficiency or energy use where it is necessary when establishing or revising its standards or test procedures, as well as to ensure

compliance. As such, DOE disagrees with AHRI's assessment that DOE must limit its collection requirements to information needed to determine compliance.

DOE acknowledges that EPCA states that the Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers. (42 U.S.C. 6296(d)(2)) However, where DOE proposed reporting requirements that were not directly related to compliance with energy conservation standards, the Department clarifies that the proposed requirements were included to ensure appropriate application of the test procedure for enforcement testing conducted by DOE. Additionally, the measurement of these values and recording of product or equipment characteristics is required when testing is conducted according to the DOE test procedures. Therefore, manufacturers should already have this information readily available, and, thus, the burden on manufacturers would be minimal.

In the September 2023 CCE NOPR, as well as in the product-specific sections that follow in this document, DOE has provided its reasons in the September 2023 CCE NOPR for its proposed collection of data and information. DOE discusses the specific comments and provisions that have been flagged and asserted by certain commenters to be unnecessary in the relevant sections that follow. DOE also explains why the Department has found the data collection to be necessary, to be required to ensure products and equipment are compliant, and/or to support DOE's enforcement efforts.

4. Certification Reporting Cost and Burden

Carrier commented that the estimates of the cost and burden of changes to annual reporting requirements were not adequately considered in the September 2023 CCE NOPR. Carrier commented that certification requirements are often established close to the test procedure or energy conservation standards compliance date, which increases the cost and burden to manufacturers and third-party certification bodies who must implement changes in a short amount of time. (Carrier, No. 12 at pp. 1–2)

BWC commented that adding reporting requirements increases regulatory burden, which includes examination of the proposal; analysis of its findings; assessment of manufacturer capabilities to achieve established objectives in the proposal; internal deliberations about how/if this can realistically be accomplished; and

finally, crafting and delivering meaningful feedback to DOE. BWC commented that all these tasks must occur prior to the physical work that takes place to adjust processes, such as may be required to comply with the September 2023 CCE NOPR. BWC stated that there are several major proposed and final rulemakings from 2023 alone that impact the products that BWC manufactures, including the September 2023 CCE NOPR; July 2023 Consumer Water Heater ECS NOPR (88 FR 49058); June 2023 Consumer Water Heater TP Final Rule (88 FR 40406); March 2023 Consumer Boiler TP Final Rule (88 FR 15510); and the August 2023 Consumer Boiler ECS NOPR (88 FR 55128). BWC commented that this list did not include actions undertaken by States and local jurisdictions as well as ENERGY STAR. BWC commented urging DOE to take into account the sheer volume of regulatory activity that faces manufacturers. BWC commented that the accumulation of regulatory burden increases costs in human and technological resources. BWC stated that as proposed rules are published and promulgated as final rules, BWC resources must be allocated and deployed to achieve compliance within the timelines prescribed in those final rules. (BWC, No. 13 at pp. 2–3)

The certification reporting requirements adopted in this final rule ensure consistency with DOE energy conservation standards and test procedure rulemakings for the subject products or equipment. These reporting requirements generally pertain to requirements that are readily available in test reports that manufacturers are required to use when testing to the DOE test procedure. Further, Carrier and BWC did not provide any data indicating increased costs to manufacturers related to reporting. DOE recognizes that certification reporting requirements may result in costs and manufacturer burden in addition to those required to comply with new or amended energy conservation standards or to conduct testing. To the extent that the adopted certification reporting requirements would impose additional cost and burden to manufacturers and importers, DOE has discussed these costs in the product specific sections. DOE also recognizes the effort needed for stakeholders to review and provide feedback to the many proposals in the September 2023 CCE NOPR. However, as discussed in section III.A.1 of this document, DOE notes that conducting individual certification rulemakings for each product would result in many more rulemaking notices, which would

create substantially more administrative burden for commenters with interests in multiple covered products and equipment. In this case, DOE would have needed to publish over 40 separate notices if it were to conduct a separate certification rulemaking for each of the product and equipment categories considered in this document.

AHRI commented that DOE's regulations require certification reports to be filed for every basic model prior to distribution in commerce, after initial certification, and after discontinuation, which is a process that creates onerous obstacles for third-party certification bodies that represent 90 percent of the regulated market. AHRI commented it has long advocated for the elimination of the annual certification requirements for covered products via notice and comment rulemaking. AHRI commented that this process is unnecessary and imparts burden without benefit. (AHRI, No. 18 at p. 6)

In response, DOE has determined that its annual certification requirements provide DOE and consumers with comprehensive, up-to-date efficiency information and also support effective enforcement. If DOE were to eliminate its annual certification requirements, DOE would have no way of ensuring that all of the information available to consumers in DOE's Compliance Certification Database ("CCD")⁶ is up-to-date and certified in accordance with the most recent DOE test procedure. Occasionally, changes to DOE test procedures do not require revised certification reporting templates, and the existence of annual certification requirements ensures that the information available to consumers is consistently updated without requiring revised certification templates. Additionally, the elimination of annual certification requirements would increase the likelihood that discontinued models would not be removed from the CCD. Accordingly, DOE is not amending the long-standing annual certification requirement as part of this final rule.

AHRI noted that triennial compliance with the Paperwork Reduction Act ("PRA") to templates using OMB Control Number 1910–1400 expires on September 30, 2024. AHRI commented that submission of new forms for OMB approval have only changed the version number, OMB control number, and OMB form expiration date, but this change made to every template

⁶ Certified equipment in the CCD is listed by product class and can be accessed at www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A*.

simultaneously causes substantial burden for certification bodies. (AHRI, No. 18 at p. 6) AHRI commented suggesting that templates updated in this rulemaking be submitted to OMB to reduce future template changes that would just update the version number. AHRI commented DOE is obligated to consider this and any other recommendations that reduce the burden of compliance. (AHRI, No. 18 at pp. 6–7)

DOE notes that it revises the template version numbers as part of the triennial compliance with PRA to ensure that submitters are using the most up-to-date templates based on the current OMB control numbers. DOE will evaluate to what extent updates to forms can be limited to reduce burden on certification bodies.

MJ L commented that requiring more reporting and labeling of consumer products and commercial equipment is onerous and costly for the makers. MJ L commented that products would need to be redesigned to comply to the more stringent new standards, which would make such products more costly and less useful. (MJ L, No. 11 at p. 1)

DOE notes that this rulemaking is not adopting any amended standards; it is only adopting certification reporting requirements for products and equipment consistent with recently amended or newly established test procedures or energy conservation standards.

5. Calculations for Enforcement Testing

Rheem commented requesting DOE to clarify whether the energy efficiency standard (“EES”) is rounded when the applicable certification requirements require rounding while performing enforcement calculations in 10 CFR 429, subpart C, appendix A. Rheem provided an example, stating that: an EES of 0.934 may be required as a result of an EES equation, but certification to the nearest 0.01 percent is required; therefore, a model designed to an EES of exactly 0.934 will need to certify to 0.93, which is below the level produced by the EES equation. As the compliant model must certify below the EES, it follows that the EES is actually rounded. (Rheem, No. 15 at p. 8)

DOE determines the applicable energy efficiency standard or energy conservation standard used in enforcement calculations based on the product or equipment requirements. When applicable, DOE follows the same rounding requirements for the relevant metric as specified in the applicable test procedure requirements at 10 CFR 430.23 or the relevant product or equipment specific test procedure

appendix, the rounding requirements at 10 CFR 430.32, or the rounding requirements in the product or equipment specific certification reporting requirements. In the case of Rheem’s example, DOE notes that an EES of 0.934 would also be rounded to 0.93, and therefore, the rounding would not affect any compliance determination. DOE may additionally consider further clarifications to the enforcement calculations in 10 CFR 429, subpart C, appendix A to address this in a future rulemaking.

6. Comments on Products/Equipment Not Included in the September 2023 CCE NOPR

Although not within the scope of the September 2023 CCE NOPR, AHAM submitted comments regarding reporting requirements for conventional cooking tops. Specifically, AHAM requested that DOE indicate in 10 CFR 430.134 that it will use the same measurement equipment for testing gas cooking tops as were used for certification. (AHAM, No. 16 at p. 10) AHAM noted that the conventional cooking tops test procedure at 10 CFR 430, subpart B, appendix I1 (“appendix I1”) specifies that measurement of the gas cooking top burner heat input rate starts 5 minutes after ignition but does not specify an endpoint for this measurement. (AHAM, No. 16 at p. 9) AHAM stated that the type of measurement equipment—wet meter, dry meter, or mass flow meter—will affect the time at which the lab stops the measurement for the burner heat input rate which in turn can affect the final measured value. (AHAM, No. 16 at pp. 9–10) AHAM commented that, without clarity in the enforcement procedures, to ensure compliance upon verification by a third-party lab or assessment and enforcement testing by DOE, manufacturers may be compelled to conduct repeated testing using multiple types of measurement equipment, adding unnecessary burden to an already burdensome test. AHAM recommended that DOE include in an enforcement provision that it would use the same measurement equipment for enforcement testing as was used for certification and acknowledged that such an enforcement provision would likely require including an additional reporting requirement about the type of measurement equipment used for certification: wet meter, dry meter, and mass flow meter, which AHAM would support. (AHAM, No. 16 at pp. 10–11)

AHAM further commented that, together with other stakeholders, it filed

a petition⁷ requesting that DOE permit an alternative calculation for the simmer portion of the conventional cooking top test procedure. AHAM also noted that it submitted joint comments on this rulemaking docket urging DOE to use the full test for enforcement purposes. (AHAM, No. 16 at p. 11; *see also* Joint Stakeholders, No. 17 at p. 2–3)

The Joint Stakeholders recommended that DOE adopt the calculation method AHAM proposed in its petition filed earlier this year for the simmer portion of the conventional cooking top test procedure as an alternative to the full simmer test. The Joint Stakeholders urged DOE to adopt that alternative calculation method together with an enforcement provision in 10 CFR 429.134 indicating DOE would rely on the full simmer test in appendix I1. The Joint Stakeholders commented their intent is that DOE would adopt a new sub-section in 10 CFR 429.134 outlining the same process it uses for enforcement related to refrigerator/freezer models with two compartments, each having its own user-operable temperature control. The Joint Stakeholders commented that for cooking products, they recommend DOE use the simmer portion of the test in the current appendix I1 before making a determination of noncompliance with respect to a basic conventional cooking top model. (Joint Stakeholders, No. 17 at p. 2)

As AHAM noted, cooking products did not fall within the scope of products covered in the September 2023 CCE NOPR. (AHAM, No. 16 at p. 8) As such, DOE has neither proposed certification or enforcement provisions for conventional cooking products in the September 2023 CCE NOPR, nor has it considered adopting reporting requirements for conventional cooking products as part of this rulemaking. DOE has also not finalized any determination regarding AHAM’s petition for use of the calculation approach. DOE may consider proposals to adopt certification and reporting requirements for conventional cooking products under a separate rulemaking.

Additionally, AHAM recommended that DOE should establish requirements for clothes dryers similar to the RCW amendments proposed in the September 2023 CCE NOPR, along with test procedure requirements related to the test cloth, which AHAM stated it would suggest to DOE in the near future. (AHAM, No. 16 at p. 4)

Similarly, DOE did not propose certification or enforcement provisions

⁷ The docket for this petition is available at www.regulations.gov/docket/EERE-2023-BT-TP-0006/document.

for clothes dryers in the September 2023 CCE NOPR. DOE has also not considered any amendments to its reporting requirements or test procedures for residential clothes dryers as part of this rulemaking. DOE may consider proposals to amend the certification and reporting requirements for residential clothes dryers in a separate rulemaking. DOE may also consider proposals to amend the test procedure requirements related to the test cloth in a separate rulemaking.

For consumer water heaters, Rheem requested that DOE amend the provisions at 10 CFR 429.70(g)(3)(ii) to require that electric instantaneous water heaters make representations of an untested basic model's first hour rating ("FHR") or maximum GPM rating ("Max GPM") through testing of the untested basic model that meets the sampling provisions at 10 CFR 429.11. Rheem noted that while the FHR of an electric storage water heater may vary little in response to the input rate, due to the large effect of the already hot water within the storage tank, the Max GPM will vary greatly with input rate. Rheem commented that a higher Max GPM is more desirable to a consumer, creating an incentive to use the alternative certification provisions to make unrepresentative Max GPM claims. (Rheem, No. 15 at pp. 7–8)

Again, DOE did not propose certification or enforcement provisions for consumer water heaters in the September 2023 CCE NOPR. DOE has also not considered any amendments to its reporting requirements for consumer water heaters as part of this rulemaking. DOE may consider proposals to amend the certification and reporting requirements for consumer water heaters in a separate rulemaking.

B. Central Air Conditioners and Heat Pumps

DOE is amending the certification reporting requirements for CAC/HPs. A central air conditioner or central air conditioning heat pump means a product, other than a packaged terminal air conditioner or packaged terminal heat pump, which is powered by single phase electric current, air cooled, rated below 65,000 Btu/h, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu/h, and is a heat pump or a cooling unit only. A central air conditioner or central air conditioning heat pump may consist of: a single-package unit; an outdoor unit and one or more indoor units; an indoor unit only; or an outdoor unit with no match. In the case of an indoor unit only or an outdoor unit with no match, the unit

must be tested and rated as a system (combination of both an indoor and an outdoor unit). 10 CFR 430.2.

On October 25, 2022, DOE published a final rule ("October 2022 CAC/HP Final Rule") in which DOE amended the test procedure provisions for CAC/HPs. 87 FR 64550. Consistent with that final rule, DOE is amending the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.16, manufacturers of CAC/HPs must report a variety of values and information, including seasonal energy efficiency ratio 2 ("SEER2") in Btu/W-h, average off mode power consumption, cooling capacity in Btu/h, and heating seasonal performance factor 2 ("HSPF2") in Btu/W-h. 10 CFR 429.16(e)(2) For a complete list of existing certification reporting requirements, *see* 10 CFR 429.16(e). These requirements provide for certifying compliance with the current standards applicable to CAC/HP equipment manufactured on or after January 1, 2023. 10 CFR 430.32(c). DOE is updating these requirements to align the reporting requirements with the appendix M1 test procedure and adopt general certification requirements for CAC/HPs. 88 FR 67458, 67464. DOE discusses these updates in the following sections.

a. Variable Speed Coil-Only Rating Based on Non-Communicating or Communicating Control

In the October 2022 CAC/HP Final Rule, DOE defined a "communicating variable-speed coil-only central air conditioner or heat pump" as a variable-speed compressor system having a coil-only indoor unit that is installed with a control system that (a) communicates the difference in space temperature and space setpoint temperature (not a setpoint value inferred from on/off thermostat signals) to the control that sets compressor speed; (b) provides a signal to the indoor fan to set fan speed appropriate for compressor staging and air volume rate; and (c) has installation instructions indicating that the required control system meeting both (a) and (b) must be installed. 87 FR 64550, 64560.

DOE defined a "variable-speed non-communicating coil-only central air conditioner or heat pump" as a variable-speed compressor system having a coil-only indoor unit that does not meet the definition of variable-speed communicating coil-only central air conditioner or heat pump. *Id.*

In the October 2022 CAC/HP Final Rule, DOE elaborated that variable-speed coil-only systems that meet the

"communicating" definition should be tested like any other variable-speed system, except that the heating full-load air volume rate should be equal to the cooling full-load air volume rate and the intermediate and minimum cooling and heating air volume rates should all be higher than (1) the rate specified by the installation instructions included with the unit by the manufacturer, and (2) 75 percent of the full-load cooling air volume rate. *Id.*

Because this aspect of the basic model's operating characteristics determines the way it must be tested, manufacturers need to certify whether a variable speed coil-only rating is based on non-communicating or communicating control. Therefore, in the September 2023 CCE NOPR, DOE proposed to include this requirement in the certification template and requested comment on its proposal. 88 FR 67458, 67465.

AHRI and Carrier commented supporting DOE's proposal to require reporting of whether a variable speed coil-only rating is based on non-communicating or communicating control. (AHRI, No. 18 at p. 7; Carrier, No. 12 at p. 2)

ASAP *et al.* commented that in the October 2022 CAC/HP Final Rule, DOE defined variable-speed communicating coil-only central air conditioner or heat pump and variable-speed non-communicating coil-only central air conditioner or heat pump but the terms used in the September 2023 CCE NOPR—"non-communicating control" and "communicating control"—are not precisely defined. ASAP *et al.* recommended that DOE align the certification language and the certification template with existing language and recommended to rephrase "whether the represented value meets the definition of variable speed non-communicating coil-only." (ASAP *et al.*, No. 14 at p. 4)

In response to the comment by ASAP *et al.*, DOE notes that "non-communicating control" and "communicating control" are defined within the definitions of "variable-speed communicating coil-only central air conditioner or heat pump" and "variable-speed non-communicating coil-only central air conditioner or heat pump," respectively, as finalized in the October 2022 CAC TP Final Rule, at section 1.2 of appendix M1. However, to better align with these definitions, DOE is slightly modifying the proposed reporting requirement to state, "whether the represented value is based on a non-communicating or communicating control system."

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting reporting requirements for reporting of whether a variable speed coil-only rating is based on a non-communicating or communicating control system with the additional clarification of adding the word “system.”

b. Air Volume Rate Changing With Outdoor Conditions

In the October 2022 CAC/HP Final Rule, DOE explained that requirements for setting air volume rate in section 3.1.4 of appendix M1 may conflict with instructions to use air volume rates that represent a “normal installation” in section 3.2, particularly for modern blower-coil systems with multiple-speed or variable-speed indoor fans and control systems, which may change air volume rate in response to operating conditions such as outdoor air temperature. 87 FR 64550, 64569. To address this issue, in the October 2022 CAC/HP Final Rule, DOE explicitly stated in step 7 of sections 3.1.4.1.1.a, 3.1.4.2.a, and 3.1.4.3.a of appendix M1 that, for blower-coil systems in which the indoor blower capacity modulation correlates with outdoor dry bulb temperature or sensible-to-total cooling capacity ratio, use an air volume rate that represents a normal operation. *Id.* Also, DOE indicated that to ensure consistency of testing, it may be necessary for manufacturers to certify whether the system varies blower speeds with outdoor air conditions. *Id.* For these reasons, in the September 2023 CCE NOPR, DOE proposed that manufacturers include in their certification whether the system varies blower speeds with outdoor air conditions and requested comment on its proposal. 88 FR 67458, 67465.

Carrier stated its support for DOE’s proposal to require reporting of whether a CAC/HP system varies blower speeds with outdoor air conditions. However, Carrier commented that responses should be required for blower coil systems only, and the default response should be “No.” (Carrier, No. 12 at p. 2)

AHRI commented in support of DOE’s proposal to require reporting of whether a CAC/HP system varies blower speeds with outdoor air conditions. AHRI commented the proposed new column, “Does the System Vary Blower Speeds with Outdoor Air Conditions?” is appropriate. AHRI additionally recommended that a response must be required for blower coil systems only, and only if applicable, with a blank field permissible for all other systems

and a default of “No.” (AHRI, No. 18 at p. 7)

DOE would like to clarify that DOE intended in its proposal that manufacturers would fill in the proposed new column to report whether their CAC/HP system varies blower speeds with outdoor air conditions only if they report that their unit is a blower coil system, as indicated in the draft certification template columns published along with the September 2023 CCE NOPR in the docket for this rulemaking. This approach is consistent with the recommendations from commenters.

For the reason discussed in the preceding paragraph and the September 2023 CCE NOPR, DOE is adopting reporting requirements for reporting of whether a CAC/HP blower coil system varies blower speeds with outdoor air conditions.

c. Sampling Corrections

Currently, DOE’s sampling provisions for CAC/HPs state that any represented value of power consumption or other measure of consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of the mean of the sample, or the upper 90 percent confidence limit of the true mean (“UCL”) divided by 1.05. 10 CFR 429.16(b)(3)(i). Additionally, the sampling provisions state that any represented value of the energy efficiency, cooling capacity, heating capacity or other measure of energy consumption for which consumers would favor higher values shall be less than or equal to the lower of the mean of the sample, or the lower 90 percent confidence limit of the true mean (“LCL”) divided by 0.95. 10 CFR 429.16(b)(3)(ii)–(iii). The sampling provisions also state that the UCL and LCL should be calculated using the Student’s t-Distribution Values for a 90 percent one-tailed confidence interval with $n - 1$ degrees of freedom from appendix D to subpart B of part 429 (“appendix D”), where “ n ” is the number of samples. 10 CFR 429.16(b)(3)(i)–(iii). However, the appendix containing Student’s t-Distribution Values has moved to appendix A to subpart B of part 429 (“appendix A”) and is no longer located at appendix D.⁸ To correct this discrepancy, in the September 2023 CCE NOPR, DOE proposed to revise 10 CFR 429.16(b)(3)(i)–(iii) to specify that the UCL and LCL should be calculated

using the Student’s t-Distribution Values for a 90 percent one-tailed confidence interval outlined in appendix A. 88 FR 67458, 67465. DOE requested comment on its proposal. *Id.*

Carrier commented in support of DOE’s proposal to correct the sampling provisions for CAC/HPs to reference appendix A instead of appendix D. (Carrier, No. 12 at p. 2)

AHRI also commented in support of DOE’s proposal to correct the sampling provisions for CAC/HPs to reference appendix A instead of appendix D, but only under the condition this is a reference change. (AHRI, No. 18 at p. 7)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the corrections to sampling provisions as proposed in the September 2023 CCE NOPR. This change updates the reference as described, but does not change the calculations.

2. Reporting Costs and Impacts

As discussed, in the September 2023 CCE NOPR, DOE proposed aligning CAC/HP certification reporting requirements with the current test procedure for CAC/HP in appendix M1, which was most recently amended by the October 2022 CAC/HP Final Rule. 88 FR 67458, 67465. The proposed certification requirements in the September 2023 CCE NOPR specifically addressed new provisions in this amended version of the appendix M1 test procedure, use of which was required beginning on April 24, 2023. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments to the certification requirements would not impose additional costs for manufacturers because manufacturers of CAC/HPs are already submitting certification reports to DOE and should have readily available the information that DOE proposed to collect as part of that rulemaking. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what CAC/HP manufacturers are currently doing today. *Id.*

AHRI commented that if DOE adopted its recommendations regarding CAC/HPs, AHRI would not expect significant additional burden or cost for manufacturers associated with the amendments proposed for CAC/HPs. AHRI noted that implementing amendments to templates does come at a cost and burden to third-party certification bodies that AHRI willingly

⁸ Appendix D now contains the sampling plan for enforcement testing of Uninterruptible Power Supplies.

bears for the benefit of manufacturers, regulators, and users. AHRI commented it would appreciate a more streamlined and predictable process. (AHRI, No. 18 at p. 7)

AHRI did not provide any data indicating increased costs to manufacturers related to reporting. The reporting requirements for CAC/HPs would be accomplished using the existing online data templates in DOE's CCMS, which DOE does not expect to be any more burdensome than reporting under the existing template. Based on the preceding discussion and the discussion in the September 2023 CCE NOPR, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for CAC/HP manufacturers as compared to what they are currently doing today.

For the reasons discussed in the prior paragraphs and in the September 2023 CCE NOPR, in this final rule DOE is adopting the reporting requirements for CAC/HPs as proposed, with the additional clarification of adding the word "system" to the requirement to report whether a variable speed coil-only rating is based on a non-communicating or communicating control system. Compliance with these amended reporting requirements is not required until the next annual certification report filing date on or after 210 days after publication of this final rule.

C. Dishwashers

DOE is amending the certification reporting requirements for DWs, which are cabinet-like appliances which, with the aid of water and detergent, wash, rinse, and dry (when a drying process is included) dishware, glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or electrical means and discharge to the plumbing drainage system. 10 CFR 430.2. In the DWs test procedure final rule published on January 18, 2023 ("January 2023 DW Final Rule"), DOE amended the existing DWs test procedure at appendix C1 and established a new test procedure at appendix C2, which would be required at the time compliance is required with any amended energy and water conservation standards. 88 FR 3234. Consistent with that final rule, DOE is amending the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.19, manufacturers must report the following public product-specific information: the estimated annual energy use in kilowatt hours ("kWh") per year ("kWh/yr"), the water

consumption in gallons per cycle, and the capacity in number of place settings as specified in ANSI/AHAM DW-1-2010.⁹ 10 CFR 429.19(b)(2). Manufacturers must additionally report the following product-specific information: the presence of a soil sensor (and if present, the number of cycles required to reach calibration); water inlet temperature used for testing in degrees Fahrenheit ("°F"); cycle selected for the energy test and whether that cycle is soil-sensing; the options selected for the energy test; the presence of a built-in water softening system (and if present, the energy use in kWh and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values); and an indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. 10 CFR 429.19(b)(3). These requirements are applicable for any DW distributed in the United States on or after May 30, 2013. Additionally, when certifying dishwashers other than water re-use dishwashers, the following requirements are applicable: (A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. (B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph 10 CFR 429.19(b)(3)(vi)(A) and (B).

DOE is updating the dishwasher certification reporting requirements and aligning the reporting requirements with the amended test procedure at appendix

C1 and the new test procedure at appendix C2. Use of appendix C2 is required when determining compliance with the amended energy and water conservation standards adopted in a direct final rule published in the **Federal Register** on April 24, 2024. 89 FR 31398. Accordingly, the certification reporting requirements that are specific to appendix C2 are required to demonstrate compliance with those amended energy and water conservation standards. DOE discusses the updates in the following sections.

a. Update to the AHAM Industry Standard

The current reporting requirements at 10 CFR 429.19(b)(2) reference the industry standard, ANSI/AHAM DW-1-2010¹⁰ to the capacity of a dishwasher in number of place settings. In the September 2023 CCE NOPR, DOE proposed to exclude this reference in the dishwasher reporting requirements at 10 CFR 429.19 because this industry standard is now obsolete. 88 FR 67458, 67466. Additionally, the reference to the definition of place settings only includes the items in the test load that comprise a single place setting; it does not define the capacity of a dishwasher itself, which is the metric that needs to be reported for dishwashers at 10 CFR 429.19(b)(2). DOE also proposed to remove ANSI/AHAM DW-1-2010 from its list of materials incorporated by reference at 10 CFR 429.4 because this standard would no longer be referenced anywhere in 10 CFR part 429 after the proposed removal of this reference from 10 CFR 429.19. *Id.* DOE requested comment on its proposal to remove this reference in the dishwasher reporting requirements. *Id.*

ASAP *et al.* commented that it was appropriate for DOE to remove the reference to the now obsolete ANSI/AHAM DW-1-2010 standard from the reporting requirements for dishwashers. ASAP *et al.* noted that the capacity in number of place settings remains a reporting requirement, however, "place settings" is not defined in either 10 CFR 429.19 or appendices C1 or C2 (or references therein). ASAP *et al.* recommended that DOE should ensure that "place settings" is defined in the CFR. ASAP *et al.* additionally noted that "kilowatt hours" was not consistently hyphenated or not hyphenated in 10 CFR 429.19. (ASAP *et al.*, No. 14 at p. 4)

DOE notes that section 2.3 of appendix C1 and section 2.4 of appendix C2 specify the test load items

⁹ American National Standards Institute/ Association of Home Appliance Manufacturers DW-1-2010: Household Electric Dishwasher.

¹⁰ Household Electric Dishwashers. ANSI/AHAM DW-1-2010. ANSI approved Sept. 18, 2010.

through reference to section 2.7.1 of AHAM DW-1-2020,¹¹ which additionally references section 3.4 of AHAM DW-2-2020¹² that specifies the items included in a place setting. As such, given this reference to “place settings” in appendix C1 and appendix C2, DOE is not making any changes to the reporting requirements at 10 CFR 429.19 to include a definition for place settings.

Additionally, in response to the comment from ASAP *et al.* noting that “kilowatt hours” was not consistently hyphenated or not hyphenated, DOE is updating the amended requirements in 10 CFR 429.19(b)(3)(v) to remove the hyphen from “kilowatt-hours.”

For the reasons discussed in the preceding paragraphs and September 2023 CCE NOPR, DOE is adopting the proposal to remove ANSI/AHAM DW-1-2010 from the referenced industry standard in 10 CFR 429.19(b)(2) and the list of materials incorporated by reference at 10 CFR 429.4. DOE is also making minor corrections to remove the hyphen from “kilowatt-hours.”

b. Cycle Selected for Energy Test

In the January 2023 DW Final Rule, DOE established a new appendix C2 that specifies, in part, a minimum cleaning index threshold as a condition for a valid test cycle. 88 FR 3234. If the normal cycle at any soil level (*i.e.*, heavy, medium, or light) does not meet the specified cleaning index threshold, the unit is tested at the most energy-intensive cycle that can achieve a cleaning index threshold of 70. 88 FR 3234, 3237. To ensure that the certification template is consistent with the tested cycle requirements specified in appendix C2, DOE proposed in the September 2023 CCE NOPR to include the following additional confidential reporting requirement at 10 CFR 429.19(b)(3)(iii): the cycle selected for the energy test at the heavy, medium, and light soil loads and whether these cycles are soil-sensing. 88 FR 67458, 67466. Further, DOE proposed to include the following additional confidential reporting requirement at 10 CFR 429.19(b)(3)(iv): the options selected for the energy test at the heavy, medium, and light soil loads. *Id.* These reporting requirements would be required only at such time as use of appendix C2 is required to demonstrate compliance with any future amended energy and water conservation

standards. *Id.* DOE requested comment on its proposal. *Id.*

The CA IOUs recommended that DOE make cycle setting information for dishwashers publicly available. (CA IOUs, No. 8 at p. 2) The CA IOUs stated that understanding the cycle setting would aid the public in comparing dishwashers based on the mode of operation used for the energy-efficiency results reported to DOE, allowing consumers to attain similar savings. (*Id.*) The CA IOUs stated that if DOE deems the cycle setting information to be confidential, DOE must at the very least disclose whether the test was conducted using the normal cycle or energy-intensive cycle. The CA IOUs commented that this information could be an automatic output from the cycle setting information that DOE proposes to collect confidentially. (*Id.*)

The test procedure at appendix C2 specifies a minimum cleaning index threshold of 70 as a condition of a valid test cycle. If the normal cycle does not meet this threshold value at any soil load, then appendix C2 specifies that that soil load must be tested on the most energy-intensive cycle. 10 CFR part 430, appendix C2, section 4.1(c). As such, for any dishwasher that is manufactured after April 23, 2027, the compliance date of amended standards, the rated values of energy and water consumption would be reflective of the cycle type at which the unit met the minimum cleaning index threshold. For example, if a unit does not achieve the cleaning index threshold on the normal cycle and was rated at the most energy-intensive cycle, from the consumer's perspective, such a dishwasher would consume the maximum amount of energy, reflective of its rated value, or less energy if consumers choose any other cycle. Similarly, if a dishwasher achieves the cleaning index threshold on the normal cycle, from the consumer's perspective such a dishwasher would be expected to deliver the desired cleaning performance at the cycle recommended for daily, typical, or regular use. For these reasons, DOE is not requiring public reporting of the cycle setting information for dishwashers.

The CA IOUs commented requesting DOE to require the certification reports for dishwashers to include the total water heating energy consumption publicly so consumers can make informed purchasing decisions based on their water heater type. The CA IOUs stated that different water heater recovery efficiencies are used when calculating a consumer dishwasher's estimated annual operating costs, but they are not used to calculate annual energy use, which instead relies on the

assumption that the dishwasher is operating with an electric resistance water heater. The CA IOUs provided data comparing energy and water use of dishwashers with an electric resistance water heater and heat pump water heater and commented that the dishwasher test procedure in appendix C2 does not accurately estimate the water energy, total energy, and product rank order for consumers who own a heat pump water heater. The CA IOUs recommended that DOE require manufacturers to publicly report the total water heating energy consumption value, which would allow consumers and consumer product research organizations to analyze a dishwasher's potential annual energy use when paired with different water heating systems and which can be accessed from test reports without significantly increasing testing or reporting burden. The CA IOUs commented that this information would assist consumers in determining the most efficient dishwasher for their water heating system. (CA IOUs, No. 8 at pp. 2–4)

In response, DOE notes that the estimated annual energy use is calculated assuming that the dishwasher is operating with an electric resistance water heater because the current standards for dishwashers were developed using dishwasher energy consumption only with electric resistance water heaters. From the data presented by the CA IOUs, DOE notes that while the water heater efficiency impacts water heating energy consumption, and, therefore, overall machine energy consumption, it is just one of the aspects that contributes to water heating energy consumption. The water heating energy consumption for a given installation depends on the overall water consumption of the dishwasher, whether the dishwasher is connected to hot or cold water, the water heater type, and the hot water temperature setting. Of these, water consumption of dishwashers is already a reported value (in gallons per cycle). Consumers making decisions based on water heating energy consumption can do so based on these factors by choosing to calculate water heating energy consumption based on the dishwasher test procedure at appendix C1 and appendix C2 via reference to AHAM DW-1-2020.

Therefore, even if reporting water heating energy consumption would not increase testing or reporting burden, DOE does not believe reporting this metric is required because it is directly related to the already reported value of water consumption. Accordingly, DOE is not including the requirement to

¹¹ Uniform Test Method for Measuring the Energy Consumption of Dishwashers. AHAM DW-1-2020.

¹² Household Electric Dishwashers. AHAM DW-2-2020.

report water heating energy consumption at this time.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

c. Cleaning Index

As noted previously, the January 2023 DW Final Rule established a new appendix C2 that specifies a minimum cleaning index threshold as a condition for a valid test cycle. 88 FR 3234. Specifically, the January 2023 DW Final Rule states that each tested cycle on each individual unit is required to achieve the applicable cleaning index threshold to constitute a valid test cycle. 88 FR 3234, 3265–3266. To ensure that the reported test cycle is a valid test cycle that meets the specified applicable cleaning index threshold, DOE proposed to add a confidential reporting requirement for the cleaning index of the sensor heavy response, sensor medium response, and sensor light response test cycles in the September 2023 CCE NOPR. 88 FR 67458, 67467. DOE additionally proposed that the reported cleaning index for each basic model must be the average cleaning index of the individual test units at each soil level. *Id.* This reporting requirement would be required only at such time as use of appendix C2 is required to demonstrate compliance with any future amended energy and water conservation standards. *Id.* DOE requested comment on its proposals. *Id.*

During the NOPR public meeting, AHAM noted that the dishwasher test procedure at appendix C2 requires a cleaning index threshold of 70 at each soil load for a valid test. AHAM stated that it would like to understand DOE's reasoning to require reporting of an average cleaning score rather than a yes/no question of whether the unit met the threshold. (AHAM, Public Meeting Transcript, No. 6 at pp. 12–13) In written comments, AHAM commented that it opposes DOE's proposed requirement to report average cleaning index scores, as this information has no practical utility in the context of currently applicable dishwasher standards and test procedures and exceeds typical test procedure reporting requirements. (AHAM, No. 9 at p. 2; AHAM, No. 16 at p. 2) AHAM commented that the January 2023 DW Final Rule stated that each tested cycle on each individual unit is required to achieve the applicable cleaning index threshold to constitute a valid test cycle, while in the September 2023 CCE NOPR, DOE proposes a confidential reporting requirement for the cleaning

index of the sensor heavy response, sensor medium response, and sensor light response test cycles. AHAM commented that the test procedure at appendix C2 would require a cleaning index score of over 70 for a test cycle to be valid, and questioned why DOE would need to record specific test scores from manufacturers since any score greater than or equal to 70 is acceptable to have a valid test and the actual score is inconsequential. AHAM stated that the test procedure does not require reporting of the average cleaning score, so DOE's proposed requirement has no relation to determining whether the performance threshold has been met. AHAM commented that DOE does not collect data in many valid tests and cited the example of refrigerator manufacturers not needing to report ambient temperatures and clothes dryer manufacturers not reporting the final remaining moisture content despite the test requirement that a final remaining moisture content of 2 percent or below be achieved for a valid test. AHAM commented that manufacturers need only ensure that they meet the test procedure's 2 percent requirement. AHAM commented that if DOE wants individual scores for future consideration of amended energy conservation standards for dishwashers, DOE is obligated to collect such data as would be needed for those standards within the scope of such a rulemaking, or through a request to AHAM or its members, but not in the scope of the September 2023 CCE NOPR. AHAM commented that the cleaning index scores do not have practical utility in the context of currently applicable standards and test procedures because they are unnecessary to demonstrate compliance with standards; instead, having a cleaning index score meeting the minimum threshold is required for a valid test. (AHAM, No. 16 at pp. 2–3)

As stated, appendix C2 requires a cleaning index greater than or equal to 70 to have a valid test cycle. If the normal cycle at any soil level (*i.e.*, heavy, medium, or light) does not meet the specified cleaning index threshold, the unit is tested at the most energy-intensive cycle that can achieve a cleaning index threshold of 70. DOE notes that the test procedure at appendix C2 does not require reporting of the average cleaning index because: (a) the test procedure does not specify any reporting requirements, and (b) the test procedure specifies testing instructions for a single test unit.

Further, DOE has determined that reporting of the tested cleaning index is appropriate to ensure correct

application of the test procedure requirements because it would ensure that manufacturers are recording the appropriate data when testing and reporting consistent with the appendix C2 requirements (*i.e.*, a cleaning index greater than or equal to 70). DOE has determined that this reporting would better ensure the appropriate application of appendix C2 and the sampling requirements as compared to a yes/no field. Manufacturers would be required to measure and report the cleaning index as part of any appendix C2 testing.

In regard to AHAM's comment that DOE must collect this information in a test procedure or standards rulemaking process, DOE explained in section III.A.3 of this document that it has the authority to require manufacturers to submit information that would be necessary to establish test procedures or standards. As stated, reporting of the cleaning index threshold would ensure that the test procedure at appendix C2 is conducted correctly for the purposes of certifying performance, particularly as it pertains to ensuring that the tested and reported cycle meets the cleaning index threshold specified in appendix C2. DOE does not expect this reporting requirement to be unduly burdensome because the cleaning index will be calculated and recorded for each tested cycle as part of conducting the test under appendix C2.

For the reasons discussed in the preceding paragraphs and the September 2023 NOPR, DOE is adopting the confidential reporting requirement for the cleaning index of the sensor heavy response, sensor medium response, and sensor light response test cycles when testing according to appendix C2 as proposed in the September 2023 CCE NOPR. Additionally, as proposed in the September 2023 NOPR, DOE is specifying that the reported cleaning index for each basic model must be the average cleaning index of the individual test units at each soil level.

d. Water Re-Use System Dishwashers

On November 1, 2013, DOE published a Decision and Order granting Whirlpool a test procedure waiver ("Whirlpool waiver") for testing specified basic models equipped with a "water use system," in which water from the final rinse cycle is stored for use in the subsequent cycle, with periodic draining ("drain out") and cleaning ("clean out") events. 78 FR

65629, 65629–65630. (Case No. DW–11).¹³

In the January 2023 DW Final Rule, DOE amended appendix C1 to include the requirements from the Whirlpool waiver for testing water re-use system DWs via reference to the industry standard, AHAM DW–1–2020, with some modifications to the equations in sections 5.6.1.3, 5.6.1.4, 5.6.2.3, and 5.6.2.4 of AHAM DW–1–2020. DOE also adopted these requirements in the new appendix C2. 88 FR 3234, 3249.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the reporting requirements at 10 CFR 429.19(b)(3) to include reporting of energy and water use associated with drain out and clean out events, consistent with the information required to be reported by Whirlpool as part of the waiver. 88 FR 67458, 67467. These reported values would be used in equations to account for the extra water and energy associated with water re-use systems. Specifically, DOE proposed that the additional machine electrical energy consumption required for a drain out event and clean out event—expressed in kWh—and the additional water consumption required for drain out and clean out events during a drain out cycle—expressed in gallons per cycle (“gal/cycle”)—be reported confidentially. *Id.* DOE requested comment on these proposals. *Id.*

The CA IOUs commented that DOE should make publicly available the energy and water use from drain-out and clean-out events. The CA IOUs stated that understanding the energy and water consumption from drain out and clean out events would help stakeholders identify efficiency improvements and allow consumers to understand types of dishwasher use that would change their product’s expected water and energy consumption. (CA IOUs, No. 8 at p. 2)

In response, DOE notes that it is not requiring that the energy and water use from drain-out and clean-out events be reported publicly because these metrics would not add any value to a consumer’s decision-making, as the reported energy and a water use of water re-use system dishwasher would already include the energy and water use associated with a drain out or clean out event and, thus, not change a dishwasher’s expected water and energy consumption compared to the rated values.

AHAM opposed DOE’s proposal to amend the reporting requirements at 10

CFR 429.19(b)(3) to include reporting of energy and water use associated with drain out and clean out events. (AHAM, No. 9 at p. 2; AHAM, No. 16 at p. 3) AHAM commented that it opposed this proposal because these values are not necessary to demonstrate compliance with standards. AHAM commented that the energy and water use of a product is captured in the final test result, and this proposed additional requirement places an unnecessary reporting burden on manufacturers without a corresponding benefit. AHAM commented that the reporting of energy and water use associated with drain out and clean out events does not have practical utility and the burden is not justified by the usefulness of the data as is required by PRA. (AHAM, No. 16 at pp. 3–4)

DOE previously determined that the energy and water use associated with drain out or clean out events are needed to provide a representative measure of the energy and water use of dishwashers with water re-use systems (see Whirlpool waiver).¹⁴ DOE notes that the impact of a water re-use system during normal use is captured in the DOE test procedure (both appendix C1 and appendix C2), but drain out and clean out events require separate consideration as they are not necessarily captured during the sequence of test cycles conducted as part of the DOE test procedure. DOE proposed this requirement because these values are necessary to determine the final machine energy consumption and water consumption if DOE were to conduct an enforcement test. As such, DOE’s proposal to confidentially report the energy and water use associated with a drain out or clean out event for water re-use dishwashers is similar to the reporting requirements for any other information that DOE would require to conduct a test (e.g., the energy and water use associated with each regeneration of the water softening system for dishwashers with built-in water softening systems).

For the reasons discussed, DOE is adopting the additional reporting requirements for water re-use system dishwashers as proposed in the September 2023 CCE NOPR.

e. Dishwashers With Built-In Reservoirs

DOE published a Decision and Order on December 9, 2020 granting CNA International Inc. (“CNA”) a test procedure waiver (“CNA waiver”) for a basic model of a compact DW that does

not connect to a water supply line and instead has a built-in reservoir that must be manually filled with water. 85 FR 79171, 79171 and 79173 (Case No. 2020–008).¹⁵

In the January 2023 DW Final Rule, DOE amended appendix C1 to include the requirements from the CNA waiver, which was specific to a compact DW basic model, to be applicable to a DW of any capacity with a manually filled built-in water reservoir. DOE also adopted these requirements in the new appendix C2. 88 FR 3234, 3241.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the reporting requirements at 10 CFR 429.19(b)(3) to include reporting of the reservoir capacity in gallons, prewash and main wash fill water volume in gallons (if testing is performed using appendix C1), and the total water consumption in gallons per cycle for DWs with built-in reservoirs. 88 FR 67458, 67467. DOE’s proposal to report the prewash and main wash fill water volumes is only applicable to appendix C1 because these water volumes are used to determine detergent dosage in appendix C1, while the detergent dosage in appendix C2 is dependent on the number of place settings. DOE requested comment on its proposed reporting requirements for DWs with built-in reservoirs. *Id.*

AHAM commented objecting to DOE’s proposed requirement for dishwashers with built-in reservoirs to include reporting of the reservoir capacity and prewash/main wash fill water volume because these data points are not needed to demonstrate compliance with standards. (AHAM, No. 9 at p. 2; AHAM, No. 16 at p. 4) AHAM commented that DOE has not described how the information would have practical utility or how the reporting burden would be justified as required by PRA. AHAM commented that DOE can request records in the event of an enforcement action. (AHAM, No. 16 at p. 4)

DOE proposed the requirement for dishwashers with built-in reservoirs to report the reservoir capacity and prewash and main wash fill water volumes because these values are required to determine the dishwasher’s water consumption and detergent dosage, respectively, if DOE were to conduct an enforcement test. As such, DOE’s proposal to confidentially report the water consumption and prewash and main wash fill water volumes is similar to the reporting requirements for

¹³ All materials regarding the Whirlpool waiver are available in docket EERE–2013–BT–WAV–0042 at www.regulations.gov.

¹⁴ All materials regarding the Whirlpool waiver are available in docket EERE–2013–BT–WAV–0042 at www.regulations.gov.

¹⁵ All materials regarding the CNA waiver are available in docket EERE–2020–BT–WAV–0024 at www.regulations.gov.

any other information that DOE would require to conduct a test (e.g., the energy and water use associated with each regeneration of the water softening system for dishwashers with built-in water softening systems). Additionally, DOE does not expect this reporting requirement to be unduly burdensome because manufacturers of dishwashers with built-in reservoirs would already be determining these values to conduct the test procedure. Therefore, DOE is maintaining its proposal from the September 2023 CCE NOPR.

For the reasons discussed, DOE is adopting the amendments as proposed in the September 2023 CCE NOPR.

f. Rounding Requirements

In the September 2023 CCE NOPR, DOE proposed to specify at new section 10 CFR 429.19(c) that the represented value of estimated annual energy use must be rounded to the nearest kWh/yr and the represented value of water consumption must be rounded to one decimal place (i.e., the nearest 0.1 gallon per cycle). 88 FR 67458, 67467. DOE noted that these rounding requirements were consistent with the existing rounding requirements for DWs specified at 10 CFR 430.23(c)(2) and 10 CFR 430.23(c)(3), respectively and requested comment on the proposed rounding requirements. *Id.*

DOE did not receive any comments on the proposed rounding requirements for DWs. For the reasons discussed, DOE is adopting the requirements as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align the DW certification reporting requirements with the amended test procedure at appendix C1, use of which was required beginning July 17, 2023, and with the newly adopted test procedure at appendix C2, use of which would be required at such time as compliance is required with any amended energy conservation standards based on appendix C2. 88 FR 67458, 67467.

For dishwashers, manufacturers currently report the following: (1) the estimated annual energy use in kWh/yr; (2) the water consumption in gallons per cycle; (3) the capacity in number of place settings as specified in ANSI/AHAM DW-1-2010; (4) the presence of a soil sensor, and if present, the number of cycles required to reach calibration; (5) the water inlet temperature used for testing in °F; (6) the cycle selected for the energy test and whether that cycle is soil-sensing; (7) the options selected for the energy test; (8) the presence of a built-in water softening system, and if

present, the energy use in kWh and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values; and (9) indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. 10 CFR 429.19 (b)(2)–(3). Additionally, when certifying dishwashers, other than water re-use dishwashers, according to appendix C1, the following requirements are applicable: (A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1; and (B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph 10 CFR 429.19(b)(3)(vi)(A)–(B).

In the September 2023 CCE NOPR, DOE noted that under the proposed amendments, manufacturers would additionally report the following: (1) the cycles selected for the sensor heavy response, sensor medium response, and sensor light response and whether these cycles are soil-sensing if testing is performed using appendix C2; (2) the options selected for the sensor heavy response, sensor medium response, and sensor light response if testing is performed using appendix C2; (3) the average cleaning index for the sensor heavy response, sensor medium response, and sensor light response cycles if testing is performed using appendix C2; (4) whether the product is a water re-use system dishwasher and if so, the energy use in kWh and water use in gallons required for a drain out event, the energy use in kWh and water use in gallons required for a clean out event, the number of drain out events per year,

the number of clean out events per year, the water fill volume to calculate detergent dosage in gallons, and data and calculations used to derive these values, as applicable; and (5) the presence of a built-in reservoir and if present, the manufacturer-stated reservoir capacity in gallons, the prewash fill water volume in gallons and the main wash fill water volume in gallons if testing is performed using appendix C1, and the reservoir water consumption in gallons per cycle. DOE additionally proposed to add rounding requirements for estimated annual energy use and water consumption and remove the ANSI/AHAM DW-1-2010 industry standard that is included as a reference from 10 CFR 429.4. 88 FR 67458, 67468.

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments would not impose additional costs for manufacturers because manufacturers of DWs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. Additionally, any requirements stemming from the updates to the test procedure were accounted for in the January 2023 DW Final Rule. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what DW manufacturers are currently doing today. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for DWs. In this final rule, DOE makes a final determination that the amendments to the reporting requirements for DWs would not cause any measurable change in reporting burden or hours for DW manufacturers.

For the reasons discussed in the prior paragraphs and in the September 2023 CCE NOPR, in this final rule DOE is adopting the reporting requirements for DWs as proposed. Compliance with the amended reporting requirements for appendix C1 is not required until the next annual certification report filing date on or after 210 days after publication of this final rule. Compliance with the amended reporting requirements for appendix C2 is not required until April 23, 2027, the compliance date of amended energy conservation standards based on the use of appendix C2.

D. Residential Clothes Washers

DOE is amending the reporting requirements for RCWs, which are a

consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, that must be one of the following classes: automatic clothes washers, semi-automatic clothes washers, and other clothes washers. 10 CFR 430.2. In the RCW test procedure final rule published on June 1, 2022 (“June 2022 RCW Final Rule”), DOE amended the existing RCW test procedure at appendix J2, established a new test procedure at appendix J, and removed appendix J1. 87 FR 33316. Additionally, on March 15, 2024, DOE published in the **Federal Register** a direct final rule adopting amended standards for RCWs based on the new metrics as measured using appendix J (“March 2024 RCW DFR”). 89 FR 19026. Consistent with the June 2022 RCW Final Rule and the March 2024 RCW DFR, DOE is amending the reporting requirements for residential clothes washers.

1. Reporting

Under the existing requirements in 10 CFR 429.20(b)(2)(i), manufacturers of RCWs tested in accordance with the test procedure at appendix J1 must report the following: modified energy factor (“MEF”), capacity, corrected remaining moisture content (“RMC”), and integrated water factor (“IWF”). Under the existing requirements in 10 CFR 429.20(b)(2)(ii), manufacturers of RCWs tested in accordance with the test procedure at appendix J2 must report the following: integrated modified energy factor (“IMEF”), IWF, capacity, RMC, and type of loading (top-loading or front-loading). Under the existing requirements in 10 CFR 429.20(b)(3), all manufacturers of RCWs must also report a list of cycle selections comprising the complete energy test cycle.

DOE is updating these requirements and specifying new reporting requirements that will apply to the new appendix J test procedure and that will be required for certifying compliance with amended standards, beginning March 1, 2028. DOE discusses these updates in the following sections.

a. Removing Appendix J1

Appendix J1 was removed from the CFR as part of the June 2022 RCW Final Rule. 87 FR 33316, 33365. Therefore, the provisions in 10 CFR 429.20(b)(2)(i), which specify reporting requirements for RCWs tested in accordance with appendix J1, are obsolete. For these reasons, DOE proposed to remove these reporting requirements, as well as requested comment on the proposed removal of appendix J1 in the

September 2023 CCE NOPR. 88 FR 67458, 67468.

DOE did not receive any comments on its proposal to remove reporting requirements applicable to appendix J1 from 10 CFR 429.20(b)(2)(i). For the reasons discussed in the preceding paragraph and the September 2023 CCE NOPR, DOE is finalizing this update as proposed in the September 2023 CCE NOPR.

b. Clothes Container Capacity

DOE has established separate product classes for RCWs based on clothes container capacity, among other characteristics. 10 CFR 430.32(g)(4). The current test procedure uses the term “clothes container capacity” to refer to the measured capacity (*see* section 3.1 of appendix J2), whereas the current reporting requirements at 10 CFR 429.20(b)(2) use the term “capacity.” To provide greater consistency in terminology between the test procedure and the reporting requirements, DOE proposed to update the reporting requirement terminology from “capacity” to “clothes container capacity” in the September 2023 CCE NOPR. 88 FR 67458, 67468. DOE requested comment on its proposed terminology update. *Id.*

DOE did not receive any comments on its proposal to update reporting requirement terminology to specify “clothes container capacity” for RCWs. For the reasons discussed in the preceding paragraph and the September 2023 CCE NOPR, DOE is adopting this amendment as proposed in the September 2023 CCE NOPR.

c. Test Cloth Lot Number

In the June 2022 RCW Final Rule, DOE implemented new language in 10 CFR 429.134(c) that provides additional product-specific enforcement provisions for clothes washers to accommodate differences in RMC values that may result from DOE using a different test cloth lot than was used by the manufacturer for testing and certifying the basic model. 87 FR 33316, 33369–33371. To implement this new enforcement provision, DOE proposed to require reporting the test cloth lot number used during certification testing in the September 2023 CCE NOPR. 88 FR 67458, 67469. DOE also proposed that the reported test cloth lot number would not be public. *Id.* DOE requested comment on its proposal to require test cloth lot number to be reported. *Id.*

AHAM commented in support of DOE’s proposal to require reporting of test cloth lot number to accommodate differences in RMC values and added that the additional enforcement

provision addresses AHAM’s concerns related to the test cloth, including challenges surrounding certification and reporting requirements. (AHAM, No. 16 at p. 4)

The CA IOUs commented that DOE should make data publicly available on test cloth lot number for RCWs, asserting that this information would allow efficiency advocates, consumer representatives, and academia to investigate DOE’s test cloth challenges. (CA IOUs, No. 8 at p. 2) The CA IOUs commented that disclosure is in the public interest to overcome information asymmetries in understanding product energy consumption and identifying and supporting test procedure changes that better reflect real-world energy use without undue manufacturer burden. (*Id.*)

In response to the CA IOUs’ comment, DOE notes that test cloth lot number used for certification would not provide stakeholders with appropriate means to understand product energy consumption or to make comparisons of energy use across different cloth types. The use of test cloth correction factors in the appendix J2 and appendix J test procedures is designed specifically to ensure the consistency and representativeness of the final energy and water use values irrespective of the test cloth lot used. Accordingly, DOE would not expect any meaningful inferences to be drawn from an analysis of test cloth lot number and any of the currently certified energy and water use values. Indeed, requiring the test cloth lot number to be publicly available could introduce confusion to the consumer (for example by suggesting or implying that the certified values for each model are dependent upon the test cloth lot used) or by suggesting or implying that differences in the test cloth lot number among different basic models are indicative of differences in performance or other attributes of each basic model.

To the extent that any technical challenges arise regarding the DOE test cloth, DOE would address those in a separate rulemaking, as appropriate. DOE will coordinate with representatives from AHAM, clothes washer manufacturers, textile manufacturers, test laboratories, and academia with particular subject matter expertise in DOE test cloth and other textiles used for similar purposes in considering any improvements to the DOE test cloth requirements.

Finally, DOE understands that under certain circumstances, manufacturers may consider details such as the test cloth lot number used for testing their products to be confidential or sensitive

business information. For example, patterns in test cloth lot number data could provide indication of which laboratory conducted certification testing, or they could provide insights into research and development strategies—information that manufacturers generally consider to be trade secrets.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting its proposal to require the reporting of the test cloth lot number for RCWs and for the reported test cloth lot number not to be public.

d. Specifying Requirements for Appendix J

The new appendix J test procedure establishes new energy and water efficiency metrics for RCWs. Use of appendix J is required at such time as compliance is required with any amended energy conservation standards based on these new metrics as measured using appendix J. 87 FR 33316. In the March 2024 RCW DFR, DOE adopted amended standards for RCWs based on the new metrics as measured using appendix J. 89 FR 19026. Compliance with amended standards will be required beginning March 1, 2028. Consistent with these new metrics, in the September 2023 CCE NOPR, DOE proposed to specify certification requirements at 10 CFR 429.20(b)(2)(i) corresponding to the use of appendix J, as detailed in the following sections, and requested comment on the proposed requirements. 88 FR 67458, 67469. These reporting requirements will be required to demonstrate compliance with the amended standards based on the new appendix J metrics.

Energy Efficiency Ratio and Water Efficiency Ratio

Appendix J defines new metrics for representing clothes washer efficiency: energy efficiency ratio (“EER”) ¹⁶ and water efficiency ratio (“WER”). ¹⁷ In the September 2023 CCE NOPR, DOE proposed to require including EER and WER as public information in a certification report for RCWs tested in accordance with appendix J. 88 FR 67458, 67469.

In the June 2022 RCW Final Rule, DOE established rounding requirements

for EER and WER in 10 CFR 430.23(j)(2)(ii) and (j)(4)(ii), respectively. 87 FR 33316, 33381. These requirements specify rounding EER to the nearest 0.01 lb/kWh/cycle and rounding WER to the nearest 0.01 gal/kWh/cycle. DOE proposed in the September 2023 CCE NOPR to specify these same rounding requirements for EER and WER at 10 CFR 430.29(c). 88 FR 67458, 67469.

DOE did not receive any comments on its proposed rounding requirements for EER and WER at 10 CFR 430.29(c). For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting its proposal for rounding requirements for EER and WER at 10 CFR 430.29(c) as proposed in the September 2023 CCE NOPR.

Type of Control System

In the March 2024 RCW DFR, DOE re-established a separate product class and separate performance-based energy conservation standards for semi-automatic RCWs. ¹⁸ 89 FR 19026. Compliance with these amended standards will be required beginning March 1, 2028. To distinguish basic models as either automatic ¹⁹ or semi-automatic for the purpose of determining whether the current performance-based standards apply, as well as which energy conservation standards will apply beginning March 1, 2028, DOE proposed in the September 2023 CCE NOPR to require reporting the type of control system (automatic or semi-automatic) as public information to be included in a certification report for RCWs tested in accordance with appendix J. 88 FR 67458, 67469.

DOE did not receive any comments on its proposal to require reporting the type of control system (*i.e.*, automatic or semi-automatic) for RCWs. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting this requirement as proposed in the September 2023 CCE NOPR.

¹⁸ DOE defines “semi-automatic clothes washer” as a class of clothes washer that is the same as an automatic clothes washer except that user intervention is required to regulate the water temperature by adjusting the external water faucet valves. 10 CFR 430.2.

¹⁹ DOE defines “automatic clothes washer” as a class of clothes washer that has a control system that is capable of scheduling a preselected combination of operations, such as regulation of water temperature, regulation of the water fill level, and performance of wash, rinse, drain, and spin functions without the need for user intervention subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves. 10 CFR 430.2.

Other Requirements

For RCWs tested in accordance with appendix J, DOE also proposed in the September 2023 CCE NOPR to establish public reporting requirements for RMC, clothes container capacity, and type of loading (*i.e.*, top-loading or front-loading), consistent with the current reporting requirements specified at 10 CFR 429.20(b)(2)(ii) for RCWs tested in accordance with appendix J. 88 FR 67458, 67469. These reporting requirements will be required only at such time as use of appendix J is required to demonstrate compliance with standards based on the new appendix J metrics (*i.e.*, on and after March 1, 2028).

DOE did not receive any comments on its proposal to require reporting of RMC, clothes container capacity, and type of loading (*i.e.*, top-loading or front-loading) for RCWs tested in accordance with appendix J. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these requirements as proposed in the September 2023 CCE NOPR.

e. Additional Requirements

In response to the September 2023 CCE NOPR, the CA IOUs suggested that DOE require public reporting of the weighted average cycle time and default inactive/off mode power for RCWs at such time as appendix J is required to be used for compliance. (CA IOUs, No. 8 at p. 5) The CA IOUs asserted that RCWs with shorter cycle times would have an EER weighted more heavily toward default inactive/off mode operation than those with longer cycle times, and that consumers who use a clothes washer multiple times per week are likelier to prioritize active mode operation and energy consumption than consumers who run only one load per week. (*Id.*) The CA IOUs commented that providing consumers with information on the average cycle time and default inactive/off mode power would help them choose the most efficient clothes washer, and asserted that requiring these values to be reported should not result in any material increase in reporting burden. (*Id.*)

As noted by the CA IOUs, DOE does not currently require reporting weighted average cycle time or default inactive/off mode power and did not propose to add these requirements in the September 2023 CCE NOPR.

Default inactive/off mode power is measured as part of the appendix J test procedure to determine the combined low-power mode energy, which is one

¹⁶ EER is defined as the weighted-average load size in pounds (“lbs”) divided by the sum of (1) the per-cycle machine energy, (2) the per-cycle water heating energy, (3) the per-cycle drying energy, and (4) the per-cycle standby and off mode energy consumption, in kilowatt-hours (“kWh”).

¹⁷ WER is defined as the weighted-average load size in lbs divided by the total weighted per-cycle water consumption for all wash cycles in gallons (“gal”).

of several parameters used to calculate EER.²⁰ Weighted average cycle time is calculated as part of the appendix J test procedure and used to determine the number of annual hours that a clothes washer spends in low-power modes, which is used to calculate combined low-power mode energy. Neither weighted average cycle time nor default inactive/off mode power would need to be reported for DOE to determine compliance with a standard based on EER. Additionally, these values would not need to be reported to DOE to ensure appropriate assessment or enforcement testing, as these values are measured as part of the DOE test procedure.

DOE further notes that since weighted average cycle time and default inactive/off mode power were not discussed in the September 2023 CCE NOPR, the public did not have an opportunity to consider or provide comment on the CA IOUs' suggestion to add these reporting requirements. In this final rule, DOE is finalizing new reporting requirements for RCWs only for values that are required for determining compliance (and for other products, for ensuring appropriate assessment or enforcement testing) and that the public had an opportunity to comment on through the September 2023 CCE NOPR.

For the reasons discussed in the preceding paragraphs, DOE is not adopting a reporting requirement for weighted average cycle time or default inactive/off mode power.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align RCW certification reporting requirements with the energy conservation requirements that would be applicable to RCWs tested in accordance with appendix J. 88 FR 67458, 67469.

Currently, manufacturers report IMEF, IWF, capacity, RMC, loading type, and cycle selections. In the September 2023 CCR NOPR, DOE noted that under the proposed amendments, manufacturers would additionally report test cloth lot number. DOE additionally proposed that for RCWs manufactured after the compliance date of any future energy conservation standards based on use of appendix J, manufacturers would be required to report EER, WER, capacity, RMC, control system type, loading type, cycle selections, and test cloth lot number.

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments would not impose additional costs for manufacturers because manufacturers of RCWs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. 88 FR 67458, 67469. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what RCW manufacturers are currently doing today as the proposed amendments are replacement metrics or information that should be readily available. *Id.* at 88 FR 67470.

DOE did not receive any comments on the certification reporting costs of the amendments proposed for RCWs. In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for RCWs.

For the reasons discussed in the prior paragraphs, in this final rule DOE is adopting the reporting requirements for RCWs as proposed in the September 2023 CCE NOPR. Compliance with the amended reporting requirements for appendix J2 is not required until the next annual certification report filing date on or after 210 days after publication of this final rule. Compliance with the amended reporting requirements for appendix J is not required until March 1, 2028, the compliance date of the amended energy conservation standards based on the use of appendix J.

E. Pool Heaters

DOE is amending the reporting requirements for consumer pool heaters. DOE defines pool heaters as an appliance designed for heating non-potable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs, and similar applications. 10 CFR 430.2. In the final rule published on May 30, 2023 ("May 2023 Pool Heaters Final Rule"), DOE amended the energy conservation standards for consumer pool heaters. 88 FR 34624. While the current standards only apply to gas-fired pool heaters, the new and amended standards apply to both gas-fired pool heaters and electric pool heaters (excluding electric spa heaters)²¹ and

use an updated efficiency metric. *Id.* at 88 FR 34704. Consistent with the May 2023 Pool Heaters Final Rule, DOE is amending the reporting requirements for consumer pool heaters.

1. Reporting

Under the existing requirements in 10 CFR 429.24, manufacturers of gas-fired pool heaters must report: thermal efficiency in percent and input capacity in Btu/h. 10 CFR 429.24(b)(1)–(2). These requirements provide for certifying compliance with the April 16, 2013 thermal efficiency standards. The amended standards are based on a different metric: integrated thermal efficiency. (*See* 88 FR 34624, 34625). In the September 2023 CCE NOPR, DOE proposed to update these certification requirements and align them with the energy conservation standards outlined in the May 2023 Pool Heaters Final Rule. 88 FR 67458, 67470. DOE additionally proposed general certification requirements for consumer pool heaters. *Id.* DOE discusses these updates in the following paragraphs.

The current standards for consumer pool heaters at 10 CFR 430.32(k) provide only minimum thermal efficiency ("TE") requirements for gas-fired pool heaters, which does not include standby mode and off mode energy consumption. While the TE metric has historically been used to rate pool heaters, the current test procedure at appendix P to subpart B of 10 CFR part 430 ("appendix P") includes provisions to determine the new integrated thermal efficiency ("TE_I") metric, which includes standby mode and off mode energy consumption as required by EPCA. Hence, the May 2023 Pool Heaters Final Rule established new and amended standards for gas-fired pool heaters and electric pool heaters in terms of TE_I. 88 FR 34624, 34625. In the May 2023 Pool Heaters Final Rule, DOE stated that it would consider requirements for reporting and certifying TE_I in lieu of TE in a separate rulemaking. 88 FR 34624, 34636. DOE stated that it would also consider requirements for reporting and certifying active electrical power²² along with the representative value for TE_I in a separate rulemaking. *Id.*

In the pool heaters energy conservation standards NOPR rulemaking ("April 2022 Pool Heaters

34624, 34703. DOE did not establish standards for electric spa heaters in the May 2023 Pool Heaters Final Rule, so the certification requirements proposed in this NOPR pertain only to electric pool heaters.

²² "Active electrical power" means the maximum electrical power consumption in active mode for an electric pool heater.

²⁰ EER is calculated in section 4.9 of appendix J as the weighted average load size divided by the sum of machine electrical energy, hot water heating energy, estimated drying energy, and combined low-power mode energy.

²¹ "Electric pool heater" means a pool heater other than an electric spa heater that uses electricity as its primary energy source. An "electric spa heater" means a pool heater that (1) uses electricity as its primary energy source; (2) has an output capacity of 11 kW or less; and (3) is designed to be installed within a portable electric spa. 88 FR

NOPR”), DOE addressed comments from AHRI regarding the level of precision required for representations of TE_i . 87 FR 22640, 22652 (Apr. 15, 2022). AHRI suggested that, for products where the efficiency ratings are less than 100 percent, a change of one or two points may make a difference; however, for products such as heat pump pool heaters with efficiency ratings that can exceed 300 percent, a difference of one or two points is inconsequential. *Id.* DOE stated that it would consider rounding requirements for consumer pool heaters in a separate rulemaking addressing certification reports. *Id.*

In the April 2022 Pool Heaters NOPR, DOE sought comment on changes to certification and enforcement requirements. *Id.* Rheem recommended that DOE update the certification provisions at 10 CFR 429.24 to require certification of TE_i and either input capacity or active electrical power as necessary. (Rheem, Docket No. EERE–2021–BT–STD–0020, No. 19 at p. 2) Rheem also recommended that DOE evaluate adding certification provisions—similar to the requirements for consumer water heaters—which allow for the propane gas version of a basic model to be rated using the natural gas version if the propane gas input rate is within 10 percent of the natural gas input rate. (Rheem, Docket No. EERE–2021–BT–STD–0020, No. 19 at p. 10)

In response to Rheem’s request to use representations of natural gas basic models for propane basic models, in the September 2023 CCE NOPR, DOE noted that the water heater certification provisions referenced by the commenter are specifically for AEDMs (see 10 CFR 429.70(g)(1)). 88 FR 67458, 67470. DOE additionally stated that manufacturers of consumer pool heaters are not authorized to use AEDMs for representations pertaining to consumer pool heaters (see 10 CFR 429.70(a)), and the May 2023 Pool Heaters Final Rule did not establish this allowance. 88 FR 34624. Hence, in the September 2023 CCE NOPR, DOE did not propose special certification requirements for propane gas-fired pool heaters. 88 FR 67458, 67470.

For consumer pool heaters, DOE proposed to clarify provisions for certifying input capacity, establish provisions for certifying active electrical power, and establish certification requirements for TE_i (including rounding requirements) in the September 2023 CCE NOPR. 88 FR 67458, 67470. In the September 2023 CCE NOPR, DOE tentatively determined that certification of input capacity and active electrical power is necessary because these values are used to

determine the TE_i standard that applies to a pool heater. 88 FR 67458, 67470.

In the September 2023 CCE NOPR, DOE proposed to clarify that representations of input capacity for gas-fired pool heaters must be made based on the average of the input capacities measured for each tested unit of the basic model, and rounded to the nearest 1,000 Btu/h. 88 FR 67458, 67470. There are currently no certification requirements for electric pool heaters. In the September 2023 CCE NOPR, DOE proposed to establish requirements for active electrical power similar to those for input capacity, because these two values are analogous to each other for electric pool heaters and gas-fired pool heaters, respectively. 88 FR 67458, 67470.

The May 2023 Pool Heaters Final Rule will require compliance with standards using the TE_i metric; hence, in the September 2023 CCE NOPR, DOE also proposed to require certification of this value. 88 FR 67458, 67470. The represented value for TE_i would be rounded to the nearest tenth of one percent for gas-fired pool heaters. However, in consideration of the comments from AHRI indicating that the level of precision does not need to be so stringent for electric pool heaters, DOE proposed that the value for TE_i would be rounded to the nearest 1 percent for electric pool heaters. *Id.* In the September 2023 CCE NOPR, DOE additionally noted that because manufacturers of gas-fired pool heaters must still ensure that these products comply with the current TE standards at 10 CFR 430.32(k), until compliance with new TE_i standards is mandatory, therefore, DOE was maintaining the requirement for certifying TE of gas-fired pool heaters for products that must comply with TE standards. 88 FR 67458, 67470–67471. DOE stated that reporting of TE_i would become mandatory upon the compliance date of the energy conservation standards adopted in the May 2023 Pool Heaters Final Rule, May 30, 2028, at which time manufacturers would no longer be required to report TE. 88 FR 67458, 67471. DOE requested comment on its proposal to require the reporting of input capacity, active electrical power, integrated thermal efficiency, and the proposed rounding requirements. *Id.*

Rheem commented in support of DOE requiring the reporting of input capacity, active electrical power, and integrated thermal efficiency, all of which, it noted, are necessary to determine compliance with the recently amended energy conservation standards. However, Rheem recommended that DOE explicitly state

the required certification date for both electric and gas-fired pool heaters in the final rule. Rheem commented that its understanding is that gas-fired pool heaters must be filed by May 1, 2028, and comply with the energy conservation standards currently in effect, then re-filed by May 30, 2028, with models complying with the amended standards. Rheem commented it also understands for electric pool heaters, the initial filing date would be May 30, 2028. (Rheem, No. 15 at p. 2; Rheem, Public Meeting Transcript, No. 6 at pp. 16–17)

In terms of rounding requirements, Rheem commented it currently has heat pump pool heaters with active electrical power ranging between 1.15–7.6 kW (3,923–25,932 Btu/h) and by the compliance date of the energy conservation standards rulemaking, Rheem expects models above and below this range to be available. Rheem commented that the proposed rounding requirement would result in well over the ± 5 percent allowed in the enforcement provisions at 10 CFR 429.134(cc). Rheem further noted that the integrated thermal efficiency standards that an electric pool heater must meet are based on active electrical power, and by rounding to the nearest 1,000 Btu/h, large jumps in the required integrated thermal efficiency are observed. Rheem requested that DOE reevaluate the active electrical power rounding requirements for electric pool heaters, as rounding to the nearest 100 Btu/h resulted in ~5-percent change from the actual active electrical power. (Rheem, No. 15 at pp. 2–3)

Regarding the required certification dates, DOE clarifies that, as Rheem stated in its comment, gas-fired pool heater ratings must be certified to DOE and comply with the energy conservation standards currently in effect by the required annual certification date of May 1. Manufacturers may choose to submit certification reports prior to the annual certification date. Regarding the amended standards compliance date of May 30, 2028, DOE notes that it makes its best effort to finalize certification templates to give certifiers sufficient time to prepare for the compliance dates of any upcoming amended energy conservation standards. Subsequently, gas-fired pool heaters can be certified in accordance with the energy conservation standards that take effect on May 30, 2028 in advance of the May 1 annual filing date to avoid having to submit multiple certification reports in a brief period of time. For electric pool heaters, which were only recently covered by energy conservation

standards adopted in the May 2023 Pool Heaters Final Rule, the initial required certification date will be May 30, 2028 (and manufacturers may similarly choose to submit certification reports in advance of the required date).

Regarding the rounding requirements proposed in the September 2023 CCE NOPR, DOE appreciates Rheem's comments and has reconsidered the rounding requirements proposed for reporting of active electric power ("PE"), for electric pool heaters. In the September 2023 CCE NOPR, DOE proposed that PE be reported and rounded to the nearest 1,000 Btu/h, in alignment with the reporting and rounding requirements for input capacity of gas-fired pool heaters. 88 FR 67458, 67470. Energy conservation standards for pool heaters are set by the integrated thermal efficiency metric ("TE_i"), and the efficiency level is a function of PE for electric pool heaters, and input capacity for gas pool heaters. Based on its own analysis of the range of PE values that exist on the electric pool heater market, DOE agrees with Rheem that rounding PE to the nearest 1,000 Btu/h would result in large "jumps" in the required TE_i, particularly for electric pool heaters with lower PE values. Furthermore, the product-specific enforcement provisions for pool heaters state that if the PE value found during testing deviates from the certified value by more than 5 percent, DOE would use the tested value instead of the certified value as the basis for calculation of the TE_i standard. (10 CFR 429.134(cc)(2)(ii)) Therefore, if the certified value is, as a result of the rounding requirements, necessarily going to deviate from the actual PE by more than 5 percent, this would mean that the minimum TE_i value used by DOE to determine compliance could consistently be different from the minimum TE_i value that would correspond to the product's certification—in other words, there would be greater uncertainty regarding which minimum TE_i value manufacturers must design their products to meet.

DOE has concluded that a tighter input capacity rounding requirement for electric pool heaters than for gas-fired pool heaters is justified, due to the fact that, based on DOE's observations, the median PE for electric pool heaters currently on the market is 17,500 Btu/h whereas the median input capacity for gas-fired pool heaters is 266,000 Btu/h. That is, because the typical PE values for electric pool heaters are much smaller than the typical input capacity values for gas-fired pool heaters, it is justifiable for the rounding requirements

for PE to be tighter in order to be more proportional to the ratings themselves. A rounding requirement of 100 Btu/h, as suggested by Rheem, allows for a more accurate calculation of the applicable standard for electric pool heaters (*i.e.*, it reduces the size of the "jumps" in the standard that the commenter had noted). Secondly, the tighter rounding requirement better ensures the measured PE and the certified PE remain within 5 percent of each other. Based on DOE research, the smallest heat pump electric pool heaters on the market today may have PE values of about 4,000 Btu/h, and a variation in certification due to rounding to the nearest 100 Btu/h would constitute a deviation of less than 5 percent, which is the threshold included in 10 CFR 429.134(cc)(2)(ii) for the use of the certified PE value during enforcement testing. By contrast, a rounding requirement of 1,000 Btu/h could result in a deviation of over 5 percent. Lastly, DOE has determined that adopting a rounding requirement of 100 Btu/h for PE would result in no change in compliance for electric heat pump pool heaters currently on the market compared to a rounding requirement of 1,000 Btu/h, as these pool heaters are not currently subject to energy conservation standards.

Therefore, in order to improve the accuracy of the TE_i standards calculated based on PE values for electric pool heaters, DOE adopts a requirement that PE be reported and rounded to the nearest 100 Btu/h in this final rule.

DOE is adopting all other requirements for pool heaters as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align pool heater certification reporting requirements with the energy conservation requirements that would be applicable to pool heaters, as finalized in the May 2023 Pool Heaters Final Rule. 88 FR 67458, 67471.

For gas-fired pool heaters, manufacturers currently report TE as a percentage and input capacity in Btu/h. As a result of the amended standards, manufacturers of gas-fired pool heaters would be required to report TE_i as a percentage in lieu of TE when certifying compliance with the revised standards. For electric pool heaters, manufacturers are not currently required to submit certification reports as there are no applicable standards at this time. As a result of the amended standards, manufacturers of electric pool heaters would be required to report TE_i as a

percentage and active electrical power in Btu/h. 88 FR 34624, 34704.

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers of gas-fired pool heaters because manufacturers of gas-fired pool heaters are already submitting certification reports to DOE and should have the information that DOE is proposing to collect as part of this rulemaking readily available. DOE stated that it did not believe the revised reporting requirements would cause any appreciable increase in any manufacturer's reporting burden or hours compared to certifying under current gas-fired pool heater requirements. For electric pool heaters, manufacturers are not currently required to submit certification reports to DOE because electric pool heaters are not currently subject to any applicable energy conservation standards. Any manufacturer of electric pool heaters would be required to submit certification reports for electric pool heaters upon the compliance date of the amended energy conservation standards, May 30, 2028. 88 FR 34624, 34704.

Rheem commented that it expects the certification and reporting costs of the amendments proposed for pool heaters to increase, but this increase will not be overly burdensome. (Rheem, No. 15 at pp. 3–4)

In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for gas-fired pool heaters. Costs associated with the new reporting requirements pertaining to electric pool heaters are discussed in section IV.C of this document. Compliance with the new and amended reporting requirements is not required until the compliance date of the associated energy conservation standards.

F. Dehumidifiers

DOE is amending the reporting requirements for dehumidifiers, which DOE defines as products—other than portable air conditioners, room air conditioners, or packaged terminal air conditioners—that are self-contained, electrically operated, and mechanically encased assemblies consisting of (1) a refrigerated surface (evaporator) that condenses moisture from the atmosphere; (2) a refrigerating system, including an electric motor; (3) an air-circulating fan; and (4) a means for collecting or disposing of the condensate. 10 CFR 430.2. Use of appendix X1 to subpart B of 10 CFR part

430 (“appendix X1”) is currently required for any representations of energy use or efficiency of portable and whole-home dehumidifiers, including demonstrating compliance with the currently applicable energy conservation standards. Consequently, appendix X is obsolete for dehumidifiers manufactured on or after June 13, 2019. Therefore, DOE is removing the outdated appendix X reporting requirements consistent with the removal of appendix X in the test procedure final rule published on July 26, 2023 (“July 2023 Dehumidifiers Final Rule”). 88 FR 48035.

1. Reporting

Under the existing requirements in 10 CFR 429.36, manufacturers must report: energy factor in liters per kilowatt hour (“liters/kWh”) and capacity in pints per day when certifying compliance with dehumidifiers tested in accordance with appendix X. 10 CFR 429.36(b)(2)(i). However, use of appendix X is no longer permitted for compliance because use of appendix X1 is required to demonstrate compliance with standards for products manufactured on or after June 13, 2019, and the July 2023 Dehumidifiers Final Rule removed appendix X. 88 FR 48035. In the September 2023 CCE NOPR, DOE proposed to remove the outdated appendix X certification requirements consistent with the removal of appendix X that was proposed at that time (see 87 FR 35286) and requested comment on its proposal. 88 FR 67458, 67471.

AHAM commented it had no objection to the removal of appendix X per the June 2022 Dehumidifiers NOPR as appendix X1 is now required to demonstrate compliance with standards for products manufactured on or after June 13, 2019. (AHAM, No. 16 at p. 4)

For the reasons discussed, DOE is finalizing its proposal and removing the outdated appendix X certification requirements, as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align dehumidifier certification reporting requirements with the appendix X1 test procedure requirements, use of which was required beginning on June 13, 2019, by removing the appendix X requirements applicable to dehumidifiers manufactured prior to June 13, 2019. 88 FR 67458, 67471.

In the September 2023 CCE NOPR, DOE stated that it tentatively determined that the proposed amendments would not impose additional costs for manufacturers because the only proposed amendments

were the removal of outdated requirements. DOE did not propose any amendments to the reporting requirements associated with appendix X1 and proposed to remove certification requirements associated with a prior appendix. Therefore, DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours compared to certifying under current dehumidifier requirements. *Id.*

DOE did not receive any comments on the certification reporting costs of the amendments proposed for dehumidifiers. In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for Dehumidifier manufacturers.

For the reasons discussed in the prior paragraphs, in this final rule DOE is removing the outdated reporting requirements associated with appendix X, as proposed in the September 2023 CCE NOPR.

G. External Power Supplies

DOE is amending the reporting requirements for EPSs. DOE defines an EPS as an external power supply circuit that is used to convert household electric current into direct current or lower-voltage AC current to operate a consumer product. 10 CFR 430.2. In the test procedure final rule published on August 19, 2022, DOE amended the appendix Z test procedure for EPSs. 87 FR 51200. Consistent with that final rule, DOE is amending the reporting requirements for EPSs.

1. Reporting

Under the existing requirements in 10 CFR 429.37(b)(2), manufacturers must report the following based on the EPS type:

For EPSs, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes of the basic model or the output current in amperes of the highest- and lowest-voltage models within the external power supply design family.

For switch-selectable single-voltage EPSs, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts using the lowest and highest selectable output voltages, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes.

For adaptive single-voltage EPSs, manufacturers currently report the average active-mode efficiency as a percentage at the highest and lowest nameplate output voltages, no-load mode power consumption in watts, nameplate output power in watts at the lowest and highest nameplate output voltages, and, if missing from the nameplate, the output current in amperes at the lowest and highest nameplate output voltages.

For EPSs that are exempt from no-load mode requirements, manufacturers currently report a statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage, the nameplate output power in watts, and if missing from the nameplate, the certification report must also include the output current in amperes of the basic model or the output current in amperes of the lowest- and highest-voltage models within the external power supply design family. Manufacturers of these exempt external power supplies are additionally required to report, if the aggregate total number of exempt EPSs sold as spare and service parts exceeds 1,000 units across all models: the importer or domestic manufacturer’s name and address, the brand name, and the number of units sold during the most recent 12-calendar-month period ending on July 31. 10 CFR 429.37(b)(3) and 10 CFR 429.37(c).

These requirements for certifying compliance with the energy conservation standards are applicable to EPSs manufactured on or after February 10, 2014. In this final rule, DOE is aligning the reporting requirements with the amended appendix Z test procedure, use of which was required beginning September 19, 2022, and adopting general certification requirements for EPSs. DOE discusses these updates in the sections as follows.

a. Output Cord Specifications

DOE’s amended EPS test procedure requires that EPSs be tested with the output cord they are shipped with. For EPSs not shipped with an output cord, the EPS must be tested with a manufacturer’s recommended output cord. For EPSs not shipped with an output cord and for which the manufacturer does not recommend an output cord, the amendments specify that the EPS must be tested with a 3-foot-long output cord with a conductor thickness that is minimally sufficient to carry the maximum required current. *See* section 4(g) of appendix Z.

To better align the reporting requirements with the test procedure, in the September 2023 CCE NOPR, DOE proposed to add a reporting requirement of the included output cord specifications (gauge and length); for EPSs not shipped with an output cord, the specifications (gauge and length) for the manufacturer's recommended output cord would be provided. 88 FR 67458, 67472. For EPSs not shipped with an output cord and for which the manufacturer does not recommend an output cord, the gauge of the 3-foot-long output cord will be provided. *Id.* DOE requested comment on these proposed requirements. *Id.*

During the NOPR public meeting, AHAM asked the purpose of collecting information regarding the output cord specification in certification reports as opposed to some other avenue. (AHAM, Public Meeting Transcript, No. 6 at pp. 18–19) Additionally, in written comments, AHAM commented it did not object to DOE's proposals regarding aligning EPS reporting requirements with the amended appendix Z test procedure and proposing general certification requirements; adding a reporting requirement of the included output cord; and not including manufacturer specifications for EPSs not shipped with an output cord (instead, the gauge of the 3-foot-long output cord will be provided). (AHAM, No. 16 at p. 5)

ASAP *et al.* commented requesting DOE to provide additional clarity regarding EPS reporting provisions for output cords. ASAP *et al.* expressed concern that the term “specifications” is too vague and asked that, for additional clarity, DOE list the specifications so the specific relevant information necessary for the performance validation of EPSs could be collected. ASAP *et al.* additionally noted that during the NOPR public meeting, gauge and length were listed as specifications. (ASAP *et al.*, No. 14 at p. 2)

As stated during the NOPR public meeting, the purpose of collecting information related to the output cord is to ensure that output cord requirements for EPSs that are not shipped with output cords are met and to ensure that DOE is able to recreate the testing conditions for verification testing. DOE notes that it identified the output cord specifications to be reported as wire gauge and length in the September 2023 CCE NOPR and the NOPR public meeting. *See* 88 FR 67458, 67472. Accordingly, DOE clarifies that the output cord specifications to be reported are effective wire gauge and length, and DOE is aligning 10 CFR 429.37(b)(2) and

the corresponding EPS reporting templates accordingly.

For the reasons discussed, in this final rule, DOE is adopting the amendments as clarified from the September 2023 CCE NOPR.

b. Output Voltage

In DOE's current EPS test procedure and energy conservation standards, determining factors for EPS type and product class are the nature of the output voltage and its measured value. Output voltage type (*i.e.*, AC, DC, multiple voltage and/or adaptive) determines the applicable portion of the test procedure and the template that must be used for certification purposes. The measured value of the voltage determines whether the EPS falls within the basic or low voltage product class. To better align the reporting requirements with the test procedure and energy conservation standards for EPSs, DOE proposed to add a reporting requirement for the measured output voltage for each port in the September 2023 CCE NOPR. 88 FR 67458, 67472. DOE requested comment on this proposed requirement. *Id.*

AHAM commented that it did not object to DOE's proposal for EPSs regarding adding a reporting requirement for the measured output voltage for each port. (AHAM, No. 16 at p. 5)

For the reasons discussed, in this final rule, DOE is adopting the amendments as proposed in the September 2023 CCE NOPR.

c. Additional Date Reporting Requirements for Exempt EPSs

To further clarify the time period during which the exempt EPSs were sold, DOE proposed to require the manufacturer to report the applicable timeframe of which the number of exempt EPSs were sold in the September 2023 CCE NOPR. 88 FR 67458, 67472. DOE requested comment on this proposed requirement. *Id.*

AHAM commented that it did not object to DOE's proposal for EPSs. (AHAM, No. 16 at p. 5)

For the reasons discussed, in this final rule, DOE is adopting the amendment as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align EPS certification reporting requirements with the revised appendix Z test procedure requirements, use of which was required beginning September 19, 2022. 88 FR 67458, 67472.

For switch-selectable single-voltage EPSs, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts using the lowest and highest selectable output voltages, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes, and would additionally report included or recommended output cord specifications and the measured output voltage at the lowest and highest selectable output voltages if the proposed amendments are adopted.

For adaptive single-voltage EPSs, manufacturers currently report the average active-mode efficiency as a percentage at the highest and lowest nameplate output voltages, no-load mode power consumption in watts, nameplate output power in watts at the lowest and highest nameplate output voltages, and, if missing from the nameplate, the output current in amperes at the lowest and highest nameplate output voltages, and would additionally report included or recommended output cord specifications and the measured output voltage at the lowest and highest nameplate output voltages if the proposed amendments are adopted.

For EPSs that are exempt from no-load mode requirements, manufacturers currently report a statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage, the nameplate output power in watts, and if missing from the nameplate, the certification report must also include the output current in amperes of the basic model or the output current in amperes of the lowest- and highest-voltage models within the external power supply design family, and would additionally report included or recommended output cord specifications and the measured output voltage or the measured output voltage of the lowest and highest voltage models within the external power supply design family, and the timeframe of which these exempt EPSs were sold, if the proposed amendments are adopted.

For all other EPSs, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes of the basic model or the output current in amperes of the highest- and lowest-voltage models within the external power supply design family.

In the September 2023 CCE NOPR, DOE noted that under the proposed amendments manufacturers would additionally report included or recommended output cord specifications and the measured output voltage or the measured output voltage of the lower and highest voltage models within the EPS design family if the proposed amendments are adopted. *Id.* at 88 FR 67473.

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments would not impose additional costs for manufacturers because manufacturers of EPSs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. *Id.* DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what EPS manufacturers are currently doing today. *Id.*

DOE did not receive any comments on the certification reporting costs of the amendments proposed for EPSs. As a result, in this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for EPSs.

For the reasons discussed in the prior paragraphs and in the September 2023 CCE NOPR, in this final rule, DOE is adopting the reporting requirements for EPSs as proposed in the September 2023 CCE NOPR. Compliance with these amended reporting requirements is not required until the next annual certification report filing date on or after 210 days after publication of this final rule.

H. Battery Chargers

DOE is amending the reporting requirements for battery chargers, which DOE defines as devices that charge batteries for consumer products, including battery chargers embedded in other consumer products. 10 CFR 430.2. In the test procedure final rule published on September 8, 2022 (“September 2022 Battery Charger Final Rule”), DOE amended the scope of coverage and test procedure provisions for battery chargers. 87 FR 55090. On March 15, 2023, DOE published an energy conservation standards NOPR for battery chargers that was developed based on the amended test procedure. 88 FR 16112. Consistent with the test procedure final rule and the energy conservation standards NOPR, DOE is reorganizing current reporting requirements and adding new reporting

requirements that will become mandatory upon the compliance date of any future amended energy conservation standards for battery chargers.

1. Reporting

Under the existing requirements in 10 CFR 429.39, manufacturers must report: (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; (2) the represented values for the maintenance mode power (P_m), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), duration of the charge and maintenance mode test (t_{ca}), and unit energy consumption (UEC); and (3) the manufacturer and model of the test battery, and the manufacturer and model, when applicable, of the external power supply. 10 CFR 429.39. These requirements provide for certifying compliance with the energy conservation standards applicable to battery chargers manufactured on or after June 13, 2018. DOE is reorganizing these requirements and aligning the reporting requirements with the amended test procedure at appendix Y to subpart B of part 430 (“appendix Y”), use of which was required beginning on March 7, 2023. DOE is also adopting new reporting requirements to the certification requirements for battery chargers tested under appendix Y1, use of which would be required upon the compliance date of any future amended energy conservation standards for battery chargers. *Id.* DOE discusses these updates in the sections as follows.

a. Reporting Requirements for Battery Chargers Tested Under Appendix Y1

In the September 2022 Battery Charger Final Rule, DOE established a new appendix Y1 for the multi-metric testing approach for battery chargers. Under the new multi-metric testing approach, instead of computing and reporting the UEC value, which captures the performance of a battery charger in all modes of operation into a single metric, manufacturers are required to calculate and report the battery charger energy and power values for each mode of operation separately. These modes consist of active charge mode, standby mode, and off mode. 87 FR 55090, 55100–55105.

In the September 2023 CCE NOPR, DOE proposed to update the battery charger reporting requirements in 10 CFR 429.39 to align with the new multi-metric test procedure by (1) removing

the UEC reporting requirement for both wired and fixed-location wireless battery chargers tested under appendix Y1, and (2) adding reporting requirements for active charge energy E_a and no-battery mode power P_{nb} . 88 FR 67458, 67473. Additionally, DOE proposed to include active charge energy E_a (as measured in accordance with appendix Y1) as an optional reporting requirement when certifying compliance with the existing appendix Y requirements to assist DOE in gathering data for any future amended energy conservation standards. *Id.* Whether manufacturers choose to report this proposed optional information would have no impact on the validity of representations made when certifying compliance with appendix Y or the current energy conservation standards. DOE requested comment on its proposed reporting requirements for battery chargers tested under appendix Y1. *Id.*

During the NOPR public meeting, AHAM asked whether DOE has any enforcement policy on whether it can enforce an optional reporting requirement that may be inaccurate. (AHAM, Public Meeting Transcript, No. 6 at p. 21) In written comments, AHAM commented that including active charge energy E_a (as measured in accordance with appendix Y1) as an optional reporting requirement is not the appropriate mechanism for data collection as it falls outside the scope of the PRA. (AHAM, No. 16 at p. 5) AHAM commented that if DOE wishes to collect data for future amended standards, it should do so through that rulemaking process, not through certification, compliance, and enforcement provisions. (AHAM, No. 16 at p. 5; AHAM, No. 9 at p. 2) Further, AHAM stated that DOE can always seek such data under its authority to request records. AHAM commented that by including proposed collections of information in the appropriate processes, DOE will be able to demonstrate practical utility and appropriateness of the information for its intended use and other requirements of the PRA. (AHAM, No. 9 at p. 2) AHAM stated that if DOE chooses to move forward with this optional reporting, DOE should also exercise discretion while manufacturers learn to use it and the reporting template should clearly distinguish required and optional elements, as should any public-facing documentation. (AHAM, No. 16 at p. 5)

DOE notes that if manufacturers are making energy use representations for a DOE regulated product or equipment, the specified energy representations

would need to be made in accordance with DOE's corresponding test procedure and certification requirements. Such energy representations made would be subject to DOE's enforcement requirements in subpart C of 10 CFR 429. Based on stakeholder comments received and to avoid any potential confusion of the active charge energy being an optional metric, DOE is not adopting the proposal to include the optional active charge energy reporting requirement when certifying compliance according to appendix Y in this final rule.

ASAP *et al.* commented that in the proposed regulatory text at 10 CFR 429.39, there was an inconsistency in the style of maintenance mode power, P_m , wherein the letter "m" was written as a subscript in all references except in 10 CFR 429.39(a)(1)(ii). (ASAP *et al.*, No. 14 at p. 4) DOE notes that the letter "m" should indeed be a subscript in the regulatory text and made that correction in the regulatory text section of this final rule.

DOE is adopting the other September 2023 CCE NOPR proposed amendments regarding appendix Y1 in this final rule as proposed in the September 2023 CCE NOPR.

b. Reporting Requirements for Open-Placement Wireless Battery Chargers Tested Under Appendix Y1

In the September 2022 Battery Charger Final Rule, DOE expanded the battery charger testing scope to include testing of fixed-location wireless chargers in all modes of operation and testing of open-placement wireless chargers in no-battery mode only. 87 FR 55090, 55095–55098.

Under the current appendix Y test procedure, all modes of operation would need to be tested for battery chargers covered under the test procedure scope. As such, there was no need to differentiate the reporting requirements for wired vs. wireless chargers. However, under appendix Y1, open-placement wireless chargers will only need to be tested in the no-battery mode of operation. Accordingly, DOE proposed in the September 2023 CCE NOPR to further specify that for open-placement wireless chargers, only the no-battery mode power, P_{nb} , would need to be reported. 88 FR 67458, 67473. DOE requested comment on its proposed reporting requirements for open-placement battery chargers tested under appendix Y1. *Id.*

DOE did not receive any comments on the proposal to further specify the reporting requirements for open-placement wireless battery chargers tested under appendix Y1. For the

reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the amendments as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align battery charger certification reporting requirements with the amended appendix Y test procedural requirements, use of which was required beginning on October 11, 2022, and the newly established appendix Y1 test procedure, use of which would be required at such time as compliance is required with any amended energy conservation standards based on these new metrics as measured using appendix Y1. 88 FR 67458, 67473.

For wired chargers tested under current appendix Y, manufacturers currently report (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; and (2) the represented values for the P_m , P_{sb} , P_{off} , E_{batt} , E_{24} , t_{cd} , and UEC; and (3) the manufacturer and model of the test battery, and the manufacturer and model, when applicable, of the external power supply. In the September 2023 CCE NOPR, DOE noted that if the proposed amendments were adopted, when tested under appendix Y1, instead of reporting UEC and E_{24} values, manufacturers would report the active charge energy (E_a) and no-battery mode power, P_{nb} . 88 FR 67458, 67474.

In the September 2023 CCE NOPR, DOE additionally noted for fixed-location wireless chargers tested under appendix Y1, manufacturers would need to report (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; (2) the represented values for the P_m , P_{nb} , P_{sb} , P_{off} , E_{batt} , E_a , and duration of the charge and t_{cd} ; and (3) the manufacturer and model of the test battery, and the manufacturer and model—when applicable—of the external power supply, if the proposed amendments were adopted. *Id.*

For open-placement wireless chargers tested under appendix Y1, DOE noted that manufacturers would need to report the represented values for P_{nb} , and the manufacturer and model, when applicable, of the EPS, if the proposed amendments were adopted. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments would not

impose additional costs for manufacturers because manufacturers of battery chargers are already submitting certification reports to DOE and the additional information that DOE was proposing to collect as part of this rulemaking should be readily available to manufacturers and would not require additional testing. 88 FR 67458, 67474. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what battery charger manufacturers are currently doing today. *Id.*

DOE did not receive any comments on the certification reporting costs of the amendments proposed for battery chargers. In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for battery chargers.

For the reasons discussed in the prior paragraphs, in this final rule DOE is adopting the reporting requirements for battery chargers as proposed in the September 2023 CCE NOPR, other than removing the optional active charge energy reporting requirement when certifying compliance according to appendix Y. Compliance with these amended reporting requirements is not required until the use of appendix Y1 is required.

I. Computer Room Air Conditioners

DOE is amending the reporting requirements for CRACs. DOE defines "computer room air conditioner" as a basic model of commercial package air-conditioning and heating equipment (packaged or split) that is: marketed for use in computer rooms, data processing rooms, or other information technology cooling applications; and is not a covered consumer product under 42 U.S.C. 6291(1)–(2) and 42 U.S.C. 6292. A CRAC may be provided with, or have as available options, an integrated humidifier, temperature and/or humidity control of the supplied air, and reheating function. 10 CFR 431.92. In the energy conservation standards final rule published in the **Federal Register** on June 2, 2023 ("June 2023 CRACs Final Rule"), DOE amended the energy conservation standards for CRACs and adopted the NSenCOP metric. 88 FR 36392. Consistent with the June 2023 CRACs final rule, DOE is amending the reporting requirements for CRACs.

1. Reporting

Under the existing reporting requirements for CRACs in 10 CFR 429.43(b)(2)(ix), manufacturers must report: net sensible cooling capacity in

Btu/h, net cooling capacity in Btu/h, configuration (upflow/downflow), economizer presence (or lack thereof), condenser medium (air, water, or glycol-cooled), SCOP, and rated airflow in standard cubic feet per minute (“SCFM”). These requirements provide for certifying compliance with the standards applicable to CRACs manufactured on or after October 29, 2012, for units of capacity less than 65,000 Btu/hr, and October 29, 2013, for the remainder of covered CRACs. 10 CFR 431.97(f)(1). DOE is updating these requirements and aligning the reporting requirements with the energy conservation standards in the June 2023 CRACs final rule. DOE is also adopting other general certification requirements for CRACs to better ascertain applicable standards and represented values, including whether the basic model is split system or single-package, unit configuration, and refrigerant utilized. DOE discusses these updates in the sections as follows.

a. Revising Certification Reporting Requirements at 10 CFR 429.43(b)(2)(ix) When Certifying With NSenCOP Standards

Manufacturers are currently required to certify compliance with SCOP standards, in addition to the other equipment-specific reporting requirements. In the September 2023 CCE NOPR, DOE proposed to amend the certification requirements to allow certifying compliance with NSenCOP standards and related equipment-specific reporting requirements. 88 FR 67458, 67474 (Sept. 29, 2023). Specifically, DOE proposed to place the existing reporting requirements for SCOP standards in new 10 CFR 429.43(b)(2)(ix)(A), and to place the new reporting requirements for NSenCOP standards in new 10 CFR 429.43(b)(2)(ix)(B). *Id.* The NSenCOP standard reporting requirements include the net sensible cooling capacity in Btu/h, the net total cooling capacity in Btu/h, whether the basic model is split system or single-package, the configuration (e.g., downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (or lack thereof), condenser heat rejection medium (air, water, or glycol-cooled), NSenCOP, rated airflow in SCFM, and the refrigerant used to determine the represented values at 10 CFR 429.43(b)(2)(ix). DOE requested comment on these proposed requirements. *Id.*

ASAP *et al.* stated that in the proposed 10 CFR 429.43(ix)(B) and the draft certification template, the listed

configurations of a CRAC model for which a manufacturer would need to certify compliance with an NSenCOP standard do not include roof-mounted or wall-mounted types. However, the commenters noted that DOE included these configurations in the test procedure final rule for CRACs published in the **Federal Register** on April 11, 2023 (“April 2023 TP Final Rule,” 88 FR 21816), which also reflects the additions in AHRI 1360–2022 (I–P), “Performance Rating of Computer and Data Processing Room Air Conditioners.” For completeness, ASAP *et al.* requested DOE to include roof-mounted or wall-mounted configurations in the certification reporting requirements and expand the listed product codes in the product certification template to include these configurations. (ASAP *et al.*, No. 14 at p. 2)

In response, DOE would like to clarify that while the April 2023 TP Final Rule includes provisions for rating roof-mounted and wall-mounted CRAC configurations in terms of the NSenCOP metric, there are currently no NSenCOP standards for roof-mounted or wall-mounted CRACs. As such, the certification reporting requirements and the product certification template do not include the roof-mounted or wall-mounted CRAC configurations. Should standards in terms of NSenCOP be adopted for roof-mounted or wall-mounted CRACs, DOE will consider adjustments to the certification reporting requirements and product certification template to reflect those CRAC configurations.

AHRI commented in support of CRAC certification reporting requirements to make them consistent with amended energy conservation standards established in the June 2023 CRACs Final Rule, noting that compliance with the amended standards is required on and after May 28, 2024. AHRI commented that the final rule added 66 equipment class categories, bringing the total number of Federally-regulated equipment classes to 120, which, AHRI stated, prompted DOE to propose 120 product group codes. However, AHRI suggested that the indication of upflow or downflow configuration for applicable products would be better supplied in a column, as reducing the number of product group codes would reduce the burden in terms of AHRI’s programming and manufacturers’ data entry. AHRI urged DOE to complete finalization of this rulemaking and final templates for issuance no later than January 2, 2024, in order to allow for appropriate time to comply for newly

scoped-in equipment classes. (AHRI, No. 18 at pp. 7–8)

In response to AHRI’s recommendation that the indication of upflow or downflow configurations be supplied in a column when dealing with product group codes for CRACs, DOE notes that upflow and downflow equipment are distinctly separated with different applicable energy conservation standards. DOE typically assigns different product group codes to classes of products or equipment with different energy conservation standards and, therefore, considers it appropriate that the upflow and downflow configurations be represented by different product group codes. As such, DOE has determined to maintain upflow and downflow configurations of CRACs under different product codes.

AHRI expressed support for DOE’s proposal to require the reporting of net sensible cooling capacity in Btu/h; net total cooling capacity in Btu/h; whether the basic model is split system or single-package; the configuration (e.g., downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted); fluid economizer presence (or lack thereof); condenser heat rejection medium (air, water, or glycol-cooled); NSenCOP; rated airflow in SCFM; and the refrigerant used to determine the represented values. (AHRI, No. 18 at p. 8)

ASAP *et al.* commented by providing the following suggested editorial change to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.43(b)(2)(ix)(B): replacing the term “glycol-cooled” with “glycol solution.” (ASAP *et al.*, No. 14 at p. 5)

In response, DOE notes that the use of “glycol-cooled” to describe cooling mediums is consistent with the regulatory text used in the energy conservation standards specified in 10 CFR 431.97(e), which mirrors the terminology used in ASHRAE Standard 90.1–2022.²³ To maintain consistent terminology, DOE has determined not to change the terminology used at 10 CFR 429.43(b)(2)(ix)(B).

Based upon stakeholder support, as well as the reasons discussed in the preceding paragraphs, DOE is adopting the provisions for CRAC certification reporting requirements for NSenCOP standards as proposed in the September 2023 CCE NOPR.

²³ Energy Standard for Sites and Buildings Except Low-Rise Residential Buildings, ASHRAE Standard 90.1–2022.

b. Adding Supplemental Testing Instructions for CRACs at 10 CFR 429.43(b)(4)(viii)

Currently, manufacturers must submit supplemental information regarding additional testing instructions, if applicable, and specify which special features, if any, were included in rating the basic model. 10 CFR

429.43(b)(4)(viii). The supplemental information submitted in PDF format allows for third-party testing of equipment. For CRACs, there are currently no specific requirements for the supplemental PDF. For SCOP certification, in the September 2023 CCE NOPR, DOE proposed to maintain the current requirements of 10 CFR 429.43(b)(4)(viii), but move them to 10 CFR 429.43(b)(4)(viii)(A). 88 FR 67458, 67474. For NSenCOP certification, DOE proposed to specify the information required in supplemental testing instructions that would enable independent testing of the relevant equipment and to align with the corresponding requirements for CUACs, where appropriate. *Id.* This includes, but is not limited to, supplementary information about compressor break-in period duration, control set points, optional motor/drive kits and associated settings, and any other additional testing instructions. DOE proposed to add these new provisions when certifying to NSenCOP in 10 CFR 429.43(b)(4)(viii)(B). *Id.*

In the September 2023 CCE NOPR, DOE noted that the proposed certification requirements provide further direction to the existing requirements and would not result in significant additional burden for manufacturers. DOE observed that where it identifies specific test-related information, the relevant information is already collected by or available to the manufacturer, and as such, reporting that information to DOE would result in minimal additional burden. DOE requested comments on its proposal. *Id.*

AHRI supported DOE's proposed supplemental testing instructions requirements for CRACs when certifying compliance with NSenCOP standards. (AHRI, No. 18 at p. 8)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the amendments related to the supplemental testing instructions for CRACs as proposed in the September 2023 CCE NOPR.

c. Certification of Model Numbers for Split Systems

DOE's current certification reporting requirements for CRACs at 10 CFR

429.43(b)(2)(ix) do not specify the model numbers that the manufacturer must certify. Specifically, for split systems, the current regulations do not explicitly require certification of both the outdoor and indoor unit model numbers. Therefore, in the September 2023 CCE NOPR, DOE proposed at 10 CFR 429.43(b)(6) to clarify that the manufacturer must certify individual model numbers for both the indoor unit and the outdoor unit. 88 FR 67458, 67475. DOE requested comment on this proposed requirement. *Id.*

AHRI commented that it did not object to DOE's proposal to require the reporting of both indoor unit and outdoor unit individual model numbers for split-system CRACs, because while not explicitly stated in the regulation, AHRI certification for CRACs is for matched split systems. (AHRI, No. 18 at p. 8; AHRI, Public Meeting, No. 6 at pp. 23–24) During the NOPR public meeting, AHRI sought additional information about how individual condensing units for such products may be distributed in the market. AHRI noted that for residential CAC/HPs, there are specific provisions for outdoor units with no match, but it does not seem that there would be a similar testing requirement for CRACs. (AHRI, Public Meeting Transcript, No. 6 at pp. 23–24)

In response, DOE notes that the Federal test procedure for CRACs does not include any test provisions specific to outdoor units with no match. As such, DOE is not adopting any CRAC certification provisions specific to outdoor units with no match.

For the reasons discussed, DOE is adopting the amendments to split-system model number reporting requirements as proposed in the September 2023 CCE NOPR.

d. AEDM Tolerance for NSenCOP

DOE's existing testing regulations allow the use of an AEDM in lieu of testing to simulate the efficiency of CRACs. 10 CFR 429.43(a). For models certified with an AEDM, results from DOE verification tests are subject to certain tolerances when compared to certified ratings. Currently, DOE specifies a 5-percent tolerance for CRAC verification tests for SCOP, identical to the current tolerance specified for single-point metrics (*i.e.*, EER and COP) for other categories of commercial air conditioners and heat pumps. *See* table 2 to paragraph (c)(5)(vi)(B) at 10 CFR 429.70. In alignment with the tolerance specified for SCOP, DOE proposed to specify a tolerance of 5 percent for CRAC verification tests for NSenCOP in the September 2023 CCE NOPR. 88 FR

67458, 67475. DOE requested comment on the proposed AEDM tolerance. *Id.*

During the NOPR public meeting, AHRI asked whether the tolerance of 5 percent added to the AEDM was consistent with other commercial products. (AHRI, Public Meeting Transcript, No. 6 at p. 26) DOE clarified that the AEDM tolerance for CRACs of 5 percent is consistent with other commercial products. (DOE, Public Meeting Transcript, No. 6 at p. 26) Subsequently, AHRI commented that it does not have any objection to DOE's proposal to specify a tolerance of 5 percent for CRAC verification tests for NSenCOP. (AHRI, No. 18 at p. 8)

For the reasons discussed, DOE is adopting the 5-percent tolerance to the AEDM for CRACs as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align CRAC certification reporting requirements with the amended energy conservation standards in the June 2023 CRACs Final Rule. 88 FR 67458, 67475.

In the September 2023 CCE NOPR, DOE tentatively determined that the proposed amendments would not impose additional costs for manufacturers because manufacturers of CRACs are already submitting certification reports to DOE and should have readily available the information that DOE was proposing to collect as part of this rulemaking. *Id.* DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what CRACs manufacturers are currently doing, and the Department requested comment on this tentative conclusion. *Id.*

AHRI commented that DOE has understated its estimate of certification reporting costs for the proposed CRAC amendments. On this point, the commenter argued that the scope of regulated equipment more than doubled with amended energy conservation standards established in the June 2023 CRACs Final Rule. Thus, AHRI stated that even with the proposed adoption of AEDMs, which AHRI supports, there is a substantial increase in burden that should be acknowledged. (AHRI, No. 18 at p. 8)

In response, DOE notes that AHRI did not provide any data or detailed explanation to support their claim of increased costs to manufacturers related to reporting. DOE estimated the burden associated with implementing amended energy conservation standards in the June 2023 CRACs Final Rule. As such, in this rulemaking, DOE is estimating

the burden associated only with certifying compliance to the amended standards. Because manufacturers are already required to submit certification reports pertaining to CRACs, DOE does not expect any additional burden to certify compliance with the amended reporting requirements, even with expanded coverage of CRACs. Based on the preceding rationale and the discussion in the September 2023 CCE NOPR, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours as compared to what CRACs manufacturers are currently doing today.

For the reasons discussed in the preceding paragraphs, in this final rule, DOE is adopting the reporting requirements for CRACs as proposed in the September 2023 CCE NOPR. Compliance with these amended reporting requirements is required 210 days after publication of this final rule.

J. Direct Expansion-Dedicated Outdoor Air Systems

DOE is establishing reporting requirements for DX-DOASes. DOE defines “direct expansion-dedicated outdoor air system” as a basic model of commercial package air-conditioning and heating equipment (packaged or split) that is a unitary dedicated outdoor air system²⁴ that is capable of dehumidifying air to a 55 °F dew point—when operating under Standard Rating Condition A as specified in Table 4 or Table 5 of AHRI 920 (I–P)–2020, “2020 Standard for Performance Rating of DX-Dedicated Outdoor Air System Units, with Addendum 1” (“AHRI 920–2020”) with a barometric pressure of 29.92 in Hg—for any part of the range of airflow rates advertised in manufacturer materials, and has a moisture removal capacity of less than 324 pounds per hour (“lb/h”). 10 CFR 431.92. In a final rule published in the **Federal Register** on November 1, 2022 (“November 2022 DX-DOAS Final Rule”), DOE adopted energy conservation standards for DX-DOASes. 87 FR 65651. Consistent with that final rule, DOE is establishing reporting requirements for DX-DOASes.

1. Reporting

Prior to the adoption of energy conservation standards in the November

2022 DX-DOAS Final Rule, there were no energy conservation standards for DX-DOASes in 10 CFR 431.97, nor were there reporting requirements for this equipment in 10 CFR 429.43.²⁵ Because DOE has now adopted energy conservation standards for DX-DOASes, DOE is establishing reporting requirements in alignment with the standards adopted in the November 2022 DX-DOAS Final Rule. DOE discusses these reporting requirements in the following sections.

a. Addition of Certification Requirements To Include the New Metrics ISMRE2 and ISCOP2

In the September 2023 NOPR, DOE proposed certification requirements for certifying compliance with the new energy conservation standards for DX-DOAS, expressed in terms of integrated seasonal moisture removal efficiency 2 (“ISMRE2”) and integrated seasonal coefficient of performance 2 (“ISCOP2”), as adopted in the November 2022 DX-DOAS Final Rule. 88 FR 67458, 67475. Specifically, DOE proposed to add a new section 10 CFR 429.43(b)(2)(xi)(A) and to require the following when certifying compliance with an ISMRE2 standard: the ISMRE2 in lb/kWh, the rated moisture removal capacity at Standard Rating Condition A according to AHRI 920–2020 (MRC in lb/h), and the rated supply airflow rate for 100 percent outdoor air applications (Q_{SA} in standard cubic feet per minute). *Id.* DOE noted that the moisture removal capacity is used for certifying compliance and the rated supply airflow rate must be specified to determine how to test a basic model according to the DOE test procedure at appendix B to subpart F of 10 CFR part 431. *Id.*

Additionally, DOE proposed to require the following at 10 CFR 429.43(b)(2)(xi)(B) when certifying compliance with an ISCOP2 standard in addition to an ISMRE2 standard:²⁶ the ISCOP2 in watts of heating per watts of power input (“W/W”). *Id.*

DOE also proposed at 10 CFR 429.43(b)(2)(xi)(C) to require the configuration of the basic model number

(*i.e.*, “single-package” or “split system”) to be reported. *Id.*

DOE proposed to include these certification provisions for DX-DOASes in 10 CFR 429.43(b), consistent with other commercial HVAC equipment. As a result, DOE noted in the September 2023 CCE NOPR that the general requirements applicable to certification reports outlined in 10 CFR 429.12 would apply to DX-DOASes, as currently outlined in the existing reporting requirements for commercial HVAC equipment at 10 CFR 429.43(b)(1). *Id.*

DOE sought comment on requiring the reporting of ISMRE2 and ISCOP2 to certify compliance with the standards applicable to DX-DOASes manufactured on or after May 1, 2024. 88 FR 67458, 67476. DOE also sought comment on reporting rated moisture removal capacity and rated supply airflow rate. *Id.* at 88 FR 67476.

AHRI supported the reporting of ISMRE2 and ISCOP2 to certify compliance with the energy conservation standards applicable to DX-DOASes, but requested DOE consider exercising its enforcement discretion to delay until January 1, 2025 enforcement for R-410A models manufactured on or after May 1, 2024. AHRI explained that the U.S. Environmental Protection Agency’s (“EPA’s”) Technology Transitions rule prohibiting the manufacture, import, or installation of residential and light CAC/HPs (including DX-DOASes) using refrigerant with GWPs of ≥ 700 on or after January 1, 2025 means that AHRI does not expect any R-410A packaged equipment to be installed after that date. AHRI commented that DX-DOAS are tested in the same chambers as HVAC equipment that is undergoing necessary testing with new low-GWP refrigerants, and occupying test chambers with R-410A equipment that will only be sold for a few months is burdensome and unnecessary. AHRI added that any low-GWP DX-DOAS equipment manufactured and offered for sale after May 1, 2024 should be listed on time. AHRI pointed out that third-party test laboratories have been significantly delayed making necessary upgrades that allow for testing of DX-DOAS over 10 tons with energy recovery ventilators using “Option 1,” or direct testing as steam generators are required in the psychrometric chambers to test the DX-DOAS’s moisture removal capability. AHRI commented it has been assured that the upgrades to the larger test chamber (that can accommodate units over 10 tons) will be made by the end of 2023; however, this upgrade was originally slated for the beginning of

²⁴ DOE defines “unitary dedicated outdoor air system” as a category of small, large, or very large commercial package air-conditioning and heating equipment that is capable of providing ventilation and conditioning of 100-percent outdoor air and is marketed in materials (including but not limited to, specification sheets, insert sheets, and online materials) as having such capability.

²⁵ In the November 2022 DX-DOAS Final Rule, DOE adopted a requirement in 10 CFR 429.43(a)(3)(i) that the represented value of moisture removal capacity (“MRC”) be either between 95 and 100 percent of the mean of the measured capacities of the units in the selected sample rounded to the nearest lb/hr multiple using the same values as in Table 3 of AHRI 920–2020 or the MRC output simulated by an AEDM rounded to the nearest lb/hr multiple using the same values as in Table 3 of AHRI 920–2020. 87 FR 65651, 65658, 65667 (Nov. 1, 2022).

²⁶ Certification and compliance with both the applicable ISCOP2 and ISMRE2 standards are required for the air-source heat pump and water-source heat pump DX-DOAS equipment classes.

2023. AHRI commented that prioritizing the low-GWP DX-DOAS equipment testing would be the best use of limited testing resources. AHRI added that it supports DOE's proposals regarding reporting rated moisture removal capacity and rated supply airflow rate. (AHRI, No. 18 at pp. 8–9)

In response, the Department notes that DOE's testing regulations allow the use of an AEDM, in lieu of testing, to simulate the efficiency of DX-DOASes. 10 CFR 429.43(a). As a result, DOE notes that manufacturers may use AEDMs that are refrigerant agnostic to certify equipment to alleviate testing burdens. For these reasons, DOE is declining to delay enforcement of standards applicable to DX-DOASes for models that use R-410A until January 1, 2025, as requested by AHRI.

ASAP *et al.* commented by providing the following suggested editorial change to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.43(b)(2)(xi)(A): removing the word “rate” from “the rated supply airflow rate for 100% outdoor air applications.” (ASAP *et al.*, No. 14 at p. 4)

DOE notes that the terminology “airflow rate” is used throughout AHRI 920–2020,²⁷ which is the industry test standard adopted by reference in the DOE test procedure for DX-DOASes. As a result, to prevent confusion and to maintain consistency with the prevailing industry test standard, DOE is maintaining this language as proposed.

Accordingly, for the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting reporting requirements, as proposed in the September 2023 CCE NOPR, for certifying compliance with the new energy conservation standards for DX-DOASes.

b. Reporting Requirements for DX-DOASes With Ventilation Energy Recovery Systems

In the November 2022 DX-DOAS Final Rule, DOE adopted product-specific enforcement provisions for DX-DOASes in 10 CFR 429.134(s) in addition to the revised energy conservation standards. These enforcement provisions specify how DOE would determine the ISMRE2 and ISCOP2 values when conducting enforcement testing for DX-DOASes with Ventilation Energy Recovery Systems (“VERS”). As outlined in 10 CFR 429.134(s)(2)–(3), these provisions rely on values of VERS performance

certified to DOE as the basis for determining the ISMRE2 and/or ISCOP2 of the basic model being tested in some scenarios.

To inform DOE's enforcement testing, in the September 2023 CCE NOPR, DOE proposed additional non-public certification reporting requirements for DX-DOASes with VERS in new subparagraph 10 CFR 429.43(b)(3)(iii). 88 FR 67458, 67476. In the September 2023 CCE NOPR, DOE noted that these reporting requirements would include the method of determination of the exhaust air transfer ratio (“EATR”), sensible effectiveness, latent effectiveness of the ventilation energy recovery system (name and version of certified performance modeling software or if the device was directly tested), the test method (*i.e.*, Option 1 or Option 2) for units rated based on testing, and motor control settings (including rotational speed) for energy recovery wheels—all of which would be used by DOE to determine ISMRE2 and/or ISCOP2 for enforcement testing and would be considered non-public information if adopted. DOE requested comment on its proposal to include reporting requirements for DX-DOASes with VERS. *Id.*

AHRI commented that it does not object to DOE's proposal to include reporting requirements for DX-DOASes with ventilation energy recovery systems. (AHRI, No. 18 at p. 9)

ASAP *et al.* commented by providing the following suggested editorial change to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.43(b)(2)(xi)(C)(3): moving the text “(name and version of certified performance modeling software or if the device was directly tested)” after the word “EATR,” which would, therefore, not include the sensible and latent effectiveness of the ventilation energy recovery system within the ambit of that parenthetical. (ASAP *et al.*, No. 14 at pp. 4–5)

In response, DOE notes that EATR, sensible effectiveness, and latent effectiveness values are all determined through either a certified performance modeling software or through direct testing. DOE maintains that it would be appropriate to obtain the requested information for all three of these parameters, because verification and enforcement testing for DX-DOAS with VERS would otherwise require both verification of the VERS performance and testing of the DX-DOAS model utilizing the VERS, which would add significant burden to DOE testing that is inconsistent with manufacturer testing, and which is expected for nearly all models to be based on calculation of

these values rather than separate testing of VERS. As a result, DOE is not changing the regulatory text as suggested by ASAP *et al.*

Accordingly, for the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the reporting requirements for DX-DOASes with VERS as proposed in the September 2023 CCE NOPR.

c. Supplemental Testing Instructions

Currently, manufacturers of other covered commercial HVAC equipment types must submit in PDF format supplemental information regarding additional testing instructions, if applicable, and they must also specify which, if any, special features were included in rating the basic model. 10 CFR 429.43(b)(4). The supplemental information submitted in PDF format allows for third-party testing of equipment. Consistent with other commercial HVAC equipment types, in the September 2023 CCE NOPR, DOE proposed to specify information required in supplemental testing instructions submitted in PDF format for DX-DOASes to enable independent testing of the relevant equipment and to align with the corresponding requirements for CUACs, where appropriate. 88 FR 67458, 67476.

Specifically, for all DX-DOASes, DOE proposed at 10 CFR 429.43(b)(4)(x)(A) the following content requirements for the supplemental instructions PDF attachment: water flow rate in gallons per minute (“gpm”) for water-cooled and water-source units, rated external static pressure (“ESP”) in inches of water column for the supply air stream, frequency or control set points for variable speed components (*e.g.*, compressors, Variable Frequency Drives (“VFDs”)), required dip switch/control settings for step or variable components (*e.g.*, reheat or head pressure control valves), a statement as to whether the model will operate at test conditions without manufacturer programming, and any additional testing instructions specified in appendix B to subpart F of part 431, if applicable (*e.g.*, supply air dry-bulb temperatures for ISMRE2 tests, equipment settings for airflow, installation priority for split-system units, defrost control settings for air-source heat pump units, compressor break-in period, or condenser head pressure controls). *Id.* Additionally, if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, DOE proposed that the supplemental file also include the model number, the specifications of the

²⁷ AHRI 920 (I-P) and 921 (SI): Performance Rating of Direct Expansion-Dedicated Outdoor Air System Units.

motor (including efficiency, horsepower, open/closed, and number of poles) and the drive kit (including settings) associated with that specific motor that were used to determine the certified rating. *Id.*

For DX-DOASEs with VERS, DOE proposed at 10 CFR 429.43(b)(4)(x)(B) the following additional content requirements for the supplemental instruction PDF attachment: rated ESP in inches of water column for the return air stream, exhaust air transfer ratio at the rated supply airflow rate and a neutral pressure difference between return and supply airflow (EATR as a percent value), sensible and latent effectiveness of the ventilation energy recovery system at 75 percent of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter, sensible and latent effectiveness of the ventilation energy recovery system at 100 percent of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter, and any additional testing instructions, if applicable (*e.g.*, deactivation of VERS or VERS bypass in accordance with appendix B to subpart F or part 431 of this chapter). *Id.*

DOE requested comment on its proposal to require supplemental testing instruction file contents for DX-DOASEs. *Id.*

AHRI commented that DOE's proposal to require supplemental testing instruction file contents for DX-DOASEs is reasonable. (AHRI, No. 18 at p. 9)

Accordingly, for the reasons discussed, DOE is adopting the supplemental testing instruction file contents for DX-DOASEs as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE noted that the addition of reporting requirements for DX-DOASEs would newly require manufacturers to report this information. 88 FR 67458, 67476. DOE discussed the reporting cost impacts corresponding to the proposal in the September 2023 CCE NOPR in section IV.C of that document. *Id.* at 88 FR 67494–67495.

AHRI commented that, as with CRACs, DOE's estimation of the burden of new reporting requirements for DX-DOASEs, while necessary, is understated. (AHRI, No. 18 at p. 9)

In response, DOE notes that its estimated burden of new reporting requirements for DX-DOASEs pertains only to completing and submitting the certification reports. The burden

associated with implementing new standards was considered in the November 2022 DX-DOAS Final Rule. In the absence of additional data or information from AHRI regarding cost or time estimates pertaining to complying with the certification requirements for DX-DOASEs, DOE has maintained its methodology to estimate the burden from the September 2023 CCE NOPR, while updating costs to reflect current values.

Costs associated with the new reporting requirements for DX-DOASEs are discussed in section IV.C of this document. Compliance with these reporting requirements is required 210 days after publication of this final rule.

K. Air-Cooled, Three-Phase, Small Commercial Package Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h and Air-Cooled, Three-Phase, Variable Refrigerant Flow Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h

DOE is amending the reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF. Three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF are both categories of small commercial package air conditioning and heating equipment. Commercial package air conditioning and heating equipment may be air cooled, water cooled, evaporatively cooled, or water source based (not including ground water source). This equipment is electrically operated and designed as unitary central air conditioners or central air conditioning heat pumps for use in commercial applications. 10 CFR 431.92.

In a final rule published on June 2, 2023 ("June 2023 3-Phase Final Rule"), DOE amended energy conservation standards for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to be in terms of the new cooling and heating metrics, SEER2 and HSPF2, respectively, as determined by using the new test procedure at appendix F1 to subpart F of 10 CFR part 431. 88 FR 36368. Consistent with that final rule, DOE is amending the reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF.

1. Reporting

Under the existing requirements in 10 CFR 429.67(f)(2)(i) and (ii) for three-phase, less than 65,000 Btu/h ACUACs

and ACUHPs, manufacturers must report the seasonal energy efficiency ratio ("SEER") in British thermal units per Watt-hour ("Btu/Wh"), the rated cooling capacity in Btu/h, and (for heat pumps) the heating seasonal performance factor ("HSPF") in Btu/Wh.

Under the existing requirements in 10 CFR 429.67(f)(2)(iii) and (iv) for three-phase, less than 65,000 Btu/h VRF, manufacturers must report the SEER in Btu/Wh, rated cooling capacity in Btu/h, and (for heat pumps) the HSPF in Btu/Wh.

These requirements provide for certifying compliance with the standards applicable to three-phase, less than 65,000 Btu/h ACUACs and ACUHPs manufactured on or after January 1, 2017, and the standards applicable to three-phase, less than 65,000 Btu/h VRF manufactured on or after June 16, 2008. 88 FR 36368, 36389. DOE is updating these reporting requirements to align with the amended standards adopted by the June 2023 3-Phase Final Rule that apply to three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF manufactured on or after January 1, 2025. *See id.* Additionally, DOE is specifying general certification requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF. DOE discusses these updates in the sections as follows.

a. Updating the Certification Requirements To Include the New Metrics, SEER2 and HSPF2

In the June 2023 3-Phase Final Rule, DOE amended energy conservation standards for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to be in terms of the new cooling and heating metrics, SEER2 and HSPF2. *Id.* Accordingly, in the September 2023 CCE NOPR, DOE proposed to update the certification requirements at 10 CFR 429.67(f)(2) to include ratings in terms of SEER2 and HSPF2, which would become the required reporting metrics upon the compliance date of the amended standards. 88 FR 67458, 67477. Manufacturers may use appendix F1 to certify compliance with the amended standards based on SEER2 and HSPF2 prior to the applicable compliance date for the amended energy conservation standards. DOE requested comment on its proposal to require the reporting of new metrics, such as SEER2 and HSPF2. *Id.*

AHRI and Carrier supported DOE's proposal to require the reporting of new metrics, such as SEER2 and HSPF2.

(AHRI, No. 18 at p. 9; Carrier, No. 12 at p. 3)

ASAP *et al.* commented providing the following editorial correction to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.67(f)(3)(i): replacing the text “rated static pressure in inches of water” with “rated external static pressure in inches of water.” (ASAP *et al.*, No. 14 at p. 5)

DOE agrees that replacing the text “rated static pressure” with “rated external static pressure” is a helpful clarification and better represents the intent of the proposal in the September 2023 CCE NOPR. DOE has also determined that this clarification is

appropriate in one instance at 10 CFR 429.67(f)(3)(ii) as well.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, in this final rule, DOE is adopting these updates as proposed in the September 2023 CCE NOPR with the additional clarification as recommended by commenters.

b. Aligning Basic Model Number and Individual Model Number(s) Reporting Requirements With Single-Phase Products

In the September 2023 CCE NOPR, DOE proposed to include additional instructions regarding the basic model number and individual model

number(s) required to be reported under 10 CFR 429.12(b)(6). 88 FR 67458, 67477. DOE noted in the September 2023 CCE NOPR that this proposal is consistent with the requirement for single-phase products and represents readily available information to the manufacturer regarding the requirements for three-phase equipment. *Id.* DOE requested comment on the proposed model number reporting requirements. *Id.*

Specifically, DOE noted that it would require in new subparagraph 10 CFR 429.67(f)(4) that the basic model number and individual model number(s) reported under 10 CFR 429.12(b)(6) consist of the following:

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Single-Package (including Space-Constrained).	Number unique to the basic model.	Package	N/A	N/A.
Single-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit ..	Indoor Unit	If applicable—Air Mover (could be same as indoor unit if fan is part of indoor unit model number).
Multi-Split, Multi-Circuit, and Multi-Head Mini-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit ..	When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each indoor units paired with the outdoor unit.	If applicable—When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each air movers paired with the outdoor unit.
Outdoor Unit with No Match ..	Number unique to the basic model.	Outdoor Unit ..	N/A	N/A.

DOE did not receive any comments on its proposal to include additional instructions regarding the basic model number and individual model number(s) required to be reported under 10 CFR 429.12(b)(6) in response to the September 2023 CCE NOPR. For the reasons discussed, in this final rule, DOE is adopting these requirements as proposed in the September 2023 CCE NOPR.

c. Outdoor Units With No Match

In the September 2023 CCE NOPR, for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs with outdoor units having no matching indoor component, DOE proposed requiring that supplemental testing instructions also include any additional testing and testing set up instructions necessary to operate the basic model under the required conditions specified by the test procedure in addition to any supplemental testing instructions used to satisfy the existing requirement in 10 CFR 429.67(f)(3). *Id.* Specifically, DOE proposed that manufacturers must provide information regarding the

following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep. *Id.* DOE noted that this proposed requirement would be consistent with the 10 CFR 429.16 requirement for single-phase products, as well as with the test requirements in ASHRAE 90.1–2019, which, in turn, references ANSI/AHRI 210/240, “2023 Standard for Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment” (“ANSI/AHRI 210/240”).²⁸ *Id.* Therefore, DOE surmised that this information should be readily available to manufacturers and would not add manufacturer burden. *Id.* DOE requested comment on the proposed requirements for outdoor units with no match. *Id.*

DOE did not receive any comments on its proposal to include supplemental testing and testing setup instructions

²⁸ 2023 Standard for Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment (“ANSI/AHRI 210/240–2023”)

necessary to operate the basic model under the required conditions specified by the test procedure. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, in this final rule, DOE is adopting these requirements as proposed in the September 2023 CCE NOPR.

d. Sampling Corrections

Currently, DOE’s sampling provisions for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF state that any represented value of cooling capacity and heating capacity must each be a self-declared value that is less than or equal to the lower of the mean of the sample, or the lower 90 percent confidence limit of the true mean (“LCL”) divided by 0.95. 10 CFR 429.67(c)(2)(ii)(A)(2). The sampling provisions also state that the LCL should be calculated using the Student’s t-Distribution Values for a 90 percent one-tailed confidence interval with n-1 degrees of freedom from appendix D to subpart B of part 429, where “n” is the number of samples. *Id.* However, the

appendix containing Student's t-Distribution Values has moved to appendix A to subpart B of part 429. To correct this discrepancy, in the September 2023 CCE NOPR, DOE proposed to revise 10 CFR 429.67(c)(2)(ii)(A)(2) to specify that the LCL should be calculated using the Student's t-Distribution Values for a 90 percent one-tailed confidence interval outlined in appendix A and requested comment on its proposal. *Id.* at 88 FR 67477–67478. DOE requested comment on the proposed sampling corrections. *Id.*

AHRI and Carrier supported DOE's proposal to correct the sampling provisions for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to reference appendix A. (AHRI, No. 18 at p. 9; Carrier, No. 12 at p. 3)

For the reasons discussed, in this final rule, DOE is amending this requirement as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align the three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF certification reporting requirements with the amended standards adopted by the June 2023 3-Phase Final Rule that apply to products manufactured on or after January 1, 2025. 88 FR 67458, 67478.

DOE proposed that for three-phase, less than 65,000 Btu/h ACUACs and three-phase, less than 65,000 Btu/h VRF air conditioners, while manufacturers currently report SEER in Btu/Wh and rated cooling capacity in Btu/h, manufacturers would report SEER2 in Btu/Wh in lieu of SEER under the amended standards. *Id.* DOE proposed for three-phase, less than 65,000 Btu/h ACUHPs and three-phase, less than 65,000 Btu/h VRF heat pumps, while manufacturers currently report SEER in Btu/Wh, HSPF in Btu/Wh, and rated cooling capacity in Btu/h, manufacturers would be required to report SEER2 in Btu/Wh and HSPF2 in Btu/Wh in lieu of SEER and HSPF. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of the proposed rulemaking. DOE stated that it did not

believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF manufacturers are doing currently, but DOE requested comment on the certification reporting costs. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF. In this final rule, DOE makes a final determination that these amendments to the reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF would not cause any measurable change in reporting burden or hours for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF manufacturers. Compliance with these reporting requirements is required 210 days after publication of this final rule.

L. Commercial Water Heating Equipment

DOE is amending the reporting requirements for CWHs. EPCA prescribes energy conservation standards for several classes of CWHs manufactured on or after January 1, 1994. (42 U.S.C. 6313(a)(5)) DOE codified these standards in its regulations for CWHs at 10 CFR 431.110. However, when codifying these standards from EPCA, DOE inadvertently omitted the standards put in place by EPCA for electric instantaneous water heaters, which are instantaneous water heaters with a rated input both greater than 12 kW and not less than 4,000 Btu/h per gallon of stored water (*see* 10 CFR 431.102). Therefore, in a final rule published on October 6, 2023 ("October 2023 CWH Final Rule"), DOE codified these standards in its regulations at 10 CFR 431.110. 88 FR 69686, 69699.

Consistent with the October 2023 CWH Final Rule, DOE is establishing reporting requirements for commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters for which certification is already addressed in 10 CFR 429.44).

Additionally, DOE is adding reporting requirements for commercial electric storage water heaters to ensure that the input rating of all certified models exceeds the 12 kW threshold as well as the required *ratio of input rate per*

gallon of stored water that is part of the definition of electric storage water heaters at 10 CFR 431.102.

1. Reporting

a. Electric Instantaneous Water Heaters

Under the existing requirements in 10 CFR 429.44, manufacturer certification reports for commercial water heating equipment are not required to include information about electric instantaneous water heaters. 10 CFR 429.44(c)(2).

Therefore, for commercial electric instantaneous water heaters of all storage volumes (except for residential-duty commercial electric instantaneous water heaters), in the September 2023 CCE NOPR, DOE proposed to add certification requirements for thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test (in accordance with 10 CFR 431.106) or the calculation-based method (in accordance with 10 CFR 429.72(e), as discussed in the following paragraph). 88 FR 67458, 67478.

Additionally, for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons (and thus subject to a standby loss standard), DOE proposed to require that the following information be certified to ensure compliance with standby loss standards and to enable DOE to understand how the standby test was conducted for each basic model: (1) standby loss, (2) whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, (3) whether the water heater includes an integral pump purge functionality, and (4) the default duration of the pump off delay (for models equipped with integral pump purge). *Id.*

DOE also proposed to allow use of a calculation-based method for determining the storage volume of electric instantaneous water heaters that is the same as the method for gas-fired and oil-fired instantaneous water heaters and hot water supply boilers found at 10 CFR 429.72(e). *Id.* Furthermore, DOE proposed to clarify that the method for calculating volume for instantaneous water heaters found at 10 CFR 429.72(e) does not apply to storage-type instantaneous water heaters. *Id.*

DOE requested comment on its proposal to require the reporting of thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test or the calculation-based method for commercial electric

instantaneous water heaters of all storage volumes (except for residential-duty commercial electric instantaneous water heaters). *Id.* DOE also sought comment on its proposal to require the reporting of standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge) for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons. *Id.* Additionally, DOE requested comment on its proposed calculation-based method for determining storage volume of electric instantaneous water heaters. *Id.*

Thermal Efficiency

Rheem commented that the DOE test procedures for commercial electric instantaneous water heaters at 10 CFR 431 appendix B and 10 CFR 431 appendix D assume a thermal efficiency of 98 percent for commercial electric instantaneous water heaters, but there is no DOE test procedure that describes how to measure thermal efficiency. Rheem recommended that DOE either clarify whether a thermal efficiency of 98 percent can be used for all commercial electric instantaneous water heaters that use immersed heating elements or remove the thermal efficiency certification requirement. (Rheem, No. 15 at pp. 4–5; Rheem, Public Meeting Transcript, No. 6 at p. 36) AHRI opposed the reporting of thermal efficiency for commercial electric instantaneous water heaters of all storage volumes because the DOE test procedure for this equipment assumes a thermal efficiency of 98 percent and does not include a method for measuring thermal efficiency. AHRI stated that thermal efficiency is not reported for commercial electric storage water heaters, and therefore, it should not be required for other commercial electric equipment. AHRI recommended removing the requirement to report thermal efficiency for commercial electric instantaneous water heaters in the reporting template. (AHRI, No. 18 at p. 10) BWC recommended that thermal efficiency be removed from the reporting requirements for commercial electric instantaneous water heaters of all storage volumes as the inclusion of thermal efficiency does not provide additional meaningful information to DOE or consumers looking to obtain information about a product's energy performance and ultimately increases the complexity of the reporting

templates, which could lead to an increase in potential errors in addition to an increased time burden. (BWC, No. 13 at p. 1)

In response, DOE notes that there are standards in effect for electric instantaneous water heaters (*see* 10 CFR 431.110), and, therefore, manufacturers must certify thermal efficiency to DOE to ensure compliance. As a result, DOE is adopting its proposal to require certification of thermal efficiency for electric instantaneous water heaters. Furthermore, DOE clarifies that for commercial electric instantaneous water heaters with immersed heating elements, manufacturers should set the thermal efficiency equal to 98 percent, consistent with the assumed value in the standby loss calculation of the DOE test procedure specified in appendix D to subpart G of 10 CFR part 431. Additionally, in response to BWC's concerns about increased complexity and the potential for certification errors, DOE will include a note in the certification template to instruct the user to enter 98 percent in the template's field for the thermal efficiency of electric instantaneous water heaters.

Storage Volume Less Than 10 Gallons

BWC commented that reporting requirements for commercial electric instantaneous water heaters with a storage volume less than 10 gallons should be removed from the reporting template as the October 2023 CWH Final Rule does not require standby loss to be reported for electric instantaneous water heaters with a storage volume less than 10 gallons. (BWC, No. 13 at p. 2) AHRI commented that electric instantaneous water heaters with storage volumes of less than 10 gallons are not subject to testing and should therefore be excluded from certification and reporting requirements. (AHRI, No. 18 at p. 10)

In response to the comments regarding electric instantaneous water heaters with a storage volume less than 10 gallons, DOE notes that certification requirements are necessary to ensure that standards are being met and to determine the appropriate equipment class and applicable standard(s). Particularly, certification of thermal efficiency ensures compliance with the minimum standard; rated input checks would be used to confirm that the input rating of all certified models exceeds the 12 kW threshold that is part of the definition of commercial instantaneous water heaters at 10 CFR 431.102, and storage volume is necessary to determine whether the standby loss standard applies to the certified model.

In addition, the rated input and the storage volume are used to determine whether a water heater is instantaneous or storage. Completely removing the certification and reporting requirements for electric instantaneous water heaters with storage volume less than 10 gallons would omit information that is necessary for DOE to confirm the applicable standard. Further, similar to electric instantaneous water heaters with a storage capacity of 10 or more gallons, DOE will allow for storage volume to be measured and certified to either the weight-based test or calculation-based method.

Standby Loss

BWC commented that it did not support reporting standby loss based on the other functional criteria outlined in September 2023 CCE NOPR, as adding that level of complexity would increase the time-burden to complete the reporting template according to BWC. (*Id.*) BWC requested that DOE clarify why providing this information would inform DOE or consumers regarding the efficiency of electric instantaneous water heaters. (BWC, No. 13 at p. 2) Rheem supported DOE's requirement of reporting standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge) for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons. Rheem stated its understanding is that this information is necessary to properly perform the test procedure at 10 CFR 431 appendix D for non-storage type instantaneous commercial electric instantaneous water heaters. (Rheem, No. 15 at p. 6)

As noted previously, energy conservation standards for commercial electric instantaneous water heaters were updated in the October 2023 CWH Final Rule to reflect the standards already outlined in EPCA, which include both thermal efficiency standards and standby loss standards. 88 FR 69686. Specifically, EPCA prescribes maximum standby loss requirements for electric instantaneous water heaters with a storage volume of 10 gallons or more. (42 U.S.C. 6313(a)(5)(D)–(I)). Thus, reporting of standby loss is necessary to determine compliance with the maximum standby loss standards.

Furthermore, in response to BWC's comments, DOE notes that the reporting of additional functional criteria are

necessary for DOE to understand how the standby test was conducted for each basic model. DOE agrees with Rheem that this information is needed to properly perform the standby loss test procedure. DOE has separate standby loss tests for internally activated and flow/externally activated water heaters. Since the call for heating can be internally activated or flow-activated and remote-sensor based thermostatically activated (*i.e.*, externally activated), it is necessary for manufacturers to certify whether the water heater initiates operation based on a temperature-controlled call for heating that is internal to the water heater. Within the standby loss test method for flow/externally activated water heaters, there are separate criteria depending on whether the water heater is equipped with an integral pump purge. Thus, certification of whether the water heater includes an integral pump purge functionality is necessary to understand how the standby loss test specifically for flow/externally activated water heaters was conducted. Additionally, the pump delay time impacts the test time and when the heat exchanger outlet water temperature is measured. Thus, certification of the default duration of the pump off delay is necessary for models equipped with an integral pump purge.

Storage Volume Determination Method

BWC commented that it appreciated DOE making the option available to report either weight-based or calculation-based storage volume for electric instantaneous water heaters, along with confirmation of which method was used when reporting. (BWC, No. 13 at p. 2) Rheem commented that it supports allowing commercial electric instantaneous water heaters (other than storage-type instantaneous water heaters) to use a calculation-based method for determining storage volume of electric instantaneous water heaters. Rheem noted that there are two references in 10 CFR 429.72 to “§ 429.44(c)(3)(iv)–(vii)” and that the second reference should be “§ 429.44(c)(3)(i)–(ii)”. (Rheem, No. 15 at p. 6)

DOE agrees with the comments in support of the weight-based and calculation-based storage volume determination options and is adopting the proposal to allow manufacturers to determine electric instantaneous water heater storage volume using either of these two methods. Additionally, DOE notes that the reference to “§ 429.44(c)(3)(iv)–(vii),” which Rheem suggested should be changed to “§ 429.44(c)(3)(i)–(ii),” is not necessary

and has been removed from the regulatory text.

Storage Capacity Greater Than 10 Gallons

Rheem recommended that similar to the requirement for commercial gas-fired and oil-fired instantaneous water heaters at 10 CFR 429.44(c)(2)(iv), DOE should add the requirement to declare “whether the water heater includes a storage tank with a storage volume greater than or equal to 10 gallons (Yes/No)” to 10 CFR 429.44(c)(2)(vi) for commercial electric instantaneous water heaters with a storage tank with storage volume greater than 10 gallons and less than or equal to 140 gallons. Rheem noted that this question appears in the sample template PDF. (Rheem, No. 15 at p. 5)

DOE agrees that the requirement to declare whether the water heater includes a storage tank with a storage volume greater than or equal to 10 gallons should be included in 10 CFR 429.44(c)(2)(vi) to align the certification requirements of commercial electric instantaneous water heaters more closely with those for commercial gas-fired and oil-fired instantaneous water heaters. Furthermore, this additional certification requirement will more clearly enable DOE to understand whether each basic model meets the definition of a storage-type instantaneous water heater (as set forth in 10 CFR 431.102). Further, the response to this question would determine whether testing was conducted according to appendix B or D to subpart G at 10 CFR part 431. Therefore, DOE is adopting this requirement in this final rule.

Compliance Date

Rheem commented that it supported DOE requiring the certification of commercial electric instantaneous water heaters under EPCA. However, Rheem requested clarification on when certification would be required and recommended that the certification date be set at the compliance date of the most recent standards final rule (*i.e.*, October 6, 2026). (Rheem, No. 15 at p. 4) AHRI commented requesting DOE to clarify when certification would be required for commercial electric instantaneous water heaters as the proposal to include reporting for this equipment is based on the May 19, 2022 proposed rule at 87 FR 30610 (“May 2022 CWH NOPR”), but AHRI noted that there was not any clarity regarding when compliance would be required. AHRI noted that the October 2023 CWH Final Rule was published on October 6, 2023, with compliance to the amended standards

required October 6, 2026; however, AHRI noted that DOE has stated that compliance for commercial electric instantaneous water heaters has been required since January 1, 1994. (AHRI, No. 18 at p. 10)

DOE notes that although compliance with the October 2023 amended commercial water heating standards is required on or after October 6, 2026, compliance with EPCA’s standards for electric instantaneous water heater standards has been required since January 1, 1994. Since the compliance date for electric instantaneous water heater standards has passed and DOE does not expect manufacturers to need to conduct additional testing for these added certification requirements, DOE does not believe that a compliance date of October 6, 2026 is necessary. However, DOE recognizes the need for time to adjust to the new requirements in this final rule after publication and therefore DOE is requiring compliance of the outlined commercial water heating equipment 210 days after publication of this final rule.

General

Rheem commented that 10 CFR 429.44(c)(2)(vi) describes certification requirements for unfired hot water storage tanks, but the proposed requirements for electric instantaneous water heaters were inserted above this section and the unfired hot water storage tank section was not renumbered within the regulatory text. (Rheem, No. 15 at p. 4)

DOE notes that the September 2023 CCE NOPR as well as this final rule include amendatory instructions in the regulatory text for 10 CFR 429.44, which states that paragraph (c)(2)(vi) with requirements for unfired hot water storage tanks is renumbered as (c)(2)(viii).

b. Electric Storage Water Heaters

For commercial electric storage water heaters, in the September 2023 CCE NOPR, DOE proposed adding a certification requirement for rated input to ensure that the input rating of all certified models exceeds the 12 kW threshold that is part of the definition of electric storage water heaters at 10 CFR 431.102. 88 FR 67458, 67478. DOE proposed that manufacturers would be required to comply with the certification requirement beginning on the date of the next annual filing of certification reports required for CWHs following the publication of a final

rule.²⁹ *Id.* DOE sought comment on its proposal to add a requirement for the reporting of rated input for commercial electric storage water heaters. *Id.*

BWC stated that it did not support DOE's proposal to add a requirement for the reporting of rated input for commercial electric storage water heaters. BWC commented that DOE should include a Yes/No response in the field looking to confirm an input rating of all certified models exceeding the 12 kW threshold that is part of the definition of commercial electric storage water heaters, which it said would be a practice similar to other reporting requirements for commercial water heating equipment. (BWC, No. 13 at p. 2) AHRI commented opposing DOE's proposal to add a requirement for the reporting of rated input for commercial electric storage water heaters. AHRI noted that input rate does not impact the efficiency rating but has the potential to increase the number of basic models by a factor of at least 10.

Rheem supported requiring the certification of all available input rates for commercial electric storage water heaters and recommended the required certification date be set at the compliance date of the most recent standards final rule (*i.e.*, October 6, 2026). Rheem noted models that can be manufactured with many different input rates are currently certified under the same model number, a practice likely due to the input rate and thermal efficiency not being certified as well as the small effect that input rate would have on standby loss. Rheem requested that DOE clarify whether the existing standby loss ratings for a model can be applied across all input rates that the model will be required to certify. Rheem also requested DOE to clarify what constitutes a basic model (*i.e.*, can a basic model include all input rates with the individual models having different input rates, or will each input rate require a different basic model). (Rheem, No. 15 at p. 6) ASAP *et al.* supported the inclusion of input rating as a reporting requirement for commercial electric storage water heaters. ASAP *et al.* noted that this requirement would help ensure that equipment certified under 10 CFR 429.44 meets the input threshold of 12 kW that is defined for commercial equipment. (ASAP *et al.*, No. 14 at p. 2)

As noted by commenters, DOE is aware that historically some manufacturers have certified a range of input capacities under one model

number. DOE has found that in some cases models were incorrectly categorized as commercial equipment when they were below the threshold of 12 kW of input necessary to be classified as a commercial water heater (and instead should have been categorized as a consumer water heater). Typically, this occurred when the range of inputs available for the model family extended from below 12 kW to above 12 kW. Thus, in the September 2023 CCE NOPR, DOE proposed to require certification of input rate for commercial electric water heaters so that DOE could verify that the model is correctly categorized. Input rate information is needed to determine the correct categorization, both for the purpose of determining whether a model is a consumer product or commercial equipment and also whether it is instantaneous-type or storage-type (which is based on the ratio of input rate to stored volume). However, after considering stakeholder comments, DOE is requiring manufacturers to certify a "Yes/No" for whether the input rate is greater than 12kW and "Yes/No" for whether the ratio of input rate to stored volume is less than 4,000 Btu/h per gallon of stored water. These requirements will allow DOE to determine which standards apply to the model certified while also minimizing burden on manufacturers by not requiring each input rate to be certified separately. DOE is requiring compliance of the outlined CWHs certification requirements when certifying compliance in accordance with the next annual certification report filing date on or after 210 days after publication of this final rule.

In response to Rheem's comment on certifying standby loss across all input rates of a model and what constitutes a basic model, DOE defines a basic model at 10 CFR 431.102 as all water heaters, hot water supply boilers, or unfired hot water storage tanks manufactured by one manufacturer within a single equipment class, having the same primary energy source (*e.g.*, gas or oil) and that have essentially identical electrical, physical and functional characteristics that affect energy efficiency. If a group of individual models meets these criteria they can be grouped as a single basic model. Specifically with respect to input rate, if the manufacturer determines that input rate does not affect energy efficiency, then models with different input rates may be grouped under a single basic model if they also are in the same equipment class.

Storage Capacity Greater Than 140 Gallons

AHRI commented that commercial electric storage water heaters greater than or equal to 140 gallons are not subject to standards but require confirmation they meet the design requirement of jacket insulation that is $\geq R-12.5$. AHRI commented there is also no standby loss testing required for this equipment and details regarding the input rate are not needed as this is an assigned rating, rather than a tested value. AHRI commented asking if rather than reporting an input capacity number, the field response could be Y/N to indicate equipment class. (AHRI, No. 18 at p. 10) During the NOPR public meeting, AHRI commented that the draft certification template seemed to suggest that additional information might be reported for the rated input kilowatt-hours for capacities greater than 140 gallons and asked if this requirement was applicable to all products or products less than or equal to 140 gallons only. (AHRI, Public Meeting Transcript, No. 6 at pp. 31–34)

Rheem commented that commercial electric storage water heaters are divided into two groups: less than or equal to 140 gallons and greater than 140 gallons, but 10 CFR 429.44(c)(2)(iii) does not require the rated input for commercial water heaters with storage volumes greater than 140 gallons to always be reported and does not have the appropriate units for electric equipment. Rheem additionally commented that the draft certification template states, "For models with a storage capacity greater than 140 gallons only, enter the Rated Input in kilowatts (kW) in the cells below. This should be a decimal number greater than zero." Therefore, Rheem commented that the template only requires rated input be reported for greater than 140 gallons, which does not reflect the proposed language in either 10 CFR 429.44(c)(2)(i) or (iii). (Rheem, No. 15 at pp. 6–7)

Rheem also requested that DOE evaluate whether certification requirements for "commercial water heaters and hot water supply boilers with storage capacity greater than 140 gallons" at 10 CFR 429.44(c)(2)(iii) should be updated to include units for electric equipment as well as the units already required for gas and oil-fired equipment. (Rheem, No. 15 at p. 5)

In response to AHRI's comment, DOE clarifies that commercial electric storage water heaters greater than or equal to 140 gallons are required to report standby loss, measured storage volume, and rated input if the tank surface area is not thermally insulated to $R-12.5$ or

²⁹ The annual certification report filings for commercial water heating equipment are due on May 1. See 10 CFR 429.12.

more, with the R-value as defined in § 431.102. Therefore, the rated input requirements will apply to all storage water heater products, including those greater than 140 gallons, to allow for verification of correct equipment classification as discussed and the template will be updated accordingly. In addition, 10 CFR 429.44(c)(2)(iii) is applicable to electric equipment and this final rule updates the requirements to reflect the correct units, including standby loss in percent per hour and rated input in kilowatts.

Storage Capacity Terminology

Rheem commented that “storage capacity” is used throughout 10 CFR 429.44 when describing the 10- and 140-gallon thresholds, but stated it is not clear whether rated storage volume or measured storage volume should be used to make these determinations. Rheem requested that DOE clarify within 10 CFR 429.44 which volume value should be used. Rheem stated that its understanding was that measured storage volume is used for electric water heaters and rated storage volume is used for gas and oil-fired water heaters and recommended that “storage capacity” be amended to align with the required certification volume. (Rheem, No. 15 at p. 4)

In response to Rheem’s comment, DOE clarifies that standards for gas and oil-fired CWHs are a function of “rated storage volume” and standards for electric CWHs are a function of “measured storage volume.” (See 10 CFR 431.110.) Thus, DOE agrees with Rheem’s suggested approach to specify either measured or rated storage volume, as applicable based on the fuel type (rated storage volume for gas/oil and measured storage volume for electric), rather than use the term “storage capacity.” This change will clarify the appropriate volume to use when determining how to apply the thresholds and will align with standards structure.

Hot Water Supply Boilers

Rheem recommended that DOE clarify whether electric hot water supply boilers are covered by the energy conservation standards at 10 CFR 431.110(a) and, if so, amend the certification requirements to include hot water supply boilers in sections 10 CFR 429.44(c)(2)(vi)–(vii). Rheem commented that a hot water supply boiler is defined as a packaged boiler at 10 CFR 431.102 and a packaged boiler is defined at 10 CFR 431.82, but neither definition includes a description of the fuel type; therefore, within the definitions of the CFR, an electric hot

water supply boiler can exist. (Rheem, No. 15 at p. 5)

DOE agrees that the definition for a hot water supply boiler at 10 CFR 431.102 does not specify a fuel type, thus including electric hot water supply boilers in the definition. However, the inclusion of hot water supply boiler standards for gas-fired and oil-fired hot water supply boilers in 10 CFR 431.110(a) stem from their coverage in ASHRAE 90.1. DOE established these standards in a final rule published in 2001, which adopted the standard levels for gas-fired and oil-fired hot water supply boilers in ASHRAE 90.1–1989. 66 FR 3336. The current version of ASHRAE 90.1 (*i.e.*, ASHRAE 90.1–2023) still only covers standards for gas- and oil-fired hot water supply boilers and EPCA does not prescribe any standards at 42 U.S.C. 4313. Thus, electric hot water supply boilers are not covered by the standards in 431.110(a) and it is therefore not necessary to establish certification requirements for electric hot water supply boilers.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the certification reporting requirements for electric CWH as proposed in the September 2023 CCE NOPR, with the amendments discussed in the preceding sections.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align the certification reporting requirements for commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters) with the energy conservation standards for such equipment as required by EPCA, and as codified at 10 CFR 431.110 by the October 2023 CWH Final Rule. 88 FR 69686, 69699.

In the September 2023 CCE NOPR, DOE noted that manufacturers of commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters) do not currently report any information about the performance or characteristics of such equipment, but would be required to report thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test (in accordance with 10 CFR 431.106) or the calculation-based method (in accordance with 10 CFR 429.72(e)) under the proposals discussed in the September 2023 CCE NOPR. 88 FR 67458, 67479.

Additionally, for electric instantaneous water heaters with storage volume greater than or equal to 10

gallons (and thus subject to a standby loss standard), DOE noted that manufacturers would also be required to report standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge) under the proposals of the September 2023 CCE NOPR. *Id.*

In the September 2023 CCE NOPR, DOE noted that any manufacturer of commercial electric instantaneous water heaters would be required to begin submitting certification reports under the proposed reporting requirements discussed in the September 2023 CCE NOPR. *Id.* Costs associated with the proposed updates to reporting requirements were discussed in section IV.C of the September 2023 CCE NOPR. 88 FR 67458, 67495.

In the September 2023 NOPR, DOE also proposed to amend the certification reporting requirements for commercial electric storage water heaters to require manufacturers to report rated input. 88 FR 67458, 67479.

In the September 2023 NOPR, DOE tentatively determined that the proposed amendments would not impose additional costs for manufacturers of commercial electric storage water heaters because they are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. *Id.* DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what commercial electric storage water heaters manufacturers are currently doing today, but DOE requested comment on the certification reporting costs. *Id.*

Rheem commented that it did not expect certification and reporting costs for commercial electric storage water heaters to increase because of the proposed requirement to report rated input rate. Rheem commented that if additional standby loss testing is required, then the testing and certification costs would be significant. Rheem additionally commented that for commercial electric instantaneous water heaters, if DOE requires testing of thermal efficiency, then the certification and reporting costs would be significant. (Rheem, No. 15 at p. 7)

As discussed previously, the thermal efficiency for electric instantaneous

water heaters should be certified as 98 percent as specified in the standby loss test procedure, which would not require testing. Additionally, DOE notes that standby loss testing and certification of electric storage water heaters is already required at 10 CFR 429.44(c)(2)(i) and in some instances 10 CFR 429.44(c)(2)(iii).

In this final rule, DOE makes a final determination that the amendments to the reporting requirements for electric storage CWHs would not cause any measurable change in reporting burden or hours for CWH manufacturers. DOE also makes a final determination that the new reporting requirements for electric instantaneous CWHs would have an associated cost which are discussed in section IV.C of this document.

Compliance with the amended reporting requirements for electric storage CWHs is not required until the next annual certification report filing date on or after 210 days after publication of this final rule. Compliance with the new reporting requirements for electric instantaneous CWHs is required 210 days after publication of this final rule.

M. Automatic Commercial Ice Makers

DOE is amending the reporting requirements for ACIMs, which are factory-made assemblies (not necessarily shipped in 1 package) that (1) consist of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and (2) may include means for storing ice, dispensing ice, or storing and dispensing ice. 10 CFR 431.132. In the November 1, 2022 Automatic Commercial Ice Maker Test Procedure Final Rule (“November 2022 ACIM Final Rule”), DOE replaced the terms “maximum energy use” and “maximum condenser water use” with “energy use” and “condenser water use,” respectively, for ACIMs. 87 FR 65856, 56892. Consistent with that rulemaking, DOE is adopting amendments to the reporting requirements for ACIMs.

1. Reporting

Under the existing requirements in 10 CFR 429.45, manufacturers must report maximum energy use in kWh per 100 pounds of ice, maximum condenser water use in gallons per 100 pounds of ice, harvest rate in pounds of ice per 24 hours, type of cooling, and equipment type. 10 CFR 429.45(b)(2). These requirements provide for certifying compliance with the standards applicable to ACIMs manufactured on or after January 28, 2018. 10 CFR 431.136(c) and (d). DOE is updating

these requirements and aligning the reporting requirements with the November 2022 ACIM Final Rule and adopting general certification requirements for ACIMs. DOE discusses these updates in the sections as follows.

a. Energy and Water Condenser Use

For ACIMs, the current reporting requirements include maximum energy use in kWh per 100 pounds of ice and maximum condenser water use in gallons per 100 pounds of ice. 10 CFR 429.45(b)(2). In the November 2022 ACIM Final Rule, DOE determined that the reference to “maximum energy use” and “maximum condenser water use” in 10 CFR 429.45 could be misinterpreted to refer to the energy and water conservation standard levels for that basic model (*i.e.*, the maximum allowable energy and maximum allowable condenser water use), as opposed to the tested performance. 87 FR 65856, 65891. Therefore, in the November 2022 ACIM Final Rule, for consistency and clarity, DOE replaced the term “maximum energy use” with the term “energy use” and the term “maximum condenser water use” with the term “condenser water use.” *Id.* at 87 FR 65892. In addition, values of both energy and condenser water consumption are relevant for ACIMs. *Id.* at 87 FR 65891. As such, DOE modified the language at 10 CFR 429.45 to specify expressly that the sampling plan at 10 CFR 429.45(a)(2)(i) applies both to measures of energy and condenser water use for which consumers would favor lower values. *Id.* at 87 FR 65892.

Similarly, 10 CFR 431.132 included a definition for the term “maximum condenser water use.” This language may also be misinterpreted to refer to the condenser water conservation standard level for a basic model as opposed to the tested condenser water use. Therefore, in the November 2022 ACIM Final Rule, DOE modified the term and definition of “maximum condenser water use” to instead refer to the term “condenser water use.” *Id.*

In the November 2022 ACIM Final Rule, DOE did not revise the reporting requirements in 10 CFR 429.45 to remove the term “maximum” and align the requirements with the newly adopted definitions for “energy use” and “condenser water use.” *Id.* at 87 FR 65897. As a result, in the September 2023 CCE NOPR, DOE proposed to update the reporting requirements to specify “energy use” and “condenser water use.” 88 FR 67458, 67479. DOE requested comment on its proposal to align ACIM reporting requirement terminology with the amended terms. *Id.*

AHRI supported DOE’s proposal to replace the terms “maximum energy use” and “maximum condenser water use” with “energy use” and “condenser water use,” respectively, for ACIMs. (AHRI, No. 18 at p. 11)

AHAM commented it did not have objections to the proposals in the September 2023 CCE NOPR concerning reporting requirements for ACIMs as they are currently defined. However, AHAM restated its objection to DOE’s inclusion of residential icemakers within the scope of the ACIMs energy conservation standard proposed rulemaking. (AHAM, No. 16 at pp. 5–6; AHAM, Public Meeting Transcript, No. 6 at p. 38) AHAM added that if DOE does include residential ice makers within the scope of the ACIMs rulemaking, AHAM may have additional comments on the proposed and existing reporting requirements and/or the other applicable compliance and enforcement provisions. (AHAM, No. 16 at pp. 5–6)

DOE acknowledges the comments from AHAM regarding the separate proposed energy conservation standards rulemaking for ACIMs but notes that DOE has not established energy conservation standards for low-capacity ACIMs.

Therefore, DOE is not establishing reporting requirements for this category of ACIMs but would consider establishing such reporting requirements if DOE establishes energy conservation standards in the future. Otherwise, for the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, in this final rule, DOE is adopting the amendments as proposed in the September 2023 CCE NOPR.

b. Rounding Requirements

DOE currently requires test results for ACIMs to be rounded, as outlined in the ACIMs test procedure. 10 CFR 431.134(g). However, the certification requirements in 10 CFR 429.45 do not specify how values calculated in accordance with 10 CFR 429.45(a) would be rounded for reporting per 10 CFR 429.45(b). To ensure consistency among ACIM certification reports, in the September 2023 CCE NOPR, DOE proposed that any reported values be rounded consistent with the rounding requirements for individual test results. 88 FR 67458, 67479. Specifically, DOE proposed to require that reported values be rounded as follows: energy use to the nearest 0.01 kWh/100 lb, condenser water use to the nearest gal/100 lb, and harvest rate to the nearest 1 lb/24 h (for ACIMs with harvest rates greater than 50 lb/24 h) or to the nearest 0.1 lb/24

h (for ACIMs with harvest rates less than or equal to 50 lb/24 h). *Id.* DOE requested comment on its proposal to establish rounding requirements for ACIMs. *Id.* at 88 FR 67480.

AHRI commented asking if the draft template column headers and product codes had been updated to include the new smaller size categories (*i.e.*, low-capacity ACIMs). AHRI cited directions in the draft template for the Harvest Rate column to “Enter the Harvest Rate in pounds of ice per 24 hours in the cells below. This should be a decimal number greater than zero.” and asked if the reported harvest rate should be 0.1 lb/24 hr for ACIMs with harvest rates less than or equal to 50 lbs/24 hr and the nearest 1 lb/24 hr for ACIMs with harvest rates greater than 50 lb/24 h. (AHRI, No. 18 at p. 11)

In response to AHRI’s comment, DOE has not established energy conservation standards for low-capacity ACIMs. Accordingly, DOE is not establishing specific rounding instructions or product group codes for certifying compliance for such equipment. DOE would consider establishing such provisions should DOE establish energy conservation standards for this equipment in the future.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, in this final rule, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR, except that DOE is not establishing rounding requirements for low-capacity ACIMs.

c. Sampling Corrections

DOE’s sampling provisions for ACIMs state that any represented value of energy use, condenser water use, or other measure of consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of the mean of the sample, or the upper 95-percent confidence limit of the true mean divided by 1.10. 10 CFR 429.45(a)(2). The sampling provisions also state that the UCL should be calculated using the Student’s t-Distribution Values for Certification Testing for a 95-percent two-tailed confidence interval with $n - 1$ degrees of freedom from appendix A, where “ n ” is the number of samples. *Id.* However, appendix A outlines Student’s t-Distribution Values that are based on a one-tailed confidence interval, rather than the two-tailed confidence interval specified in 10 CFR 429.45(a)(2)(ii). To correct this discrepancy, in the September 2023 CCE NOPR, DOE proposed to revise 10 CFR 429.45(a)(2)(ii) to specify that the UCL should be calculated using the Student’s

t-Distribution Values for Certification Testing for a 95-percent one-tailed confidence interval outlined in appendix A. 88 FR 67458, 67480. DOE requested comment on its proposal to correct the sampling provisions for ACIMs. *Id.*

During the NOPR public meeting, AHRI asked if the sampling provisions would impact any non-efficiency features such as capacity or bin volume. AHRI also asked if the sampling requirements would impact manufacturers’ ability to rate conservatively. (AHRI, Public Meeting Transcript, No. 6 at pp. 38–39) AHAM also asked if “one-sided” confidence interval was the same as “one-tailed” confidence interval because AHAM had observed that both terms were used interchangeably. (AHAM, Public Meeting Transcript, No. 6 at p. 40)

In the NOPR public meeting, DOE responded that the intent of the proposal is for an energy consumption rating, or any rating, for which consumers would prefer lower values. (DOE, Public Meeting Transcript, No. 6 at pp. 39–40) A one-tailed interval provides a reasonable assurance to the consumer that the rating, as determined based on the tested sample, limits the potential value of rated energy use based on the test sample. Therefore, it is intended to provide a conservative rating and does not impact any non-efficiency features. DOE also confirmed that the “one-sided” confidence interval was the same as “one-tailed” confidence interval. (*Id.* at p. 40)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, in this final rule, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align ACIM certification reporting requirements with the amended terms adopted in the November 2022 ACIM Final Rule. 88 FR 67458, 67480. For ACIMs, manufacturers currently report maximum energy use and maximum condenser water use and would report energy use and condenser water use under the amended requirements, which are substantially similar to the previous requirement as discussed in the September 2023 CCE NOPR. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of ACIMs are already submitting certification reports to DOE containing

these values and should have readily available the information that DOE proposed to collect. *Id.* DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what ACIM manufacturers are doing currently, but DOE requested comment on the certification reporting costs. *Id.*

AHRI commented that the certification reporting amendments proposed for ACIMs will involve costs to manufacturers and related burden to report to DOE because products in the new smaller harvest rate category—below 50 lbs/24 h—are not in the AHRI ACIM Certification Program. (AHRI, No. 18 at p. 11)

In response to AHRI’s comment, as stated previously, DOE is not establishing certification requirements for low-capacity ACIMs as DOE has not established energy conservation standards for this equipment category. Therefore, in this final rule, DOE makes a final determination that the amendments to the reporting requirements for ACIMs would not cause any measurable change in reporting burden or hours for ACIM manufacturers. Compliance with these reporting requirements is not required until the next annual certification report filing date on or after 210 days after publication of this final rule.

N. Walk-In Coolers and Freezers

DOE is amending the reporting requirements for walk-in coolers and walk-in freezers (“walk-ins”), which are enclosed storage spaces including, but not limited to, panels, doors, and refrigeration system, refrigerated to temperatures, respectively, above and at or below 32 °F that can be walked into and have a total chilled storage area of less than 3,000 square feet. The terms “walk-in cooler” and “walk-in freezer” do not include products designed and marketed exclusively for medical, scientific, or research purposes. 10 CFR 431.302. In the test procedure final rule published on May 4, 2023 (“May 2023 Walk-ins TP Final Rule”), DOE amended the test procedure provisions for walk-ins. 88 FR 28780. Consistent with the May 2023 Walk-ins TP Final Rule, DOE is adopting amendments to the reporting requirements in this final rule.

1. Reporting

Under the existing requirements in 10 CFR 429.53, manufacturers must report the following public information:

(1) For all walk-in doors: the door type, R-value of the door insulation, a declaration that the manufacturer has

incorporated the applicable design requirements, door energy consumption, and rated surface area in square feet. 10 CFR 429.53(b)(2)(i) and (b)(3)(i).

(2) For walk-in doors with transparent reach-in doors and windows, the glass type of the doors and windows (*e.g.*, double-pane with heat reflective treatment, triple-pane glass with gas fill), and the power draw of the antisweat heater in watts per square foot of door opening. 10 CFR 429.53(b)(i).

(3) For walk-in panels: the insulation R-value. 10 CFR 429.53(b)(ii).

(4) For walk-in refrigeration systems: the installed motor's function purpose (*i.e.*, evaporator fan motor or condenser fan motor), its rated horsepower, a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor, annual walk-in energy factor ("AWEF"), net capacity, the configuration tested for certification (*e.g.*, condensing unit only, unit cooler only, single-packaged dedicated system, or matched pair), and if an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit (and, if so, the basic model number for the outdoor dedicated condensing unit). 10 CFR 429.53(b)(2)(iii), (b)(3)(ii), (b)(5).

Under the existing requirements in 10 CFR 429.53, manufacturers must report the following non-public information for all walk-in doors: (1) rated power of each light, heater wire, and/or other electricity consuming device; and (2) whether such device(s) has/have a timer, control system, or other demand-based control that reduces the device's power consumption. 10 CFR 429.53(b)(4)(i).

These requirements provide for certifying compliance with the standards applicable to walk-in doors, panels, and medium temperature dedicated condensing units (including medium-temperature single-packaged dedicated systems and matched pairs) manufactured on or after June 5, 2017 and with the standards applicable to walk-in low-temperature dedicated condensing units (including low-temperature single-packaged dedicated systems and matched pairs), low-temperature unit coolers, and medium-temperature unit coolers manufactured on or after July 10, 2020. DOE is updating these requirements and aligning the reporting requirements with the May 2023 Walk-ins TP Final Rule. DOE discusses these updates in the sections as follows.

a. Combining the Publicly Required Reporting Requirements in 10 CFR 429.53(b)(2), 429.53 (b)(3), and 429.53(b)(5)

The current reporting requirements at 10 CFR 429.53(b) specify public reporting requirements in three paragraphs—(b)(2), (b)(3), and (b)(5)—based on whether the reporting requirement was submitted before or after June 5, 2017. Given this date has passed, in the September 2023 CCE NOPR, DOE proposed to combine the public product-specific reporting requirements at 10 CFR 429.53(b)(2) and moving the non-public product-specific reporting requirements from 10 CFR 429.53(b)(4) to 10 CFR 429.53(b)(3). 88 FR 67458, 67480. DOE requested comment on these proposed changes. *Id.*

DOE did not receive any comments on its proposal to combine the public product-specific reporting requirements for walk-ins. For the reasons discussed in the preceding paragraph and in the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

b. CO₂ Systems

DOE has granted waivers to Heat Transfer Products Group, Hussmann, KeepRite, and RefPlus for an alternate test procedure for specific unit cooler basic models that utilize CO₂ as a refrigerant.³⁰ The alternate test procedure provided in these waivers modifies the test condition values to reflect typical operating conditions for a transcritical³¹ CO₂ booster system. Specifically, the waiver test procedures require that CO₂ unit cooler testing is conducted at a liquid inlet saturation temperature of 38 °F and a liquid inlet subcooling temperature of 5 °F.

In the May 2023 Walk-ins TP Final Rule, DOE amended appendix C to include the alternate test conditions specified in the waivers. DOE also adopted these requirements into the new appendix C1. 88 FR 28780, 28809. Additionally, in the May 2023 Walk-ins TP Final Rule, DOE defined a "CO₂ unit cooler" as "a unit cooler that includes a nameplate listing only CO₂ as an approved refrigerant." 88 FR 28780, 28790.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the

³⁰ HTPG Decision and Order, 86 FR 14887 (March 19, 2021); Hussmann Decision and Order, 86 FR 24606 (May 7, 2021); KeepRite Decision and Order, 86 FR 24603 (May 7, 2021); RefPlus Interim Waiver, 86 FR 43633 (Aug. 10, 2021).

³¹ CO₂ refrigeration systems are transcritical because the high-temperature refrigerant that is cooled by ambient air is in a supercritical state, above the 87.8 °F critical point temperature, above which the refrigerant cannot exist as separate vapor and liquid phases.

public reporting requirements at 10 CFR 429.53(b)(2)(iii) to require that manufacturers report whether a given basic model meets the definition of a CO₂ unit cooler as defined in the May 2023 Walk-ins TP Final Rule. 88 FR 67458, 67481 (*see also*, 10 CFR 431.302). DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule.³² *Id.* DOE requested comments on its proposal to require reporting of whether a basic model meets the definition of a CO₂ unit cooler. *Id.*

DOE did not receive any comments on its proposal to require reporting of whether a basic model meets the definition of a CO₂ unit cooler. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

DOE did receive comments specific to its proposal regarding labeling of CO₂ unit coolers. These comments are discussed in section III.N.3.

c. Detachable Single-Packaged Dedicated Systems and Attached Split Systems

In the May 2023 Walk-ins TP Final Rule, DOE defined a "detachable single-packaged dedicated system" as a system consisting of a dedicated condensing unit and an insulated evaporator section in which the evaporator section is designed to be installed external to the walk-in enclosure and circulating air through the enclosure wall, and the condensing unit is designed to be installed either attached to the evaporator section or mounted remotely with a set of refrigerant lines connecting the two components. 88 FR 28780, 28790. Since detachable single-packaged dedicated systems have thermal losses similar to those for single-packaged dedicated systems, DOE adopted the air enthalpy test method for single-packaged dedicated systems in the May 2023 Walk-ins TP Final Rule. 88 FR 28780, 28815–28816.

Additionally, DOE defined an "attached split system" in the May 2023 Walk-ins TP Final Rule as a matched pair refrigeration system that is designed to be installed with the evaporator entirely inside the walk-in enclosure and the condenser entirely outside the walk-in enclosure, where

³² The annual certification report filings for walk-ins are due no later than August 1. *See* 10 CFR 429.12, Table 1 to paragraph (d).

the evaporator and condenser are permanently connected with structural members extending through the walk-in wall. 88 FR 28780, 28790. DOE has confirmed through testing that these systems still experience some heat leakage when compared to traditionally installed systems that have the dedicated condensing unit and the unit cooler in separate housings. This heat leakage has not been fully studied, however, so in the May 2023 Walk-ins TP Final Rule, DOE specified that these systems should be tested as a matched pair using refrigerant enthalpy methods. 88 FR 28780, 28816.

Although both detachable single-packaged dedicated systems and attached split systems would be considered a “single-packaged dedicated system,” the two would be tested differently. Some of the previously discussed test procedure waivers specify basic models that meet the definition of a detachable single-packaged dedicated system or an attached split system. To ensure appropriate testing and consistent reporting, it is important that these models be identified during certification.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the public reporting requirements at 10 CFR 429.53(b)(2)(iii) to require that manufacturers report whether a given basic model meets the definition of a “detachable single-packaged dedicated system” or an “attached split system” as defined in the May 2023 Walk-ins TP Final Rule. 88 FR 67458, 67481. DOE also proposed that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule and requested comment on this topic. *Id.* DOE requested comment on these proposed requirements. *Id.*

DOE did not receive any comments on its proposal to require the reporting of whether a basic model meets the definition of a detachable single-packaged dedicated system or an attached split system. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

d. Flooded Head Pressure Control

In the May 2023 Walk-ins TP Final Rule, DOE adopted refrigerant charging provisions for walk-in dedicated condensing systems that use valves to “flood” the condenser with liquid

refrigerant to maintain sufficiently high condensing temperature under cold air temperatures. 88 FR 28780, 28804–28806. Specifically, DOE noted that charging in the “C” test condition rather than the “A” test condition is appropriate for dedicated condensing systems (dedicated condensing units, matched systems, and single-packaged dedicated systems) that use a flooded condenser design. *Id.* However, for dedicated condensing systems that use fan controls to maintain condensing temperature for low ambient operating conditions, the test procedure specifies charging at the “A” test condition. 88 FR 28780, 28804–28806.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the non-public reporting requirements at 10 CFR 429.53(b)(3)(ii)³³ to require that manufacturers report whether a given dedicated condensing system basic model is sold with flooded head pressure controls for maintaining condensing temperature at low ambient temperatures. 88 FR 67458, 67481. DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule and requested comment on this topic. *Id.* DOE requested comment on this proposed requirement. *Id.*

DOE did not receive any comments on its proposal to require the reporting of whether a dedicated condensing system basic model includes flooded head pressure controls. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

e. Compressor Break-In

Although the DOE test procedure for walk-in refrigeration systems does not require a compressor “break-in” period, DOE recognizes that walk-in refrigeration manufacturers may routinely break-in the refrigeration system compressor for some time prior to conducting testing. This break-in period can reduce variation in compressor performance.

In a CAC/HPs test procedure final rule published June 8, 2016, DOE noted that the most significant improvements in both compressor performance and reduction in variation among

compressor models occur during roughly the first 20 hours of run time. 81 FR 36992, 37034. Ultimately, DOE adopted the provision to limit the optional break-in period to 20 hours to achieve the most uniform compressor performance while limiting test burden. *Id.* DOE additionally included provisions for manufacturers to have the option to report the use of a break-in period and its duration as part of the test data underlying their product certifications, the use of the same break-in period specified in product certifications for testing conducted by DOE, and the use of the 20 hours break-in period for products certified using an AEDM. 81 FR 36992, 37033.

Other DOE-regulated equipment (*e.g.*, air-cooled unitary air conditioners and heat pumps (“CUACs and CUHPs”), DX-DOASes, CRACs, *etc.*) include required or optional provisions for compressor break-in either as part of the test procedure or as a certification option, so that any potential enforcement testing uses conditions similar to those used for rating a given unit. Whether required or optional, break-in duration is limited to a maximum of 20 hours for dedicated outdoor air supply units, SPVUs, and CUACs.

Accordingly, in the September 2023 CCE NOPR, DOE proposed to amend the non-public reporting requirements at 10 CFR 429.53(b)(3)(ii)³⁴ to provide an option for manufacturers to report the compressor break-in period, in hours, used to obtain a basic model’s certified rating; however, the break-in duration may not exceed 20 hours in length. 88 FR 67458, 67482. DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule and requested comment on this topic. *Id.* DOE requested comment on its proposal to provide an option for manufacturers to report compressor break-in duration. *Id.*

DOE did not receive any comments on its proposal to amend the reporting requirements and provide an option for manufacturers to report compressor break-in. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

³³ Note that currently 10 CFR 429.53(b)(3) specifies public reporting requirements. In this final rule, DOE is revising 10 CFR 429.53(b) such that paragraph (b)(2) specifies the public reporting requirements and paragraph (b)(3) specifies non-public reporting requirements.

³⁴ Note that currently 10 CFR 429.53(b)(3) specifies public reporting requirements. In this final rule, DOE revising 10 CFR 429.53(b) such that paragraph (b)(2) specifies public reporting requirements and paragraph (b)(3) specifies non-public reporting requirements.

f. Supplemental Testing Instructions

As discussed previously, DOE requires manufacturers of covered commercial HVAC equipment to submit supplemental information regarding additional testing instructions, if applicable, and they must also specify which, if any, special features were included to rate a basic model. DOE also requires supplemental testing instructions from manufacturers of commercial warm air furnaces (*see* 10 CFR 429.41(b)(4)), commercial refrigeration equipment (*see* 10 CFR 429.42(b)(4)), and commercial water heating equipment (*see* 10 CFR 429.44(c)(4)). The supplemental information submitted in PDF format provides information to allow for third-party laboratories to complete a valid test according to the DOE test procedure.

Consistent with its requirements for other commercial equipment, in the September 2023 CCE NOPR, DOE proposed to require that, if such information would be needed for a third party to independently run a valid test, manufacturers must submit supplemental testing instructions at the time each basic model is certified. 88 FR 67458, 67482. Supplemental testing instructions for walk-ins might include (but are not limited to) specific charging instructions, control of fan cycling at specific test conditions, and type of expansion valve. Consistent with the supplemental testing instructions DOE has established for other commercial equipment, DOE noted in the September 2023 CCE NOPR that any supplemental information for testing walk-ins would need to be consistent with manufacturer installation instructions associated with the equipment under test. *See* section 3.2.6 of appendix C to subpart R of 10 CFR part 431 and section 3.5.2.4 of appendix C1 to subpart R of 10 CFR part 431. DOE further noted in the September 2023 CCE NOPR that prior to testing any walk-in refrigeration system basic model under its enforcement provisions, DOE would determine if supplemental testing instructions were included with certification of the basic model. If supplemental testing instructions were included with certification, DOE would review these instructions and compare them to the manufacturer's installation instructions. Once DOE has determined that the supplemental instructions are consistent with the manufacturer's installation instructions, DOE would instruct the third-party test lab to incorporate the supplemental testing instructions into its test plan. 88 FR 67458, 67481.

Under this proposal, DOE noted that manufacturers would need to provide the complete name of the PDF containing the supplemental testing instructions as part of the certification report. DOE further stated in the September 2023 CCE NOPR that if the manufacturer changes the supplemental testing instructions and as a result changes the file name, then the manufacturer must update the certification report. *Id.*

In the September 2023 CCE NOPR, DOE proposed to require that, if necessary to run a valid test, manufacturers must submit supplemental testing instructions at the time each basic model is certified. *Id.* DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule. *Id.* DOE requested comment on its proposal to require, if necessary to run a valid test, supplemental testing information as a PDF file at the time of certification. *Id.*

In response to the September 2023 CCE NOPR, AHRI commented that it did not oppose DOE's proposal to require, if necessary to run a valid test, supplemental testing information as a PDF file at the time of certification. (AHRI, No. 18 at p. 11)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR

g. Anti-Sweat Heater Wire With Controls

For walk-ins with transparent reach-in doors, EPCA prescribes specific ASH-related requirements: (1) walk-ins without anti-sweat heater controls must have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively; (2) walk-ins with anti-sweat heater controls must either have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively; or (3) the anti-sweat heater controls must reduce the energy use of the heater in a quantity corresponding to the relative humidity of the air outside the door or to the condensation on the inner glass pane for walk-ins with more than 7.1 or 3.0 watts of anti-sweat heat per square foot of door opening for freezers and coolers, respectively. *See* 42 U.S.C. 6313(f)(3)(C)–(D). These requirements are also codified at 10 CFR 431.306(b)(3)–(4).

The current test procedure assigns percent time off (“PTO”) values to various walk-in door components, including anti-sweat heaters, to reflect the hours in a day that an electricity-consuming device operates at its full rated or certified power. For walk-in cooler doors with ASH controls, the PTO value is 75 percent and for walk-in freezer doors with ASH controls, the PTO value is 50 percent. For doors without ASH controls, the PTO is 0 percent. The test procedure does not distinguish between types of ASH controls, just the presence of them.

DOE recognizes that walk-in coolers and freezers may be installed in a variety of environments, including different geographical climate zones, different indoor building installations, and even outdoor installations. Thus, walk-ins may experience a wide variety of ambient conditions. Consumers looking to purchase walk-in doors with ASH controls may benefit from publicly available information on the conditions at which the ASH is activated based on any controls provided as part of the door.

Additionally, during enforcement testing, DOE calculates the door's energy consumption using the input power listed on the nameplate of each electricity-consuming device shipped with the door. In the absence of a value listed on the nameplate, DOE uses the device's rated input power included in the door's certification report. In the absence of either a nameplate or certified value, DOE may measure the input power for the purposes of calculating a door's energy consumption. 10 CFR 429.134(q)(4). Manufacturers are required to certify to DOE whether each electricity-consuming device, including ASH, has controls. 10 CFR 429.53(b)(4)(i). If there is no certification for the basic model, it can be difficult to discern whether the unit has controls without destroying the door.

For these reasons, DOE proposed in the September 2023 CCE NOPR that manufacturers of doors with ASH controls certify the conditions (*i.e.*, temperature, humidity, etc.) at which the controls activate the ASH wire. 88 FR 67458, 67483. DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule. *Id.* DOE requested comments on its proposal to require reporting of the conditions at which the controls activate the ASH wire for walk-in doors with ASH controls. *Id.*

During the NOPR public meeting, Dover Food Retail asked about the type of doors (e.g., freight doors, personnel pass-through doors, and display doors) the ASH requirements would be applicable to. Dover Food Retail additionally commented that most of the time in a commercial application like a supermarket, the ASH control is field-installed, field-supplied, field-connected, and not part of a display door package and asked how such information should be included on a label. (Dover Food Retail, Public Meeting Transcript, No. 6 at pp. 44–45)

As noted during the NOPR public meeting, the ASH requirements are applicable to all types of doors. DOE additionally notes that in the September 2023 CCE NOPR, DOE did not propose labeling requirements for doors with ASH controls, but rather proposed reporting (i.e., certification) requirements for doors with ASH controls. To the extent that basic models of doors include manufacturer-supplied factory or field-installed ASH controls that are considered in the calculation of daily energy consumption per the test procedure at appendix A to subpart R of 10 CFR 431, the manufacturer should be able to report the conditions at which the controls they offer activate. DOE understands the point made by Dover Food Retail that the exact conditions that the ASH controls are activated at in the field may differ based on the installation location. DOE has concluded that requiring that manufacturers of doors with ASH controls certify the range of potential conditions (i.e., temperature, humidity, etc.) at which the controls activate the ASH wire would address Dover Food Retail's concern. To the extent that basic models of doors do not include manufacturer-supplied ASH controls, it would not be appropriate to consider the presence of ASH controls in the calculation of daily energy consumption per the test procedure at appendix A to subpart R of 10 CFR 431.

During the NOPR public meeting, Scott Martin asked about the compliance date for DOE's proposed ASH control reporting requirements. (Scott Martin, Public Meeting Transcript, No. 6 at pp. 46–47)

Manufacturers of doors with ASH controls would be required to comply with the reporting requirements adopted in this final rule beginning on the next certification report annual filing date required for walk-in components following 210 days after the publication of this final rule (i.e., August 1).

ASAP *et al.* commented providing the following editorial corrections to the regulatory text proposed in the

September 2023 CCE NOPR at 10 CFR 429.53(b)(2)(i)(H): moving “in degrees Fahrenheit” from the end of the paragraph to be after the word “temperature” within parenthesis; and, replacing “humidity” with “relative humidity (in percent, %).” ASAP *et al.* also noted that the word “antisweat” appeared both hyphenated and non-hyphenated in this section. (ASAP *et al.*, No. 14 at p. 5)

DOE has concluded that the editorial changes suggested by ASAP *et al.* do not change the intent of what DOE proposed and would provide further clarity to the instruction. Therefore, DOE has amended the regulatory text at 10 CFR 429.53(b)(2)(i)(H) to include the editorial changes recommended by ASAP *et al.* DOE has also replaced the word “antisweat” with “anti-sweat” for consistency in 10 CFR 429.53.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the requirement that manufacturers certify the range of conditions at which the ASH controls activate and with the minor corrections recommended by ASAP *et al.*

h. Door Conduction Load

DOE's test procedure for measuring walk-in door energy consumption accounts for thermal conduction through the door and the direct and indirect electricity use of any electrical components associated with the door. 10 CFR 431.304(b)(1)-(2) and 10 CFR part 431, subpart R, appendix A.

The direct and indirect electricity use of the electrical components associated with the door is based on the certified or nameplate input power values of each component, which are certified to DOE as non-public information. DOE does not, at present, require certification of the thermal conduction through the door.

In the September 2023 CCE NOPR, DOE proposed to require certification of thermal conduction load through the door in Btu/h and proposed to add this requirement to the non-public reporting requirements in 10 CFR 429.53(b)(3)(i). 88 FR 67458, 67483. DOE stated that manufacturers are already calculating conduction load as part of the current test procedure at sections 6.2.1 and 6.3.1 of appendix A to subpart R of 10 CFR part 431 for display doors and non-display doors, respectively. DOE noted that the conduction load is required for calculating the daily energy consumption. DOE has evaluated the theoretical thermal conduction for all walk-in doors certified to DOE and found in some cases that the calculated values may not be consistent with the

values that would be expected based on the currently reported data (i.e., wattage, presence of controls) for the door's electricity-consuming devices. To remedy this situation, DOE proposed that walk-in door manufacturers certify thermal conduction load as non-public data, in addition to the requirements already listed in 10 CFR 429.53(b)(3)(i). *Id.* DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this final rule. DOE requested comments on this proposal. *Id.*

During the NOPR public meeting, Hussmann asked if the conduction load requirements were applicable to just a solid door product or if they would also apply to a solid, opaque, or transparent display door. (Hussmann, Public Meeting Transcript, No. 6 at p. 46)

DOE notes that the thermal conduction load reporting requirements proposed in the September 2023 CCE NOPR would be applicable to all doors (i.e., both display and non-display doors as defined at 10 CFR 431.302).

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align walk-in certification reporting requirements with the test procedure requirements applicable to walk-ins manufactured on and after October 31, 2023. 88 FR 67458, 67483. For all walk-in doors, manufacturers currently report the door type, R-value of the door insulation, a declaration that the manufacturer has incorporated the applicable design requirements, door energy consumption, rated surface area, rated power of each light, heater wire, and/or other electricity-consuming device and whether such device(s) has a timer, control system, or other demand-based control that reduces the device's power consumption. For transparent reach-in display doors and windows, manufacturers must currently also report the glass type of the doors and windows, and the power draw of the ASH. Based on the proposed reporting requirements in the September 2023 CCE NOPR, manufacturers would additionally report the conduction load through the door, and the temperature and/or humidity conditions at which the ASH controls engage if the proposed amendments are adopted. *Id.*

For walk-in refrigeration systems, manufacturers currently report the installed motor's function purpose (*i.e.*, evaporator fan motor or condenser fan motor), its rated horsepower, a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor, AWEF, net capacity, the configuration tested for certification (*e.g.*, condensing unit only, unit cooler only, single-packaged dedicated system, or matched pair), and if an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit (and, if so, the basic model number for the outdoor dedicated condensing unit). In the September 2023 CCE NOPR, DOE noted that if the proposed amendments are adopted, manufacturers would additionally report whether the basic model meets the definition of a CO₂ unit cooler, whether a basic model meets the definition of a detachable single-packaged dedicated system or an attached split system, whether a dedicated condensing system has flooded head pressure control, and whether a compressor break-in period was used, and if so, the duration of the break-in period. *Id.* Additionally, manufacturers would be required to submit supplemental testing instructions in PDF format if these instructions are necessary to run a valid test. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of walk-ins are already submitting certification reports to DOE and should have readily available the information that DOE proposed to collect as part of this rulemaking. DOE stated that it does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what walk-in manufacturers are currently doing today, but DOE requested comment on the certification reporting costs. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for walk-ins. In this final rule, DOE has determined that these amendments would not cause any measurable change in reporting burden or hours for walk-in manufacturers. Compliance with these amended reporting requirements is not required until the next annual certification report filing date on or after 210 days after publication of this final rule.

3. Labeling

If the Secretary has prescribed test procedures for any class of covered equipment, a labeling rule applicable to such class of covered equipment must be prescribed. *See* 42 U.S.C. 6315(a). EPCA, however, also sets out certain criteria that must be met prior to prescribing a given labeling rule. Specifically, to establish these requirements, DOE must determine that: (1) labeling in accordance with section 6315 is technologically and economically feasible with respect to any equipment class; (2) significant energy savings will likely result from such labeling; and (3) labeling in accordance with section 6315 is likely to assist consumers in making purchasing decisions. (*See* 42 U.S.C. 6315(h))

If these criteria are met, EPCA specifies certain aspects of equipment labeling that DOE must consider in any rulemaking establishing labeling requirements for covered equipment. At a minimum, such labels must include the energy efficiency of the affected equipment as tested under the prescribed DOE test procedure. The labeling provisions may also consider the addition of other requirements, including: (1) directions for the display of the label; (2) a requirement to display on the label additional information related to energy efficiency or energy consumption, which may include instructions for maintenance and repair of the covered equipment, as necessary, to provide adequate information to purchasers; and (3) requirements that printed matter displayed or distributed with the equipment at the point of sale also include the information required to be placed on the label. (42 U.S.C. 6315(b) and 42 U.S.C. 6315(c))

DOE previously established labeling requirements for walk-in components, codified at 10 CFR 431.305, in a final rule published on December 28, 2016 ("December 2016 Walk-in Final Rule"). 81 FR 95758, 95802. For walk-in panels, DOE had initially proposed in the NOPR leading to the aforementioned final rule to include the date of manufacture on the nameplate of a panel. 81 FR 54925, 54942 (Aug. 17, 2016). At the time, DOE estimated the total cost of applying labels specifically to non-display doors and panels, which may include date of manufacture, to be less than 0.1 percent of an average manufacturer's annual revenue. *Id.* In consideration of stakeholder comments indicating that affixing a panel label with date of manufacture was not technologically feasible, in the December 2016 Walk-in Final Rule, DOE did not finalize its

proposal to require the date of manufacture on the nameplate. 81 FR 95758, 95802.

In the September 2023 CCE NOPR, DOE again proposed to require that date of manufacture be affixed to each walk-in panel via the nameplate or via another method (*i.e.*, stamping) at 10 CFR 431.305(a)(1)(ii). 88 FR 67458, 67484. DOE has found that date of manufacture is often included on the nameplate or stamped elsewhere on walk-in panels, indicating that it is not overly burdensome to include and is technologically feasible.

DOE did not receive any comments regarding its proposal to require that date of manufacture be affixed to each walk-in panel via the nameplate or another method. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the labeling requirement to require that date of manufacture be affixed to each walk-in panel via the nameplate or via another method (*i.e.*, stamping) at 10 CFR 431.305(a)(1)(ii) as proposed in the September 2023 CCE NOPR.

Additionally, in the May 2023 Walk-ins TP Final Rule, DOE added test provisions for CO₂ unit coolers. 88 FR 28780, 28809. To easily determine which walk-in units these test provisions apply to, DOE defined CO₂ unit coolers as "unit coolers that include a nameplate listing only CO₂ as an approved refrigerant." 88 FR 28780, 28790. Based on walk-in units previously tested by DOE, DOE expects that most manufacturers are already including a refrigerant indication on the labels of walk-in unit coolers. Additionally, as discussed in the May 2023 Walk-ins TP Final Rule, manufacturers supported the finalized definition for CO₂ unit coolers, including the language regarding the nameplates. *Id.* DOE therefore tentatively concluded in the September 2023 CCE NOPR that it would not be burdensome for manufacturers to label unit coolers designed for use with CO₂ as a refrigerant. 88 FR 67458, 67484. Additionally, DOE stated in the September 2023 CCE NOPR that it consulted with the Federal Trade Commission ("FTC"), and they had no comments on the amendment as proposed in the September 2023 CCE NOPR. *Id.* Therefore, in the September 2023 CCE NOPR, DOE proposed that unit coolers designed to be used with CO₂ as a refrigerant include the statement "Only CO₂ is approved as a refrigerant for this system" on the unit nameplate. *Id.* DOE requested comments on its proposal for labeling requirements for walk-ins. *Id.*

In response, AHRI commented that it opposed DOE's proposal to require CO₂ unit coolers be labeled with the statement "Only CO₂ is approved as a refrigerant for this system." AHRI stated that refrigerant information is required to be included on the equipment nameplate per the equipment's safety standard, UL 60335-2-89,³⁵ and including further labeling with the same information would be duplicative, burdensome to include, and may necessitate unnecessary costs. (AHRI, No. 18 at p. 12; AHRI, Public Meeting Transcript, No. 6 at pp. 42-43)

Given that CO₂ unit coolers are already required to include refrigerant information on the equipment label (as specified in the UL safety standard and the CO₂ unit cooler definition in 10 CFR 431.301), DOE agrees that duplicative labeling requirements are unnecessary. Accordingly, DOE is not adopting the labeling requirements for CO₂ unit coolers that were discussed and proposed in the September 2023 CCE NOPR.

4. Labeling Costs and Impact

Labeling requirements for panels are codified at 10 CFR 431.305(a). Since manufacturers are already required to apply a permanent nameplate to walk-in panels, DOE stated in the September 2023 CCE NOPR that it assumes there would be no additional cost to the nameplate material or nameplate application to include date of manufacturer on the panel nameplate. 88 FR 67458, 67484. However, DOE recognized that manufacturers may need to make changes to panel nameplates to include date of manufacture. *Id.*

In the September 2023 CCE NOPR, DOE also stated it assumes that the date of manufacture would be automatically etched or printed on each nameplate and that there would be a one-time cost for programming date of manufacturer into the nameplate printing software. *Id.* DOE estimated that it would take an electrical engineer a maximum of 8 hours to configure the nameplate printing software. The fully burdened wage for an electrical engineer at the time of the September 2023 CCE NOPR was \$69.97,³⁶ resulting in an estimated

one-time cost per manufacturer of \$560 to include date of manufacture on panel nameplates. *Id.*

DOE did not receive any comments on its estimated costs. Additionally, for labeling requirements pertaining to printing or etching the date of manufacture on each nameplate, the fully burdened wage for an electrical engineering as of December 2023 is \$79.46,³⁷ resulting in an approximate one-time cost per manufacturer of \$640 to include date of manufacture on panel nameplates.

O. Commercial and Industrial Pumps

DOE is amending the reporting requirements for commercial and industrial pumps ("pumps"), which DOE defines as equipment designed to move liquids (which may include dissolved gases, free solids, and totally dissolved solids) by physical or mechanical action. A pump includes a bare pump and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. 10 CFR 431.462. DOE is not adopting the additional requirements proposed in the September 2023 CCE NOPR in this final rule, as discussed in the following sections.

1. Reporting

Under the existing requirements in 10 CFR 429.59(b)(2) and (b)(4), manufacturers must report the following as determined according to the DOE test procedure at appendix A to subpart Y of 10 CFR part 431:

- *For section III:* the pump configuration; the constant load pump energy index ("PEI_{CL}"); the nominal speed of rotation in revolutions per minute ("rpm"); pump total head in feet ("ft") at BEP and nominal speed; volume per unit time ("flow rate") in gallons per minute ("gpm") at BEP and nominal speed; calculated driver power input at each load point corrected to nominal speed, in horsepower ("hp");

oes172071.htm. DOE then used BLS's "Employer Costs for Employee Compensation—June 2022" to estimate that wages and salary account for approximately 69 percent for private industry workers. www.bls.gov/news.release/pdf/ecec.pdf (last accessed Dec. 1, 2022). Therefore, DOE estimated a fully burdened labor rate of \$69.97 (\$48.28 ÷ 0.69 = \$69.97).

³⁷ DOE estimated the hourly wage using data from BLS's "Occupational Employment and Wages, May 2022" publication. DOE used the "Electrical Engineers" mean hourly wage of \$54.83 to estimate the hourly wage rate. www.bls.gov/oes/current/oes172071.htm (last accessed Dec. 19, 2023). DOE then used BLS's "Employer Costs for Employee Compensation—September 2023" to estimate that wages and salary account for approximately 69 percent for private industry workers. www.bls.gov/news.release/pdf/ecec.pdf (last accessed Dec. 19, 2023). Therefore, DOE estimated a fully burdened labor rate of \$79.46 (\$54.83 ÷ 0.69 = \$79.46).

full impeller diameter in inches ("in"); for radially split, multi-stage, vertical, in-line diffuser casing ("RSV") pumps and submersible turbine ("ST") pumps, the number of stages tested; and for ST pumps, the bowl diameter in inches ("in"). 10 CFR 429.59(b)(2)(i); 10 CFR 429.59(b)(4)(i).

- *For section IV or section V:* all the above in addition to whether the PEI_{CL} is calculated or tested; and for pumps sold with electric motors regulated by DOE's energy conservation standards for electric motors, the nominal motor efficiency in percent ("%") and the motor horsepower ("hp") for the motor with which the pump is being rated. 10 CFR 429.59(b)(2)(ii); 10 CFR 429.59(b)(4)(ii).

- *For section VI or section VII:* pump configuration; variable load pump energy index ("PEI_{VL}") instead of PEI_{CL}; pump total head in feet ("ft") at BEP and nominal speed; volume per unit time ("flow rate") in gallons per minute ("gpm") at BEP and nominal speed; driver power input measured as the input power to the driver and controls at each load point corrected to nominal speed, in horsepower ("hp"), full impeller diameter in inches ("in"); whether PEI_{VL} is calculated or tested; for radially split, multi-stage, vertical, in-line diffuser casing ("RSV") pumps and submersible turbine ("ST") pumps, the number of stages tested; for ST pumps, the bowl diameter in inches ("in"); and for pumps sold with electric motors regulated by DOE's energy conservation standards for electric motors, the nominal motor efficiency in percent ("%") and the motor horsepower ("hp") for the motor with which the pump is being rated. 10 CFR 429.59(b)(2)(iii); 10 CFR 429.59(b)(4)(iii).

These requirements provide for certifying compliance with the standards for commercial and industrial pumps manufactured on or after January 27, 2020. Under the existing requirements in 10 CFR 429.59(b)(3), manufacturers have the option to report pump efficiency at BEP in percent and PER_{CL} (for constant load pumps) or pump efficiency at BEP in percent and PER_{VL} (for variable load pumps), as determined according to appendix A to subpart Y of 10 CFR part 431.

In the September 2023 CCE NOPR, DOE proposed to require certification of pump efficiency at BEP in percent, PER_{CL}, and PER_{VL}—these metrics would be added to the existing reporting requirements in 10 CFR 429.59(b)(2). 88 FR 67458, 67485. DOE also proposed that manufacturers would be required to comply with the reporting requirement beginning on the next certification

³⁵ AHRI's comment referred to ISO 60335-2-89. However, DOE understands that AHRI was likely intending to refer to UL 60335-2-89, "Household and similar electrical appliances—Safety—Part 2-89: Particular requirements for commercial refrigerating appliances and ice-makers with an incorporated or remote refrigerant unit or motor-compressor," published October 2021.

³⁶ DOE estimated the hourly wage using data from BLS's "Occupational Employment and Wages, May 2022" publication. DOE used the "Electrical Engineers" mean hourly wage of \$48.28 to estimate the hourly wage rate. www.bls.gov/oes/current/

report annual filing date required for commercial and industrial pumps following the publication of this final rule. *Id.*

Pump efficiency at BEP, PER_{CL} , and PER_{VL} are required for calculating PEI_{CL} or PEI_{VL} . In the September 2023 CCE NOPR, DOE noted that some manufacturers are already reporting pump efficiency at BEP, PER_{CL} , and/or PER_{VL} , and these metrics are already calculated in appendix A to subpart Y of 10 CFR part 431. *Id.* DOE stated that this reporting requirement would standardize the information reported to DOE by different pump manufacturers. *Id.* In addition, having these metrics available in DOE's compliance certification database would provide pump end users with greater insight into pump operation at part load conditions. *Id.* DOE requested comment on its proposed reporting requirements for commercial and industrial pumps. *Id.*

Grundfos commented opposing DOE's proposal for additional certification reporting for pump efficiency at BEP in percent, PEI_{CL} , and PEI_{VL} , noting that these data points were optional in the January 2016 Pumps Test Procedure Final Rule (81 FR 4086). Grundfos commented that DOE's rationale that these data points would provide pump end users with greater insight into pump operation at part-load conditions is false for the following reasons: pump efficiency at BEP only applies to a single load point (*i.e.*, BEP); part-load power inputs are already available in the CCMS database and PER values can be determined from this information; part-load power inputs are marginally useful given the limited number of pumps operating at these specific load points; end users can calculate their own weighted averages based on their specific system without the need for DOE to mandate additional reporting; and, additional data for pumps in the CCMS database would serve only to confuse the public. (Grundfos, No. 10 at p. 1) Grundfos commented questioning the reasoning behind DOE's choice to modify reporting of pump data within this rulemaking instead of handling it within the upcoming energy conservation standards notice. Grundfos stated that DOE should be working to minimize burden on manufacturers and not creating additional burden by including modifications across multiple regulatory actions. (Grundfos, No. 10 at p. 2)

HI commented that DOE should not include the proposed new reporting requirements for commercial and industrial pumps to additionally include "pump efficiency at BEP in

percent" and " PER_{CL} (for constant load pumps)" or " PER_{VL} (for variable load pumps)" for the following reasons: reporting these values would not standardize reporting; it would not provide users with part load information; it would increase testing and administrative burden without energy savings benefit; and, these requirements were not agreed to by the ASRAC working group³⁸ because reporting of these values was either redundant or counterproductive to the use of PEI . (HI, No. 20 at p. 2)

HI commented it was not clear what DOE was asking for in the requirement to report "pump efficiency at BEP." HI stated that depending on the section of the test procedure that the pump is tested, BEP could be determined based on the bare pump efficiency (*see* sections III, V, or VII) or overall efficiency at BEP (*see* sections IV or VI). HI commented that in the April 2022 Pumps Test Procedure NOPR (87 FR 21268), DOE changed the wording from "overall efficiency" to "pump efficiency" for the section IV and VI tests, which led HI to believe that DOE is using the term "pump efficiency" and "overall efficiency" interchangeably even though they are different, according to HI. (HI, No. 20 at p. 2)

HI commented that DOE should not start publishing "pump efficiency at BEP" because it would cause confusion. HI stated that PEI is the DOE regulatory metric, which considers the pump design flow rate, specific speed, multiple tested load points, and driver and control losses, while "pump efficiency at BEP" is only useful for a user purchasing a pump that will operate at that BEP 100 percent of the time. HI stated that comparing "pump efficiency at BEP" for pumps with different BEP flow and/or head will lead to improper pump selection and higher energy consumption. (HI, No. 20 at p. 2)

HI commented that PER_{CL} and PER_{VL} could be calculated directly from driver or control input power at the prescribed load points and by requiring manufacturers to report these redundant values, DOE would be increasing the chance of reporting errors, conflicting

data, and confusion in the marketplace. (HI, No. 20 at pp. 2–3)

HI commented the new reporting also would not provide users with part load information as suggested by DOE because DOE has defined pump BEP as 100 percent flow rate. HI additionally noted that the part load driver or control input power that is used to calculate PER_{CL} and PER_{VL} is already reported and listed for each model on DOE's CCMS database and therefore, this proposed addition would not add value to a customer trying to identify the energy consumption. (HI, No. 20 at p. 3)

ASAP *et al.* commented providing the following editorial correction to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.59(b)(2)(i): replacing P_{ini} with P_{in} . (ASAP *et al.*, No. 14 at p. 5)

In response to ASAP *et al.*, DOE is replacing P_{in_i} with P_{in} in this rulemaking to be consistent with variables defined in subpart Y of 10 CFR part 431.

As commented by HI, the efficiency at BEP only represents one load point and is not representative of part-load applications, which is a common technique used to properly size a pump. Further, as commented by HI and Grundfos, the proposed PER_{CL} and PER_{VL} requirement would not provide deeper insight into part-load conditions. DOE has determined that the CCMS database already collects sufficient data for end users to correctly size pumps in part load applications. Therefore, as these proposed additional requirements would not provide greater insight into pump operation at part-load conditions, DOE is not adopting the additional reporting requirements proposed in the September 2023 CCE NOPR in this final rule.

In response to Grundfos' comment regarding the proposal to make this change in the September 2023 CCE NOPR instead of the next pumps standards notice, DOE notes that it published the September 2023 CCE NOPR with proposed updates for up to 20 different products/equipment. DOE conducts a single certification reporting requirements rulemaking for combined products and equipment because it would be more onerous for DOE to publish proposed and final certification related rulemakings for each product/equipment separately.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to amend the reporting requirements for commercial and industrial pumps. 88 FR 67458, 67484. In response, Grundfos and HI commented regarding the costs that

³⁸ On July 23, 2013, DOE issued a notice of intent to establish a Working Group under the Appliance Standards and Rulemaking Federal Advisory Committee ("ASRAC") to negotiate proposed Federal standards for the energy efficiency of commercial and industrial pumps ("the CIP Working Group"). 78 FR 44036. DOE held seven open meetings and two webinars, during which the CIP Working Group discussed scope, metrics, test procedures, and standard levels for pumps. The CIP Working Group concluded their negotiations on June 19, 2014 with a supportive vote on several recommendations for DOE regarding the regulation of pumps. (Docket No. EERE-2013-BT-NOC-0039, No. 92)

would be incurred if DOE were to adopt the proposed reporting requirements. (Grundfos, No. 10 at p. 2; HI, No. 20 at p. 3)

As discussed in section III.O.1, DOE is not adopting the additional reporting requirements of pump efficiency at BEP in percent, PER_{CL} , and PER_{VL} . Therefore, manufacturers would not incur any additional certification reporting costs as a result of this final rule.

P. Portable Air Conditioners

DOE is amending the reporting requirements for portable ACs, which DOE defines as a consumer product that consists of a portable encased assembly, other than a “packaged terminal air conditioner,” “room air conditioner,” or “dehumidifier,” that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. 10 CFR 430.2. In the portable AC test procedure final rule published on May 15, 2023 (“May 2023 Portable AC Final Rule”), DOE amended the test procedures for portable ACs at appendix CC to subpart B of 10 CFR part 430 (“appendix CC”) to incorporate a measure of variable-speed portable AC performance and make minor clarifying edits. 88 FR 31102. Consistent with that final rule, DOE is amending the reporting requirements.

1. Reporting

The current reporting requirements for portable ACs at 10 CFR 429.62 include the following: (1) the combined energy efficiency ratio (“CEER”) in Btu/Wh; (2) the seasonally adjusted cooling capacity (“SACC”) in Btu/h; (3) the duct configuration (*i.e.*, single-duct, dual-duct, or ability to operate in both configurations); (4) presence of heating function; and (5) primary condensate removal feature (*i.e.*, auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump). 10 CFR 429.62. These requirements provide for certifying compliance with the standards that will go into effect for single-duct and dual-duct portable ACs that are manufactured on or after January 10, 2025. DOE is updating these requirements and aligning the reporting requirements with the recent test procedure amendments and is also adopting general certification requirements for portable ACs. DOE discusses these updates in the sections as follows.

a. Duct-Configuration

DOE defines two portable AC configurations: single-duct and dual-duct. Single-duct portable ACs draw all the condenser inlet air from the

conditioned space without the means of a duct and discharge the condenser outlet air outside the conditioned space through a single duct attached to an adjustable window bracket. Dual-duct portable ACs draw some or all the condenser inlet air from outside the conditioned space through a duct attached to an adjustable window bracket, may draw additional condenser inlet air from the conditioned space, and discharge the condenser outlet air outside the conditioned space by means of a separate duct attached to an adjustable window bracket. *Id.*

The current test procedure for portable ACs, found in appendix CC, notes that if a portable AC is able to operate as both a single-duct and dual-duct portable AC as distributed in commerce by the manufacturer, it must be tested and rated for both duct configurations. Section 3.1.1 in appendix CC.

Similarly, in 10 CFR 429.62(a)(5), DOE states that single-duct and dual-duct portable ACs distributed in commerce by the manufacturer with multiple duct configuration options that meet DOE’s definitions for single-duct portable AC and dual-duct portable AC, must be rated and certified under both applicable duct configurations.

Under the existing certification reporting requirements in 10 CFR 429.62(b)(2), manufacturers of portable ACs must report the following: (1) the CEER in Btu/Wh; (2) the SACC in Btu/h; (3) the duct configuration (*i.e.*, single-duct, dual-duct, or ability to operate in both configurations); (4) presence of heating function; and (5) primary condensate removal feature (*i.e.*, auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump).

In the September 2023 CCE NOPR, DOE proposed to include clarifying amendments to these reporting requirements to specify that each certification report must include an indication of the duct configuration used for testing (*i.e.*, single-duct or dual-duct) and whether the certified model is distributed in commerce by the manufacturer with multiple duct configuration options that meet DOE’s definitions for single-duct portable AC and dual-duct portable AC (*i.e.*, yes or no). 88 FR 67458, 67485–67486. DOE requested comment on these proposed reporting requirements for portable ACs. *Id.*

ASAP *et al.* commented providing the following editorial correction to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.62(b)(2): replacing the text “the ability to operate in both

configurations” with “the ability to operate in both duct configurations.” (ASAP *et al.*, No. 14 at p. 5)

DOE agrees that adding the word “duct” when referring to the ability of a portable AC to operate in both single-duct and dual-duct configuration is a helpful clarification and better represents the intent of the proposal in the September 2023 CCE NOPR.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR with the additional clarification as recommended by commenters.

b. Full-Load Seasonally Adjusted Cooling Capacity

In the May 2023 Portable AC Final Rule, DOE amended the appendix CC test procedures to include a new capacity metric for variable-speed portable ACs, full-load seasonally adjusted cooling capacity (“SACC_{Full}”), for purposes of representation and certification. 88 FR 31102, 31112–31114. Consistent with that final rule, in the September 2023 CCE NOPR, DOE proposed to amend the certification report requirements by adding a new section, 10 CFR 429.62(b)(3), to require reporting whether a basic model is variable-speed, as defined in appendix CC, and if so, to report the SACC_{Full}, in Btu/h. 88 FR 67458, 67486. DOE requested comment on these proposed requirements. *Id.*

ASAP *et al.* commented providing the following editorial corrections to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.62(b)(3): replacing “SACC Full” with “SACC_{Full}.” ASAP *et al.* also noted that the current portable AC test procedure specifies that variable-speed units calculate SACC_{Full,SD} and SACC_{Full,DD} for single- and dual-duct configurations and this distinction should be reflected in the certification template. (ASAP *et al.*, No. 14 at p. 5)

DOE agrees that the amended text in 10 CFR 429.62(b)(3) should have consistent subscript formatting for the SACC_{Full} variable, and notes that this is the current approach in 10 CFR 429.62(a)(2) and (3).

Regarding further clarification of SACC_{Full}, DOE notes that the reporting requirements in 10 CFR 429.62(b)(2) already require identifying the duct configuration (*i.e.*, single-duct or dual-duct), so DOE does not expect there to be confusion as to which SACC_{Full} must be reported (*i.e.*, SACC_{Full,SD} or SACC_{Full,DD}, for single-duct and dual-duct, respectively). Furthermore, 10 CFR 429.62(b)(2) already introduces the

term “SACC_{Full}” and refers to the DOE test procedure where both SACC_{Full,SD} and SACC_{Full,DD} are defined. Therefore, DOE concludes that no further clarification is needed to modify the text of 10 CFR 429.62(b)(3) as proposed in the September 2023 CCE NOPR. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the amendments pertaining to reporting SACC_{Full} as proposed in the September 2023 CCE NOPR with the additional clarifying amendments discussed above.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align portable AC certification reporting requirements with the May 2023 Portable AC TP Final Rule requirements applicable to portable ACs manufactured on and after June 14, 2023. 88 FR 67458, 67486.

For variable-speed portable ACs tested in accordance with appendix CC as amended in the May 2023 Portable AC TP Final Rule, manufacturers currently report CEER, SACC, the duct configuration, presence of heating function, and primary condensate removal feature, and would additionally report full-load SACC if the amendments proposed in the September 2023 CCE NOPR are adopted. *Id.*

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers beyond those that were estimated in the January 2020 Portable ACs ECS Final Rule, which first established the reporting requirements. *Id.* DOE stated this was because manufacturers of portable ACs should already be collecting the information required for the current certification requirements and should have readily available the information that DOE proposed to collect as part of this rulemaking. *Id.* DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what was estimated in the January 2020 Portable ACs ECS Final Rule. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for portable ACs. In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for portable AC manufacturers. Compliance with these reporting requirements is required 210 days after publication of this final rule.

Q. Compressors

DOE is amending the reporting requirements for compressors, which DOE defines as machines or apparatuses that convert different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher pressure values above atmospheric pressure and have a pressure ratio at full-load operating pressure greater than 1.3. 10 CFR 431.342.

1. Reporting

Under the existing requirements in 10 CFR 429.63(b), a certification report must include the following public product-specific information for all compressors: (1) full-load package isentropic efficiency or part-load package isentropic efficiency, as applicable (dimensionless); (2) full-load actual volume flow rate (in cubic feet per minute); (3) compressor motor nominal horsepower (in horsepower); (4) full-load operating pressure (in pounds per square inch, gauge); (5) maximum full-flow operating pressure (in pounds per square inch, gauge); and (6) pressure ratio at full-load operating pressure (dimensionless). 10 CFR 429.63(b)(i)–(vi).

In addition, for any ancillary equipment that is installed for test, but is not part of the compressor package as distributed in commerce (per the requirements of 10 CFR part 431, subpart T, appendix A, section I(B)(4)), a certification report must include the following public product-specific information: (1) a general description of the ancillary equipment, based on the list provided in the first column of Table 1 of 10 CFR part 431, subpart T, appendix A, section I(B)(4); (2) the manufacturer of the ancillary equipment; (3) the brand of the ancillary equipment (if different from the manufacturer); (4) the model number of the ancillary equipment; (5) the serial number of the ancillary equipment (if applicable); (6) input voltage (if applicable); (7) number of phases (if applicable); (8) input frequency (if applicable); (9) size of any connections (if applicable); and (10) type of any connections (if applicable). 10 CFR 429.63(b)(vii)(A)–(G). A certification report must also include installation instructions for the ancillary equipment, accompanied by photos that clearly illustrate the ancillary equipment, as installed on compressor package, in a PDF. 10 CFR 429.63(b)(vii)(H).

In the September 2023 CCE NOPR, DOE noted that 10 CFR 429.12(a) states that basic models of covered products require annual filings on or before the

dates provided in 10 CFR 429.12(d), but paragraph (d) does not specifically list an annual filing date for compressors. 88 FR 67458, 67486. In light of this omission, DOE proposed to explicitly specify in 10 CFR 429.12(d) that compressors should be recertified annually on or before September 1. *Id.* Because the energy conservation standards for compressors do not take effect until January 10, 2025, DOE noted that this annual reporting requirement would not be in effect until the applicable energy conservation standards are in effect. 88 FR 67458, 67486–67487. DOE requested comment on the proposed annual filing date of September 1 for compressors. 88 FR 67458, 67487.

During the NOPR public meeting, Kaeser Compressors asked if manufacturers have to upload certification reports for all equipment every year on the annual filing date even if the certification reports have not changed. (Kaeser Compressors, Public Meeting Transcript, No. 6 at pp. 49–50)

DOE responded during the NOPR public meeting noting that there is an annual certification requirement for all basic models that are currently in production and being distribution in commerce, as well as reporting of any models that have been discontinued. DOE noted that it was not necessary to retest products or equipment and the same rating that was reported when the model was first introduced into commerce may be used during the annual filing requirement. (DOE, Public Meeting Transcript, No. 6 at p. 50) For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting an annual filing date of September 1 for compressors.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed no changes to the reported information required for compressors when certifying compliance with the standards applicable to compressors manufactured on or after January 10, 2025. 88 FR 67458, 67487. DOE only proposed to specify the annual date by which manufacturers must submit annual certification filings to DOE after the applicable standards take effect. DOE tentatively determined that the proposed amendment would not impose additional costs for manufacturers because no amendments to the certification report contents were proposed in the September 2023 CCE NOPR. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared

to what compressor manufacturers would begin doing prior to the January 10, 2025 compliance date. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for compressors. In this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for compressor manufacturers. As discussed, DOE did not propose and is not adopting any changes to the reported information required for compressors when certifying compliance with the standards applicable to compressors manufactured on or after January 10, 2025. Therefore, compliance with the existing reporting requirements is required on and after January 10, 2025. Annual certification report filing, as established in this final rule, is required annually thereafter on September 1.

R. Dedicated-Purpose Pool Pump Motors

DOE is establishing reporting requirements for DППPMs, which are electric motors that are single-phase or polyphase and are designed and/or marketed for use in dedicated-purpose pool pump (“DППP”) applications, as defined in sections 1.2, 1.3, and 1.4 of UL 1004–10:2020. 10 CFR 431.483. In the final rule published on September 28, 2023 (“September 2023 DППPM Final Rule”), DOE established energy conservation standards for DППPMs. 88 FR 66966. Consistent with that final rule, DOE is establishing the reporting requirements.

1. Reporting

There are currently no reporting requirements for DППPMs. The September 2023 DППPM Final Rule established new energy conservation standards for DППPMs. 88 FR 66966. Therefore, DOE is aligning the reporting requirements with the standards and adopting general certification requirements for DППPMs.

At the time of the September 2023 CCE NOPR, DOE’s proposed reporting requirements for DППPMs were based on the DППPMs energy conservation standards NOPR that published on June 21, 2022 (“June 2022 DППPM NOPR”). 87 FR 37122. The following sections discuss DOE’s proposals from the September 2023 CCE NOPR, which were informed by the June 2022 DППPM NOPR and the September 2023 DППPM Final Rule. DOE discusses these updates in the sections as follows.

a. Motor Total Horsepower, Full-Load Efficiency, and Design Requirements

In the June 2022 DППPM NOPR, DOE proposed performance standards (*i.e.*, full load efficiency) and design requirements (*i.e.*, speed capability) based on DППPM total horsepower (“THP”). 87 FR 37122, 37123–37124. DOE proposed that the standards, if adopted, would apply to all DППPMs manufactured in, or imported into, the United States starting on the date 2 years (or 24 months) after the publication of the final rule for the proposed rulemaking. *Id.*

Further, for DППPMs greater than or equal to 0.5 THP, DOE proposed that DППPMs with freeze protection controls be shipped with the freeze protection feature disabled, or with the following default, user-adjustable settings: (a) the default dry-bulb air temperature setting shall be no greater than 40 °F; (b) the default run time setting shall be no greater than 1 hour (before the temperature is rechecked); and (c) the default motor speed in freeze protection mode shall not be more than half of the maximum operating speed. 87 FR 37122, 37124.

As such, in the September 2023 CCE NOPR, DOE proposed to update the reporting requirements to include product-specific information that would be required to certify compliance with any newly established energy conservation standards. 88 FR 67458, 67487. Accordingly, DOE proposed reporting the DППPM THP, as the THP is required to determine whether the DППPM would need to meet either a performance standard or design requirements. DOE proposed that the represented value of THP should be determined as required at 10 CFR 429.65(c)(1)(v). *Id.*

For DППPMs less than 0.5 THP, DOE proposed reporting performance standard in terms of full load efficiency. DOE proposed using the test procedure in 10 CFR 431.484 to determine full-load efficiency, and to report the represented value of THP as required at 10 CFR 429.65(c)(1)(v). *Id.*

For DППPMs greater than or equal to 0.5 THP, DOE proposed reporting the design requirements as follows:

(1) A statement confirming that the DППPM is variable speed (as defined at 10 CFR 431.483); and

(2) A statement regarding whether freeze protection is shipped enabled or disabled; for DППPMs distributed in commerce with freeze protection controls enabled, DOE proposes reporting the default dry-bulb air temperature setting (in °F), default run time setting (in minutes), maximum

operating speed (in revolutions per minute, or rpm), and default motor speed in freeze protection mode (in revolutions per minute, or rpm). *Id.*

Regarding general certification requirements, DOE proposed that annual filing for DППPM shall be submitted on or before September 1. Further, DOE also proposed that the requirements in 10 CFR 429.12 regarding certification apply to DППPMs. *Id.* DOE requested comment on the proposed reporting requirements for DППPMs. *Id.*

Since publication of the September 2023 CCE NOPR, DOE has published the September 2023 DППPM Final Rule, which adopted the same requirements proposed in the June 2022 DППPM NOPR with one modification, specifically, that DППPMs with a motor total horsepower ≥ 0.5 THP and < 1.15 THP would not be required to comply with energy conservation standards until September 28, 2027, in contrast to required compliance beginning September 29, 2025 for the other two equipment classes. 88 FR 66966.

DOE did not receive any comments regarding the proposed reporting requirement for DППPMs. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR.

b. Rounding Requirements

In the September 2023 CCE NOPR, DOE proposed to specify rounding requirements for values required to determine compliance with the proposed energy conservation standards. 88 FR 67458, 67488. Specifically, DOE proposed that manufacturers round DППPM THP to the nearest hundredth of THP, consistent with industry practice. *Id.* Further, DOE proposed that manufacturers round full load efficiency, expressed in percentage, to the nearest tenth of a percent. *Id.* DOE noted that this was consistent with how the full load efficiency of an electric motor is expressed at 10 CFR 431.25 and 10 CFR 431.446, and these electric motors share test methods with DППPMs. *Id.* Finally, for DППPM basic models with THPs greater than or equal to 0.5 THP and distributed in commerce with freeze protection controls enabled, DOE proposed to round the dry-bulb temperature setting (expressed in °F) run time setting (expressed in minutes), maximum operating speed (expressed in rpm), and default motor speed in freeze protection mode (expressed in rpm) to the nearest whole number. DOE noted that this was consistent with how dry-bulb temperature is expressed in 10 CFR

431.465(h)(1). *Id.* DOE requested comment on the proposed rounding requirements for DPPPMS. *Id.*

Since publication of the September 2023 CCE NOPR, DOE has published the September 2023 DPPPMS Final Rule, which adopted the same requirements as those proposed in the June 2022 DPPPMS NOPR.

DOE did not receive any comments on the proposed rounding requirements for DPPPMS. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the rounding requirements for DPPPMS as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align DPPPMS certification reporting requirements with the energy conservation standard requirements proposed in the June 2022 DPPPMS NOPR for DPPPMS manufactured starting on the date 2 years (24 months) after the date of final rule publication of the energy conservation standard in the **Federal Register**. 88 FR 67458, 67488.

In the September 2023 CCE NOPR, DOE noted that the addition of the proposed reporting requirements for DPPPMS would newly require manufacturers to report performance characteristics of these motors. *Id.* For DPPPMS less than 0.5 THP, full-load efficiency would need to be reported in addition to THP, and for DPPPMS greater than or equal to 0.5 THP, freeze protection status and speed control capability would need to be reported in addition to THP. In the September 2023 CCE NOPR, DOE tentatively concluded that these proposed changes would impose additional cost to manufacturers and importers. *Id.* The estimated costs associated with these changes were described in further detail in section IV.C of the September 2023 CCE NOPR. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for DPPPMS. In this final rule, DOE makes a final determination that the certification reporting costs for DPPPMS are consistent with those estimated in the September 2023 CCE NOPR, updated to current values, and are discussed further in section IV.C of this document. Compliance with these reporting requirements is not required until the compliance date of the new standards.

S. Air Cleaners

DOE is establishing reporting requirements for air cleaners, which

DOE defines as a product for improving indoor air quality, other than a central air conditioner, room air conditioner, portable air conditioner, dehumidifier, or furnace, that is an electrically powered, self-contained, mechanically encased assembly that contains means to remove, destroy, or deactivate particulates, VOCs, and/or microorganisms from the air. It excludes products that operate solely by means of ultraviolet light without a fan for air circulation. 10 CFR 430.2. In a direct final rule published on April 11, 2023 (“April 2023 Air Cleaners DFR”), DOE established new energy conservation standards for air cleaners. 88 FR 21752. Consistent with that direct final rule, DOE is establishing new reporting requirements for air cleaners.

1. Reporting

There are currently no reporting requirements for air cleaners. The April 2023 Air Cleaners DFR established new energy conservation standards for air cleaners. 88 FR 21752. In the April 2023 Air Cleaners DFR, DOE established energy conservation standards based on integrated energy factor (“IEF”), which is determined as the clean air delivery rate (“CADR”) ³⁹ of an air cleaner expressed in terms of PM_{2.5} ⁴⁰ CADR divided by the annual energy consumption divided by the annual active mode hours. 88 FR 21752, 21753–21754. PM_{2.5} CADR is calculated as the geometric mean of smoke CADR and dust CADR. 88 FR 21752, 21762.

Therefore, DOE is establishing reporting and general certification requirements for air cleaners. DOE discusses these updates in the following paragraphs.

In the September 2023 CCE NOPR, DOE proposed to establish reporting requirements for air cleaners at 10 CFR 429.68(b) to include product-specific information that would be required to certify compliance with the newly established energy conservation standards. 88 FR 67458, 67488. DOE

³⁹ Section 3.14 of the industry standard AHAM AC-1–2020 defines CADR as the measure of the delivery of contaminant free air, within a defined particle size range, by an air cleaner, expressed in cubic feet per minute (“cfm”). CADR is the rate of contaminant reduction in the test chamber when the air cleaner is turned on, minus the rate of natural decay when the air cleaner is not running, multiplied by the volume of the test chamber as measured in cubic feet. Note: CADR values are always the measurement of an air cleaner performance as a complete system and have no linear relationship to the air movement per se or to the characteristics of any particle removal methodology.

⁴⁰ 10 CFR part 430, appendix FF defines PM_{2.5} via reference to the industry standard AHAM AC-7–2022, which defines it as particulate matter that are nominally 2.5 micrometers (“µm”) in width or smaller.

proposed that parties must report the smoke CADR, dust CADR, and PM_{2.5} CADR in cfm; annual energy consumption in kWh/yr; and IEF in PM_{2.5} CADR per watt. *Id.* DOE proposed reporting requirements for smoke CADR and dust CADR because these values are used to determine PM_{2.5} CADR. *Id.*

Additionally, in a test procedure final rule published on March 6, 2023 (March 2023 Air Cleaners TP Final Rule), DOE established requirements for determining pollen CADR and effective room size. 88 FR 14014, 14016. In the March 2023 Air Cleaners TP Final Rule, DOE noted that many air cleaners are marketed as providing pollen removal and the ENERGY STAR specification for air cleaners also requires reporting of pollen CADR. DOE stated that it is important that any representation related to an air cleaner’s pollen CADR performance be made based on testing conducted in a repeatable and representative manner. 88 FR 14014, 14034. Accordingly, in the March 2023 Air Cleaners TP Final Rule, DOE referenced the AHAM AC-1–2020 standard to conduct a test to measure pollen CADR. 88 FR 14014, 14035. While DOE has not established any energy conservation standards for pollen, in the September 2023 CCE NOPR, DOE proposed to include a reporting requirement for pollen CADR to ensure that consumers have reliable information when making purchasing decisions. 88 FR 67458, 67488.

Additionally, in the March 2023 Air Cleaners TP Final Rule, DOE established a metric for effective room size because room size would strongly impact the capacity of the air cleaner that would be required to clean the air in the desired room. 88 FR 14014, 14036 and 14038. While DOE has not established any standards pertaining to room size, in the September 2023 CCE NOPR, DOE proposed to include a reporting requirement for effective room size, in square feet, to ensure consumers have reliable information when making purchasing decisions. 88 FR 67458, 67488.

Regarding general certification requirements, DOE proposed that the annual filing for air cleaners shall be submitted on or before December 1. *Id.* Further, DOE proposed that the requirements in 10 CFR 429.12 regarding certification apply to air cleaners. Finally, DOE proposed to add a new paragraph (i)(6) in 10 CFR 429.12 to note the compliance date for air cleaners is December 31, 2023. *Id.*

DOE requested comment on the proposed reporting requirements for air cleaners. *Id.*

Carrier stated its support for DOE's proposal to require reporting of the product-specific information that would be required to certify compliance with the newly established energy conservation standards for air cleaners. (Carrier, No. 12 at p. 3) AHAM commented in support of the inclusion of smoke CADR, dust CADR, and PM_{2.5} CADR for air cleaner certification because smoke CADR and dust CADR are used to calculate PM_{2.5} CADR. AHAM also commented in support of the reporting requirements for annual energy consumption, integrated energy factor, and room size. (AHAM, No. 16 at p. 6) ASAP *et al.* stated their support for DOE's proposed reporting requirements for air cleaners pertaining to smoke CADR, dust CADR, and pollen CADR (if measured). ASAP *et al.* commented that smoke CADR, dust CADR, and pollen CADR are commonly used by manufacturers in marketing these products, and the ENERGY STAR specification for air cleaners has required the reporting of smoke CADR, dust CADR, and pollen CADR since 2011. For these reasons, ASAP *et al.* commented in support of the proposed CADR reporting requirements because ASAP *et al.* noted that such requirements would help ensure that CADR performance claims can be trusted metrics for use by consumers making purchasing decisions. (ASAP *et al.*, No. 14 at pp. 2–3) ASAP *et al.* commented in support of the room size reporting requirement for room air cleaners as the physical dimensions of a room influence the capacity of the air cleaner that would be needed to adequately clean the air in that space, which helps ensure that consumers have appropriate information to make informed purchasing decisions. (ASAP *et al.*, No. 14 at p. 3)

Carrier commented supporting the reporting requirements for pollen CADR and effective room size. (Carrier, No. 12 at p. 3) AHAM commented objecting to the reporting requirement for pollen CADR for air cleaners as part of DOE's information collection. (AHAM, Public Meeting Transcript, No. 6 at p. 52; AHAM, No. 9 at p. 2; AHAM, No. 16 at p. 6) AHAM stated that DOE does not regulate pollen CADR and pollen CADR has no relation to demonstrating compliance with the applicable standard and is therefore outside DOE's approved information collection under PRA. AHAM commented that it is not within the scope of DOE's authority to collect this data, and should manufacturers make pollen-related claims, inaccuracies of such claims fall within the purview of the Federal Trade

Commission. (AHAM, No. 16 at p. 6) AHAM stated that collecting data not necessary to demonstrating compliance with energy conservation standard is outside of DOE's approved information collection under the PRA and that DOE is obligated by the PRA to demonstrate the practical utility of information collected. AHAM argued that pollen CADR does not have practical utility in the context of the currently applicable standards because the information is unnecessary to demonstrate compliance with those standards. (AHAM, No. 16 at pp. 6–7)

In response, DOE established a test procedure for pollen CADR to enable consistent and meaningful representations of metrics most desirable to consumers (88 FR 14014, 14034; 87 FR 63324, 63339). DOE recognizes that pollen CADR is not needed to determine compliance with air cleaner standards. While this metric may help inform consumers making purchasing decisions, DOE is not adopting the proposal from the September 2023 CCE NOPR that pollen CADR be reported to DOE.

During the NOPR public meeting, AHRI questioned if the air cleaners template would have secondary validation for PM_{2.5} CADR based on the values entered for smoke CADR and dust CADR. AHRI noted that templates for some other product and equipment categories do not allow input values to be higher than the value calculated using the formula entered for validation. (AHRI, Public Meeting Transcript, No. 6 at pp. 54–55)

DOE appreciates AHRI's question regarding PM_{2.5} CADR validation based on the values entered for smoke CADR and dust CADR. In this final rule, DOE is only adopting reporting requirements as described for air cleaners. DOE may consider additional validation checks on data submitted in the certification template to identify reporting errors.

ASAP *et al.* noted that the proposed regulatory language for air cleaners refers to "room size", while the test procedure specifies "effective room size." ASAP *et al.* commented encouraging DOE to specify "effective room size" in the regulatory language and the draft certification template to be consistent with the language in the test procedure. (ASAP, *et al.*, No. 14 at p. 3)

DOE agrees that effective room size is the correct language to use and has updated the language in 10 CFR 429.68 to ensure consistency.

AHAM commented that there is a typographical error relating to 10 CFR 429.68(a)(2)(ii), in which the language "equal to the high" should instead have stated "equal to the lower." (AHAM,

No. 16 at p. 7; AHAM, Public Meeting Transcript, No. 6 at p. 55)

DOE agrees that the language in 10 CFR 429.68(a)(2)(ii) includes an error and is correcting the text as suggested by AHAM, consistent with the language used in other product-specific certification requirement sections in 10 CFR 429.

AHAM commented that the September 2023 CCE NOPR did not specify how air cleaners with uninstalled filters should be tested and certified under DOE's certification program. AHAM stated that DOE should add language to ensure consistency with AHAM AC–7–2022,⁴¹ which DOE references, but AHAM noted it is with insufficient specificity. AHAM commented that DOE should incorporate language to harmonize with section 3.6.1 in AHAM AC–7–2022 stating that filters that accompany the product in its package must be installed for energy testing and certification. (AHAM, No. 16 at p. 7)

DOE notes that the air cleaners test procedure at 10 CFR 430, subpart B, appendix FF ("appendix FF") incorporates by reference AHAM AC–7–2022, including section 3.6.1, which specifies that the filters accompanying the product in its package must be installed while conducting energy testing and replacement filters shall be used for the run-in period. As such, this requirement does not need to be specified in the certification reporting requirements since it is a testing provision, and it is adequately specified in the test procedure at appendix FF.

During the NOPR public meeting, AHAM referenced the tolerance on the rated values of CADR and effective room size during enforcement testing. AHAM noted that the CADR values are a reported value, but not a regulated value and the proposed certification requirements state that the mean of the measured CADR values must be reported without applying any tolerance to this value. (AHAM, Public Meeting Transcript, No. 6 at p. 53) In written comments, AHAM additionally commented that for assessment and enforcement testing of air cleaners, DOE should use rated CADR to calculate CADR so long as measured CADR results are within 10 percent of reported results; otherwise, DOE should use measured results. AHAM commented that the 10-percent tolerance value is consistent with AHAM's room air cleaner certification program and based on historical experience and past statistical studies where AHAM found

⁴¹ Energy Test Method for Consumer Room Air Cleaners. AHAM AC–7–2022.

that smoke CADR or dust CADR with 10-percent tolerance was reflective of the within-test and between-product variation of both the air cleaner and its filter(s). AHAM additionally commented that the 10-percent tolerance value has been studied on CADR ranges that would historically have been within ANSI/AHAM AC-1⁴² and are now within AHAM AC-7-2022, and this tolerance will address the variation that occurs in the manufacture and testing of air cleaners. (AHAM, No. 16 at pp. 7–8)

While DOE recognizes that an enforcement provision pertaining to the allowable tolerance on CADR values may be appropriate, DOE has not provided stakeholders an opportunity to provide comment on such a tolerance requirement for smoke CADR and dust CADR; therefore, DOE is not including a CADR tolerance in this rulemaking. DOE may consider including a CADR enforcement tolerance in a future rulemaking.

During the NOPR public meeting, AHRI commented asking when the templates would be available for air cleaners, which has a compliance date starting December 31, 2023. AHRI also asked if there would be an enforcement grace period. (AHRI, Public Meeting Transcript, No. 6 at p. 56) AHAM commented that air cleaner manufacturers are in a precarious position because there is an established energy conservation standard for air cleaners, but the reporting requirements are not yet established. AHAM commented requesting a 180-day lead-in period for air cleaner manufacturers to comply with the certification and enforcement requirements finalized in this rulemaking. AHAM commented that the 180-day period should begin when a final reporting template is available from DOE and the reporting portal is established. AHAM commented encouraging DOE to make a reporting template available immediately upon publication of a final rule. (AHAM, No. 16 at p. 8)

Compliance with the air cleaners standards was required for air cleaners manufactured beginning December 31, 2023. However, DOE recognizes that manufacturers require some lead-in time to familiarize themselves with the new certification template and input relevant data. As a result, DOE is not requiring compliance with the air cleaners reporting requirements until 210 days after publication of this final rule, although manufacturers may choose to

submit certification reports prior to that date.

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting these amendments as proposed in the September 2023 CCE NOPR, with a minor clarification to use the term “effective room size”.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to align air cleaner certification reporting requirements with the energy conservation standard requirements established in the April 2023 Air Cleaners DFR, such that the reporting requirements are applicable to air cleaners manufactured on and after December 31, 2023. 88 FR 67458, 67488.

In the September 2023 CCE NOPR, DOE stated that the addition of the proposed reporting requirements for air cleaners would newly require manufacturers to report this information. DOE stated it tentatively concluded that these proposed reporting requirements would impose additional cost to manufacturers and importers. 88 FR 67458, 67458, 67489. The costs estimated in the September 2023 CCE NOPR associated with the proposed changes were described in further detail in section IV.C of that NOPR. *Id.*

DOE did not receive any comments on the certification and reporting costs associated with the proposed reporting requirements for air cleaners. In this final rule, DOE makes a final determination that the certification reporting costs for air cleaners are consistent with those estimated in the September 2023 CCE NOPR and are discussed in further detail in section IV.C of this document. Compliance with these reporting requirements is not required until 210 days after publication of this final rule.

T. Single Package Vertical Units

DOE is amending the reporting requirements for single package vertical air conditioners (“SPVACs”) and single package vertical heat pumps (“SPVHPs”), collectively referred to as “single package vertical units” (“SPVUs”).

DOE defines an SPVAC as air-cooled commercial package air conditioning and heating equipment that: (1) is factory-assembled as a single package that: (i) has major components that are arranged vertically; (ii) is an encased combination of cooling and optional heating components; and (iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall; (2) is powered by a single-phase or three-phase current; (3) may

contain one or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and (4) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means. 10 CFR 431.92.

Additionally, DOE defines an SPVHP as a single package vertical air conditioner that: (1) uses reverse cycle refrigeration as its primary heat source; and (2) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas. *Id.*

In a test procedure final rule published in the **Federal Register** on December 7, 2022 (“December 2022 SPVU TP final rule”), DOE added definitions for “single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h” and “single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h.” 87 FR 75144, 75167–75168; 10 CFR 431.92. DOE defines this equipment as SPVACs and SPVHPs with a cooling capacity less than 65,000 Btu/h that are either: (1) weatherized, or (2) non-weatherized and have optional ventilation air provisions available with the ability to draw in and condition a minimum of 400 CFM of outdoor air, as determined in accordance with 10 CFR 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment. *Id.*

The Federal test procedures are applicable to SPVUs with a cooling capacity less than 760,000 Btu/h. (42 U.S.C. 6311(8)(D)(ii)) In the December 2022 SPVU TP final rule, DOE incorporated by reference AHRI 390–2021 which maintains the existing efficiency metrics—energy efficiency ratio (“EER”) for cooling mode and coefficient of performance (“COP”) for heating mode—but it also added a seasonal efficiency metric that includes part-load cooling performance—integrated energy efficiency ratio (“IEER”). 87 FR 75144, 75167–75170 (Dec. 7, 2022). In an energy conservation standards NOPR published in the **Federal Register** on December 8, 2022 (“December 2022 SPVU ECS NOPR”), DOE proposed to amend the energy conservation standards for SPVUs to be based on the IEER metric for cooling efficiency (while retaining the COP metric for determining the heating efficiency of SPVHPs). 87 FR 75388, 75421. Consistent with the December 2022 SPVU TP Final Rule and the December 2022 SPVU ECS NOPR, DOE

⁴² Method for Measuring Performance of Portable Household Electric Room Air Cleaners.

is amending the reporting requirements for SPVUs that would be utilized with energy conservation standards denominated in terms of IEER, should DOE adopt such standards.

1. Reporting

Under the existing requirements for SPVACs and SPVHPs in 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi), respectively, manufacturers must report the following information for SPVACs and SPVHPs: the energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h). For SPVHPs, manufacturers must additionally report COP.

These requirements provide for certifying compliance with the applicable standards for SPVUs manufactured on and after September 23, 2019 for units with cooling capacity <65,000 Btu/h, on and after October 9, 2015 for units ≥65,000 Btu/h and <135,000 Btu/h, and on and after October 9, 2016 for units ≥135,000 Btu/h and <240,000 Btu/h. These energy conservation standards for SPVUs are codified in DOE's regulations at 10 CFR 431.97(d)(3). DOE is updating these requirements and aligning the reporting requirements with the amended energy conservation standards proposed in the December 2022 SPVU ECS NOPR. DOE discusses these updates in the sections as follows.

a. Revising Certification Reporting Requirements at 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi) When Certifying SPVUs of All Rated Capacities With IEER Standards

SPVU manufacturers are currently required to certify compliance with EER and, for SPVHPs, COP standards, in addition to the other reported items mentioned previously. In the September 2023 CCE NOPR, DOE proposed certification requirements when certifying compliance of SPVUs of all rated capacities with IEER standards, should such standards be adopted. 88 FR 67458, 67489. Specifically, DOE proposed to include the following at 10 CFR 429.43(b)(2)(v)(B) and (b)(2)(vi)(B) when certifying compliance with an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), the rated cooling capacity in British thermal units per hour (Btu/h), and the rated airflow in standard cubic feet per minute (SCFM). *Id.* Additionally, DOE proposed to include a requirement to certify the coefficient of performance (COP) for SPVHPs at 10 CFR 429.43(b)(2)(vi)(B).

Id. DOE also proposed to move the existing text in 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi) to 10 CFR 429.43(b)(2)(v)(A) and 10 CFR 429.43(b)(2)(vi)(A), respectively. DOE requested comments on its proposed certification requirements for SPVUs of all rated capacities when certifying compliance with IEER standards. *Id.*

AHRI commented that the "Action" field was inadvertently omitted from the draft template and stated that this field is standard for DOE templates and needs to be included in the final version. (AHRI, No. 18 at p. 12) During the NOPR public meeting, AHRI stated that the current template for SPVUs does not have a distinction between weatherized or non-weatherized equipment and added that the certification templates should be published closer to the final rule that actually adopt the changes. (AHRI, Public Meeting Transcript, No. 6 at pp. 62–63) However, in its written comment, AHRI stated that it understands the proposed additional certification requirements for SPVUs are necessary based on the definitions adopted in the test procedure final rule (AHRI, No. 18 at p. 12)

ASAP *et al.* commented by providing the following suggested editorial changes to the regulatory text proposed in the September 2023 CCE NOPR at 10 CFR 429.43(b)(2)(v)(B) and 10 CFR 429.43(b)(2)(vi)(B): removing the word "rate" from "airflow rate of outdoor ventilation air." (ASAP *et al.*, No. 14 at p. 4)

Regarding the proposed regulatory text at 10 CFR 429.43(b)(4)(vii)(B), ASAP *et al.* commented that the draft certification template for SPVACs did not include a field to report the compressor break-in period duration. (ASAP *et al.*, No. 14 at p. 5)

With regards to AHRI's comment that the "Action" field was inadvertently omitted from the draft template, DOE notes that the "Action" column will be included in the final template that is posted for use. With regards to AHRI's comment that there was no distinction in the template for weatherized or non-weatherized, DOE notes that this was included in the draft certification template column headers published along with the September 2023 CCE NOPR in the docket for this rulemaking and that AHRI did not comment on any issues concerning the distinction for weatherized and non-weatherized in its written comment. In reference to ASAP *et al.*'s comment that the template did not include a field to report the break-in period, DOE notes that the proposed requirements would include the compressor break-in period in the supplemental testing instructions.

Finally, with respect to ASAP *et al.*'s recommendation to remove the word "rate" from DOE's proposed language in 10 CFR 429.43, DOE notes that the term "airflow rate" is used throughout AHRI 390–2021, which is the industry test procedure incorporated by reference by DOE for SPVUs. As a result, to prevent confusion and to maintain consistency with the prevailing industry test standard, DOE is maintaining the language as proposed.

Therefore, for the reasons discussed, DOE is adopting this amendment as proposed in the September 2023 CCE NOPR.

b. Additional Certification Reporting Requirements for SPVUs With a Cooling Capacity <65,000 Btu/h

As discussed previously, DOE added definitions at 10 CFR 431.92 for single-phase SPVACs and SPVHPs with a cooling capacity less than 65,000 Btu/h. For non-weatherized equipment, the definition requires these SPVUs to have the capability to draw in and condition up to 400 CFM of outdoor air. The method for determining this outdoor ventilation airflow rate is provided at 10 CFR 429.134(x)(3). In the September 2023 CCE NOPR, DOE proposed to require single-phase SPVAC and SPVHP with cooling capacity less than 65,000 Btu/h to report whether the unit is weatherized or non-weatherized, and if non-weatherized, the amount of outdoor air it is capable of drawing in and conditioning while the equipment is operating with the same drive kit and motor settings used to determine its certified efficiency rating. 88 FR 67458, 67489. DOE noted that these requirements would apply when certifying compliance with energy conservation standards denominated in terms of IEER, should DOE adopt such standards. *Id.* at 88 FR 67489–67490. DOE requested comment on these proposed additional reporting requirements for SPVUs. *Id.*

AHRI commented that it did not oppose DOE's proposed certification requirements for SPVUs of all rated capacities when certifying compliance with IEER standards. (AHRI, No. 18 at p. 12)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting this amendment as proposed in the September 2023 CCE NOPR.

c. Updating Supplemental Testing Instructions for SPVACs and SPVHPs

Manufacturers of SPVUs are currently required to submit Supplemental Testing Instructions ("STIs") regarding additional test instructions if applicable;

if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. 10 CFR 429.43(b)(4)(vi) and (b)(4)(vii). In the September 2023 CCE NOPR, DOE proposed to further specify the information manufacturers must report in their STIs that would enable the independent testing of the relevant equipment to the updated test procedure in terms of IEER, including requirements to report compressor break-in period and outdoor air-side attachments, and aligning with corresponding requirements for CUACs, where appropriate. 88 FR 67458, 67490.

In all, DOE proposed to maintain the current requirements of 10 CFR 429.43(b)(4)(vi) and (b)(4)(vii), but move them to 10 CFR 429.43(b)(4)(vi)(A) and (b)(4)(vii)(A) respectively for EER certification. *Id.* DOE proposed to add new provisions for SPVACs and SPVHPs in 10 CFR 429.43(b)(4)(vi)(B) and (b)(4)(vii)(B) for IEER certification to require: Compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (“SCFM”); frequency or control set points, including the required dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; outdoor air-side attachments used for testing, or any additional applicable testing instructions, are also required. *Id.* Additionally, for SPVHPs, DOE

proposed to add a requirement in 10 CFR 429.43(b)(4)(vii)(B) for the rated airflow in SCFM in heating mode if the unit is designed to operate with different airflow rates for cooling and heating mode. *Id.*

In the September 2023 CCE NOPR DOE noted that the proposed certification requirements provide further direction to the existing requirements and would not result in significant additional burden for manufacturers. *Id.* DOE stated that where it identified specific test-related information, the relevant information is already collected by or available to the manufacturer, and that as such, reporting that information to DOE would result in minimal additional burden. *Id.* DOE requested comment on these proposed requirements. *Id.*

AHRI commented in support of DOE’s proposed supplemental testing instructions requirements for SPVUs when certifying compliance with IEER standards, should such standards be adopted. (AHRI, No. 18 at p. 12)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting this requirement as proposed in the September 2023 CCE NOPR.

d. AEDM Tolerance for IEER

DOE’s existing testing regulations allow the use of an AEDM, in lieu of testing, to simulate the efficiency of SPVUs. 10 CFR 429.43(a). For models certified with an AEDM, results from DOE verification tests are subject to certain tolerances when compared to certified ratings. Currently, DOE specifies a 5-percent tolerance for SPVUs verification tests for both EER and COP, identical to the current tolerance specified for these single-point metrics for other categories of commercial air conditioners and heat pumps. See table 2 to paragraph (c)(5)(vi)(B) at 10 CFR 429.70. For integrated seasonal metrics (i.e., IEER) for other categories of commercial air conditioners and heat pumps, DOE specifies a 10-percent tolerance. See *Id.* In alignment with such tolerances, in the September 2023 CCE NOPR, DOE proposed to specify a 10-percent tolerance for IEER for SPVUs in Table 2 to paragraph (c)(5)(vi)(B) at 10 CFR 429.70. 88 FR 67458, 67490. DOE requested comment on this proposed IEER AEDM tolerance for SPVUs. *Id.*

AHRI commented in support of DOE’s proposal to specify a tolerance of 10 percent for SPVU verification tests for IEER. (AHRI, No. 18 at p. 12)

For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is

adopting this requirement for AEDM tolerances for SPVUs as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 NOPR, DOE proposed to align SPVU certification reporting requirements with the amended energy conservation standards proposed in the December 2022 SPVU ECS NOPR. 88 FR 67458, 67490.

DOE stated that it tentatively determined these proposed amendments would not impose additional costs for manufacturers, because manufacturers of SPVUs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE stated that it did not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what SPVU manufacturers are currently doing. *Id.*

AHRI restated its opposition to what it perceives as the reclassification of SPVUs as CAC/HPs due to the financial impact to manufacturers since this equipment had been tested, rated, marketed, sold, and installed as SPVUs. AHRI commented that manufacturers did not have testing to a different standard readily available and proposed amendments would impose additional costs for manufacturers. AHRI commented this reclassification of SPVUs as CAC/HPs would appreciably change reporting burden or hours as compared to what SPVU manufacturers are currently doing. (AHRI, No. 18 at pp. 12–13)

As discussed in the December 2022 SPVU Test Procedure Final Rule, the new definitions do not reclassify any products; DOE concluded that any products not meeting the SPVU definitions should have been properly classified as consumer products. (See 87 FR 75144, 75147–75152 for more details.) Consequently, DOE disagrees with AHRI’s characterization of this situation, and the Department again concludes that the proposals from the September 2023 NOPR would not alter burden for manufacturers of SPVUs and do not reclassify any models.

Therefore, in this final rule, DOE makes a final determination that these amendments would not cause any measurable change in reporting burden or hours for SPVU manufacturers. Compliance with these amended reporting requirements is not required until the compliance date of amended energy conservation standards denominated in terms of IEER, if adopted.

U. Ceiling Fan Light Kits

DOE is amending the reporting requirements for CFLKs, which DOE defines as equipment designed to provide light from a ceiling fan that can be (1) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or (2) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan. 10 CFR 430.2.

1. Reporting

In 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B), DOE specifies information that must be included in the certification report for each basic model of CFLK manufactured on or after January 21, 2020. These paragraphs specify these requirements “for each basic model of lamp and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit.” On April 10, 2023, DOE published a final rule amending CFLK test procedures (“April 2023 CFLK TP Final Rule”). 88 FR 21061. In the April 2023 CFLK TP Final Rule, to clarify terminology used in the test procedure, DOE replaced the terms “other SSL products” and “integrated SSL circuitry” with, respectively, “consumer-replaceable SSL” and “non-consumer-replaceable SSL” in the CFLK test procedure appendix, 10 CFR 429.33, 10 CFR 430.23(x), and 10 CFR 430.32(s)(6). 88 FR 21061, 21067–21068. Because 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) only specified “integrated SSL circuitry” and omitted “other SSL products,” the April 2023 CFLK TP Final Rule only replaced “integrated SSL circuitry” with “non-consumer-replaceable SSL” and did not include “consumer replaceable SSL,” the replacement term for “other SSL products.” 88 FR 21061, 21072. Hence, CFLKs packaged with consumer-replaceable SSL are inadvertently omitted from this language. In the September 2023 CCE NOPR, DOE proposed to modify this language to include them and read as follows, “for each basic model of lamp, each basic model of consumer-replaceable SSL, and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit.” 88 FR 67458, 67491. DOE stated that this proposed modification to 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) would ensure that all types of CFLKs are explicitly included in certification requirements. *Id.* DOE requested

comment on this proposed modification. *Id.*

ALA commented that it appreciates DOE’s attempt to eliminate confusion created by terminology and definition changes that were finalized in the April 2023 CFLK TP Final Rule. ALA stated it also appreciates that DOE did not change the certification requirements for CFLKs. (ALA, No. 7 at p. 2)

For the reasons discussed in the prior paragraphs and in the September 2023 CCE NOPR, in this final rule DOE is adopting the corrections to 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) for CFLKs as proposed in the September 2023 CCE NOPR.

2. Reporting Costs and Impacts

In the September 2023 CCE NOPR, DOE proposed to correct the existing certification reporting requirements for CFLKs manufactured on or after January 21, 2020. 88 FR 67458, 67491.

In the September 2023 CCE NOPR, DOE tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of CFLKs are already submitting certification reports to DOE and should have readily available the information that DOE was proposing to collect as part of this rulemaking. 88 FR 67458, 67491. DOE stated that it did not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what CFLK manufacturers are currently doing today. *Id.*

AHRI and ALA commented that any changes to a certification template can impact manufacturer burden by increasing administrative work and affecting timing as it relates to certifying and reporting to DOE. (AHRI, Public Meeting Transcript, No. 6 at p. 66; ALA, Public Meeting Transcript, No. 6 at pp. 64–65; ALA, No. 7 at p.1) AHRI further stated that small changes, including changing the text and template number, impact timing. (AHRI, Public Meeting Transcript, No. 6 at pp. 65–66) ALA agreed with DOE that as long as no change is made to the current certification template, there will be no additional costs incurred by manufacturers. (ALA, No. 7 at p.2)

DOE is not planning to issue a revised template version based on the amendments to CFLK certification requirements being adopted in this final rule. Given that DOE is not revising the template, DOE maintains its findings from the September 2023 NOPR that the amendments to CFLK reporting requirements being adopted will not impose additional costs for manufacturers, nor will they cause any

appreciable change in reporting burden or hours as compared to what CFLK manufacturers are currently doing today.

V. General Service Lamps

DOE defines a “general service lamp” as a lamp that has an American National Standards Institute (“ANSI”) base; is able to operate at a voltage of 12 volts or 24 volts, at or between 100 to 130 volts, at or between 220 to 240 volts, or of 277 volts for integrated lamps, or is able to operate at any voltage for non-integrated lamps; has an initial lumen output of greater than or equal to 310 lumens (or 232 lumens for modified spectrum general service incandescent lamps) and less than or equal to 3,300 lumens; is not a light fixture; is not an LED downlight retrofit kit; is used in general lighting applications; and is not one of the 26 lamp types exempted from the definition. (See 10 CFR 430.2 for the full definition.)

On May 9, 2022, DOE published in the **Federal Register** a final rule codifying the 45 lm/W backstop requirement for GSLs that Congress prescribed in amendments to EPCA (“May 2022 GSL Backstop Rule”). 89 FR 27439. In that rule, DOE explained it would issue a separate enforcement policy informed by the comments received in response to the rulemaking. *Id.* at 89 FR 27452. DOE issued a phased-in enforcement policy⁴³ for the GSL backstop requirement. For manufacturers (including importers) and private labelers, the policy set forth: (1) a period of enforcement leniency from the effective date of the final rule that codified the backstop through August 31, 2022; (2) a period of progressive enforcement consisting of warning notices and then reduced penalties from September 1, 2022 through December 31, 2022, and (3) end of enforcement flexibilities January 1, 2023. For distributors and retailers, this timeline was adjusted by seven months, beginning with warning notices in January 2023, progressing to reduced penalties two months later, and culminating in full enforcement in July 2023. On October 14, 2022, DOE issued a guidance document⁴⁴ stating that manufacturers and importers are not currently required to certify compliance to the GSL backstop requirement and that DOE may address the certification requirements for the backstop in a separate, future rulemaking. DOE had previously established reporting

⁴³ See https://www.energy.gov/sites/default/files/2022-04/GSL_EnforcementPolicy_4_25_22.pdf.

⁴⁴ See https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/GSL_Cert_Guidance_Final.pdf.

requirements for GSLs at 10 CFR 429.57 in a test procedure final rule published in the **Federal Register** on October 20, 2016. 81 FR 72493, 72503.

Because DOE has reached the full enforcement phase of the previous enforcement policy as described in the previous paragraph, in this final rule, DOE is clarifying that manufacturers and importers must certify compliance to the backstop requirement for GSLs. As stated, certification and reporting requirements for GSLs can be found at 10 CFR 429.57. DOE is not establishing or amending any regulations regarding GSLs in this final rule, but is clarifying the applicability of the existing regulations in the context of the previous enforcement policy and guidance document. Because the enforcement policy and guidance document are no longer applicable, DOE is rescinding these documents concurrent with this final rule.

Similar to the reporting requirements for other products and equipment established in this final rule, DOE is allowing manufacturers a 210-day transition period after publication of this final rule before certification reports must be submitted to DOE. As stated, the certification and reporting requirements for GSLs currently exist in 10 CFR 429.57. DOE will use enforcement discretion for the 210-day transition period to allow GSL manufacturers time to comply with the existing requirements. Sellers (who are not “manufacturers” under EPCA) will not be required to certify compliance to the backstop requirement for GSLs, but must ensure that GSLs available for sale comply with the energy conservation standards specified at 10 CFR 430.32(dd).

W. Additional Corrections

10 CFR 429.12(i) includes the compliance dates for certain products. Specifically, the instructions state that for any product subject to an applicable energy conservation standard for which the compliance date has not yet occurred, the manufacturer must submit a certification report no later than the compliance date for the applicable energy conservation standard. However, for the covered products currently listed in 10 CFR 429.12(i), the compliance dates for initial certification have already occurred. Accordingly, in the September 2023 CCE NOPR, DOE proposed to remove the covered products and associated compliance dates in 10 CFR 429.12(i)(1)–(5). 88 FR 67458, 67491. DOE also proposed to add three new paragraphs at 10 CFR 429.12(i)(1)–(3) for air cleaners, DPPPMs, and DX–DOASes. *Id.* DOE

noted that initial certification would be required by December 31, 2023 for air cleaners and May 1, 2024 for DX–DOASes, and 24 months after date of publication of a final rule amending DPPP standards for DPPPMS. *Id.*

DOE did not receive any comments on the proposed amendments to 10 CFR 429.12(i). However, DOE notes that since publication of the September 2023 CCE NOPR, DOE published the September 2023 DPPP Final Rule which established a compliance date of September 29, 2025 for DPPPMS <0.5 THP and for DPPPMS ≥1.15 THP and ≤5 THP and a compliance date of September 28, 2027 for DPPPMS ≥0.5 THP and <1.15 THP. Accordingly, in this final rule, DOE is adopting the initial certification date of September 29, 2025 for DPPPMS <0.5 THP and for DPPPMS ≥1.15 THP and ≤5 THP and the initial certification date of September 28, 2027 for DPPPMS ≥0.5 THP and <1.15 THP, consistent with the September 2023 DPPP Final Rule.

Additionally, DOE notes that the December 31, 2023, initial certification date for air cleaners that was proposed in the September 2023 CCE NOPR has now passed. As this subparagraph includes initial certification dates for products subject to an applicable energy conservation standard for which the compliance date has not yet occurred and the compliance date for air cleaners has now occurred, including this initial certification date as proposed could potentially cause confusion. Therefore, DOE is not including the initial certification date for air cleaners in 10 CFR 429.12(i) as proposed in the September 2023 CCE NOPR. As stated in section III.S.2 of this notice, initial certification with the newly adopted certification requirements for air cleaners is not required until 210 days after publication of this final rule.

The initial certification date for DX–DOASes is being finalized as proposed in the September 2023 CCE NOPR.

DOE provides definitions related to the energy efficiency program for certain commercial and industrial equipment in 10 CFR 431.2. In this section, DOE has identified updates needed in two definitions. The definition for “covered equipment” lists covered equipment and notes where the covered equipment term is defined within 10 CFR. The term “Commercial heating, ventilating, and air conditioning, and water heating product (HVAC & WH product)” is included in this list and refers to this term as defined in 10 CFR 431.172. However, this term is defined in 10 CFR 431.2, rather than 10 CFR 431.172. As such, in the September 2023 CCE NOPR, DOE proposed to update the definition

for “covered equipment” to update the reference to the definition for “commercial heating, ventilating, and air conditioning, and water heating product” in 10 CFR 431.2. 88 FR 67458, 67491.

Additionally, the definition of “covered equipment” in 10 CFR 431.2 is intended to reference each equipment type covered within 10 CFR part 431. The current definition does not include all covered equipment types. Therefore, in the September 2023 CCE NOPR, DOE proposed to add these equipment types and their corresponding definition section references within the definition of covered equipment in 10 CFR 431.2. *Id.* Specifically, DOE proposes to add references to: fan or blower, as defined in 10 CFR 431.172; compressor, as defined in 10 CFR 431.342; small electric motor, as defined in 10 CFR 431.442; pump, as defined in 10 CFR 431.462; and dedicated purpose pool pump motor, as defined in 10 CFR 431.483. *Id.*

DOE did not receive any comments on its proposal to amend the definition for “covered equipment” in 10 CFR 431.2. For the reasons discussed in the preceding paragraphs and the September 2023 CCE NOPR, DOE is adopting the amended definition of “covered equipment” in 10 CFR 431.2 as discussed in the September 2023 CCE NOPR.

X. Revised Certification Templates

DOE notes that the Department strives to finalize certification templates as expeditiously as possible, in order to provide certifiers sufficient time to prepare for the compliance dates of any upcoming amended energy conservation standards. The specific templates that must be used for certifying compliance of covered products and equipment to DOE are available for download at www.regulations.doe.gov/ccms/templates.

Y. Effective and Compliance Dates

The effective date for the adopted reporting requirement amendments will be 75 days after publication of this final rule in the **Federal Register**. Submission of the data specified by the amended reporting provisions will be required for the applicable certification reports that are required to be submitted under 10 CFR 429.12 beginning 210 days following publication of this final rule in the **Federal Register**, when certifying compliance with the next annual certification report filing date to occur on or after 210 days following publication of this final rule in the **Federal Register**, or upon the compliance date of any associated

energy conservation standards, as outlined for each product or equipment type in each applicable subsection of section III of this document. However, certification reports may be submitted in accordance with these amended requirements prior to the compliance date if the manufacturer elects to do so.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, “Modernizing Regulatory Review,” 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this final regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (FRFA) for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website: www.energy.gov/gc/office-general-counsel. DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

DOE has concluded that the removal of outdated reporting requirements and the addition of new reporting requirements adopted in this final rule will not impose additional costs for manufacturers of CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, SPVUs, and CFLKs for the reasons discussed in section III of this document. For these products and equipment, DOE has determined that the amendments will not impose additional costs for manufacturers because manufacturers are already submitting certification reports to DOE and should have readily available the information that DOE is requiring as part of this rulemaking. For GSLs, DOE is not changing reporting requirements and only specifying compliance with existing ones. Consequently, for these types of covered products and equipment, the changes in this final rule are not expected to have a significant

economic impact on related entities regardless of size.

For electric pool heaters, no certification is currently required. This final rule is adding reporting requirements to align with the amended energy conservation standards finalized in the May 2023 Pool Heaters Final Rule, which established new and amended energy conservation standards for electric pool heaters. 88 FR 34624. Therefore, electric pool heater manufacturers will incur additional paperwork costs. Consumer pool heaters are classified under NAICS code 333414, “heating equipment (except warm air furnaces) manufacturing.” The SBA sets a threshold of 500 employees or fewer for an entity to be considered as a small business for this category. DOE used publicly available information to identify potential small manufacturers. DOE’s research involved industry trade association membership directories (e.g., AHRI), information from previous rulemakings, individual company websites, and market research tools (e.g., D&B Hoovers reports) to create a list of companies that manufacture consumer pool heaters. DOE also asked stakeholders and industry representatives if they were aware of any additional small manufacturers during manufacturer interviews. DOE reviewed publicly available data and contacted various companies on its complete list of manufacturers to determine whether they met the SBA’s definition of a small business manufacturer. DOE screened out companies that do not offer products impacted by this rulemaking, do not meet the definition of a “small business,” or are foreign-owned and operated. DOE identified 21 companies manufacturing consumer pool heaters covered by this proposed rulemaking. Of these manufacturers, DOE identified six as domestic small businesses. None of these six businesses manufacture gas fired pool heaters. Five manufacture electric heat pump pool heaters and one manufactures electric resistance pool heaters. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of \$73 per hour, the estimated total annual cost to manufacturers would be \$2,555 per manufacturer.⁴⁵ Using available public information, DOE estimated the average

⁴⁵ Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording Keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at omb.report/omb/1910-1400.

annual revenue of the six small businesses. Among the small businesses, the lowest estimated annual revenue was approximately \$259,000—therefore, this additional certification cost of \$2,555 per manufacturer represents less than 1 percent of the identified manufacturer's annual revenue.

Additionally, for DX-DOASes, no certification is currently required. This final rule is adding reporting requirements to align with the new energy conservation standards. 10 CFR 431.97(g). Therefore, DX-DOASes manufacturers will incur additional paperwork costs as well. DX-DOASes are classified under NAICS code 333415,⁴⁶ “Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.” The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. In reviewing the DX-DOAS market, DOE used company websites, marketing research tools, product catalogues, and other public information to identify companies that manufacture DX-DOASes. DOE screened out companies that do not meet the definition of “small business” or are foreign-owned and operated. DOE used subscription-based business information tools to determine headcount, revenue, and geographic presence of the small businesses. DOE identified twelve companies manufacturing DX-DOASes covered by this rulemaking. Of these manufacturers, DOE identified one as a domestic small business. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of \$73 per hour, the estimated total annual cost to manufacturers would be \$2,555 per manufacturer.⁴⁷ DOE understands the annual revenue of the small business that manufactures DX-DOASes to be approximately \$66 million. 87 FR 5560, 5584. Therefore, this additional certification cost of \$2,555 per manufacturer represents significantly less than 1 percent of the identified manufacturer's annual revenue.

⁴⁶ The business size standards are listed by NAICS code and industry description and are available at www.sba.gov/document/support-table-size-standards (last Accessed July 29th, 2021).

⁴⁷ Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at omb.report/omb/1910-1400.

This document also adopts certification reporting requirements for commercial electric instantaneous water heaters, which align with the previously inadvertently omitted energy conservation standards put in place by EPCA and adopted in the October 2023 CWH Final Rule. 88 FR 69686. As a result, commercial electric instantaneous water heater manufacturers will incur additional paperwork costs. CWHs are classified under NAICS code 333310,⁴⁸ “Commercial and Service Industry Machinery Manufacturing.” In 13 CFR 121.201, the SBA sets a threshold of 1,000 employees or fewer for an entity to be considered as a small business for this category. DOE's analysis relied on publicly available databases to identify potential small businesses that manufacture equipment covered in this rulemaking. DOE utilized the California Energy Commission's MAEDbS,⁴⁹ DOE's ENERGY STAR Database,⁵⁰ and DOE's CCD⁵¹ in identifying manufacturers. DOE's research identified nine original equipment manufacturers (“OEMs”) of commercial electric instantaneous water heaters being sold in the U.S. market. Of these nine companies, DOE identified three as domestic small businesses. The small businesses do not currently certify any other CWHs to DOE's Compliance Certification Management System (“CCMS”). DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of \$73 per hour, the estimated total annual cost to manufacturers would be \$2,555 per manufacturer.⁵² Using available public information, DOE estimated the annual revenue for all three small businesses that manufacture commercial electric instantaneous water heaters. The small

⁴⁸ The business size standards are listed by NAICS code and industry description and are available at www.sba.gov/document/support-table-size-standards (last accessed March 7, 2023).

⁴⁹ MAEDbS can be accessed at <https://www.energy.ca.gov/programs-and-topics/programs/appliance-efficiency-program-outreach-and-education/modernized> (last accessed July 15, 2021).

⁵⁰ ENERGY STAR-certified products can be found in the ENERGY STAR database accessed at www.energystar.gov/productfinder/product/certified-commercial-water-heaters/results (last accessed July 15, 2021).

⁵¹ Certified equipment in the CCD are listed by product class and can be accessed at www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A* (last accessed July 15, 2021).

⁵² Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at omb.report/omb/1910-1400.

business with the least annual revenue has an annual revenue of approximately \$10,400,000. Therefore, this additional certification cost of \$2,555 per manufacturer represents significantly less than 1 percent of each identified manufacturer's annual revenue.

For DPPPMS, no certification is currently required. This final rule is adding reporting requirements to align with the energy conservation standards adopted in the September 2023 DPPPMS Final Rule. 88 FR 66966. Therefore, DPPPMS manufacturers will incur additional paperwork costs. DPPPMS are classified under NAICS code 335312, “Motor and Generator Manufacturing.” The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business in this category. DOE screened out companies that do not offer products impacted by this rulemaking, do not meet the definition of a “small business,” or are foreign-owned and operated. DOE identified five companies manufacturing DPPPMS for the domestic market. Of those, DOE determined that one company met the SBA definition of a small business. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports annually. Therefore, based on a fully burdened labor rate of \$73 per hour, the estimated total annual cost to manufacturers would be \$2,555 per manufacturer.⁵³ DOE was able to identify an annual revenue estimate of approximately \$28.2 million for the small business.⁵⁴ Therefore, this additional certification cost of \$2,555 per manufacturer represents significantly less than 1 percent of the identified manufacturer's annual revenue.

This final rule also adds reporting requirements to align with the energy conservation standards established in the April 2023 Air Cleaners DFR, which developed new energy conservation standards for air cleaners. Therefore, air cleaner manufacturers will incur additional paperwork costs. Air cleaners are classified under NAICS code 335210, “Small Electrical Appliance Manufacturing.” The SBA sets a threshold of 1,500 employees or fewer for an entity to be considered as a small business for this category. DOE conducted a market survey to identify

⁵³ Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at omb.report/omb/1910-1400.

⁵⁴ The small business's annual revenue estimate is taken from D&B Hoovers (app.avenion.com).

potential small manufacturers of air cleaners. DOE began its assessment by reviewing Association of Home Appliance Manufacturers' (AHAM's) database⁵⁵ of air cleaners, models in ENERGY STAR V.2.0,⁵⁶ California Air Resources Board,⁵⁷ and individual company websites. DOE then consulted publicly available data, such as manufacturer websites, manufacturer specifications and product literature, and import/export logs (*e.g.*, bills of lading from Panjiva)⁵⁸, to identify OEMs of air cleaners. DOE further relied on public data and subscription-based market research tools (*e.g.*, Dun & Bradstreet reports)⁵⁹ to determine company, location, headcount, and annual revenue. DOE screened out companies that do not offer products covered by this proposed rulemaking, do not meet the SBA's definition of a "small business," or are foreign-owned and operated. DOE initially identified 43 OEMs that sell air cleaners in the United States. Of the 43 OEMs identified, DOE tentatively determined four companies qualify as small businesses and are not foreign-owned and operated. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of \$73 per hour, the estimated total annual cost to manufacturers would be \$2,555 per manufacturer.⁶⁰ Using available public information, DOE estimated the annual revenue for all four small businesses that manufacture air cleaners. The small business with the least annual revenue has an annual revenue of approximately \$1.3 million. Therefore, this additional certification cost of \$2,555 per manufacturer represents significantly less than 1 percent of each identified manufacturer's annual revenue.

⁵⁵ Association of Home Appliance Manufacturers. "Find a Certified Room Air Cleaner." Available at ahamverifyde.org/directory-of-air-cleaners/ (last accessed Jan. 24, 2022).

⁵⁶ Available at data.energystar.gov/Active-Specifications/ENERGY-STAR-Certified-Room-Air-Cleaners/jmck-i55n/data (last accessed May 31, 2022).

⁵⁷ The California Air Resources Board. "List of CARB-Certified Air Cleaning Devices." Available at ww2.arb.ca.gov/list-carb-certified-air-cleaning-devices (last accessed May 31, 2022).

⁵⁸ S&P Global. Panjiva Market Intelligence is available at panjiva.com/import-export/United-States (last accessed May 5, 2022).

⁵⁹ The Dun & Bradstreet Hoovers login is available at app.dnbhoovers.com.

⁶⁰ Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording Keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at omb.report/omb/1910-1400.

DOE reviewed this final rule under provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. On the basis of the forgoing, DOE concludes that the impacts of the amendments to DOE's certification regulations adopted in this final rule will not have a "significant economic impact on a substantial number of small entities," and the preparation of a FRFA is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs,⁶¹ compressors, DPPPMS, air cleaners, SPVUs, CFLKs, and GSLs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, CFLKs, and GSLs. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the PRA. This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, and completing and reviewing the collection of information.

1. Description of the Requirements

DOE is establishing or amending the reporting requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, and CFLKs. For GSLs, DOE is not changing reporting requirements and only specifying compliance with existing ones. DOE has sent a revised information collection approval to OMB under the existing Control Number 1910-1400. The revisions will just reflect the changes finalized in this rulemaking as an amendment to the existing information collection.

2. Method of Collection

DOE is requiring that respondents submit electronic forms using DOE's online CCMS. DOE's CCMS is publicly accessible at www.regulations.doe.gov/ccms/, and includes instructions for users, registration forms, and the product-specific reporting templates required for use when submitting information to CCMS.

3. Data

The following are DOE estimates of the total annual reporting and recordkeeping burden imposed on manufacturers of CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASEs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, and CFLKs subject to the new or amended certification reporting requirements adopted in this final rule. These estimates take into account the time necessary to develop any additional testing documentation, maintain any additional documentation supporting the development of the certified rating for each basic model, complete any additional certification, and submit any additional required documents to DOE electronically.

DOE has determined that these amendments will not impose additional costs for manufacturers of CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and

⁶¹ The certification reporting requirements for portable ACs were established in the January 2020 Portable ACs ECS Final Rule. However, the energy conservation standard for portable ACs does not go into effect until January 2025, until which time manufacturers may optionally submit certification reports to DOE.

ACUHPs, three-phase, less than 65,000 Btu/h VRF, electric storage CWHs, ACIMs, walk-ins, commercial and industrial pumps, compressors, SPVUs, and CFLKs because manufacturers of these products or equipment are already submitting certification reports to DOE and should have readily available the information that DOE is requiring as part of this rulemaking. For GSLs, because DOE is not changing reporting requirements and only specifying compliance with existing ones, manufacturers should have readily available the information that DOE is requiring. Additionally, for portable ACs, manufacturers may optionally submit certification reports to DOE and the costs associated with certification requirements for portable ACs were already accounted for in the January 2020 Portable ACs ECS Final Rule.

DOE's amendments for the reporting requirements for pool heaters will require new certification reporting for electric pool heater manufacturers and importers. DOE estimates there are 18 manufacturers of electric pool heaters that would have to submit annual certification reports to DOE for those products based on the adopted reporting requirements. Of these 18 manufacturers, four make both gas-fired and electric pool heaters. Therefore, 14 do not currently certify gas-fired pool heaters and would be required to begin submitting certification reports for electric pool heaters. The following section estimates the burden for these 14 electric pool heater manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.13.

Type of Review: Regular submission.

Affected Public: Domestic

manufacturers and importers of electric pool heaters covered by this rulemaking.

Estimated Number of Respondents:

14.

Estimated Time per Response:

Certification reports, 35 hours.

Estimated Total Annual Burden

Hours: 490.

Estimated Total Annual Cost to the Manufacturers: \$35,770 in recordkeeping/reporting costs.

DOE's addition of reporting requirements for direct expansion-dedicated outdoor air systems will require new certification reporting for direct expansion-dedicated outdoor air systems. DOE estimates there are 12 manufacturers of direct expansion-dedicated outdoor air systems that would have to submit annual certification reports to DOE for those products based on the adopted reporting requirements. The following section estimates the burden for these 12 direct

expansion-dedicated outdoor air system manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.96.

Type of Review: Regular submission.

Affected Public: Domestic

manufacturers and importers of direct expansion-dedicated outdoor air systems covered by this rulemaking.

Estimated Number of Respondents:

12.

Estimated Time per Response:

Certification reports, 35 hours.

Estimated Total Annual Burden

Hours: 420.

Estimated Total Annual Cost to the Manufacturers: \$30,660 in recordkeeping/reporting costs.

DOE's addition of reporting requirements for commercial electric instantaneous water heaters will require new certification reporting for commercial electric instantaneous water heaters. DOE estimates there are nine manufacturers of commercial electric instantaneous water heaters that would have to submit annual certification reports to DOE for those products based on the adopted reporting requirements. The following section estimates the burden for these nine commercial electric instantaneous water heater manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.43.

Type of Review: Regular submission.

Affected Public: Domestic

manufacturers and importers of commercial electric instantaneous water heater manufacturers covered by this rulemaking.

Estimated Number of Respondents: 9.

Estimated Time per Response:

Certification reports, 35 hours.

Estimated Total Annual Burden

Hours: 315.

Estimated Total Annual Cost to the Manufacturers: \$22,995 in recordkeeping/reporting costs.

DOE's addition of reporting requirements for dedicated-purpose pool pump motors will require new certification reporting for dedicated-purpose pool pump manufacturers and importers. DOE estimates there are five manufacturers of dedicated-purpose pool pump motors that would have to submit annual certification reports to DOE for those products based on the adopted reporting requirements. The following section estimates the burden for these five dedicated-purpose pool pump motor manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.97.

Type of Review: Regular submission.

Affected Public: Domestic

manufacturers and importers of dedicated-purpose pool pump motors covered by this rulemaking.

Estimated Number of Respondents: 5.

Estimated Time per Response:

Certification reports, 35 hours.

Estimated Total Annual Burden

Hours: 175.

Estimated Total Annual Cost to the Manufacturers: \$12,775 in recordkeeping/reporting costs.

DOE's addition of reporting requirements for air cleaners will require new certification reporting for air cleaner manufacturers and importers. DOE estimates that there are 43 manufacturers of air cleaners that would have to submit annual certification reports to DOE for those products based on the adopted reporting requirements. The following section estimates the burden for these 43 air cleaner manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.100.

Type of Review: Regular submission.

Affected Public: Domestic

manufacturers and importers of air cleaners covered by this rulemaking.

Estimated Number of Respondents:

43.

Estimated Time per Response:

Certification reports, 35 hours.

Estimated Total Annual Burden

Hours: 1,505.

Estimated Total Annual Cost to the Manufacturers: \$109,865 in recordkeeping/reporting costs.

4. Conclusion

DOE has concluded that the removal of outdated reporting requirements and the addition of reporting requirements as adopted in this final rule will not impose additional costs for CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, electric storage CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, SPVUs, and CFLKs (see sections III.B.2, III.C.2, III.D.2, III.F.2, III.G.2, III.H.2, III.I.2, III.K.2, III.L.2, III.M.2, III.N.2, III.O.2, III.P.2, III.Q.2, III.T.2, and III.U.2 of this document for a more complete discussion). For GSLs, DOE is not changing reporting requirements and only specifying compliance with existing ones (See section III.V of this document for a more complete discussion). Furthermore, DOE has concluded that there are 14 pool heater manufacturers, 12 DX–DOAS manufacturers, nine CWH manufacturers, five DPPPMM manufacturers, and 43 air cleaner manufacturers that will have to submit new annual certification reports to DOE for those products. For all other manufacturers of covered products or

equipment described in this final rule, the public reporting burden for certification remains unchanged.

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 PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE establishes amended certification, reporting, and labeling requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX-DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, and CFLKs. For GSLs, DOE does not change reporting requirements and only specifies compliance with existing ones. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting amended certification, reporting, and labeling requirements for consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR

13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a

regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at www.energy.gov/gc/office-general-counsel. DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most

disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration

Authorization Act of 1977. (15 U.S.C. 788; “FEAA”) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the FTC concerning the impact of the commercial or industry standards on competition.

The modifications to the certification reporting and labeling requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMS, air cleaners, SPVUs, and CFLKs adopted in this final rule do not incorporate testing methods contained in any commercial standards. For GSLs, in this final rule, DOE is not changing reporting requirements and only specifying compliance with existing reporting requirements.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this final rule prior to its effective date. The report will state that it has been determined that the final rule does not fall within the scope of 5 U.S.C. 804(2).

N. Description of Materials Incorporated by Reference

DOE is removing the existing incorporation by reference of industry standard ANSI/AHAM DW–1–2010 from 10 CFR 429.4 and 429.19. No other changes are being made to materials incorporated by reference.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business

information, Energy conservation test procedures, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on September 19, 2024, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 20, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 431 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.4 [Amended]

■ 2. Amend § 429.4 by removing paragraph (b)(1) and redesignating paragraphs (b)(2) and (3) as paragraphs (b)(1) and (2), respectively.

■ 3. Amend § 429.12 by revising paragraphs (b)(12) and (13), (d), and (i) to read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(b) * * *

(12) If the test sample size is listed as “0” to indicate the certification is based upon the use of an alternate way of determining measures of energy conservation, identify the method used for determining measures of energy conservation (such as “AEDM,” or linear interpolation). Manufacturers of commercial packaged boilers,

commercial water heating equipment, commercial refrigeration equipment, commercial HVAC equipment, central air conditioners and central air conditioning heat pumps, and walk-in coolers and walk-in freezers must

provide the manufacturer's designation (name or other identifier) of the AEDM used; and

(13) Product specific information listed in §§ 429.14 through 429.68.

* * * * *

(d) *Annual filing.* All data required by paragraphs (a) through (c) of this section shall be submitted to DOE annually, on or before the following dates:

TABLE 1 TO PARAGRAPH (d)

Product category	Deadline for data submission
Portable air conditioners	February 1.
Fluorescent lamp ballasts; Compact fluorescent lamps; General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; Candelabra base incandescent lamps and intermediate base incandescent lamps; Ceiling fans; Ceiling fan light kits; Showerheads; Faucets; Water closets; and Urinals.	March 1.
Water heaters; Consumer furnaces; Pool heaters; Commercial water heating equipment; Commercial packaged boilers; Commercial warm air furnaces; Commercial unit heaters; and Furnace fans.	May 1.
Dishwashers; Commercial pre-rinse spray valves; Illuminated exit signs; Traffic signal modules and pedestrian modules; and Distribution transformers.	June 1.
Room air conditioners; Central air conditioners and central air conditioning heat pumps; Commercial heating, ventilating, air conditioning (HVAC) equipment (excluding air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with less than 65,000 British thermal units per hour cooling capacity); and Air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with a cooling capacity of less than 65,000 British thermal units per hour.	July 1.
Consumer refrigerators, refrigerator-freezers, and freezers; Commercial refrigerators, freezers, and refrigerator-freezers; Automatic commercial ice makers; Refrigerated bottled or canned beverage vending machines; Walk-in coolers and walk-in freezers; and Consumer miscellaneous refrigeration products.	August 1.
Torchieres; Dehumidifiers; Metal halide lamp ballasts and fixtures; External power supplies; Pumps; Dedicated-purpose pool pump motors; Compressors; and Battery chargers.	September 1.
Residential clothes washers; Residential clothes dryers; Direct heating equipment; Cooking products; and Commercial clothes washers.	October 1.
Air Cleaners	December 1.

* * * * *

(i) *Compliance dates.* For any product subject to an applicable energy conservation standard for which the compliance date has not yet occurred, a certification report must be submitted not later than the compliance date for the applicable energy conservation standard. The covered products enumerated below are subject to the stated compliance dates for initial certification:

(1) Dedicated-purpose pool pump motors <0.5 total horsepower (THP) and dedicated-purpose pool pump motors ≥1.15 THP and ≤5 THP, September 29, 2025.

(2) Dedicated-purpose pool pump motors ≥0.5 THP and <1.15 THP, September 28, 2027.

(3) Direct expansion-dedicated outdoor air systems, May 1, 2024.

■ 4. Amend § 429.16 by:

■ a. Revising paragraphs (b)(3)(i)(B), (b)(3)(ii)(B), (b)(3)(iii)(A)(2), and (e)(2)(v);

■ b. Adding paragraph (e)(2)(vi); and

■ c. Revising paragraph (e)(4)(iv).

The revisions and addition read as follows:

§ 429.16 Central air conditioners and central air conditioning heat pumps.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) The upper 90 percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{.90} \left(\frac{s}{\sqrt{n}} \right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with $n - 1$ degrees of freedom (from appendix A to this subpart). Round represented values of off-mode power consumption to the nearest watt.

(ii) * * *

(B) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90} \left(\frac{s}{\sqrt{n}} \right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with $n - 1$ degrees of freedom (from

appendix A to this subpart). Round represented values of EER, SEER, HSPF, EER2, SEER2, and HSPF2 to the nearest 0.05.

(iii) * * *

(A) * * *

(2) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90} \left(\frac{s}{\sqrt{n}} \right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with $n - 1$ degrees of freedom (from appendix A to this subpart).

* * * * *

(e) * * *

(2) * * *

(v) For all split systems including outdoor units with no match, the refrigerant; and

(vi) For variable-speed coil only systems; whether the represented value is based on a non-communicating or communicating control system.

* * * * *

(4) * * *

(iv) For blower coil systems, the airflow-control settings associated with full load cooling operation; the airflow-control settings or alternative instructions for setting fan speed to the speed upon which the rating is based; and whether the system varies blower speeds with outdoor air conditions;

* * * * *

■ 5. Amend § 429.19 by revising paragraphs (b)(2) and (3) and adding paragraph (c) to read as follows:

§ 429.19 Dishwashers.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The estimated annual energy use in kilowatt hours per year (kWh/yr), the water consumption in gallons per cycle, and the capacity in number of place settings.

(3) Pursuant to § 429.12(b)(13), a certification report shall include the following additional product-specific information—

(i) The presence of a soil sensor, and if yes, the number of cycles required to reach calibration;

(ii) The water inlet temperature used for testing in degrees Fahrenheit (°F);

(iii) The cycle selected for the energy test and whether that cycle is soil-sensing if testing is performed using appendix C1 to subpart B of part 430 of this chapter and the cycles selected for the sensor heavy response, sensor medium response, and sensor light response and whether these cycles are soil-sensing if testing is performed using appendix C2 to subpart B of part 430 of this chapter;

(iv) The options selected for the energy test if testing is performed using appendix C1 to subpart B of part 430 of this chapter and the options selected for the sensor heavy response, sensor medium response, and sensor light response if testing is performed using appendix C2 to subpart B of part 430 of this chapter;

(v) The average cleaning index for the sensor heavy response, sensor medium response, and sensor light response cycles if testing is performed using appendix C2 to subpart B of part 430 of this chapter (see section 5.1 of appendix C2 for the calculation of per-cycle cleaning index for each test cycle);

(vi) Indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. When certifying dishwashers, other than water re-use dishwashers, according to appendix C1 to subpart B of part 430 of this chapter:

(A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1.

(B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph (b)(3)(vi)(A) of this section.

(vii) The presence of a built-in water softening system, and if yes, the energy use in kilowatt hours and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values;

(viii) Whether the product is a water re-use system dishwasher, and if yes, the energy use in kilowatt hours and water use in gallons required for a drain out event, the energy use in kilowatt hours and water use in gallons required for a clean out event, the number of drain out events per year, the number of clean out events per year, the water fill volume to calculate detergent dosage in gallons, and data and calculations used to derive these values, as applicable; and

(ix) The presence of a built-in reservoir, and if yes, the manufacturer-stated reservoir capacity in gallons, the prewash fill water volume in gallons and the main wash fill water volume in gallons if testing is performed using appendix C1 to subpart B of part 430 of this chapter, and the reservoir water consumption in gallons per cycle.

(c) *Reported values.* Values reported pursuant to this subsection must be rounded as follows:

(1) The represented value of estimated annual energy use to the nearest kilowatt hour per year.

(2) The represented value of water consumption to the nearest 0.1 gallon per cycle.

■ 6. Amend § 429.20 by revising paragraphs (b) and (c) to read as follows:

§ 429.20 Residential clothes washers.

* * * * *

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to residential clothes washers; and

(2) Pursuant to § 429.12(b)(13), a certification report shall contain the following public product-specific information:

(i) For residential clothes washers tested in accordance with appendix J to subpart B of part 430 of this chapter: the energy efficiency ratio (EER) in pounds per kilowatt hour per cycle (lb/kWh/cycle), the water efficiency ratio (WER) in pounds per gallon per cycle (lb/gal/cycle), the clothes container capacity in cubic feet (cu ft), the corrected remaining moisture content (RMC) expressed as a percentage, the type of control system (automatic or semi-automatic), and the type of loading (top-loading or front-loading).

(ii) For residential clothes washers tested in accordance with appendix J2 to subpart B of part 430 of this chapter: the integrated modified energy factor (IMEF) in cu ft/kWh/cycle, the integrated water factor (IWF) in gal/cycle/cu ft, the clothes container capacity in cu ft, the corrected RMC expressed as a percentage, and the type of loading (top-loading or front-loading).

(3) Pursuant to 10 CFR 429.12(b)(13), a certification report must include the following additional product-specific information: a list of all cycle selections comprising the complete energy test cycle for each basic model and the test cloth lot number used for certification testing.

(c) *Reported values.* Values reported pursuant to this subsection must be rounded as follows:

(1) MEF and IMEF to the nearest 0.01 cu ft/kWh/cycle;

(2) WF and IWF to the nearest 0.1 gal/cycle/cu ft;

(3) EER to the nearest 0.01 lb/kWh/cycle;

(4) WER to the nearest 0.01 lb/gal/cycle;

(5) RMC to the nearest 0.1 percentage point; and

(6) Clothes container capacity to the nearest 0.1 cu ft.

■ 7. Amend § 429.24 by:

■ a. Revising paragraph (a)(2) introductory text;

■ b. Adding paragraphs (a)(3) and (4);

■ c. Revising paragraph (b)(2); and

■ d. Adding paragraph (c).

The revisions and additions read as follows:

§ 429.24 Pool heaters.

(a) * * *

(2) For each basic model of pool heater, randomly select and test a

sample of sufficient size to ensure that any represented value of the thermal efficiency or integrated thermal efficiency, as applicable, or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

* * * * *

(3) When certifying integrated thermal efficiency, the represented value for input capacity of a gas-fired pool heater basic model reported in accordance with paragraph (b)(2) of this section must be the mean of the input capacities measured for each tested unit of the basic model, as determined in accordance with the test procedure in appendix P of subpart B of part 430 of this chapter.

(4) When certifying integrated thermal efficiency, the represented value of active electrical power of an electric pool heater basic model reported in accordance with paragraph (b)(2) of this section must be the mean of the electrical power measured for each tested unit of the basic model, as determined in accordance with the test procedure in appendix P of subpart B of part 430 of this chapter.

(b) * * *

(2) Pursuant to § 429.12(b)(13), include in each certification report the following public product-specific information:

(i) For gas-fired pool heaters: the input capacity in British thermal units per hour (Btu/h) and either the thermal efficiency as a percentage (%) (when certifying compliance with the energy conservation standards specified at § 430.32(k)(1) of this chapter) or the integrated thermal efficiency as a percentage (%) (when certifying compliance with the energy conservation standards specified at § 430.32(k)(2) of this chapter), as applicable.

(ii) For electric pool heaters (when certifying compliance with the energy conservation standards specified at § 430.32(k)(2) of this chapter): the integrated thermal efficiency in percent (%) and the active electrical power in British thermal units per hour (Btu/h).

(c) *Reported values.* Round reported values pursuant to this subsection as follows:

(1) Integrated thermal efficiency for gas-fired pool heaters to the nearest tenth of one percent;

(2) Integrated thermal efficiency for electric pool heaters to the nearest one percent;

(3) Input capacity of a gas-fired pool heater to the nearest 1,000 Btu/h; and

(4) Active electrical power of an electric pool heater to the nearest 100 Btu/h.

■ 8. Amend § 429.33 by revising paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(B) to read as follows.

§ 429.33 Ceiling fan light kits.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(A) For each basic model of lamp, each basic model of consumer-replaceable SSL, and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit, the brand, basic model number, test sample size, kind of lamp (*i.e.*, general service fluorescent lamp (GSFL); fluorescent lamp with a pin base that is not a GSFL; compact fluorescent lamp (CFL) with a medium screw base; CFL with a base that is not medium screw base [*e.g.*, candelabra base]; other fluorescent lamp [not GSFL or CFL]; general service incandescent lamp (GSIL); candelabra base incandescent lamp; intermediate base incandescent lamp; incandescent reflector lamp; other incandescent lamp [not GSIL, IRL, candelabra base or intermediate base incandescent lamp]; integrated LED lamp; non-consumer-replaceable SSL; consumer-replaceable SSL [not integrated LED lamps] and other SSL lamps that have an ANSI standard base and are not integrated LED lamps; other lamp not specified), lumen output in lumens (lm), and efficacy in lumens per watt (lm/W).

* * * * *

(3) * * *

(ii) * * *

(B) For each basic model of lamp, each basic model of consumer-replaceable SSL, and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit, a declaration that, where applicable, the lamp basic model was tested by a laboratory accredited as required under § 430.25 of this chapter; and

* * * * *

§ 429.36 [Amended]

■ 9. Amend § 429.36 by:

■ a. Removing paragraph (b)(2)(i);

■ b. Redesignating paragraph (b)(2)(ii) as (b)(2)(i); and

■ c. Adding a reserved paragraph (b)(2)(ii).

■ 10. Amend § 429.37 by revising paragraphs (b)(2) and (3) and (c) to read as follows:

§ 429.37 External power supplies.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) *External power supplies:* The average active mode efficiency as a percentage (%), no-load mode power consumption in watts (W), nameplate output power in watts (W), nameplate output voltage in volts (V), the effective wire gauge in American wire gauge (AWG) and length in feet (ft) of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A) of the basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

(ii) *Switch-selectable single-voltage external power supplies:* The average active mode efficiency as a percentage (%) value, no-load mode power consumption in watts (W) using the lowest and highest selectable output voltages, the lowest and highest selectable output voltages in volts (V), nameplate output power in watts (W), the effective wire gauge in American wire gauge (AWG) and length in feet (ft) of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A).

(iii) *Adaptive single-voltage external power supplies:* The average active-mode efficiency as a percentage (%) at the highest and lowest nameplate output voltages, no-load mode power consumption in watts (W), nameplate output power in watts (W) at the lowest and highest nameplate output voltages, the lowest and highest nameplate output voltages in volts (V), the effective wire gauge in American wire gauge (AWG) and length in feet (ft) of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A) at the highest and lowest nameplate output voltages.

(iv) *External power supplies that are exempt from no-load mode requirements under § 430.32(w)(5) of this chapter:* A statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage (%), the nameplate output power in watts (W), the nameplate output voltage in volts (V), the effective wire gauge in American wire gauge (AWG) and length in feet (ft) of the recommended or included output cord, and, if missing from the nameplate, the certification report must also include the output current in amperes (A) of the

basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

(3) Pursuant to § 429.12(b)(13), a certification report for external power supplies that are exempt from the energy conservation standards at § 430.32(w)(1)(ii) of this chapter pursuant to § 430.32(w)(2) of this chapter must include the following additional information if, in aggregate, the total number of exempt EPSs sold as spare and service parts by the certifier exceeds 1,000 units across all models: The total number of units of exempt external power supplies sold during the most recent 12-calendar-month period ending on July 31, starting with the annual report due on September 1, 2017. The certification report must also include the exact timeframe (*e.g.*, from August 2016 to July 2017) of this most recent 12-calendar-month period.

(c) *Exempt external power supplies.*

(1) For external power supplies that are exempt from energy conservation standards pursuant to § 430.32(w)(2) of this chapter and are not required to be certified pursuant to § 429.12(a) as compliant with an applicable standard, the importer or domestic manufacturer must, no later than September 1, 2017, and annually by each September 1st thereafter, submit a report providing the following information if, in aggregate, the total number of exempt EPSs sold as spare and service parts by the importer or manufacturer exceeds 1,000 units across all models:

- (i) The importer or domestic manufacturer's name and address;
- (ii) The brand name;
- (iii) The number of units sold during the most recent 12-calendar-month period ending on July 31; and
- (iv) The exact timeframe (*e.g.*, from August 2016 to July 2017) of this most recent 12-calendar-month period.

(2) The report must be submitted to DOE in accordance with the submission procedures set forth in § 429.12(h).

■ 11. Amend § 429.39 by:

- a. Revising paragraphs (a)(1), (a)(2)(ii) introductory text, and (a)(2)(iii) introductory text;
- b. Adding paragraphs (a)(2)(v) and (vi);
- c. Revising paragraphs (b)(2) and (3); and
- d. Adding paragraphs (b)(5) and (6).

The revisions and additions read as follows:

§ 429.39 Battery chargers.

(a) * * *

(1) *Represented values* include:

(i) For all battery chargers other than uninterruptible power supplies (UPSs)

tested under appendix Y to subpart B of part 430 of this chapter: The unit energy consumption (UEC) in kilowatt-hours per year (kWh/yr), battery discharge energy (E_{batt}) in watt hours (Wh), 24-hour energy consumption (E_{24}) in watt hours (Wh), maintenance mode power (P_m) in watts (W), standby mode power (P_{sb}) in watts (W), off mode power (P_{off}) in watts (W), and duration of the charge and maintenance mode test (t_{cd}) in hours (hrs);

(ii) For all wired and fixed-location wireless battery chargers other than uninterruptible power supplies (UPSs) tested under appendix Y1 to subpart B of part 430 of this chapter: Battery discharge energy (E_{batt}) in watt hours (Wh), active charge energy (E_a) in watt hours (Wh), maintenance mode power (P_m) in watts (W), no-battery mode power (P_{nb}) in watts (W), standby mode power (P_{sb}) in watts (W), off mode power (P_{off}) in watts (W), and duration of the charge and maintenance mode test (t_{cd}) in hours (hrs);

(iii) For all open-placement wireless battery chargers other than uninterruptible power supplies (UPSs) tested under appendix Y1 to subpart B of part 430 of this chapter: no-battery mode power (P_{nb}) in watts (W);

(iv) For UPSs: average load adjusted efficiency (Eff_{avg}).

(2) * * *

(ii) For each basic model of battery chargers other than UPSs tested under appendix Y to subpart B of part 430 of this chapter, a sample of sufficient size must be randomly selected and tested to ensure that the represented value of UEC is greater than or equal to the higher of:

* * * * *

(iii) For each basic model of battery chargers other than UPSs tested under appendix Y to subpart B of part 430 of this chapter, using the sample from paragraph (a)(2)(ii) of this section, calculate the represented values of each metric (*i.e.*, maintenance mode power (P_m), standby power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), and duration of the charge and maintenance mode test (t_{cd})), where the represented value of the metric is:

* * * * *

(v) For each basic model of battery chargers other than UPSs tested under appendix Y1 to subpart B of part 430 of this chapter, a sample of sufficient size must be randomly selected and tested to ensure that the represented value of E_a for all wired and fixed-location wireless chargers (or the represented value of P_{nb} for all open-placement wireless

chargers) is greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the E_a (or P_{nb} , when applicable) of the i th sample; or,

(B) The upper 97.5-percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{0.975} \left(\frac{s}{\sqrt{n}} \right)$$

and, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.975}$ is the Student's t -Distribution Values for a 97.5-percent one-tailed confidence interval with $n-1$ degrees of freedom (from appendix A to this subpart).

(vi) For each basic model of battery chargers other than UPSs tested under appendix Y1 to subpart B of part 430 of this chapter, using the sample from paragraph (a)(2)(v) of this section, calculate the applicable represented values of each metric (*i.e.*, maintenance mode power (P_m), no-battery mode power (P_{nb}), standby power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), and duration of the charge and maintenance mode test (t_{cd})), where the represented value of the metric is:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the measured value of the i th sample for the metric.

(b) * * *

(2) Pursuant to § 429.12(b)(13), when tested under appendix Y to subpart B of part 430 of this chapter, a certification report must include the following product-specific information for all battery chargers other than UPSs: The nameplate battery voltage of the test battery in volts (V), the nameplate battery charge capacity of the test battery in ampere-hours (Ah), and the nameplate battery energy capacity of the test battery in watt-hours (Wh). A certification report must also include the represented values, as determined in paragraph (a) of this section for the maintenance mode power (P_m), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), duration of the charge and maintenance mode test (t_{cd}), and unit energy consumption (UEC).

(3) Pursuant to § 429.12(b)(13), when tested under appendix Y to subpart B of

part 430 of this chapter, a certification report must include the following product-specific information for all battery chargers other than UPSs: The manufacturer and model of the test battery, and the manufacturer and model, when applicable, of the external power supply.

* * * * *

(5) Pursuant to § 429.12(b)(13), when tested under appendix Y1 to subpart B of part 430 of this chapter, a certification report must include the following product-specific information for all wired and fixed-location wireless battery chargers other than UPSs: The manufacturer and model of the test battery, the manufacturer and model, when applicable, of the external power supply, the nameplate battery voltage of the test battery in volts (V), the nameplate battery charge capacity of the test battery in ampere-hours (Ah), and the nameplate battery energy capacity of the test battery in watt-hours (Wh). A certification report must also include the represented values, as determined in paragraph (a) of this section for the maintenance mode power (P_m), no-battery mode power (P_{nb}), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), active charge energy (E_a), and duration of the charge and maintenance mode test (t_{cd}).

(6) Pursuant to § 429.12(b)(13), when tested under appendix Y1 to subpart B of part 430 of this chapter, a certification report must include the following product-specific information for all open-placement wireless battery chargers other than UPSs: The manufacturer and model, when applicable, of the external power supply. A certification report must also include the represented values, as determined in paragraph (a) of this section for the no-battery mode power (P_{nb}).

■ 12. Amend § 429.43 by:

■ a. Revising the section heading and paragraphs (b)(2)(v), (vi), and (ix);

■ b. Adding paragraphs (b)(2)(xi) and (b)(3)(iii);

■ c. Revising paragraphs (b)(4)(vi) through (viii); and

■ d. Adding paragraphs (b)(4)(x) and (b)(6).

The revisions and additions read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

* * * * *

(b) * * *

(2) * * *

(v) Single package vertical air conditioners:

(A) When certifying compliance with an EER standard: The energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), the rated cooling capacity in British thermal units per hour (Btu/h), and the rated airflow in standard cubic feet per minute (SCFM). For units with rated cooling capacity <65,000 Btu/h: whether the unit is weatherized or non-weatherized; and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with § 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.

(vi) Single package vertical heat pumps:

(A) When certifying compliance with an EER standard: the energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)), and the coefficient of performance (COP), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), and the coefficient of performance (COP), the rated cooling capacity in British thermal units per hour (Btu/h), and the rated airflow in standard cubic feet per minute (SCFM). For units with cooling capacity <65,000 Btu/h: whether the unit is weatherized or non-weatherized; and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with § 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.

* * * * *

(ix) Computer room air-conditioners:

(A) When certifying compliance with a SCOP standard: The net sensible cooling capacity in British thermal units per hour (Btu/h), the net cooling capacity in British thermal units per hour (Btu/h), the configuration (upflow/downflow), economizer presence (yes or no), condenser medium (air, water, or glycol-cooled), sensible coefficient of performance (SCOP), and rated airflow in standard cubic feet per minute (SCFM).

(B) When certifying compliance with an NSenCOP standard: The net sensible cooling capacity in British thermal units per hour (Btu/h), the net total cooling capacity in British thermal units per hour (Btu/h), whether the basic model is split system or single-package, the configuration (downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (yes or no), condenser heat rejection medium (air, water, or glycol-cooled), net sensible coefficient of performance (NSenCOP), rated airflow in standard cubic feet per minute (SCFM), and the refrigerant used to determine the represented values.

* * * * *

(xi) Direct-expansion dedicated outdoor air systems:

(A) When certifying compliance with an ISMRE2 standard: the integrated seasonal moisture removal efficiency 2 (ISMRE2 in lbs. of moisture per kilowatt-hour (lb/kWh)), the rated moisture removal capacity at Standard Rating Condition A according to appendix B to subpart F of part 431 of this chapter (MRC in lbs of moisture per hour (lb/h)), and the rated supply airflow rate for 100 percent outdoor air applications (Q_{SA} in standard cubic feet per minute).

(B) When certifying compliance with an IS COP2 standard: the integrated seasonal coefficient of performance 2 (IS COP2 in Watts of heating per Watts of power input (W/W)).

(C) The configuration of the basic model number (*i.e.*, “single-package” or “split system”) shall also be provided.

(3) * * *

(iii) For direct-expansion dedicated outdoor air systems with ventilation energy recovery systems, method of determination of the exhaust air transfer ratio (EATR), sensible effectiveness, and latent effectiveness of the ventilation energy recovery system (name and version of certified performance modeling software or if the device was directly tested). The test method (*i.e.*, Option 1 or Option 2) for units rated based on testing and motor control settings (including rotational speed) for energy recovery wheels shall also be provided.

(4) * * *

(vi) Single package vertical air-conditioners:

(A) When certifying compliance with an EER standard: Any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of

the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model.

(B) When certifying compliance with an IEER standard: Compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (SCFM); frequency or control set points including the required dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; outdoor air-side attachments used for testing; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; any additional applicable testing instructions, are also required.

(vii) Single package vertical heat pumps:

(A) *When certifying compliance with an EER standard:* Any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model.

(B) *When certifying compliance with an IEER standard:* The rated heating capacity in British thermal units per hour (Btu/h); compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (SCFM) (in cooling mode); rated airflow in SCFM in heating mode if the unit is designed to operate with different

airflow rates for cooling and heating mode; frequency or control set points including the required dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; outdoor air-side attachments used for testing; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; or any additional applicable testing instructions, are also required.

(viii) *Computer room air-conditioners:*

(A) *When certifying compliance with a SCOP standard:* Any additional testing instructions, if applicable; and which, if any, special features were included in rating the basic model.

(B) *When certifying compliance with a NSenCOP standard:* Compressor break-in period duration; frequency or control set points including the required dip switch/control settings for step or variable-speed components (e.g., compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating.

* * * * *

(x) *Direct-expansion dedicated outdoor air systems:*

(A) *For units without ventilation energy recovery systems:* water flow rate in gallons per minute (gpm) for water-cooled and water-source units; rated ESP in inches of water column for the supply air stream; frequency or control

set points for variable-speed components (e.g., compressors, VFDs); required dip switch/control settings for step or variable-speed components (e.g., reheat or head pressure control valves); a statement whether the model will operate at test conditions without manufacturer programming; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and any additional testing instructions specified in appendix B to subpart F of part 431 of this chapter, if applicable (e.g., supply air dry-bulb temperatures for ISMRE2 tests, equipment settings for airflow, installation priority for split-system units, defrost control settings for air-source heat pump units, break-in period, or condenser head pressure controls).

(B) *For units with ventilation energy recovery systems,* the requirements in paragraph (b)(4)(x)(A) of this section apply, in addition to: rated ESP in inches of water column for the return air stream; exhaust air transfer ratio at the rated supply airflow rate and a neutral pressure difference between return and supply airflow (EATR as a percent value); sensible and latent effectiveness of the ventilation energy recovery system at 75 percent of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter; sensible and latent effectiveness of the ventilation energy recovery system at 100 percent of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter; and any additional testing instructions, if applicable (e.g., deactivation of VERS or VERS bypass in accordance with appendix B to subpart F of part 431 of this chapter).

* * * * *

(6) *Basic and individual model numbers.* The basic model number and individual model number(s) required to be reported under § 429.12(b)(6) must consist of the following:

(i) *For computer room air-conditioners:*

TABLE 8 TO PARAGRAPH (b)(6)(i)

Single-package or split system?	Basic model No.	Individual model No(s).	
		1	2
Single-Package	Number unique to the basic model	Package	N/A.
Split System	Number unique to the basic model	Indoor Unit	Outdoor Unit.

(ii) *For direct-expansion dedicated outdoor air systems:*

TABLE 9 TO PARAGRAPH (b)(6)(ii)

Equipment configuration	Basic model No.	Individual model No(s).	
		1	2
Single-Package	Number unique to the basic model	Package	N/A.
Split System	Number unique to the basic model	Outdoor Unit	Indoor Unit.

* * * * *

■ 13. Amend § 429.44 by revising paragraph (c)(2) to read as follows:

§ 429.44 Commercial water heating equipment.

* * * * *

(c) * * *

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public equipment-specific information:

(i) *Commercial electric storage water heaters with measured storage volume less than or equal to 140 gallons:* The standby loss in percent per hour (%/h); whether the rated input rate is greater than 12kW (Yes/No); whether the ratio of input rate per gallon of stored water is less than 4,000 Btu/h/gallon (Yes/No); and the measured storage volume in gallons (gal).

(ii) *Commercial gas-fired and oil-fired storage water heaters with rated storage volume less than or equal to 140 gallons:* The thermal efficiency in percent (%), the standby loss in British thermal units per hour (Btu/h), the rated storage volume in gallons (gal), and the rated input in British thermal units per hour (Btu/h).

(iii) *Commercial water heaters and hot water supply boilers with storage capacity greater than 140 gallons:*

(A) *For gas-fired and oil-fired units:* The thermal efficiency in percent (%); whether the rated storage volume is greater than 140 gallons (Yes/No); whether the tank surface area is insulated with at least R-12.5 (Yes/No); whether a standing pilot light is used (Yes/No); whether the basic model has a fire damper or fan-assisted combustion (Yes/No); and, if applicable, pursuant to § 431.110 of this chapter, the standby loss in British thermal units per hour (Btu/h); the rated storage volume in

gallons (gal); and the rated input in British thermal units per hour (Btu/h).

(B) *For electric units:* whether the rated storage volume is greater than 140 gallons (Yes/No); whether the tank surface area is insulated with at least R-12.5 (Yes/No); whether the rated input is greater than 12kW (Yes/No); whether the ratio of input rate per gallon of stored water is less than 4,000 Btu/h (Yes/No); and, if applicable, pursuant to § 431.110 of this chapter, the standby loss in percent per hour (%/h); and the measured storage volume in gallons (gal).

(iv) *Commercial gas-fired and oil-fired instantaneous water heaters with rated storage volume greater than or equal to 10 gallons and gas-fired and oil-fired hot water supply boilers with rated storage volume greater than or equal to 10 gallons:* The thermal efficiency in percent (%); the standby loss in British thermal units per hour (Btu/h); the rated storage volume in gallons (gal); the rated input in British thermal units per hour (Btu/h); whether the water heater includes a storage tank with a storage volume greater than or equal to 10 gallons (Yes/No). For equipment that does not meet the definition of storage-type instantaneous water heaters (as set forth in 10 CFR 431.102), in addition to the requirements discussed previously in this paragraph (c)(2)(iv), the following must also be included in the certification report: whether the measured storage volume is determined using weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72; whether the water heater will initiate main burner operation based on a temperature-controlled call for heating that is internal to the water heater (Yes/No); whether the water heater is equipped with an integral

pump purge functionality (Yes/No); if the water heater is equipped with integral pump purge, the default duration of the pump off delay (minutes).

(v) *Commercial gas-fired and oil-fired instantaneous water heaters with rated storage volume less than 10 gallons and gas-fired and oil-fired hot water supply boilers with rated storage volume less than 10 gallons:* The thermal efficiency in percent (%); the rated storage volume in gallons (gal), the rated input in British thermal units per hour (Btu/h); and whether the measured storage volume is determined using weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72.

(vi) *Commercial electric instantaneous water heaters with measured storage volume greater than or equal to 10 gallons (excluding storage-type instantaneous water heaters with storage capacity greater than 140 gallons):* The thermal efficiency in percent (%); the standby loss in percent per hour (%/h); whether the rated input is greater than 12kW (Yes/No); whether the ratio of input rate per gallon of stored water is not less than 4,000 Btu/h (Yes/No); the measured storage volume in gallons (gal); and whether the water heater includes a storage tank with a storage volume greater than or equal to 10 gallons (Yes/No). For equipment that does not meet the definition of “storage-type instantaneous water heater” (as set forth in § 431.102 of this chapter), the following must also be included in the certification report: whether the measured storage volume is determined using a weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72; whether the water heater

will initiate heating element operation based on a temperature-controlled call for heating that is internal to the water heater (Yes/No); whether the water heater is equipped with an integral pump purge functionality (Yes/No); and if the water heater is equipped with integral pump purge, the default duration of the pump off delay (minutes).

(vii) *Commercial electric instantaneous water heaters with measured storage volume less than 10 gallons:* The thermal efficiency in percent (%); whether the rated input is greater than 12kW (Yes/No); whether the ratio of input rate per gallon of stored water is not less than 4,000 Btu/h (Yes/No); the measured storage volume in gallons (gal); and whether the measured storage volume is determined using a weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72.

(viii) *Commercial unfired hot water storage tanks:* The thermal insulation (*i.e.*, R-value) and stored volume in gallons (gal).

* * * * *

■ 14. Amend § 429.45 by revising paragraphs (a)(2)(ii) and (b)(2) and adding paragraph (b)(3) to read as follows:

§ 429.45 Automatic commercial ice makers.

- (a) * * *
- (2) * * *

(ii) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.10, where:

$$UCL = \bar{x} - t_{0.95} \left(\frac{s}{\sqrt{n}} \right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the Student's t -Distribution Values for a 95 percent one-tailed confidence interval with $n-1$ degrees of freedom (from appendix A to this subpart).

* * * * *

- (b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The energy use in kilowatt hours per 100 pounds of ice (kWh/100 lb), the condenser water use in gallons per 100 pounds of ice (gal/100 lb), the harvest rate in lb/24 h, the type of cooling, and the equipment type.

(3) For reporting, round harvest rate to the nearest 1 lb/24 h for harvest rates above 50 lb/24 h; round condenser water use to the nearest 1 gal/100 lb; and round energy use to the nearest 0.01 kWh/100 lb.

■ 15. Amend § 429.53 by revising paragraph (b) to read as follows:

§ 429.53 Walk-in coolers and walk-in freezers.

* * * * *

(b) *Certification reports.* (1) The requirements of § 429.12 apply to manufacturers of walk-in cooler and walk-in freezer panels, doors, and refrigeration systems, and;

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information:

(i) For display and non-display doors:

(A) The door type;

(B) R-value of the door insulation (as applicable);

(C) A declaration that the manufacturer has incorporated the applicable design requirements;

(D) For transparent reach-in display doors and windows, the glass type of the doors and windows (*e.g.*, double-pane with heat reflective treatment, triple-pane glass with gas fill);

(E) Power draw of the anti-sweat heater in watts per square foot of door opening;

(F) Door energy consumption in kilowatt-hours per day;

(G) Rated surface area in square feet; and

(H) For doors with anti-sweat heater controls, the range of temperature conditions (in degrees Fahrenheit) and/or relative humidity conditions (in percent, %) at which the anti-sweat heater turns on.

(ii) For panels: The R-value of the insulation.

(iii) For refrigeration systems:

(A) The installed motor's functional purpose (*i.e.*, evaporator fan motor or condenser fan motor), its rated horsepower, and a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor;

(B) The refrigeration system AWEF and net capacity in BTU/h;

(C) The configuration tested for certification (*e.g.*, condensing unit only, unit cooler only, single-packaged dedicated system matched-pair, attached split-system, or detachable single-packaged system);

(D) Whether an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit and, if so, the basic model number for the outdoor dedicated condensing unit; and

(E) Whether the certified basic model meets the definition of a CO₂ unit cooler.

(3) Pursuant to § 429.12(b)(13), a certification report must include the following non-public product-specific

information in addition to the information listed in paragraph (b)(2) of this section:

(i) *For display and non-display doors:*

(A) The rated power of each light, heater wire, and/or other electricity consuming device associated with each basic model of display and non-display door; and whether such device(s) has a timer, control system, or other demand-based control reducing the device's power consumption; and

(B) The conduction load through the door in Btu/h.

(ii) *For refrigeration systems:*

(A) Whether the dedicated condensing system using flooded head pressure controls; and

(B) The compressor break-in period, if used.

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific supplemental information must be consistent with the equipment's installation or operating instructions; include any additional testing and testing set up instructions (*e.g.*, charging instructions) for the basic model; identify all special features that were included in rating the basic model; and include all other information (*e.g.*, any specific settings or controls) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.*, operating manuals and/or installation instructions) for DOE to consider when performing testing under appendix C and appendix C1 to subpart R of part 431.

■ 16. Amend § 429.59 by revising paragraphs (b)(2)(i) through (iii) to read as follows.

§ 429.59 Pumps.

* * * * *

- (b) * * *

- (2) * * *

(i) For a pump subject to the test methods prescribed in section III of appendix A to subpart Y of part 431 of this chapter: PEI_{CL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); calculated driver power input at each load point i (P_i^{in}), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); and for RSV and ST pumps, the number of stages tested.

(ii) For a pump subject to the test methods prescribed in section IV or V

of appendix A to subpart Y of part 431 of this chapter: PEI_{CL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); driver power input at each load point *i* (P_i^{in}), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); whether the PEI_{CL} is calculated or tested; and for RSV and ST pumps, number of stages tested.

(iii) For a pump subject to the test methods prescribed in section VI or VII of appendix A to subpart Y of part 431 of this chapter: PEI_{VL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); driver power input (measured as the input power to the driver and controls) at each load point *i* (P_i^{in}), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); whether the PEI_{VL} is calculated or tested; and for RSV and ST pumps, the number of stages tested.

* * * * *

■ 17. Amend § 429.62 by revising paragraphs (a)(5) and (b)(2) and adding paragraph (b)(3) to read as follows:

§ 429.62 Portable air conditioners.

(a) * * *

(5) The represented value of combined energy efficiency ratio (CEER) or annualized energy efficiency ratio of a basic model must be rounded to the nearest 0.1 British thermal units per Watt-hour (Btu/Wh).

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The CEER in Btu/Wh, the seasonally adjusted cooling capacity in British thermal units per hour (Btu/h), the duct configuration used for testing (single-duct or dual-duct), the ability to operate in both duct configurations (yes or no), presence of heating function, and primary condensate removal feature (auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump).

(3) Pursuant to § 429.12(b)(13), a certification report shall include the following additional public product-specific information: whether the basic model is variable-speed (yes or no), and if yes; the full-load seasonally adjusted cooling capacity (SACC_{Full}), in British thermal units per hour (Btu/h).

■ 18. Amend § 429.65 by adding paragraphs (e) and (f) to read as follows:

§ 429.65 Dedicated-purpose pool pump motors.

* * * * *

(e) *Certification reports for dedicated purpose pool pump motors.* (1) The requirements of § 429.12 apply to dedicated-purpose pool pump motors.

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public, product-specific information for each basic model:

(i) The dedicated-purpose pool pump motor total horsepower as described in paragraph (c)(1)(v) of this section;

(ii) For all basic models with total horsepower less than 0.5 THP, the full-load efficiency in percent (%) as described in this section; and

(iii) For all basic models with total horsepower greater than or equal to 0.5 THP: a statement confirming that the motor is a variable speed control dedicated purpose pool pump motor, as defined at § 431.483 of this chapter; and a statement regarding whether freeze protection is shipped enabled or disabled; for dedicated-purpose pool pump motors distributed in commerce with freeze protection controls enabled: The default dry-bulb air temperature setting (in °F), default run time setting (in minutes), maximum operating speed (in revolutions per minute, or rpm), and default motor speed in freeze protection mode (in revolutions per minute, or rpm).

(f) *Rounding requirements.* (1) Round dedicated-purpose-pool pump motor total horsepower to the nearest hundredth of a THP;

(2) Round full-load efficiency to the nearest tenth of a percent; and

(3) For dedicated-purpose pool pump motor basic models with total horsepower greater than or equal to 0.5 THP and distributed in commerce with freeze protection controls enabled, round the dry-bulb temperature setting, run time setting, maximum operating speed, and default motor speed in freeze protection mode to the nearest whole number.

■ 19. Amend § 429.67 by revising paragraphs (c)(2)(ii)(A)(2), (f)(2), and (f)(3)(i) and (ii) and adding paragraph (f)(4) to read as follows:

§ 429.67 Air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with a cooling capacity of less than 65,000 British thermal units per hour.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) * * *

(2) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{0.90} \left(\frac{s}{\sqrt{n}} \right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with $n - 1$ degrees of freedom (from appendix A to this subpart).

* * * * *

(f) * * *

(2) Pursuant to § 429.12(b)(13), for each individual model (for single-package systems) or individual combination (for split-systems, including outdoor units with no match and “tested combinations” for multi-split, multi-circuit, and multi-head mini-split systems), a certification report must include the following public equipment-specific information:

(i) Commercial package air

conditioning equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with a SEER standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with a SEER2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(ii) Commercial package heating equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with an HSPF standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor (HSPF in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an HSPF2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor 2 (HSPF2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(iii) Air-cooled, three-phase, variable refrigerant flow multi-split air conditioners with a cooling capacity of less than 65,000 Btu/h:

(A) When certifying compliance with a SEER standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with a SEER2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(iv) Air-cooled, three-phase, variable refrigerant flow multi-split heat pumps with a cooling capacity of less than 65,000 Btu/h:

(A) When certifying compliance with an HSPF standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor (HSPF in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an HSPF2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor 2 (HSPF2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(3) * * *

(i) Air cooled commercial package air conditioning equipment with a cooling capacity of less than 65,000 Btu/h (3-phase): The nominal cooling capacity in British thermal units per hour (Btu/h);

rated airflow in standard cubic feet per minute (SCFM) for each fan coil; rated external static pressure in inches of water; refrigeration charging instructions (e.g., refrigerant charge, superheat and/or subcooling temperatures); frequency or control set points for variable speed components (e.g., compressors, VFDs); required dip switch/control settings for step or variable components; a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. Additionally, when certifying compliance with a SEER2 standard, the supplemental information must also include: for models of outdoor units with no match, the following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep.

(ii) *Commercial package heating equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-phase):* The nominal cooling capacity in British thermal units per hour (Btu/h); rated heating capacity in

British thermal units per hour (Btu/h); rated airflow in standard cubic feet per minute (SCFM) for each fan coil; rated external static pressure in inches of water; refrigeration charging instructions (e.g., refrigerant charge, superheat and/or subcooling temperatures); frequency or control set points for variable speed components (e.g., compressors, VFDs); required dip switch/control settings for step or variable components; a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. Additionally, when certifying compliance with an HSPF2 standard, the supplemental information must also include: for models of outdoor units with no match, the following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep.

* * * * *

(4) The basic model number and individual model number(s) required to be reported under § 429.12(b)(6) must consist of the following:

TABLE 2 TO PARAGRAPH (f)(4)

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Single-Package (including Space-Constrained).	Number unique to the basic model.	Package	N/A	N/A.
Single-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit.	Indoor Unit	If applicable—Air Mover (could be same as indoor unit if fan is part of indoor unit model number).
Multi-Split, Multi-Circuit, and Multi-Head Mini-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit.	When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each indoor units paired with the outdoor unit.	If applicable—When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each air movers paired with the outdoor unit.
Outdoor Unit with No Match	Number unique to the basic model.	Outdoor Unit.	N/A	N/A.

■ 20. Amend § 429.68 by revising paragraph (a)(2)(ii) introductory text and adding paragraph (b) to read as follows:

§ 429.68 Air cleaners.

(a) * * *

(2) * * *

(ii) Any represented value of the integrated energy factor or other measure of energy consumption of a

basic mode for which consumers would favor higher values shall be less than or equal to the lower of:

* * * * *

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to air cleaners; and

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) Smoke clean air delivery rate (CADR) in cubic feet per minute (cfm);

(ii) Dust CADR in cfm;

(iii) PM_{2.5} CADR in cfm;

(iv) Annual energy consumption in kilowatt hours per year (kWh/yr);

(v) Integrated energy factor in PM_{2.5} CADR per watt; and

(vi) Effective room size in square feet.

■ 21. Amend § 429.70 by revising table 2 to paragraph (c)(5)(vi)(B) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency and energy use.

* * * * *

(c) * * *

(5) * * *

(vi) * * *

(B) * * *

TABLE 2 TO PARAGRAPH (c)(5)(vi)(B)

Equipment	Metric	Applicable tolerance
Commercial Packaged Boilers	Combustion Efficiency	5% (0.05)
	Thermal Efficiency	5% (0.05)
Commercial Water Heaters or Hot Water Supply Boilers	Thermal Efficiency	5% (0.05)
	Standby Loss	10% (0.1)
Unfired Storage Tanks	R-Value	10% (0.1)
Air-Cooled, Split and Packaged ACs and HPs Greater Than or Equal to 65,000 Btu/h Cooling Capacity and Less Than 760,000 Btu/h Cooling Capacity.	Energy Efficiency Ratio	5% (0.05)
	Energy Efficiency Ratio 2	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Coefficient of Performance 2	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
	Integrated Ventilation, Economizing, and Cooling	10% (0.1)
	Integrated Ventilation and Heating Efficiency	10% (0.1)
Water-Cooled, Split and Packaged ACs and HPs, All Cooling Capacities.	Energy Efficiency Ratio	5% (0.05)
	Energy Efficiency Ratio 2	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
	Integrated Ventilation, Economizing, and Cooling	10% (0.1)
Evaporatively-Cooled, Split and Packaged ACs and HPs, All Capacities.	Energy Efficiency Ratio	5% (0.05)
	Energy Efficiency Ratio 2	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
	Integrated Ventilation, Economizing, and Cooling	10% (0.1)
Water-Source HPs, All Capacities	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Single Package Vertical ACs and HPs	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Packaged Terminal ACs and HPs	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
Variable Refrigerant Flow ACs and HPs (Excluding Air-Cooled, Three-phase with Less Than 65,000 Btu/h Cooling Capacity).	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Computer Room Air Conditioners	Sensible Coefficient of Performance	5% (0.05)
	Net Sensible Coefficient of Performance	5% (0.05)
Direct Expansion-Dedicated Outdoor Air Systems	Integrated Seasonal Coefficient of Performance 2	10% (0.1)
	Integrated Seasonal Moisture Removal Efficiency 2	10% (0.1)
Commercial Warm-Air Furnaces	Thermal Efficiency	5% (0.05)
Commercial Refrigeration Equipment	Daily Energy Consumption	5% (0.05)

* * * * *

■ 22. Amend § 429.72 by revising paragraph (e) to read as follows:

§ 429.72 Alternative methods for determining non-energy ratings.

* * * * *

(e) *Commercial instantaneous water heaters (other than storage-type instantaneous water heaters) and hot water supply boilers.* The storage volume of a commercial instantaneous water heater (other than storage-type instantaneous water heaters) or a hot water supply boiler basic model may be determined by performing a calculation

of the stored water volume based upon design drawings (including computer-aided design (CAD) models) or physical dimensions of the basic model. Any value of storage volume of a basic model reported to DOE in a certification of compliance in accordance with § 429.44(c)(2)(iv) through (vii) must be calculated using the design drawings or physical dimensions or measured as per the applicable provisions in the test procedures in § 431.106 of this chapter. Calculations to determine storage volume must include all water contained within the water heater from

the inlet connection(s) to the outlet connection(s). The storage volume of water contained in the water heater must then be computed in gallons.

* * * * *

■ 23. Amend § 429.134 by adding paragraph (q)(5) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(q) * * *

(5) *Break-in period for refrigeration systems.* DOE will perform a compressor break-in period during assessment or

enforcement testing using a duration specified by the manufacturer, not to exceed 20 hours, only if a break-in period duration is provided in the certification report.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 24. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 25. Amend § 431.2 by revising the definition of “Covered equipment” to read as follows:

§ 431.2 Definitions.

* * * * *

Covered equipment means any commercial heating, ventilating, and air conditioning, and water heating product (HVAC & WH product), as defined in § 431.2; electric motor, as defined in § 431.12; commercial refrigerator, freezer, or refrigerator-freezer, as defined in § 431.62; automatic commercial ice maker, as defined in § 431.132; commercial clothes washer, as defined in § 431.152; fan or blower, as defined in § 431.172; distribution transformer, as defined in § 431.192; illuminated exit sign, as defined in

§ 431.202; traffic signal module or pedestrian module, as defined in § 431.222; unit heater, as defined in § 431.242; commercial prerinse spray valve, as defined in § 431.262; mercury vapor lamp ballast, as defined in § 431.282; refrigerated bottled or canned beverage vending machine, as defined in § 431.292; walk-in cooler and walk-in freezer, as defined in § 431.302; metal halide ballast and metal halide lamp fixture, as defined in § 431.322; compressor, as defined in § 431.342; small electric motor, as defined in § 431.442; pump, as defined in § 431.462; and dedicated purpose pool pump motor, as defined in § 431.483.

* * * * *

■ 26. Amend § 431.305 by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 431.305 Walk-in cooler and walk-in freezer labeling requirements.

(a) * * *

(1) *Required information.* The permanent nameplate of a walk-in cooler or walk-in freezer panel for which standards are prescribed in § 431.306 must be marked clearly with the following information:

- (i) The panel brand or manufacturer;
- (ii) The date of manufacture; and
- (iii) One of the following statements, as appropriate:

(A) “This panel is designed and certified for use in walk-in cooler applications.”

(B) “This panel is designed and certified for use in walk-in freezer applications.”

(C) “This panel is designed and certified for use in walk-in cooler and walk-in freezer applications.”

* * * * *

(b) * * *

(1) *Required information.* The permanent nameplate of a walk-in cooler or walk-in freezer door for which standards are prescribed in § 431.306 must be marked clearly with the following information:

- (i) The door brand or manufacturer;
- (ii) For non-display doors manufactured with foam insulation, the date of manufacture; and
- (iii) One of the following statements, as appropriate:

(A) “This door is designed and certified for use in walk-in cooler applications.”

(B) “This door is designed and certified for use in walk-in freezer applications.”

(C) “This door is designed and certified for use in walk-in cooler and walk-in freezer applications.”

* * * * *

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Part III

Environmental Protection Agency

40 CFR Part 139

Vessel Incidental Discharge National Standards of Performance; Final Rule

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 139****EPA-HQ-OW-2019-0482; FRL-7218-01-OW****RIN 2040-AF92****Vessel Incidental Discharge National Standards of Performance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is promulgating a regulation under the Vessel Incidental Discharge Act that establishes Federal standards of performance for marine pollution control devices for discharges incidental to the normal operation of primarily non-Armed Forces and non-recreational vessels 79 feet in length and above into the waters of the United States or the waters of the contiguous zone. The Federal standards of performance were developed in coordination with the U.S. Coast Guard (USCG) and in consultation with interested Governors. The final standards, once made final, effective, and enforceable through corresponding USCG regulations addressing implementation, compliance, and enforcement, will control the discharge of pollutants from vessels described above and repeal certain existing Federal, State, and local vessel discharge requirements, thus streamlining regulation of such vessel incidental discharges. EPA is also promulgating procedures states must follow if they choose to petition EPA to require the use of an emergency best management practice to address aquatic nuisance species (ANS) or water quality concerns ("emergency order"), to review any standard of performance, regulation, or policy, to request additional requirements with respect to discharges in the Great Lakes, or to apply to EPA to prohibit one or more types of vessel discharges regulated by this rule into specified waters to provide greater environmental protection.

DATES: The effective date of this rule is November 8, 2024. The Federal standards of performance, however, become effective beginning on the date upon which the regulations promulgated by the Secretary pursuant to CWA section 312(p)(5) governing the implementation, compliance, and enforcement of the Federal standards of performance become final, effective, and enforceable. Per CWA section 312(p)(3)(c), as of that date, the

requirements of the VGP and all regulations promulgated by the Secretary pursuant to section 1101 of the NANPCA (16 U.S.C. 4711) (as in effect on December 3, 2018), including the regulations contained in subparts C and D of 33 CFR part 151 and 46 CFR 162.060 (as in effect on December 3, 2018), shall be deemed repealed and have no force or effect. Similarly, as of that same date, any CWA section 401 certification requirement in Part 6 of the VGP, shall be deemed repealed and have no force or effect.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA-HQ-OW-2019-0482. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Oceans, Wetlands, and Communities Division, Office of Water (4504T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564-0768; email address: faulk.jack@epa.gov.

SUPPLEMENTARY INFORMATION: This supplementary information is organized as follows:

- I. Executive Summary
- II. Legal Authority
- III. Background
 - A. Clean Water Act
 - B. Additional U.S. and International Authorities
 - C. Environmental Impacts of Discharges for Which Technology-Based Discharge Standards Are Established by This Rule
 - 1. Aquatic Nuisance Species (ANS)
 - 2. Nutrients
 - 3. Pathogens
 - 4. Oil and Grease
 - 5. Metals
 - 6. Other Pollutants
- IV. Scope of the Regulatory Action
 - A. Waters
 - B. Vessels
 - C. Incidental Discharges
 - D. Emergency and Safety Concerns
 - E. Effective Date
- V. Stakeholder Engagement
 - A. Informational Webinars and Public Listening Sessions
 - B. Consultation and Coordination With States
 - 1. Federalism Consultation and Governors Consultation

- 2. Governor Objections
- VI. Public Comments Received and Agency Responses
- VII. Definitions
- VIII. Final Federal Discharge Standards of Performance
 - A. Discharges Incidental to the Normal Operation of a Vessel—General Standards
 - 1. General Operation and Maintenance
 - 2. Biofouling Management
 - 3. Oil Management
 - B. Discharges Incidental to the Normal Operation of a Vessel—Specific Standards
 - 1. Ballast Tanks
 - 2. Bilges
 - 3. Boilers
 - 4. Cathodic Protection
 - 5. Chain Lockers
 - 6. Decks
 - 7. Desalination and Purification Systems
 - 8. Elevator Pits
 - 9. Exhaust Gas Emission Control Systems
 - 10. Fire Protection Equipment
 - 11. Gas Turbines
 - 12. Graywater Systems
 - 13. Hulls and Associated Niche Areas
 - 14. Inert Gas Systems
 - 15. Motor Gasoline and Compensating Systems
 - 16. Non-Oily Machinery
 - 17. Pools and Spas
 - 18. Refrigeration and Air Conditioning
 - 19. Seawater Piping
 - 20. Sonar Domes
 - C. Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements
 - 1. Identification of Federally-Protected Waters
 - 2. Discharge-Specific Requirements in Federally-Protected Waters
 - D. Discharges Incidental to the Normal Operation of a Vessel—Previous VGP Discharges No Longer Requiring Control
- IX. Procedures for States To Request Changes to Standards, Regulations, or Policy Promulgated by the Administrator
 - A. Petition by a Governor for the Administrator To Establish an Emergency Order or Review a Standard, Regulation, or Policy
 - B. Petition by a Governor for the Administrator To Establish Enhanced Great Lakes System Requirements
 - C. Application by a State for the Administrator To Establish a State No-Discharge Zone
- X. Implementation, Compliance, and Enforcement
- XI. Economic Analysis
- XII. 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 and Safety Risks
 - H. Executive Order 13211: Actions That Concern Regulations That Significantly Affect Energy Supply, Distribution, and Use
 - I. National Technology Transfer and Advancement Act
 - 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)
- XIII. References

I. Executive Summary

Discharges incidental to the normal operation of a vessel, as defined in 33 U.S.C. 1322(a)(12), are referred to as “incidental discharges” or “discharges” in this publication for convenience. Incidental discharges contain pollutants that can adversely impact aquatic ecosystems and human health. Pollutants that may be found in these discharges include aquatic nuisance species (ANS), nutrients, bacteria or pathogens (e.g., *Escherichia coli* and fecal coliform), oil and grease, metals, as well as other toxic, nonconventional, and conventional pollutants (biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease). These pollutants can have wide-ranging environmental and human health consequences that vary in degree depending on the type and number of vessels operating in a waterbody and the nature and extent of the discharge.

The Federal Water Pollution Control Act Amendments of 1972¹ (commonly known as the Clean Water Act (CWA)), the Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA), the Act to Prevent Pollution from Ships (APPS), and several other Federal, State, local, and international authorities have established over time various requirements for both domestic and international vessels. To clarify and streamline existing requirements, in December of 2018, the Vessel Incidental Discharge Act (VIDA) was signed into law. The VIDA established a new CWA section 312(p) titled, “Uniform National Standards for Discharges Incidental to Normal Operation of Vessels.” 33 U.S.C. 1322(p). The VIDA consolidates and restructures the existing regulatory framework applicable to incidental discharges of largely commercial vessels

79 feet in length and above. The VIDA does not apply to incidental discharges from vessels of the Armed Forces, recreational vessels, and floating craft that are permanently moored to a pier. Also, the VIDA does not apply to incidental discharges from small vessels (less than 79 feet in length) or fishing vessels, except for discharges of ballast water. The VIDA requires EPA to establish Federal standards of performance for marine pollution control devices and the USCG to establish corresponding implementing regulations to prevent or reduce the incidental discharge of pollutants from vessels.

More specifically, the new CWA section 312(p)(4)(A)(i) directs the EPA Administrator (“Administrator”) to develop Federal standards of performance, in consultation with interested Governors and with the concurrence of the Secretary of the department in which the USCG is operating (“Secretary”). With limited exceptions, the VIDA requires that the standards be at least as stringent as EPA’s 2013 National Pollutant Discharge Elimination System (NPDES) Vessel General Permit (VGP) requirements established under CWA section 402. *See* 33 U.S.C. 1322(p)(4)(B)(iii) (EPA standards); *id.* (5)(A)(ii) (USCG requirements). The VIDA also requires that the standards be technology-based using a similar approach outlined by the CWA for setting, among other things, effluent limitations guidelines. *Id.* (p)(4)(B)(i). The VIDA directs the USCG to develop corresponding implementation, compliance, and enforcement regulations within two years after EPA publishes the Federal standards of performance. *Id.* (p)(5). The USCG implementing regulations may also include requirements governing the design, construction, testing, approval, installation, and use of devices to achieve the EPA Federal standards of performance. *Id.* (p)(5)(B).

Existing requirements included in EPA’s VGP, as well as the USCG’s existing requirements under section 110 of NANPCA, remain in place until the new EPA and USCG regulations under CWA section 312(p) are final, effective, and enforceable. *Id.* (p)(3). In addition, the VIDA repealed the 2014 EPA NPDES Small Vessel General Permit (sVGP) and established that neither EPA nor the states shall require an NPDES permit for any discharge incidental to the normal operation of a vessel, other than ballast water, from a small vessel or fishing vessel, effective immediately upon the VIDA’s enactment. *Id.* (p)(9)(C)(i).

The final rule establishes both general and specific discharge standards of performance for approximately 85,000 international and domestic non-Armed Forces, non-recreational vessels operating in the waters of the United States or the waters of the contiguous zone. The types of vessels covered under the final rule include but are not limited to public vessels of the United States, fishing vessels (for ballast water discharges only), passenger vessels such as cruise ships and ferries, barges, tugs and tows, offshore supply vessels, mobile offshore drilling units, tankers, bulk carriers, cargo ships, container ships, and research vessels. While most provisions are intended to apply to a wide range of vessels, the VIDA specified that fishing vessels would only be subject to ballast water provisions. *Id.* (p)(2)(B)(i)(III). The requirements are based on, as applicable, best available technology economically achievable, best conventional pollutant control technology, and best practicable technology currently available, including the use of best management practices (BMPs), to prevent or reduce the discharge of pollutants into the waters of the United States or the waters of the contiguous zone. *Id.* (p)(4)(B)(i) and (ii).

The general discharge standards of performance apply to all vessels and incidental discharges covered by the rule, as appropriate, and are organized into three categories: (1) General Operation and Maintenance, (2) Biofouling Management, and (3) Oil Management. 40 CFR 139.4 through 139.6. The general discharge standards of performance require BMPs to minimize the introduction of pollutants from discharges.

The specific discharge standards of performance establish requirements for discharges incidental to the normal operation of a vessel from the following 20 distinct pieces of equipment and systems: ballast tanks; bilges; boilers; cathodic protection; chain lockers; decks; desalination and purification systems; elevator pits; exhaust gas emission control systems; fire protection equipment; gas turbines; graywater systems; hulls and associated niche areas; inert gas systems; motor gasoline and compensating systems; non-oily machinery; pools and spas; refrigeration and air conditioning; seawater piping; and sonar domes. 40 CFR 139.10 through 139.29.

Pursuant to CWA section 312(p), the final discharge standards of performance are at least as stringent as the VGP, with some exceptions discussed below. 33 U.S.C.

¹ The Federal Water Pollution Control Act (FWPCA) is commonly referred to as the CWA following the 1977 amendments to the FWPCA. Public Law 95–217, 91 Stat. 1566 (1977). For ease of reference, the agencies will generally refer to the FWPCA in this notice as the CWA or the Act.

1322(p)(4)(D)(ii). The final standards, however, do not incorporate the VGP requirements verbatim. EPA is promulgating changes to the VGP requirements to transition the permit requirements into regulations that reflect national technology-based standards of performance, to improve clarity, enhance enforceability and implementation, and/or to incorporate new information and technology. In some cases, this results in EPA consolidating or renaming the VGP requirements to comport with the VIDA. The similarities and differences between the requirements in the final discharge standards of performance and the requirements in the VGP can be sorted into three distinct groups.

The first group consists of 13 discharge standards that are substantially the same as the requirements of the VGP: boilers; cathodic protection; chain lockers; decks; elevator pits; fire protection equipment; gas turbines; inert gas systems; motor gasoline and compensating systems; non-oily machinery; pools and spas; refrigeration and air conditioning; and sonar domes. These 13 discharge standards encompass the intent and stringency of the VGP but include other changes to conform the requirements to the VIDA (e.g., extent of regulated waters, consistency across discharge standards, enforceability and legal precision, minor clarifications).

The second group consists of two discharge standards that are consistent but slightly modified from the VGP to moderately increase stringency or provide language clarifications: bilges and desalination and purification systems.

The third group consists of five discharge standards that contain the most significant modifications from the VGP: ballast tanks, exhaust gas emission control systems, graywater systems, hulls and associated niche areas, and seawater piping. In addition, the final rule modifies slightly the VGP requirements as they apply in federally-protected waters for five discharges: chain lockers, decks, hulls and associated niche areas, pools and spas, and seawater piping. These modifications address specific VIDA requirements as well as reflect new information that has become available since the issuance of the VGP.

CWA section 312(p) also directs EPA to establish additional discharge requirements for vessels operating in certain bodies of water. *See* CWA section 312(p)(10)(A) (Great Lakes); *Id.* (p)(10)(C) (Pacific Region); and *Id.* (p)(4)(B) (waters subject to Federal

protection, in whole or in part, for conservation purposes (“federally-protected waters”). These requirements further prevent or reduce the discharge of pollutants into these waterbodies that may contain unique ecosystems, support distinctive species of aquatic flora and fauna, contend with more sensitive water quality issues, or otherwise require greater protection.

Finally, as required under CWA section 312(p), the final rule contains specific procedural requirements for states to petition EPA to establish different discharge standards, issue emergency orders, or establish a complete prohibition of one or more discharges into specified State waters (“no-discharge zones”). 40 CFR 139.50 through 139.52.

II. Legal Authority

EPA promulgates this rule under CWA sections 301, 304, 307, 308, 312, and 501 as amended by the Vessel Incidental Discharge Act. 33 U.S.C. 1311, 1314, 1317, 1318, 1322, and 1361. This final rule fulfills EPA’s obligation under CWA section 312(p) to establish technology-based Federal standards of performance for discharges incidental to the normal operation of primarily non-Armed Forces, non-recreational vessels 79 feet in length and above. This final rule also fulfills EPA’s consent decree obligation to sign (and promptly thereafter transmit to the Office of **Federal Register**) a decision taking final action following notice and comment rulemaking with regard to EPA’s October 26, 2020, proposed rule pertaining to Federal standards of performance for marine pollution control devices for discharges incidental to the normal operation of a vessel under CWA section 312(p)(4)(A)(i), 33 U.S.C. 1322(p)(4)(A)(i) (Vessel Incidental Discharge National Standards of Performance, 85 FR 67818–01 (proposed October 26, 2020)). (Consent Decree, *Center for Biological Diversity, et al. v. Regan, et al.*, Case No. 3:23-cv-535 (N.D. Cal. Dec. 13, 2023)).

Under 33 U.S.C. 1369(b)(4)(A), any interested person may file a petition for review of EPA’s final agency action under 33 U.S.C. 1322(p). Any such petition may be filed only in the United States Court of Appeals for the District of Columbia Circuit. 33 U.S.C. 1369(b)(4)(B).

III. Background

A. Clean Water Act

The CWA’s regulatory regime to control vessel discharges has changed over time. The first sentence of the CWA states, “[t]he objective of [the Act] is to

restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. 1251(a). CWA section 301(a) provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). Among its provisions, the CWA authorizes EPA and other Federal agencies to address the discharge of pollutants from vessels. As such, EPA established regulations to address vessel discharges authorized under CWA section 311 (addressing oil), section 312 (addressing sewage and discharges incidental to the normal operation of a vessel of the Armed Forces), and section 402 (pursuant to which EPA established the VGP).

From 1972 to 2005, EPA vessel regulations were primarily limited to addressing the discharge of oil and sewage under CWA sections 311 and 312, respectively. In December of 2003, a long-standing exclusion of discharges incidental to the normal operation of vessels from the CWA section 402 NPDES permitting program became the subject of a lawsuit in the U.S. District Court for the Northern District of California (*Nw. Env’tl. Advocates v. EPA*, No. C–03–05760–SI, 2005 WL 756614). The lawsuit arose from EPA’s September 2003 denial of a January 1999 rulemaking petition submitted to EPA by parties concerned about the effects of ballast water discharges. Prior to the lawsuit, EPA, through a 1973 regulation, had excluded discharges incidental to the normal operation of vessels from the CWA section 402 permitting program. *See* 38 FR 13528, May 22, 1973. The petition asked the Agency to repeal its regulation at 40 CFR 122.3(a) that excludes certain discharges incidental to the normal operation of vessels from the requirement to obtain an NPDES permit. The petition asserted that vessels are “point sources” requiring NPDES permits for discharges to U.S. waters; that EPA lacks authority to exclude point source discharges from vessels from the NPDES program; that ballast water must be regulated under the NPDES program because it contains invasive plant and animal species as well as other materials of concern (e.g., oil, chipped paint, sediment, and toxins in ballast water sediment); and that enactment of CWA section 312(n) (the Uniform National Discharge Standards) in 1996 demonstrated Congress’s rejection of the exclusion.

In March 2005, the court determined the exclusion exceeded the Agency’s authority under the CWA and subsequently declared in 2006 that

“[t]he blanket exemption for discharges incidental to the normal operation of a vessel, contained in 40 CFR 122.3(a), shall be vacated as of September 30, 2008.” *Nw. Env'tl. Advocates v. EPA*, C 03–05760 SI, 2006 WL 2669042, at *15 (N.D. Cal. Sept. 18, 2006), *aff'd* 537 F.3d 1006 (9th Cir. 2008). Shortly thereafter, Congress enacted two pieces of legislation to exempt discharges incidental to the normal operation of certain types of vessels from the requirement to obtain a permit. The first of these, the Clean Boating Act of 2008 (Pub. L. 110–288, July 28, 2008), amended the CWA to provide that discharges incidental to the normal operation of recreational vessels are not subject to NPDES permitting, and created a new regulatory regime to be implemented by EPA and the USCG under a new CWA section 312(o). The second piece of legislation provided for a temporary moratorium on NPDES permitting for discharges, excluding ballast water, subject to the 40 CFR 122.3(a) exclusion from commercial fishing vessels (as defined in 46 U.S.C. 2101 and regardless of size) and those other non-recreational vessels less than 79 feet in length. S. 3298, Public Law 110–299 (July 31, 2008).

In response to the court decision and the legislation, EPA issued the first VGP in December 2008 for discharges incidental to the normal operation of non-recreational, non-Armed Forces vessels 79 feet in length and above. *See* 73 FR 79473, December 29, 2008. Additionally, in September 2014, EPA issued the sVGP for discharges from non-recreational, non-Armed Forces vessels less than 79 feet in length. *See* 79 FR 53702, September 10, 2014. Upon expiration of the 2008 permit, EPA issued the second VGP in 2013. *See* 78 FR 21938, April 12, 2013.

After the EPA issuance of the VGP under the CWA and the USCG promulgation of regulations under the NANPCA, the vessel community expressed concerns regarding the lack of uniformity, duplication, and confusion associated with the vessel regulatory regime. *See* Errata to S. Rep. No. 115–89 (2019) (“VIDA Senate Report”), at 3–5 (discussing these and similar concerns), available at <https://www.congress.gov/115/crpt/srpt89/CRPT-115srpt89-ERRATA.pdf>. In response, members of Congress introduced various pieces of legislation to modify and clarify the regulation and management of ballast water and other incidental vessel discharges. In December 2018, President Trump signed into law the Frank LoBiondo Coast Guard Authorization Act of 2018, which included the VIDA. Public Law. 115–

282, tit. IX (2018) (codified primarily at 33 U.S.C. 1322(p)). The VIDA restructures the way EPA and the USCG regulate incidental vessel discharges from non-Armed Forces, non-recreational vessels and amended CWA section 312 to include a new subsection (p) titled, “Uniform National Standards for Discharges Incidental to Normal Operation of Vessels.” CWA section 312(p), among other things, immediately repealed EPA’s 2014 sVGP and requires EPA and the USCG to develop new regulations to replace the existing EPA VGP and USCG vessel discharge requirements. *See generally* 33 U.S.C. 1322(p)(9)(C)(i) (repealing sVGP); *id.* (p)(4)(EPA’s regulations); *id.* (p)(5) (USCG’s regulations). The VIDA also specifies that, effective immediately upon enactment of the VIDA, neither EPA nor NPDES-authorized states may require, or in any way modify, a permit under CWA section 402 (NPDES) for any discharge incidental to the normal operation of a vessel subject to regulation under section 312(p) or from a small vessel (less than 79 feet in length) or fishing vessel (of any size). *Id.* (p)(9)(C)(ii).

Specifically, CWA section 312(p)(4) directs the Administrator, with concurrence of the Secretary² and in consultation with interested Governors, to promulgate Federal standards of performance for marine pollution control devices for each type of discharge incidental to the normal operation of non-recreational and non-Armed Forces vessels.³ CWA section 312(p)(5) also directs the Secretary to develop corresponding implementing regulations to govern the implementation, compliance, and enforcement of the Federal standards of performance. Additionally, CWA section 312(p) generally preempts states from establishing more stringent

² Concurrence procedures are governed by 33 U.S.C. 1322(p)(4)(A)(ii). Under those procedures, the Administrator must submit to the Secretary a request for written concurrence with respect to a proposed standard of performance. If the Secretary fails to concur, it does not prevent the Administrator from promulgating standard of performance, but does require the Administrator to respond to the Secretary’s written objections.

³ CWA section 312(b) provides authority for EPA to establish Federal standards of performance for sewage from vessels within the meaning of “sewage” as defined in section 312(a)(6). Thus, the discharge of sewage from vessels, is not included in this CWA section 312(p) rulemaking, except when commingled with other discharges incidental to the normal operation of a vessel, as authorized in CWA section 312(p)(2)(A)(ii). EPA and the USCG regulate sewage from vessels under CWA section 312(b) as codified in 40 CFR part 140 (marine sanitation device standard) and 33 CFR part 159 subparts A through D (requirements for the design, construction, certification, installation, and operation of marine sanitation devices).

discharge standards once the USCG implementing regulations required under CWA section 312(p)(5)(A)–(C) are final, effective, and enforceable. *Id.* (p)(9)(A). The VIDA, however, includes several exceptions to this expressed preemption (33 U.S.C. 1322(p)(9)(A)(ii)–(v); VIDA Senate Report, at 15 (discussing these exceptions)) including a savings clause (33 U.S.C. 1322(p)(9)(A)(vi)) and provisions for states working directly with EPA and/or the USCG to pursue additional requirements such as the establishment of no-discharge zones for one or more incidental discharges (33 U.S.C. 1322(p)(10)(D)). The VIDA also establishes several programs to address invasive species, including the establishment of the “Great Lakes and Lake Champlain Invasive Species Program” research and development program and the “Coastal Aquatic Invasive Species Mitigation Grant Program.”

B. Additional U.S. and International Authorities

During the development of the final rule, EPA reviewed other U.S. laws and international authorities that address discharges incidental to the normal operation of a vessel. Where the requirements established under these authorities are currently being met and implemented, EPA generally considers them to be technologically available and economically achievable as that term is used in the “best available technology economically achievable” control level specified in CWA section 301(b). As appropriate, EPA considered these requirements while developing this final rule.

As expressly provided in the VIDA, this final rule will not affect the requirements for vessels established under any other provision of Federal law. 33 U.S.C. 1322(p)(9)(B). EPA provides a short summary of these U.S. authorities, as well as some international authorities, below.

International Convention for the Prevention of Pollution From Ships, the Act To Prevent Pollution from Ships, and Implementing Regulations

The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) is an international treaty that regulates certain discharges from vessels. MARPOL Annexes regulate different types of vessel pollution; the United States is a party to Annexes I, II, III, V, and VI that address prevention/control of pollution from oil, noxious liquid substances in bulk, harmful substances carried by sea in packaged form, and garbage, and

prevention of air pollution, respectively. MARPOL is primarily implemented in the United States by APPS, 33 U.S.C. 1901 *et seq.* The USCG is the lead agency for APPS implementation and issued implementing regulations primarily found at 33 CFR part 151. Those requirements already apply to many of the vessels covered by the final rule.

APPS regulates the discharge of oil and oily mixtures, noxious liquid substances, and garbage, including food wastes and plastic. With respect to oil and oily mixtures, the USCG regulations at 33 CFR 151.10 prohibit “any discharge of oil or oily mixtures into the sea from a ship” except when certain conditions are met. Exceptions include a discharge oil content of less than 15 parts per million (ppm) and when the ship operates oily water separating equipment, a bilge monitor, a bilge alarm, or a combination thereof.

Substances regulated as noxious liquid substances under APPS are divided into four categories based on their potential to harm marine resources and human health. Under 46 CFR 153.1128, discharges of noxious liquid substances residues at sea may only take place at least 12 nautical miles (NM) from the nearest land, among other requirements. Because discharges at least 12 NM from the nearest land are outside the geographic scope of the VIDA, the final rule does not affect the requirements for vessels established under 46 CFR 153.1128 pursuant to APPS.

MARPOL Annex III addresses harmful substances in packaged form and is implemented in the United States by the Hazardous Materials Transportation Authorization Act of 1994, as amended (49 U.S.C. 5901 *et seq.*), and regulations appearing at 46 CFR part 148 and 49 CFR part 176. The regulatory provisions establish labeling, packaging, and stowage requirements for such materials to help avoid accidental loss or spillage during transport. The final rule does not regulate loss or spillage of transported materials; however, the final rule establishes BMPs to help reduce or prevent the loss of materials and debris overboard.

Oil Pollution Act (33 U.S.C. 2701 *et seq.*)

The Oil Pollution Act of 1990 and the associated USCG implementing regulations at 33 CFR parts 155 and 157 also address oil and oily mixture discharges from vessels. These USCG regulations establish and reinforce the 15 ppm discharge standard under APPS for oil and oily mixtures for seagoing ships and require most vessels to have

an oily water separator. Oceangoing vessels of less than 400 gross tonnage (GT) must either have an approved oily water separator or retain oily water mixtures on board for disposal to an approved reception facility onshore. Oceangoing vessels of 400 GT and above, but less than 10,000 GT, except vessels that carry ballast water in their fuel oil tanks, must be fitted with “approved 15 parts per million (ppm) oily-water separating equipment for the processing of oily mixtures from bilges or fuel oil tank ballast.” 33 CFR 155.360(a)(1). Oceangoing ships of 10,000 gross tonnage and above and oceangoing ships of 400 gross tonnage and above that carry ballast water in their fuel oil tanks, must be fitted with approved 15 ppm oily water separating equipment for the processing of oily mixtures from bilges or fuel oil tank ballast, a bilge alarm, and a means for automatically stopping any discharge of oily mixture when the oil content in the effluent exceeds 15 ppm. 33 CFR 155.370. 33 CFR part 155 also references oil containment and cleanup equipment and procedures for preventing and reacting to oil spills and discharges. The final rule is consistent with the existing requirements for fuel and oil established under the Oil Pollution Act and APPS and does not otherwise affect the requirements for vessels established under these Acts.

Clean Water Act Section 311 (33 U.S.C. 1321)

CWA section 311, the Oil and Hazardous Substances Liability Act, states that it is a policy of the United States that there should be no discharges of oil or hazardous substances into the waters of the United States, adjoining shorelines, and certain specified areas, except where permitted under Federal regulations (e.g., the NPDES program). As such, the Act prohibits the discharge of oil or hazardous substances into these areas in such quantities as may be harmful. Further, the Act states that the President shall, by regulation, determine those quantities of oil and any hazardous substances that may be harmful if discharged. EPA defines the discharge of oil in such quantities as may be harmful as those that violate applicable water quality standards or “cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.” 40 CFR 110.3. Sheen is clarified to mean “an iridescent appearance on the surface of the water.” 40 CFR 110.1. The final rule prohibits the discharge of oil,

including oily mixtures, in such quantities as may be harmful. 40 CFR 139.56(c).

Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*).

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regulates the distribution, sale, and use of pesticides. One of the primary components of FIFRA requires the registration and labeling of all pesticides sold or distributed in the United States, ensuring that, if pesticides are used in accordance with the specifications on the label, they will not cause unreasonable adverse effects on humans or the environment. The final rule reiterates the VGP requirement that any registered pesticide must be used in accordance with its FIFRA label for all activities that result in a discharge into the waters of the United States or the waters of the contiguous zone. 40 CFR 139.4(b)(5)(iii). The final rule does not negate the requirements under FIFRA and its implementing regulations to use registered pesticides consistent with the product’s labeling. In fact, the discharge of pesticides used in violation of certain FIFRA requirements incorporated into this rule is also a violation of these standards, and therefore a violation of the CWA (e.g., exceeding hull coating application rates).

National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.* and Implementing Regulations Found at 15 CFR Part 922 and 50 CFR Part 404)

The National Marine Sanctuaries Act (NMSA) authorizes the designation and management of National Marine Sanctuaries to protect marine resources with conservation, education, historical, scientific, and other special qualities. Under NMSA, additional restrictions and requirements may be imposed on vessel operators that operate in and around National Marine Sanctuaries. Consistent with the VGP, the final rule establishes additional restrictions and requirements for certain discharges for vessels that operate in and around National Marine Sanctuaries as these areas are included in the definition of “federally-protected waters” in the final rule and listed in appendix A of part 139. Pursuant to CWA sections 312(p)(9)(B) and (E), discharge requirements established by regulations promulgated by the Secretary of Commerce under the National Marine Sanctuaries Act would continue to apply to waters under the control of the Secretary of Commerce (e.g., National Marine Sanctuaries), in addition to the standards and requirements established in this final rule.

C. Environmental Impacts of Discharges for Which Technology-Based Discharge Standards Are Established by This Rule

While the VIDA requires EPA to establish technology-based standards, which do not consider the effects on receiving water quality (as discussed in greater detail in section VIII., *Final Federal Discharge Standards of Performance*), EPA is presenting to the public information about the following pollutants found in vessel discharges: ANS, nutrients, pathogens, oil and grease, metals, toxic and nonconventional pollutants with toxic effects, and other nonconventional and conventional pollutants. Information regarding water-quality impacts of these discharges and associated pollutants were not considered in the development of Federal standards of performance representing best available technology economically achievable, as established in this rule. EPA presents this information because the public may be interested in it and it informs the Economic Analysis that characterizes the potential benefits associated with this rule.

Discharges incidental to the normal operation of vessels can have significant adverse impacts on aquatic ecosystems and other potential impacts such as to human health through contamination of food from aquaculture/shellfish harvesting areas through the addition of pollutants. The adverse environmental impacts vary considerably based on the type and number of vessels, the size and location of the port or marina, and the condition of the receiving waters. These adverse impacts are more likely to occur when there are significant numbers of vessels operating in receiving waters with limited circulation or if the receiving waters are already impaired. As a result of this variation, protecting U.S. waters from vessel-related activities poses unique challenges for local, State, and Federal Governments.

1. Aquatic Nuisance Species (ANS)

ANS, which can include invasive plants, animals, and pathogens, are a persistent problem in U.S. coastal and inland waters. The VIDA specifically includes ANS in the category of nonconventional pollutants to be regulated through the application of best available technology and best practicable technology. 33 U.S.C. 1322(p)(4)(B)(i).

ANS may be incidentally discharged or released from a vessel's operations through a variety of vessel systems and equipment, including but not limited to ballast water, sediment from ballast tanks, vessel hulls and appendages,

seawater piping, chain lockers, and anchor chains. ANS pose severe threats to aquatic ecosystems, including outcompeting native species, damaging habitat, changing food webs, and altering the chemical and physical aquatic environment. Furthermore, ANS can have profound and wide-ranging socioeconomic impacts, such as damage to recreational and commercial fisheries, infrastructure, and water-based recreation and tourism. Once established, it is extremely challenging and costly to remove ANS and remediate the impacts. It has become even more critical to control discharges of ANS from vessel systems and equipment with the increase in vessel traffic due to globalization and increased trade.

2. Nutrients

Nutrients, including nitrogen, phosphorus, and other micro-nutrients, are constituents of incidental discharges from vessels. Though often associated with discharges from sewage treatment facilities and other sources such as runoff from agricultural and urban stormwater sources, nutrients are also discharged from vessel sources such as runoff from deck cleaning, graywater, and bilgewater.

Increased nutrient discharges from anthropogenic sources are a major source of water quality degradation throughout the United States (U.S. Geological Survey, 1999). Generally, nutrient over-enrichment of waterbodies adversely impacts biological diversity, fisheries, and coral reef and seagrass ecosystems (National Research Council, 2000). One of the most notable effects of nutrient over-enrichment is the excess proliferation of plant life and ensuing eutrophication. A eutrophic system has reduced levels of dissolved oxygen and increased turbidity which can lead to changes in the composition of aquatic flora and fauna. Such conditions also fuel harmful algal blooms, which can have significant adverse impacts on human health as well as aquatic life (National Research Council, 2000; Woods Hole Oceanographic Institute, 2007).

3. Pathogens

Pathogens—those bacteria, viruses, and other microorganisms that can cause disease—can be found in discharges from vessels, particularly in graywater and ballast water discharges. Discharges of pathogens into waterbodies can adversely impact local ecosystems, fisheries, and human health. Pathogens found in untreated graywater are similar to, and in some cases may have a higher concentration than, domestic sewage

entering land-based wastewater treatment plants (U.S. EPA, 2008; 2011d). Specific pathogens of concern found in graywater include *Salmonella* spp., *Escherichia coli*, enteroviruses, hepatitis, and pathogenic protists (National Research Council, 1993). Additional pathogen discharges have also been associated with ballasting operations, including *Escherichia coli*, intestinal enterococci, *Vibrio cholerae*, *Clostridium perfringens*, *Salmonella* spp., *Cryptosporidium* spp., *Giardia* spp., and a variety of viruses (Knight et al., 1999; Reynolds et al., 1999; Zo et al., 1999). Pathogens can potentially be transported in unfilled ballast water tanks (Johengen et al., 2005). Under the VIDA, bacterial and viral pathogens can qualify as “aquatic nuisance species.” 33 U.S.C. 1312(p)(1)(A), (Q), (R) (defining the related terms “aquatic nuisance species,” “nonindigenous species,” and “organism”).

4. Oil and Grease

Vessels can discharge a variety of oils during normal operations, including lubricating oils, hydraulic oils, and vegetable or organic oils. A significant portion of the lubricants discharged from a vessel during these normal operations directly enters the aquatic environment. Some types of oil and grease can be highly toxic and carcinogenic, and have been shown to alter the immune system, reproductive abilities, and liver functions of many aquatic organisms (Ober, 2010). Broadly, the toxicity of oil and grease to aquatic life is due to reduced oxygen transport potential and an inability of organisms to metabolize and excrete oil and grease once ingested, absorbed, or inhaled.

The magnitude of impact of oils differs depending on the chemical composition, method of exposure, concentration, and environmental conditions (e.g., weather, salinity, temperature). It can therefore be difficult to identify one single parameter responsible for negatively impacting aquatic life.

Aromatic hydrocarbon compounds, commonly present in fuels, lubricants, and additives, are consistently associated with acute toxicity and harmful effects in aquatic biota (Dupuis and Ucan-Marin, 2015). Impacts are observed in both developing and adult organisms, and include reduced growth, enlarged livers, fin erosion, reproduction impairment, and modifications to heartbeat and respiration rates (Dupuis and Ucan-Marin, 2015). Laboratory experiments have shown that fish embryos exposed to hydrocarbons exemplify symptoms collectively referred to as blue sac

disease. Symptoms of the disease range from reduced growth and spinal abnormalities, to hemorrhages and mortality (Dupuis and Ucan-Marín, 2015). Oils can also taint organisms that are consumed by humans, resulting in economic impacts to fisheries and potential human health effects.

In establishing the final rule, EPA considered the availability of environmentally acceptable lubricants (EALs). Production of EALs focuses on using chemicals with oxygen atoms which increases their water solubility and biodegradability, thereby decreasing their accumulation in the aquatic environment. The solubility of EALs also makes it easier for aquatic life to metabolize and excrete these chemicals (U.S. EPA, 2011). Overall, EALs reduce the bioaccumulation potential and toxic effects to aquatic life.

5. Metals

Vessel discharges can contain metal constituents from a variety of onboard sources, including graywater, bilgewater, exhaust gas emission control systems, and firemain systems. While some metals, including copper, nickel, and zinc, are known to be essential to organism function when present at certain levels, many others, including mercury, lead, thallium, and arsenic, are non-essential and/or are known to have only adverse impacts. Even essential metals may harm organism function in sufficiently elevated concentrations. Some metals may also bioaccumulate in the tissues of aquatic organisms, intensifying toxic effects. Through a process called biomagnification, concentrations of some metals can increase up the food chain, leading to elevated levels in commercially harvested fish species (U.S. EPA, 2007). Exposure to metals through fish consumption or other exposure pathways may have adverse human health effects (U.S. EPA, 2007). For example, exposure to elevated levels of methylmercury is associated with developmental and neurological effects, while exposure to lead is known to cause a range of health effects, from behavioral problems and learning disabilities to seizures and death (U.S. EPA, 2024 and 2024a). Additionally, ingestion of arsenic may lead to increased risk of cancer in the skin, liver, bladder, and lungs, as well as nausea, vomiting, abnormal heart rhythm, and damage to blood vessels (Agency for Toxic Substances and Disease Registry, 2007).

Vessel hulls and appendages are frequently coated in metal-based biocides to prevent biofouling. The most widely-used metal in biocides is copper.

While it is an essential nutrient, copper can be both acutely and chronically toxic to fish, aquatic invertebrates, and aquatic plants at higher concentrations. Elevated concentrations of copper can adversely impact survivorship, growth, and reproduction of aquatic organisms (U.S. EPA, 2016). Copper can inhibit photosynthesis in plants and interfere with enzyme function in both plants and animals in concentrations as low as 4 micrograms (μg)/L (U.S. EPA, 2016).

6. Other Pollutants

Vessel discharges can contain a variety of other toxic, conventional, and nonconventional pollutants. This rule is intended to prevent and control the discharge of certain pollutants that have been identified in the various discharges. For example, graywater can contain phthalates phenols, and chlorine (U.S. EPA, 2008). These compounds can cause a variety of adverse impacts on aquatic organisms and human health. Phthalates are known to interfere with reproductive health, liver, and kidney function in both animals and humans. (Sekizawa et al., 2003; DiGangi et al., 2002). Chlorine can cause respiratory problems, hemorrhaging, and acute mortality to aquatic organisms, even at relatively low concentrations (U.S. EPA, 2008).

Vessel discharges may also contain certain biocides used in vessel coatings, which can be harmful to aquatic organisms. For example, cybutryne, also commonly known as Irgarol 1051, is a biocide that functions by inhibiting the electron transport mechanism in algae, thus inhibiting growth. Numerous studies indicate that cybutryne is both acutely and chronically toxic to a range of marine organisms, and in certain cases, more harmful than tributyltin (Carbery et al. 2006; Van Wezel and Van Vlaardingen, 2004).

Some vessel discharges are more acidic or basic than the receiving waters, which can have a localized effect on pH (Alaska Department of Environmental Conservation, 2007). For example, exhaust gas emission control systems remove sulfur dioxide in exhaust gas and dissolve it in washwater, where it is then ionized and produces an acidic washwater. Research has shown that even minor changes in ambient pH can have profound effects, such as developmental defects, reduced larval survivorship, and decreased calcification of corals and shellfish (Oyen et al., 1991; Zaniboni-Filho et al., 2009; Marubini and Atkinson, 1999).

IV. Scope of the Regulatory Action

A. Waters

The final rule applies to discharges into the waters of the United States or the waters of the contiguous zone. 33 U.S.C. 1322(p)(8)(B). Sections 502(7), 502(8), and 502(9) of the CWA define the terms “navigable waters,” “territorial seas,” and “contiguous zone,” respectively. 33 U.S.C. 1362(7)–(9). The term “navigable waters” means the waters of the United States including inland waters and the territorial seas, where the United States includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands. *Id.* (7). The term “territorial seas” means the belt of seas that extends three miles seaward from the line of ordinary low water along the portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters. *Id.* (8). For simplicity, EPA uses the term “shore” to refer to the line of ordinary low water referenced in the foregoing definition for “territorial seas.” The term “contiguous zone” means the entire zone established or to be established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone, which extends 12 NM under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone. *Id.* (9).

B. Vessels

The final rule applies to discharges incidental to the normal operation of any non-Armed Forces, non-recreational vessels as set forth in CWA section 312(p)(2). The final rule does not apply to discharges incidental to the normal operation of a vessel of the Armed Forces subject to CWA section 312(n); a recreational vessel subject to CWA section 312(o); a small vessel less than 79 feet in length or a fishing vessel, except that the rule applies to any discharge of ballast water from a small vessel less than 79 feet or fishing vessel; or a floating craft that is permanently moored to a pier, including a floating casino, hotel, restaurant, or bar. 33 U.S.C. 1322(p)(2)(B)(i). The types of vessels covered under the final rule include but are not limited to public vessels of the United States, commercial fishing vessels (for ballast water only), passenger vessels (e.g., cruise ships and ferries), barges, tugs and tows, offshore supply vessels, mobile offshore drilling units, tankers, bulk carriers, cargo ships, container ships, and research vessels.

The domestic and international vessel population that is subject to the Federal standards of performance includes approximately 82,000 vessels. The final rule also does not apply to a narrow category of specified ballast water discharges that Congress believed do not pose a risk of spreading or introducing ANS (33 U.S.C. 1322(p)(2)(B)(ii); VIDA Senate Report, at 10), or to any discharges that result from (or contain material derived from) an activity other than the normal operation of a vessel (33 U.S.C. 1322(p)(2)(B)(iii)). Unless otherwise provided by CWA section 312(p), any incidental discharges excluded from regulation in the VIDA remain subject to the pre-enactment status quo (e.g., State law, NPDES permitting, etc.). VIDA Senate Report, at 10.

The Federal standards of performance herein apply equally to new and existing vessels except in such cases where the final rule expressly distinguishes between such vessels, as authorized by CWA section 312(p)(4)(C)(ii).

C. Incidental Discharges

The final rule establishes general and specific Federal standards of performance for discharges incidental to the normal operation of a vessel described in CWA section 312(p)(2). The general standards apply to all vessels and all incidental discharges subject to regulation under CWA section 312(p). The specific standards apply to specific discharges incidental to the normal operation of the following types of vessel equipment and systems: ballast tanks, bilges, boilers, cathodic protection, chain lockers, decks, desalination and purification systems, elevator pits, exhaust gas emission control systems, fire protection equipment, gas turbines, graywater systems, hulls and associated niche areas, inert gas systems, motor gasoline and compensating systems, non-oily machinery, pools and spas, refrigerators and air conditioners, seawater piping, and sonar domes.

D. Emergency and Safety Concerns

The VIDA recognizes that safety of life at sea and other emergency situations not resulting from the negligence or malfeasance of the vessel owner, operator, master, or person in charge may arise, and that the prevention of loss of life or serious injury may require operations that would not otherwise be consistent with these standards. Therefore, no person would be found to be in violation of the final rule if they qualify for the affirmative defense described in CWA section 312(p)(8)(C).

E. Effective Date

The effective date of this rule is 30 days after publication in the **Federal Register**; however, the Federal standards of performance become effective beginning on the date upon which the regulations promulgated by the Secretary pursuant to CWA section 312(p)(5) governing the implementation, compliance, and enforcement of the Federal standards of performance become final, effective, and enforceable. Per CWA section 312(p)(3)(c), as of that date, the requirements of the VGP and all regulations promulgated by the Secretary pursuant to Section 1101 of the NANPCA (16 U.S.C. 4711) (as in effect on December 3, 2018), including the regulations contained in subparts C and D of 33 CFR part 151 and 46 CFR 162.060 (as in effect on December 3, 2018), shall be deemed repealed and have no force or effect. Similarly, as of that same date, any CWA section 401 certification requirement in Part 6 of the VGP, shall be deemed repealed and have no force or effect.

V. Stakeholder Engagement

During the development of the rule, EPA and the USCG engaged other Federal agencies, States, Tribes, non-governmental organizations, the general public, and the maritime industry. On October 26, 2020, EPA published a Notice of Proposed Rulemaking (“proposed rule,” 85 FR 67818) in the **Federal Register** for public comment. Following publication of the proposed rule, EPA re-engaged with the states through the VIDA’s Governors consultation process to discuss topics for which the states expressed an interest in further collaboration and conducted post-proposal outreach to States, Tribes, and interested stakeholders from environmental organizations and the regulated community to obtain additional clarification regarding their concerns with the proposed rule. Subsequently, on October 18, 2023, EPA published in the **Federal Register** a Supplemental Notice of Proposed Rulemaking (“supplemental notice,” 88 FR 71788) for public comment that presented ballast water management system (BWMS) type-approval data that EPA received from the USCG since the proposed rule. The supplemental notice also included additional regulatory options that EPA was considering for discharges from ballast tanks, hulls and associated niche areas, and graywater systems. General summaries of the outreach are included in this section and in section XII., *Statutory and Executive Order Reviews*. Detailed

documentation is also available in the docket.

A. Informational Webinars and Public Listening Sessions

EPA, in coordination with the USCG, hosted two informational webinars on May 7 and 15, 2019 to enhance public awareness about the VIDA and provide opportunity for engagement. During the webinars, EPA and the USCG provided a general overview of the VIDA, discussed interim and future discharge requirements, described future State and public engagement opportunities, and answered clarifying questions raised by the audience. The webinar recordings and presentation material are available at <https://www.epa.gov/vessels-marinas-and-ports/vessel-incidental-discharge-act-vida-engagement-opportunities>.

Additionally, EPA, in coordination with the USCG, hosted a public, in-person listening session at the U.S. Merchant Marine Academy in New York on May 29–30, 2019. At the listening session, EPA, with the support of the USCG, provided an overview of the VIDA, described the interim requirements and the framework for the future regulations, and conducted sessions on key vessel discharges to provide an opportunity for public input. Fifty-two individuals from a variety of stakeholder groups attended and provided input. Public input largely centered on BWMSs, including testing methods and monitoring requirements. Stakeholders requested harmonization of domestic regulations with those of the International Maritime Organization (IMO), such as standards for exhaust gas emission control systems. Input was also received on challenges with compliance and reporting under the VGP and the USCG ballast water regulations. The meeting agenda and a summary of the comments received are available in the docket.

During the public comment period for both the proposed rule and supplemental notice, EPA held public meetings to describe procedures for submitting comments on the rule and provide an opportunity for stakeholders to ask clarifying questions. Details and materials from these public meetings are available at <https://www.epa.gov/vessels-marinas-and-ports/vessel-incidental-discharge-act-vida-stakeholder-engagement-opportunities>.

B. Consultation and Coordination With States

1. Federalism Consultation and Governors Consultation

As noted in the proposed rule, EPA concluded that this action has

federalism implications pursuant to the terms of Executive Order 13132. As such, EPA consulted with State and local officials early in the development of this rule. On July 9, 2019, in Washington, DC, EPA and the USCG conducted a Federalism consultation briefing to allow states and local officials to have meaningful and timely input into EPA's rulemaking for the development of the Federal standards of performance. Additional information regarding the VIDA Federalism Consultation can be found in section XII. *Statutory and Executive Order Reviews*.

In addition, CWA section 312(p)(4)(A)(iii)(II) directs EPA to develop a process for soliciting input from interested Governors to inform the development of the Federal standards of performance, including sharing information relevant to the process. On July 10 and 18, 2019, EPA and the USCG, with the support and assistance of the National Governors Association, held meetings with Governors' representatives to provide an overview of the VIDA, discuss State authorities under the VIDA, and solicit input on a process that would meet both the statutory requirements and State needs. Based on this input, EPA developed a process to obtain Governors' input on the rulemaking. Thirteen states (Alaska, California, Hawaii, Maryland, Michigan, Minnesota, New York, North Carolina, Ohio, Puerto Rico, Virginia, Washington, and Wisconsin) participated in the process, as did representatives from the Western Governors Association, the Pacific States Marine Fisheries Commission, and the All Islands Coral Reef Committee.

To obtain Governors' input, EPA hosted three regional, web-based forums for Governors and their representatives to inform EPA early in the development of the proposed rule on the challenges and concerns associated with existing requirements under the VGP and to discuss potential considerations for key discharges of interest. The forums were held in 2019 on September 10 for West Coast states, September 12 for Great Lakes states, and September 19 for all states. During each forum, subject-matter experts from EPA provided a brief background on the VIDA followed by organized discussions regarding the key discharges identified by the regional representatives prior to the forum. During the organized discussions, interested Governors' representatives commented on the presentation content, shared applicable scientific or technical information, and provided suggestions for EPA to consider during the

development of the Federal standards of performance. In addition to the verbal input provided during the forums, EPA accepted written comments. Copies of those written comments are included in the docket.

On December 18, 2019, EPA held two follow-up calls with representatives from the Great Lakes states. During each call, EPA addressed the comments that had been submitted by the Great Lakes states, including comments on specific requirements of the VIDA, non-ballast water discharges, and best available technology as it relates to BWMSs. Representatives from Illinois, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin attended the calls.

EPA also held a follow-up call with representatives from the West Coast states on January 15, 2020. During the call, EPA addressed the comments that had been submitted by West Coast states, including comments on outreach and engagement, the best available technology analysis for BWMSs, and regulation of biofouling and in-water cleaning and capture devices. Representatives from California, Hawaii, Oregon, and Washington, as well as representatives from the Pacific States Marine Fisheries Commission and the Western Governors Association, attended the call.

After the public comment period concluded for the proposed rule, EPA met with State representatives to discuss topics of interest between June and October 2021 to inform the supplemental notice.

During the engagement with states, EPA received pre-proposal comments, as well as post-proposal comments on the proposed rule and supplemental notice, from states, Governors, and Governors' representatives. Comments were received from representatives from Alabama, Alaska, American Samoa, California, the Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, Florida, Guam, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, U.S. Virgin Islands, Virginia, Washington, Wisconsin, and the Western Governors Association. Comments on the proposed rule primarily focused on ballast water, biofouling, and the State engagement process, while comments on the supplemental notice focused on EPA's analysis of newly obtained ballast water data and the additional regulatory options presented for ballast tanks, hulls and associated niche areas, and

graywater systems. These comments can be found in the docket.

2. Governor Objections

In conjunction with the requirement to engage states in the development of the proposed standards, CWA section 312(p)(4)(A)(iii)(III) provides an avenue for Governors to formally object to a proposed Federal standard of performance. An interested Governor may submit to the Administrator a written, detailed objection to the proposed Federal standard of performance, describing the scientific, technical, and operational factors that form the basis of the objection. Before finalizing a Federal standard of performance for which there has been an objection from one or more interested Governors, the CWA requires the Administrator to provide a written response to the objection detailing the scientific, technical, or operational factors that form the basis for that standard.

EPA received five objection letters from the Governors of California, Hawaii, Michigan, Minnesota, and Washington. One or more of these states objected to aspects of the proposed Federal standard of performance for ballast tanks, biofouling management, chain lockers, decks, exhaust gas emission control systems, fire protection equipment, graywater systems, hulls and associated niche areas, and procedures for states to request changes to standards, regulations, or policy promulgated by the Administrator. In the objection letters, Governors also raised concerns outside of the scope of specific Federal standards of performance, such as the timing and substance of State consultation and purported inconsistency with State water quality standards. EPA addressed specific comments and concerns raised by these five states in the relevant topical sections of the Comment Response Document available in the docket. Consistent with the CWA, the Administrator responded to these Governors in writing prior to the publication of this final rule.

VI. Public Comments Received and Agency Responses

EPA received 28,701 comments on the proposed rule and 45,820 comments on the supplemental notice for a total of 74,521 comments received. Of these, 292 comments were unique, while the remaining comments were received from participants in mass mailer campaigns. The majority of comments addressed proposed requirements for specific discharges, though comments also contained feedback on general

topics of concern, such as stakeholder engagement. EPA fully considered comments and, where appropriate, made changes to the final rule to reflect comments received. The sections below describe those changes to the final rule and a comprehensive Comment Response Document is available in the docket.

VII. Definitions

The final rule includes definitions for several statutory, regulatory, and technical terms. 40 CFR 139.2. These definitions apply solely for the purposes of this final rule and do not affect the definitions of any similar terms used in any other context. Where possible, EPA relied on existing definitions from other laws, regulations, and the VGP to provide consistency with existing requirements. Many of the definitions are taken either verbatim or with minor clarifying edits from the VIDA, the legislation which this final rule implements. This includes definitions for: aquatic nuisance species (ANS), ballast water, ballast water exchange, ballast water management system (BWMS), Captain of the Port (COTP) Zone, commercial vessel—as that term is used for vessels operating within the Pacific Region, empty ballast tank, Great Lakes State, internal waters, live or living, marine pollution control device, organism, Pacific Region, port or place of destination, render nonviable, saltwater flush, Secretary, small vessel or fishing vessel (and the term “fishing vessel” to direct the reader to the definition of “small vessel or fishing vessel”), and VGP.

EPA included definitions from other sections of the CWA, USCG regulations, the VGP, and other regulations, as well as new definitions specific to this final rule. EPA modified some of the definitions in the proposed rule based on public comments. Terms not defined in the final rule have the meaning defined under the CWA and applicable regulations.

Definitions for the following terms were added to provide clarity and ensure that the associated regulations are understood by the regulated community: active discharge of biofouling, anti-fouling coating, anti-fouling system, ferry, fire protection equipment, in-water cleaning with capture (IWCC), in-water cleaning without capture, macrofouling, marine inspector, microfouling, new ferry, passenger vessel, passive discharge of biofouling, and seawater piping system (See also the comment response sections for 40 CFR 139.21, *Graywater systems*, 40 CFR 139.22, *Hulls and associated niche areas*, 40 CFR 139.28, *Seawater*

piping, and 40 CFR 139.19, *Fire protection equipment*). In response to public comments, the final rule slightly revises the definitions of “macrofouling” and “microfouling” from the definitions presented in the supplemental notice to provide additional clarity and consistency. It also dispenses with the use of the Navy Fouling Rating scale in favor of the terms macrofouling and microfouling (See also the comment response for 40 CFR 139.28, *Seawater piping*).

Several definitions were modified from the proposed rule. The definition for “Marine Growth Prevention System (MGPS)” now references the added definition for “seawater piping system,” while EPA modified the definition for “niche areas” to add clarity and remove language that would be confusing within the context of the VIDA (See also the comment response section for 40 CFR 139.22, *Hulls and associated niche areas*). In response to concerns raised by commenters, the definition for “organism” was modified to replace the word “means” with “includes,” consistent with the CWA definition. Definitions for “oil-to-sea interface,” “EAL,” and “reception facility” were modified slightly to provide additional clarity for the regulated community (See also the comment response section for 40 CFR 139.6, *Oil management*). “Captain of the Port Zone” now includes references to other United States Code for additional clarity and consistency (See also the comment response for Subpart A—Scope). The definition for “midocean” was modified slightly to maintain consistency within the final rule (See also the comment response section for 40 CFR 139.10, *Ballast tanks*). Finally, EPA removed the definition for “scheduled drydocking” as that term is not used in the final rule.

VIII. Final Federal Discharge Standards of Performance

In adopting CWA section 312(p)(4)(B)(i), Congress directed EPA to promulgate Federal standards of performance for conventional pollutants, toxic pollutants, and nonconventional pollutants (including ANS). The VIDA cross-references existing statutory standards in the CWA at sections 301 and 304 of the CWA (as well as EPA’s implementing regulations at 40 CFR 125.3), which indicates that Congress intended for EPA to base the VIDA standards of performance on the same statutory considerations as those applicable when setting technology-based effluent limits for permits under

CWA section 402.⁴ The provisions cited in the VIDA (CWA sections 301(b) and 304, 33 U.S.C. 1311(b) and 1314), are the basis for EPA’s development of effluent limitations guidelines, which are national performance-based requirements established by regulation for categories of point sources based on degree of control that can be achieved using various levels of pollution control technology, as specified in the CWA. Thus, many of the same legal standards and considerations that apply to the development of technology-based effluent limitation guidelines also apply to the development of the VIDA’s Federal standards of performance.

The CWA and its legislative history of CWA sections 301(b) and 304(b) (33 U.S.C. 1311(b) and 1314(b)), describe the need to press toward higher levels of control through research and development of new processes, modifications, replacement of obsolete plants and processes, and other improvements in technology, taking into account the cost of controls to “require elimination of pollutant discharges . . . if the Administrator finds, on the basis of information available to him, . . . that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator . . .”. 33 U.S.C. 1311(b)(2)(A). The legislative history and case law also support that EPA does not consider water quality impacts on individual water bodies as technology-based standards are developed (Statement of Senator Muskie, October 4, 1972, reprinted in *A Legislative History of the Water Pollution Control Act Amendments of 1972*, at 170. (U.S. Senate, Committee on Public Works, Serial No. 93–1, January 1973); *Southwestern Elec. Power Co. v. EPA*, 920 F.3d at 1005, “The Administrator must require industry, regardless of a discharge’s effect on water quality, to employ defined levels of technology to meet effluent limitations.” (citations and internal quotations omitted).

The CWA establishes a two-step process for implementation of increasingly stringent technology-based effluent limitations. The first step requires compliance with standards based on “the application of the best practicable control technology currently available [BPT] as defined by the Administrator . . .” 33 U.S.C. 1311(b)(1)(A). The second step requires

⁴ The VIDA does not reference CWA section 306 for new source standards, meaning that the CWA “best available demonstrated control technology” standard does not apply to new sources regulated by the VIDA.

compliance with standards based on application of the “best available technology economically achievable [BAT] for such category or class . . .” 33 U.S.C. 1311(b)(2)(A). The CWA, as amended in 1977, replaced the BAT standard with a new standard, “best conventional pollutant control technology [BCT],” but only for certain “conventional pollutants” (*i.e.*, BOD, TSS, oil and grease, fecal coliform, and pH). *See* 33 U.S.C. 1311(b)(2)(E) and 1314(a)(4) and 40 CFR 401.16.

The CWA requires consideration of BPT for conventional, toxic, and nonconventional pollutants. CWA section 304(a)(4) designates the following as conventional pollutants: BOD, TSS, fecal coliform, and pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979. 40 CFR 401.16. Toxic pollutants (*e.g.*, toxic metals such as arsenic, mercury, selenium, and chromium; toxic organic pollutants such as benzene, benzo-a-pyrene, phenol, and naphthalene) are those outlined in CWA section 307(a) and subsequently identified in EPA regulations at 40 CFR 401.15 and 40 CFR part 423 appendix A. All other pollutants are nonconventional, including aquatic nuisance species. (33 U.S.C. 1322(p)(4)(B)(i)(III)).

In determining BPT, under CWA sections 301(b)(1)(A) and 304(b)(1)(B), and 40 CFR 125.3(d)(1), EPA evaluates several factors. EPA first considers the cost of application of currently available technology in relation to the effluent reduction benefits. Traditionally, as is consistent with the statute, its legislative history, and caselaw, EPA defines “currently available” based on the average of the best performance of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics (*Chem. Mfrs. Assn. v. EPA*, 870 F.2d 177, 207–208 (5th Cir. 1989)). The Agency also considers the age of equipment and facilities, the processes employed, engineering aspects of various types of control techniques, process changes, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. If, however, existing performance is uniformly inadequate within an industrial category, EPA may establish limitations based on higher levels of control if the Agency determines that the technology is available in another category or subcategory and can be practically applied to this industrial category.

The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing industrial point sources. 33 U.S.C. 1311(b)(2)(E); 1314(b)(4)(B); 40 CFR 125.3(d)(2). In addition to considering the other factors specified in CWA section 304(b)(4)(B) to establish BCT requirements, EPA also considers a two-part “cost-reasonableness” test. EPA explained its methodology for the development of BCT requirements in 1986. *See* 51 FR 24974, July 9, 1986.

For toxic pollutants and nonconventional pollutants, EPA promulgates discharge standards based on BAT. 33 U.S.C. 1311(b)(2)(A) and 1314(b)(2)(B); 40 CFR 125.3(d)(3). In establishing BAT, the technology must be technologically “available” and “economically achievable.” The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, non-water quality environmental impacts, including energy requirements, and other such factors as the Administrator deems appropriate. EPA retains considerable discretion in assigning the weight accorded to these factors. *See Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1045 (D.C. Cir. 1978). EPA usually determines economic achievability on the basis of costs of compliance with BAT limitations on overall industry and subcategory financial conditions. BAT discharge standards may be based on effluent reductions attainable through changes in a facility’s processes and operations. BAT reflects the highest performance in the industry and may reflect a higher level of performance than is currently being achieved based on technology transferred from a different subcategory or category. *Southwestern Elec. Power Co. v. EPA*, 920 F.3d at 1006; *Am. Paper Inst. v. Train*, 543 F.2d 328, 353 (D.C. Cir. 1976); *Am. Frozen Food Inst. v. Train*, 539 F.2d 107, 132 (D.C. Cir. 1976). BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice. *See American Frozen Foods*, 539 F.2d 107, 132, 140 (D.C. Cir. 1976).

CWA section 312(p)(4)(B)(ii) is also modelled off of established CWA concepts and directs EPA to use BMPs in certain circumstances. *See, e.g., VIDA Senate Report* at 11 (“As with the technology standards themselves, this best management practice language is modeled off a similar regulatory provision for NPDES permits to ensure

that the Administrator applies the same relevant considerations under section 312(p).”). Specifically, CWA section 312(p)(4)(B)(ii) requires employing BMPs to control or abate any discharge incidental to the normal operation of a vessel if: (1) numeric discharge standards are infeasible; or (2) or if the BMPs are reasonably necessary to achieve the standards or to carry out the purpose of reducing and eliminating the discharge of pollutants.

Where EPA did not impose a numeric standard,⁵ EPA determined that they were infeasible. For these discharges, the particular challenges posed by setting standards for moving vessels at sea made numeric standards impracticable. For example, many of the specific discharge streams (*e.g.* chain lockers) would be impossible to monitor using available technology without putting the safety of crew members at risk. The physical nature of other discharge streams (*e.g.* deck runoff), which differs significantly from the normal contexts for which EPA normally imposes CWA numerical discharge standards, also makes setting a numeric standard impracticable. EPA also did not receive comments indicating that it was practicable to impose numeric standards for any specific discharges for which it required BMPs in the final rule. EPA received several comments supporting EPA’s use of BMPs.

Additionally, EPA determined for certain discharges where it was practicable to impose numerical discharge standards that additional BMPs for these specific discharges are reasonably necessary to carry out the purpose and intent of CWA section 312(p).⁶ For example, while EPA set numeric discharge standards for ballast tanks at 40 CFR 139.10(d), the Agency also required best management practices at 40 CFR 139.10(c) that are important for reducing discharges of ANS and thus are reasonably necessary to achieve the numeric discharge standards for ballast

⁵ General operation and maintenance (section 139.4), biofouling management (section 139.5), oil management (section 139.6), boilers (section 139.12), cathodic protection (section 139.13), chain lockers (section 139.14), decks (section 139.15), desalination and purification systems (section 139.16), elevator pits (section 139.17), fire protection equipment (section 139.19), gas turbines (section 139.20), hull and associated niche areas (section 139.22), inert gas systems (section 139.23), motor gasoline and compensating systems (section 139.24), non-oily machinery (section 139.25), refrigeration and air conditioning (section 139.27), seawater piping (section 139.28), sonar domes (section 139.29).

⁶ Ballast tanks (section 139.10), bilges (139.11), exhaust gas emission control systems (section 139.18), graywater systems (section 139.21), pools and spas (section 139.26).

tanks. BMPs consist of specific and implementable practices that will drive the reduction of pollutant discharges from vessels. BMPs rely on existing available technologies and will lead to reductions in pollutant discharges even given the highly variable nature of incidental discharges from vessels and practical difficulties in monitoring those discharges. Additionally, requiring the BMPs for those same specific discharges that were subject to BMPs under the VGP is consistent with the VIDA's requirement that existing VGP requirements serve as a regulatory baseline.

CWA section 312(p)(4)(B) also establishes minimum requirements for the Federal standards of performance such that, "the combination of any equipment or best management practice . . . shall not be less stringent than" the effluent limits and related requirements established in Parts 2.1, 2.2, or 5 of the VGP. 33 U.S.C. 1322(p)(4)(B)(iii). Thus, while the CWA directs EPA to set the Federal standards of performance at the level of BPT/BCT/BAT, depending on the pollutant, it also creates a presumption that those standards would provide protection at least equivalent to the VGP requirements. There are exceptions at CWA section 312(p)(4)(D)(ii)(II) for situations where either new information becomes available that "would have justified the application of a less-stringent standard" or "if the Administrator determines that a material technical mistake or misinterpretation of law occurred when promulgating the existing standard." Absent one of those exceptions, the statute directs that EPA "shall not revise a standard of performance . . . to be less stringent than an applicable existing requirement." 33 U.S.C. 312(p)(4)(D)(ii)(I).

EPA endeavored to identify instances where the BPT/BCT/BAT level of control called for new, more stringent regulation than under the VGP for the VIDA Federal standards of performance. Where EPA research identified new alternatives or new options for marine pollution control devices, EPA evaluated those options as candidates for new BPT/BCT/BAT requirements. Where EPA identified no such new information or options, EPA continues to rely on the BPT/BCT/BAT analysis that led to the development of the VGP requirements. Additionally, EPA has considered in its BPT/BCT/BAT analysis that VGP requirements are currently in effect and are being achieved by regulated parties. This approach is consistent with EPA's obligations under CWA section 312(p)(4) because the effluent limits that

EPA adopted in the VGP were already the product of a BPT/BCT/BAT analysis described in the permit fact sheets for both the 2008 and 2013 iterations of the VGP and corresponding supporting materials. CWA section 312(p)(4)(D)(ii) prohibits EPA from "revis[ing] a standard of performance . . . to be less stringent than an applicable existing requirement" except for the narrow exception identified in the previous paragraph. Absent such exception, the VIDA prohibits EPA from identifying a less stringent option as BPT/BCT/BAT. Indeed, by identifying the VGP as the minimum requirements for the Federal standards of performance and then expressly identifying the circumstances under which EPA could select a different, less stringent standard (*i.e.*, new information or error), the text and legislative history of the VIDA show that Congress intended to preserve, in most instances, the existing VGP requirements as a regulatory floor. VIDA Senate Report, at 12 ("The exceptions to this provision [for new information and technical or legal error] would provide the sole basis for the Administrator to weaken standards of performance compared to the legacy VGP requirements . . ."). Moreover, Congress did not intend for EPA to depart from the considerations that informed the VGP's technology-based effluent limits. To the contrary, although the VIDA created a rule-based framework, rather than a permitting framework, Congress defined BPT, BCT, and BAT with "intentional[] cross-reference[s]" to terms used elsewhere in the CWA "to ensure that the Administrator makes identical considerations when setting the standards of performance under CWA section 312(p) as the Administrator was previously required to do when setting technology-based effluent limits for permits" as was done in the VGP. VIDA Senate Report, at 11.

While EPA is, for most of the discharges addressed in this rulemaking, relying on the BPT/BCT/BAT analysis that was performed to develop the VGP and the fact that certain discharge requirements are already currently in effect under the VGP, EPA did not incorporate the VGP requirements verbatim. In many cases, EPA translated the VGP discharge requirements into Federal standards of performance or otherwise improved the clarity to enhance implementation and enforceability. As such changes do not materially differ from the requirements established in the VGP, EPA reasonably relied on the BPT/BCT/BAT analysis

that supported the VGP to develop the final Federal standards of performance.

In some instances, EPA updated language from the proposed rule to the final rule from "including" to "including but not limited to" to make absolutely clear that a list may be representative but not exhaustive and/or to ensure that language is not overly narrow or restrictive so as to preclude the use of new technologies or BMPs in the future that otherwise comply with the applicable requirements. As an example, 40 CFR 139.13(a) was updated to clarify that a vessel's cathodic corrosion protection device includes, but is not necessarily limited to, sacrificial anodes and impressed current cathodic protection systems. *See* 40 CFR 139.13(a) ("The requirements in paragraph (b) of this section apply to discharges resulting from a vessel's cathodic corrosion control protection device, including *but not limited to* sacrificial anodes and impressed current cathodic protection systems.") (emphasis added). The final rule also uses the more commonly recognized abbreviation "GT," rather than "GT ITC" as used in the proposed rule, to mean the same thing. This modification is intended to align the language with existing regulations and the IMO.

Additionally, EPA determined that two of the VGP-named discharges do not require specific discharge requirements beyond the general discharge requirements detailed in subpart B and special area requirements in subpart D. Discharges from motor gasoline and compensating systems and inert gas systems are discharges incidental to the normal operation of a vessel. However, EPA determined that the requirements outlined in the general discharge standards in subpart B for both discharges, and the special area requirements in subpart D for motor gasoline and compensating systems, constitute BAT and are at least as stringent as the VGP.

Many of the comments EPA received asserted that the proposed rule would not adequately protect water quality in a particular region or jurisdiction. Notwithstanding that the VIDA requires EPA's Federal standards of performance to carry forward certain VGP requirements, the VGP requirements and the VIDA Federal standards of performance are subject to different legal frameworks for considering water quality impacts. The VGP was an NPDES permit under which discharges had to meet both technology-based levels of control (*See* CWA sections 301(b) and 304(b), 33 U.S.C. 1311(b) and 1314(b)) and any more stringent controls as necessary to protect water quality

(See CWA section 301(b)(1)(C); 33 U.S.C. 1311(b)(1)(C)), as well as any requirements of a State certification under CWA section 401 (33 U.S.C. 1341). The VIDA, by contrast, directs EPA to establish the Federal standards of performance solely on a technology basis. This is evident from the VIDA's text, which references the CWA provisions governing technology-based rules and does not reference the CWA provisions calling for more stringent limitations to protect water quality or State certifications under CWA section 401. Additionally, the VIDA's text makes clear that EPA and authorized states may not issue NPDES permits to VIDA-regulated discharges, further indicating that NPDES permitting elements such as water quality-based effluent limitations and certifications under section 401 do not apply. See 33 U.S.C. 1322(p)(9)(C)(ii).

The VGP, like all CWA section 402 permits, needed to account for the potential impact of discharges on the quality of the receiving waters. The VGP did so in two ways, and neither are applicable to the VIDA Federal standards of performance. First, the CWA section 402 and NPDES regulations at 40 CFR 122.44(d) require permits to include more stringent water quality based effluent limits (WQBELs) when technology-based effluent limits (TBELs) are not sufficient to meet applicable water quality standards. The VGP included WQBELs at Part 2.3. Second, CWA section 401(d) allows States and Tribes to condition permits on "any effluent limitations and other limitations, and monitoring requirements" necessary to assure compliance with water quality requirements, including State water quality standards. Pursuant to this authority, the VGP included a number of specific requirements for individual states or Indian Country lands at Part 6. While the VIDA directed EPA to preserve certain VGP requirements (specifically, those at Parts 2.1, 2.2, and 5) in the Federal standards of performance, it did not preserve the WQBELs at Part 2.3 or the specific individual states' and Indian Country Lands' requirements at Part 6.

In contrast to permits issued under CWA section 402, technology-based effluent limitations developed under CWA sections 301(b) and 304(b) do not account for the quality of the receiving waters, including any water quality standards that may apply. See *Southwestern Elec. Power Co. v. EPA*, 920 F.3d 999, 1005 (5th Cir. 2019) ("The Act requires ELGs [developed under CWA section 304(b)] to be based on technological feasibility rather than on

water quality") (citing *E.I. du Pont de Nemours & Co. v. Train*, 430 U.S. 112, 130–31 (1977)); See also *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1042 (D.C. Cir. 1978) (discussing Congress's decision in adopting the CWA to base national standards on technology rather than receiving water quality). Therefore, Congress intended EPA to establish the requirements of this regulation based on the performance of technologies without regard to effects on receiving water quality, after a consideration of the factors specified in CWA section 304(b), 33 U.S.C. 1314(b).

Rather than incorporate water quality-based considerations into the Federal standards of performance, Congress instead chose to have EPA, the USCG, and states address location-specific water quality impacts through different approaches. For example, CWA section 312(p)(4)(E) authorizes EPA, in concurrence with the USCG and in consultation with states, to "require, by order, the use of an emergency best management practice for any region or category of vessels" where such an order "is necessary to reduce the reasonably foreseeable risk of introduction or establishment of an aquatic nuisance species" or "will mitigate the adverse effects of a discharge that contributes to a violation of a water quality [standard]." Elsewhere in the statute, CWA section 312(p)(10)(D) creates a process to create geographically bound no-discharge zones to "protect and enhance the quality of the specified waters."

The final rule contains discharge standards that correspond to required levels of technology-based control (BPT, BCT, BAT) for discharges incidental to the normal operation of a vessel, as required by the CWA. In assessing the availability and achievability of the technologies discussed herein, in addition to the rationale for the VGP effluent limits, EPA considered studies and data from both domestic and international sources including studies and data from foreign-flagged vessels, as appropriate. As noted above, some discharge standards considered other existing laws and requirements (e.g., Oil Pollution Act, APPS, and the Clean Hull Act). Where these laws already exist, EPA includes appropriate practices pursuant to these laws as part of the final standards to the extent these are demonstrated practices that EPA finds to be the best practicable control technology currently available (BPT) and best available technology economically achievable (BAT). For example, the final standards reaffirm requirements of the Clean Hull Act that coating on vessel hulls must not contain

tributyltin or any other organotin compound used as a biocide.

A. Discharges Incidental to the Normal Operation of a Vessel—General Standards

This section describes the Federal standards of performance associated with the general discharge requirements in 40 CFR part 139, subpart B. These standards are designed to apply to all vessels and incidental discharges subject to the final rule to the extent the requirements are appropriate for each incidental discharge. These standards are proactive and preventative in nature and are designed to minimize the introduction of pollutants into the waters of the United States and the waters of the contiguous zone. The standards are based on EPA's analysis of available and relevant information, including available technical data, existing statutes and regulations, statistical industry information, and research studies included in the docket.

1. General Operation and Maintenance

The first category of Federal standards of performance are requirements associated with general operation and maintenance practices that are designed to eliminate or reduce the discharge of pollutants from vessels. 40 CFR 139.4. Unless otherwise noted, changes from the proposed rule are based on public comments EPA received on the proposed rule. The general operation and maintenance standards contain an overarching requirement that all discharges subject to this rule must be minimized. In a change from the proposed rule intended to provide greater clarity, the final rule specifies that a vessel operator must minimize discharges through management practices including, but not limited to, storage onboard the vessel, proper storage or transfer of materials, or reduced production of discharge. 40 CFR 139.4(b)(1). These requirements are "best management practices" (BMPs) under the CWA; which are defined under CWA section 312(p)(1)(H) as a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the waters of the United States or the waters of the contiguous zone. Further, the term "best management practice" includes any treatment requirement, operating procedure, or practice to control vessel runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. According to the VIDA, the Administrator shall require the use of best management practices to control or abate any discharge if numeric

standards of performance are infeasible; or the best management practices are reasonably necessary to achieve the standards of performance; or to carry out the purpose and intent of this subsection. EPA determined that these BMPs are necessary because it is infeasible to identify a single numeric standard where: (1) operation and maintenance requirements usually are not expressed numerically; and (2) even if they could be expressed numerically, there is not a numeric operation and maintenance standard that would be appropriate to apply to the multitude of vessels, discharge streams, and pollutants subject to the VIDA. *Id.* (p)(4)(B)(ii). The final rule defines the term “minimize” to mean “to reduce or eliminate to the extent achievable using any control measure that is technologically available and economically practicable and achievable and supported by demonstrated BMPs such that compliance can be documented in shipboard logs and plans,” which will be determined by the Secretary. Minimizing discharges provides a reasonable approach for vessels to reduce all the incidental discharges subject to this rule, including for discharges not subject to specific discharge standards. Minimization of some discharges, such as graywater, may be achieved through simple practices like reduced production, while other discharges, such as ballast water, may require more complex practices, such as saltwater flush or ballast water exchange. To further carry out the purpose and intent of the VIDA, the final rule at 40 CFR 139.4(b)(2) requires vessels to discharge while underway and as far from shore, as practicable. *Id.* (p)(4)(B)(ii).

The final general operation and management standards also limit the types and quantities of materials that a regulated vessel may discharge. 40 CFR 139.4(b)(3) prohibits the addition of any materials to a discharge, other than for treatment of the discharge, that is not incidental to the normal operation of the vessel. 40 CFR 139.4(b)(4) prohibits using dilution to meet any effluent discharge standards. While EPA recognizes some vessel systems use water permissibly under the rule, for example to generate chlorine for disinfection, such a practice may not be used as a means of dilution for purposes of meeting the discharge standard. 40 CFR 139.4(b)(5) specifies requirements for any materials used onboard that may subsequently be discharged (e.g., disinfectants, cleaners, biocides, coatings, sacrificial anodes). The final rule specifies that materials used

onboard that may subsequently be discharged must be used only in the amount necessary to perform its intended function, and also, in response to public comment, that materials must be used according to manufacturer specifications. 40 CFR 139.4(b)(5)(i). The final rule also prohibits the discharge of any material used onboard that will be subsequently discharged that contains any materials banned for use in the United States. 40 CFR 139.4(b)(5)(ii). For any pesticide products (e.g., biocides, anti-microbials) subject to FIFRA registration, vessel operators must follow the FIFRA label for all activities that result in a discharge into the waters of the United States or the waters of the contiguous zone. 40 CFR 139.4(b)(5)(iii).

To prevent materials and associated pollutants from being washed overboard, the rule requires that vessel operators minimize any exposure of cargo or other onboard materials that may be inadvertently discharged by containerizing or covering materials. 40 CFR 139.4(b)(6). Several commenters requested clarification about the effect of this regulation on hopper barge operations and expressed concern about potential safety impacts. In a change from the proposed rule, the final rule at 40 CFR 139.4(b)(6) exempts hopper barges without a fixed cover or in circumstances when a vessel operator reasonably determines compliance with this requirement would interfere with essential vessel operations, negatively impact safety of the vessel, risk loss of life at sea, or violate any applicable regulations that establish specifications for safe transportation, handling, carriage, and storage of toxic or hazardous materials.

The presence or use of toxic or hazardous materials may be necessary for the operation of vessels. For purposes of the final rule, the term “toxic or hazardous materials” is defined at 40 CFR 139.2 to mean any toxic pollutant identified in 40 CFR 401.15 or any hazardous material as defined in 49 CFR 171.8. To minimize and prevent discharges of toxic or hazardous materials, the final rule requires toxic or hazardous material containers to be appropriately sealed, labeled, and secured, and located in an area of the vessel that minimizes exposure to ocean spray and precipitation consistent with vessel design, unless the master determines this would interfere with essential vessel operations or safety of the vessel or crew, or would violate any applicable regulations that establish specifications for safe transportation, handling, carriage, and storage of toxic or

hazardous materials. 40 CFR 139.4(b)(7)(i). Also, to avoid discharges and prevent emergency or other dangerous situations, the final rule requires that containers holding toxic or hazardous materials not be overfilled and incompatible materials not be mixed. 40 CFR 139.4(b)(7)(ii). In response to confusion from a commenter, the final rule includes additional language not included in the proposed rule to clarify that incompatible materials are substances which, if mixed, will create hazards greater than that posed by the individual substances (*See* the comment response section for 40 CFR 139.4, *General operation and maintenance*). *Id.* Wastes should be managed in accordance with any applicable local, State, and Federal regulations, which are outside of the scope of this final rule. For example, the Resource Conservation and Recovery Act (RCRA) governs the generation, transportation, storage, and disposal of solid and hazardous wastes.

Like the requirements related to toxic and hazardous materials, the final standard at 40 CFR 139.4(b)(8) prohibits the discharge or disposal of containers holding toxic or hazardous materials. 40 CFR 139.4(b)(9) requires that vessel operators clean out compartments, including tanks, cargo, or other spaces, to meet the definition of “broom clean” or equivalent prior to washing such areas. Further, the final rule at 40 CFR 139.4(b)(10) requires vessel operators to maintain their topside surface (*i.e.*, exposed decks, hulls above waterline, tank, cargo, and related appurtenances) to minimize the discharge of cleaning compounds, paint chips, non-skid material fragments, and other materials associated with exterior topside surface preservation. 40 CFR 139.4(b)(11) requires that painting and coating techniques on topside surfaces minimize the discharge of paints, coatings, surface preparation materials, and similar substances, and 40 CFR 139.4(b)(12) prohibits the discharge of any unused paints and coatings.

The final general operation and maintenance requirement consolidates requirements from multiple sections of the VGP and specifies that any equipment that may release, drip, leak, or spill oil or oily mixtures, fuel, or other toxic or hazardous materials, including to the bilge, must be maintained regularly to minimize or eliminate the discharges. 40 CFR 139.4(b)(13).

2. Biofouling Management

Vessel biofouling is the accumulation of aquatic organisms such as plants,

animals, and microorganisms on vessel equipment or systems immersed in or exposed to the aquatic environment. Biofouling discharges include but are not limited to those from maintenance and cleaning activities of hulls, niche areas, and associated coatings. Biofouling can include pathogens, as well as microscopic fouling (“microfouling”) and macroscopic fouling (“macrofouling”). Microfouling is biofouling caused by bacteria, fungi, microalgae, protozoans, and other microscopic organisms that creates a biofilm, also called a slime layer. Microfouling is a precursor to macrofouling. Macrofouling is biofouling caused by the attachment and subsequent growth of visible plants and animals. Macrofouling includes large, distinct, multicellular individual or colonial organisms visible to the human eye, such as barnacles, tubeworms, mussels, fronds/filaments of algae, bryozoans, sea squirts, and other large attached, encrusting, or mobile organisms.

Biofouling on vessel equipment and systems is one of the main vectors for the introduction and spread of aquatic nuisance species (ANS) (Gollasch, 2002; Drake and Lodge, 2007; Hewitt et al., 2009; Hewitt and Campbell, 2010). Biofouling organisms are discharged from vessel surfaces both passively through sloughing and actively through in-water cleaning activities (See 40 CFR 139.2, definitions of “passive discharge of biofouling” and “active discharge of biofouling”). Biofouling produces drag on a vessel hull and protruding niche areas, leading to greater fuel consumption and increased greenhouse gas emissions. It can also result in hull corrosion and blockage of internal seawater piping, such as the engine cooling and firemain systems, thereby degrading the integrity of the vessel structure and impeding safe operation.

In the proposed rule, EPA included requirements to reduce the discharge of biofouling organisms from vessel equipment and systems, notably from hulls and associated niche areas, by requiring vessel operators to develop and follow a biofouling management plan and follow specific in-water equipment and system cleaning protocols. Additionally, EPA proposed to prohibit in-water cleaning of biofouling on hulls and associated niche areas that exceed a U.S. Navy fouling rating (FR) of FR-20, except when the fouling is local in origin and cleaning does not result in the substantial removal of a biocidal anti-fouling coating, as indicated by a plume or cloud of paint; or, when an in-water cleaning and capture (IWCC) system is

used that is designed and operated to capture coatings and biofouling organisms, filter biofouling organisms from the effluent, and minimize the release of biocides. EPA recommended, but did not propose to require, the use of IWCC systems for removal of local macrofouling.

Based on comments received during the public comment period for the proposed rule and subsequent meetings with interested States, Tribes, and other stakeholders held between August and November 2021, EPA published a supplemental notice that discussed additional regulatory options for discharges from hulls and associated niche areas. The supplemental notice discussed five key issues raised during the public comment period for the proposed rule regarding the general applicability of the hull and associated niche area requirements and cleaning of this equipment as proposed in 40 CFR 139.22(a) and (d). All comments were considered in preparation of the final rule.

EPA in the VGP considered discharges of biofouling organisms to be incidental when such discharges originate from vessel equipment and systems while the vessel is immersed in or exposed to the aquatic environment. Both the VGP and the discharge regulations promulgated pursuant to CWA section 312(n) for incidental discharges from vessels of the Armed Forces included management requirements to minimize the discharge of biofouling organisms from vessel equipment and systems. The VGP in Parts 2.2.23 and 4.1.3 required that vessel operators (1) minimize the transport of attached living organisms; and (2) conduct annual inspections of the vessel hull (including niche areas) for fouling organisms, respectively. Part 4.1.4 of the VGP also required vessel operators to prepare drydock inspection reports to demonstrate that the vessel hull and other surface and niche areas had been inspected for attached living organisms and that those organisms had been removed or neutralized. These reports were to be made available to EPA or an authorized representative of EPA upon request. Except in those circumstances specified in CWA section 312(p)(4)(D)(ii)(II), EPA’s discharge regulations must be as stringent as those in the VGP. The final rule includes these requirements for the discharge of biofouling organisms from vessel equipment and systems.

Among the comments EPA considered were ones suggesting that biofouling should not be regulated as a discharge incidental to the normal operation of a vessel under the VIDA. However, EPA

continues to interpret the statutory definition of “discharge incidental to the normal operation of a vessel” (“incidental discharge”) at CWA section 312(a)(12) to include discharges of biofouling organisms from vessel equipment and systems. As described in the proposed rule and supplemental notice, biofouling discharges are an ordinary accompanying circumstance of vessel operation and transit and thus fit the plain meaning of “discharge incidental to the normal operation of a vessel.” (85 FR 67818, October 26, 2020, section VIII.A.2 and 88 FR 71788, October 18, 2023, section IV.C.1). Additionally, the definition of “discharge incidental to the normal operation of a vessel” explicitly uses the word “including,” indicating that although “biofouling” is not specifically mentioned in the definition, the definition’s list of discharges is illustrative and not exhaustive. 33 U.S.C. 1322(a)(12). Other enumerated terms within the definition also reasonably encompass biofouling. For example, “any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment. . .” encompasses biofouling discharge from a vessel hull because the shipboard maneuvering systems cannot “operate” without the hull. *Id.* Additionally, “a discharge in connection with the . . . maintenance[] and repair” of any “protective, preservative, or absorptive application to the hull” could include biofouling discharge. *Id.* Finally, the statutory history and regulatory history support EPA’s interpretation, particularly because the VGP regulated the same types of biofouling discharges as the final rule.

The final rule requires each vessel to develop a biofouling management plan to minimize the discharge of biofouling organisms, thereby minimizing the potential for the introduction and spread of ANS. 40 CFR 139.5(b). The requirement to develop a biofouling management plan is intended to provide a holistic strategy that considers the operational profile of the vessel, identifies the appropriate anti-fouling systems, and details the biofouling management practices for specific areas of the vessel. The details of the plan would fall under the USCG’s implementing regulations established under CWA section 312(p)(5), although the plan elements must prioritize procedures and strategies to prevent macrofouling.

While the VGP did not explicitly require a biofouling management plan,

it required the majority of the components that EPA expects will comprise a biofouling management plan individually, such as: (1) the consideration of vessel class, operations, and biocide release rates and components in the selection of anti-fouling systems; (2) an annual inspection of the vessel hull and niche areas for assessment of biofouling organisms and condition of anti-fouling paint; (3) a drydock inspection report noting that the vessel hull and niche areas have been inspected for biofouling organisms and those organisms have been removed or neutralized; (4) reporting of cleaning schedules and methods; and (5) appropriate disposal of wastes generated during cleaning operations. Additionally, per the Clean Hull Act of 2009, every vessel engaging in one or more international voyages is required to carry an anti-fouling system certificate that contains the details of the anti-fouling system (*See* 33 U.S.C. 3821). Moreover, under regulations promulgated under the authority of the National Invasive Species Act, the USCG has required the individual in charge of any vessel equipped with ballast water tanks that operates in the waters of the United States to maintain a ballast water management plan that has been developed specifically for the vessel and that will allow those responsible for the plan's implementation to understand the vessel's ballast water management strategy and comply with the requirements. 33 CFR 151.2050. That ballast water management plan is to include detailed biofouling maintenance and sediment removal procedures (33 CFR 151.2050(g)(3)). Consistent with guidance issued by the USCG on those regulations, these procedures were to be incorporated into the ballast water management plan or included as separate Biofouling Management and Sediment Management Plans and referenced in the ballast water management plan (USCG, 2014). Under this guidance, the USCG advised that IMO Resolution Marine Environment Protection Committee (MEPC) 207(62) provides effective guidance for developing and implementing a vessel-specific biofouling management plan.

Developing vessel-specific biofouling management plans is important because vessels can vary widely in operational profile and, therefore, in the extent and type of biofouling. However, the final rule recognizes that vessels with similar operational profiles, such as vessels that cross the same waterbodies, travel at similar speeds, and share the same design, may also employ the same

management measures, such as selecting the same types of anti-fouling systems and applying the same inspection and cleaning schedules. It is anticipated that fleet owners may develop a biofouling management plan template that can be readily adapted into a vessel-specific biofouling management plan. To address comments received on the proposed rule, the final rule clarifies that a biofouling management plan must be developed to minimize the discharge of biofouling organisms, prioritize procedures and strategies to prevent macrofouling (thereby minimizing the potential for the introduction and spread of ANS), and describe the vessel-specific anti-fouling systems and biofouling management practices necessary to comply with requirements in 40 CFR 139.5. The USCG, through its regulations developed under CWA section 312(p)(5), has the authority to specify the details of the plan, including how vessel operators are to implement and follow that plan. The final rule also references 40 CFR 139.13 (cathodic protection), 139.14 (chain lockers), 139.22 (hulls and associated niche areas), 139.28 (seawater piping), and 139.29 (sonar domes) for additional biofouling management requirements.

3. Oil Management

The final rule aims to minimize discharges of oil, including oily mixtures, and requires vessel operators to use control and response measures to prevent, minimize, and contain spills and overflows during fueling, maintenance, and other vessel operations. 40 CFR 139.6(d). This reinforces existing requirements found at 33 CFR part 155 that require taking immediate and appropriate corrective actions if an oil spill is observed because of vessel operations, including maintaining appropriate spill containment and cleanup materials onboard and immediately using such materials in the event of any spill.

Also, the final rule specifies that the discharge of used or spent oil no longer being used for its intended purpose is prohibited. 40 CFR 139.6(b). This includes any used or spent oil that may be added to an incidental discharge that is otherwise authorized to be discharged. Overall, this section authorizes discharges of small amounts of oil, including oily mixtures, incidental to the normal operation of a vessel provided such discharges comply with the otherwise applicable existing legal requirements. For example, consistent with the CWA, this standard prohibits the discharge of oil in such quantities as may be harmful, as defined in 40 CFR 110.3. *See* 40 CFR 139.6(c)

(prohibiting discharges in quantities that may be harmful) and 139.2 (defining "Discharge of oil in such quantities as may be harmful" by reference to 40 CFR 110.3 and 110.5).

The final rule at 40 CFR 139.3 specifies that, except as expressly provided, nothing in this part affects the applicability of any other provision of Federal law as specified in several statutory and regulatory citations. 40 CFR 139.3 includes citations for CWA section 311 and the Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1901 *et seq.*), both of which address discharges of oil. Under CWA section 311, any oil, including oily mixtures, other than those exempted in 40 CFR 110.5, may not be discharged in such quantities as "may be harmful," which is defined to include those discharges that violate applicable water quality standards or "cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines." Discharges that are not included in the description of "may be harmful" include discharges of oil from a properly functioning vessel engine (including an engine on a public vessel) and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with 33 CFR part 151 subpart A; other discharges of oil permitted under MARPOL 73/78, Annex I, as provided in 33 CFR part 151 subpart A; and any discharge of oil explicitly permitted by the Administrator in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution. The United States enacted the APPS to implement the nation's obligations under MARPOL 73/78. As the lead agency for APPS implementation, the USCG issued implementing regulations primarily found at 33 CFR part 151. Those APPS requirements already apply to many of the vessels that are covered by this rule. Among other things, the APPS regulates the discharge of oil and oily mixtures. Generally, these requirements prohibit "any discharge of oil or oily mixtures into the sea from a ship" except when certain conditions are met, including a discharge with an oil content of less than 15 ppm and that the ship operates oily-water separating equipment, an oil content monitor, a bilge alarm, or a combination thereof.

The final rule also includes requirements for oil-to-sea interfaces. Specifically, the final rule requires the use of environmentally acceptable lubricants (EALs) for oil-to-sea

interfaces unless technically infeasible. 40 CFR 139.6(e). The final standard for general operation and maintenance at 40 CFR 139.4 also identifies a series of mandatory BMPs for minimizing lubricant discharges during maintenance.

Oil-to-sea interfaces are defined as seals or surfaces on shipboard equipment where the design is such that small quantities of oil can escape into the surrounding waters during normal vessel operations. See 40 CFR 139.2. For example, below-water seals frequently use lubricating oil mechanisms that maintain higher pressure than the surrounding sea to ensure that no seawater enters the system and compromises the unit's performance. Above-deck equipment with portions of the machinery extended overboard, or equipment mounted to the exterior hull of the vessel, may also have oil-to-sea interfaces. During normal operation, small quantities of lubricant oil in these interfaces are discharged directly into surrounding waters. Constituents of conventional hydraulic and lubricating oils vary by manufacturer, but may include copper, tin, aluminum, nickel, and lead. In addition, traditional mineral oils have a low biodegradation rate, a high potential for bioaccumulation, and a measurable toxicity towards marine organisms.

Vessels use lubricants in a wide variety of shipboard applications. Examples of lubricated equipment with oil-to-sea interfaces include:

- *Stern tube*: A stern tube is the casing or hole through the hull of the vessel that enables the propeller shaft to connect the vessel's engine to the propeller on the exterior of the vessel. Stern tubes contain seals designed to keep the stern tube lubricant from exiting the equipment array and being discharged to waters at the exterior of the vessel's hull.

- *Controllable pitch propeller*: Variably pitched propeller blades are for changing the speed or direction of a vessel and supplementing the main propulsion system. Controllable pitch propellers also contain seals that prevent the lubricant from exiting the equipment array.

- *Rudder bearings*: These bearings allow a vessel's rudder to turn freely; they also use seals with an oil-to-sea interface.

- *Lubricated deck equipment above the water surface line that extends overboard*: Hose handling cranes, hydraulic system provision handling cranes, hydraulic cranes, and hydraulic stern ramps are examples of machinery with the potential for above-water discharges of lubricants. When vessels

are underway, this equipment is often not operational, and any lubricant losses are typically captured during deck washdown and treated as part of deck washdown wastewater. However, discharges can occur when portions of the machinery such as booms or jibs, trolleys, cables, hoist gear, or derrick arms are in use and extend over the side of vessel.

- Lubricated equipment, such as accommodation ladders, mounted to the exterior of the vessel hull.

In the case of controllable pitch propellers (CPP), up to 20 ounces of hydraulic and lubricating oils could be released for every CPP blade that is replaced, with blade replacement occurring at drydock intervals or when the blade is damaged. When the blade replacement includes removal of the blade port cover (generally occurring infrequently, less than once per month), up to five gallons of oil could be discharged into surrounding waters unless the service is performed in drydock. Additionally, many oceangoing vessels operate with oil-lubricated stern tubes. Oil leakage from stern tubes, once considered a part of normal "operational consumption" of oil, has become an issue of global concern and is now treated as oil pollution. A 2001 study commissioned by the European Commission DG Joint Research Centre concluded that routine unauthorized operational discharges of oil from ships into the Mediterranean Sea created more pollution than accidental spills (Pavakis et al., 2001). Similarly, an analysis of data on oil consumption sourced from a lubricant supplier indicated that daily stern tube lubricant consumption rates for different vessels could range up to 20 liters per day (Etkin, 2010). This analysis estimated that operational discharges (including stern tube leakage) from vessels add between 36.9 million liters and 61 million liters of lubricating oil into marine port waters annually.

One commenter requested that EPA restore language from the VGP recommending use of seawater-based systems for stern tube lubrication to eliminate the discharge of oil from these interfaces to the aquatic environment. EPA agrees, and the Agency has added this VGP language back into the text of the final standard. See 40 CFR 139.6(e) ("Operators of new build vessels should endeavor to use seawater-based systems for stern tube lubrication to eliminate the discharge of oil from these interfaces to the aquatic environment.")

The final rule at 40 CFR 139.2 defines an EAL as a lubricant or hydraulic fluid, including any oil or grease, that is

"biodegradable," "minimally-toxic," and "not bioaccumulative." The addition of "or hydraulic fluid" to the definition clarifies, consistent with VGP implementation, that any hydraulic fluid containing oils or greases and used in equipment with an oil-to-sea interface requires use of an EAL, unless technically infeasible. Based on several comments received regarding oil-to-sea interfaces on deck equipment, EPA reexamined the definition for "oil-to-sea interface" at 40 CFR 139.2 and updated it to clarify that oil-to-sea interfaces are found on equipment subject to immersion as well as equipment above the surface line that extends overboard or is mounted to the exterior of the hull. This modification is in line with EPA's regulation of those portions of vessel deck equipment from which lubricant or hydraulic fluid losses cannot otherwise be managed onboard the vessel.

More than 16 manufacturers have produced EALs for the global shipping community, providing vessel operators with a wide array of choices for optimizing lubricant technical performance. Most major marine equipment manufacturers have approved EALs for use in their machinery, and new equipment, such as air seals, is being introduced and refined commercially to minimize or eliminate the need for EALs. The market for EALs continues to expand around the world, particularly in Europe where the use of such lubricants is promoted through a combination of tax breaks, purchasing subsidies, and national and international labeling programs. Thus, EALs are widely available to vessels in the marketplace and their use. And while vessels must incur additional costs to purchase EALs, EPA has analyzed those costs in its Economic Analysis and finds them to be economically achievable. The Agency has thus determined that product substitution of EALs for other lubricants in oil-to-sea applications (unless technically infeasible), together with the required BMPs for maintenance, represents BAT for discharges from oil-to-sea interfaces. Use of EALs in lieu of conventional formulations for oil-to-sea interfaces can offer significantly reduced discharges of pollutants of concern (U.S. EPA, 2011).

As part of the BAT analysis for the VGP, EPA considered the processes employed and potential process changes that might be necessary for vessels to use EALs. As EPA explained at the time, EALs are readily available, and their use is economically achievable for applications where it is technologically available (U.S. EPA, 2011). The 40 CFR 139.6(e) requirement carries forward

EPA's VGP approach based on BAT that numeric standards of performance for discharges from oil-to-sea interfaces are infeasible but that EALs are technologically available, economically achievable, and reasonably necessary to carry out the purpose and intent of this subsection. New vessels can select equipment during design and construction that is compatible with EALs. Furthermore, vessel operators can design additional onboard storage capacity for EALs if they choose to use traditional mineral-based oil for engine lubrication (thereby needing two types of oils on-hand). The extra storage capacity needed would be minor. However, EPA considers the use of EALs in some applications to not be technologically practicable or achievable, such as for when there is existing equipment for which no compatible products are currently available. Therefore, the final rule at 40 CFR 139.6(e) retains the caveat from the VGP that EALs must be used in oil-to-sea interfaces except when "technically infeasible."

The Agency considered several other approaches for regulating oil-to-sea interfaces. For one, the most recent version of the European Ecolabel program has a modified definition of what constitutes an EAL in that it now allows for "small quantities" (*i.e.*, <0.1 percent) of bioaccumulative substances in lubricant formulations. EPA considered revising the definition of "biodegradable" at 40 CFR 139.2 to more closely align the terminology with current European Ecolabel requirements for achieving specific levels of degradation within 10, rather than 28, days. EPA notes that stakeholders involved in the European Ecolabel program felt strongly that this change in the test pass window would significantly reduce the number of lubricant formulations available on the market. To ensure widespread installation and use of EALs by vessels that operate in the waters of the United States or the waters of the contiguous zone, EPA in 40 CFR 139.2 retained the definition of "biodegradable" as used in the VGP.

The final standard for oil-to-sea interfaces includes EAL requirements as part of a general standard for oil management applicable to any specific discharge that may have an oil-to-sea interface rather than a specific discharge standard. *See* 40 CFR 139.6(e). Further, the standard covers all oil-to-sea interfaces on vessels rather than specifically identified interfaces. *Id.* EPA notes that certain types of seals used on below-deck equipment, such as air seals, are based on designs that use

an air gap or other mechanical features to prevent oils from reaching waters at the exterior of the vessel's hull. If these seals do not allow the lubricant to be released under normal circumstances, they are not considered to be oil-to-sea interfaces. *See* 40 CFR 139.2 (an "oil-to-sea interface" has a "*design* [] such that oil or oily mixtures can escape directly into surrounding waters") (emphasis added). Determinations of technical infeasibility regarding the use of an EAL pertain to implementation and therefore would fall under the USCG's implementing regulations established under CWA section 312(p)(5). The scope of this discharge category extends to all types of equipment with direct oil-to-sea interfaces, including any equipment on-deck or mounted to the exterior of the vessel hull. *See* 40 CFR 139.2 (definition of "oil-to-sea interface"). While the VGP provided that a lubricant could be classified as an EAL if it was either "biodegradable," "minimally-toxic," and "not bioaccumulative" or labeled under a defined list of labeling programs (*e.g.*, the European Union's European Ecolabel and Germany's Blue Angel), the final rule does not include a list of acceptable labeling programs. This is because neither EPA nor the USCG can control future modifications to the criteria by these organizations. EPA expects that all or most of the labeling programs identified in the VGP will meet the EAL criteria in this final rule and subsequent USCG implementing regulations, such that a comparable selection of appropriate lubricants will be available to vessel operators.

B. Discharges Incidental to the Normal Operation of a Vessel—Specific Standards

This section describes the final specific Federal standards of performance for discharges incidental to the normal operation of a regulated vessel. The final Federal standards of performance apply to regulated vessels operating within the waters of the United States or the waters of the contiguous zone. The final rule requires that a discharge comprised of two or more regulated incidental discharges must meet the Federal standards of performance established for each of those commingled discharges.

1. Ballast Tanks

a. Background and Applicability

The final rule incorporates the CWA section 312(p)(1) definition of "ballast water" to mean any water, suspended matter, and other materials taken onboard a vessel to control or maintain trim, draft, stability, or stresses of the

vessel, regardless of how any such water or suspended matter is carried; or taken onboard a vessel during the cleaning, maintenance, or other operation of a ballast tank or ballast management system of the vessel. 40 CFR 139.2. This statutory definition is slightly expanded and clarified from the VGP, which included the USCG definition of the term, meaning any water and suspended matter taken on board a vessel to control or maintain, trim, draught, stability, or stresses of the vessel, regardless of how it is carried. VGP appendix A; 33 CFR 151.1504. The term "ballast water" does not include any substance that is added to the water that is directly related to the operation of a properly functioning ballast water management system (BWMS). In response to several commenters, EPA is clarifying here that the definition of "ballast water" does not include discharges of fresh water, sea water, or ice carried onboard a vessel for food safety and product quality purposes and as such are not subject to the ballast water requirements in the final rule. The final rule carries forward the definition of "ballast tank" from the appendix A of the VGP to mean any tank or hold on a vessel used for carrying ballast water, regardless of whether the tank or hold was designed for that purpose. 40 CFR 139.2.

Ballast water discharge volumes and rates vary significantly by vessel type, ballast tank capacity, and type of deballasting equipment for the universe of vessels covered under the rule. Most passenger vessels have ballast capacities of less than 5,000 cubic meters (approximately 1.3 million gallons) of water. Cargo/container ships generally have ballast capacities of five to 20 thousand cubic meters (more than 1.3 to 5.3 million gallons) of water while some bulk carriers and tankers have ballast capacities greater than 40 thousand cubic meters (over 10 million gallons) of water.

Ballast water may contain toxic and nonconventional pollutants such as rust inhibitors, epoxy coating materials, zinc or aluminum (from anodes), iron, nickel, copper, bronze, silver, and other material or sediment from inside the tanks, pipes, or other machinery. Ballast water may also contain organisms that originate from where the water is collected. When ballast water is discharged, these organisms may establish new populations of ANS in the receiving waterbodies. Ballast water discharged from vessels has been, and continues to be, a significant environmental concern because it can introduce and spread ANS that threaten the diversity and abundance of native species; the ecological stability of U.S.

waters; and the commercial, agricultural, aquacultural, and recreational use of those waters.

Prior to passage of the VIDA, ballast water discharges were regulated by multiple Federal and State laws and regulations. The USCG regulated ballast water discharges under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), and amendments thereto by the National Invasive Species Act (NISA) of 1996 (33 CFR part 151 subparts C and D). EPA regulated ballast water discharges under the VGP through the NPDES program authorized under CWA section 402. However, the VIDA established that ballast water will now be regulated as an incidental discharge under a new CWA section 312(p). The VIDA set as a presumptive minimum baseline the existing VGP requirements.

Additionally, several states (California, Michigan, Minnesota, Ohio, Oregon, Washington, and Wisconsin) previously used their certification authorities under CWA section 401 or under standalone State authorities to impose additional, State-specific requirements on commercial vessels operating within their State waters. The existing USCG and EPA requirements for ballast water, as well as such additional standalone State standards, will no longer apply once EPA has established national standards and the USCG has promulgated implementing regulations that are final, effective, and enforceable under the VIDA. 33 U.S.C. 1322(p)(9)(A)(i).

The final standards for ballast water reflect BAT considering the specified statutory factors for BAT under CWA section 304(b), as well as the previous requirements established in the VGP and 33 CFR part 151 subparts C and D, and the new requirements established in the VIDA.

b. Exclusions

The final standards for ballast water apply to any vessel equipped with one or more ballast tanks that operates in the waters of the United States or waters of the contiguous zone, except as excluded by statute or regulation. Pursuant to CWA section 312(p)(2)(B)(ii), the final rule excludes ballast water discharges from the following five vessel categories from the CWA section 312(p) ballast water standards: (1) vessels that continuously take on and discharge ballast water in a flow-through system; (2) vessels in the National Defense Reserve Fleet scheduled for disposal; (3) vessels discharging ballast water consisting solely of water taken onboard from a public or commercial source that, at the time the water is taken onboard,

meets the Safe Drinking Water Act requirements; (4) vessels carrying all permanent ballast water in sealed tanks; and (5) vessels discharging ballast water into a reception facility. 40 CFR 139.10(b).

i. Vessels That Continuously Take on and Discharge Ballast Water in a Flow-Through System

The final rule excludes discharges of ballast water from a vessel that continuously takes on and discharges ballast water in a flow-through system, if the Administrator determines that the system cannot materially contribute to the spread or introduction of an ANS from ballast water into waters of the United States or the contiguous zone (40 CFR 139.10(b)(1)), acknowledging that such a flow-through system may have additional areas on the hull (*e.g.*, niches) requiring more rigorous biofouling management. EPA is unaware of any such vessels currently in commercial operation, but theoretically a vessel could be designed to have ambient water flow through the hull for vessel stability without retaining any of that water in such a way that it would be transported. Should any such vessel begin commercial operation, EPA expects that it would evaluate the ballasting configuration to determine if the vessel meets the statutory description, in which case it would be excluded from the ballast water discharge standards. In that instance, the Administrator would notify the vessel owner/operator of such a determination. 40 CFR 139.10(b)(1); 33 U.S.C. 1322(p)(2)(B)(ii)(I).

ii. Vessels in the National Defense Reserve Fleet Scheduled for Disposal

The final rule excludes discharges of ballast water from a vessel in the National Defense Reserve Fleet⁷ that is scheduled for disposal if the vessel does not have an operable BWMS. 40 CFR 139.10(b)(2); 33 U.S.C. 1322(p)(2)(B)(ii)(II).

iii. Vessels Discharging Ballast Water Consisting Solely of Water Meeting the Safe Drinking Water Act Requirements

The final rule excludes discharges of ballast water from a vessel that consist solely of water taken onboard from a public or commercial source that, at the time the water is taken onboard, meets the applicable requirements of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) at 40 CFR parts 141 and 143. 40 CFR 139.10(b)(3); 33 U.S.C.

⁷ This includes a fleet of vessels, established by section 11 of the Merchant Ship Sales Act of 1946, reserved for national defense and national emergencies.

1322(p)(2)(B)(ii)(III). In plain terms, this means that vessels may use and discharge finished, potable water as ballast, but may not use or discharge untreated water from a public water system that is not necessarily potable.

The exclusion in final rule, unlike the proposed exclusion, does not categorically apply to water taken onboard that meets Health Canada's Guidelines for Canadian Drinking Water Quality because EPA determined that the implementation details of this Congressionally-mandated exclusion, such as identification of potable water sources consistent with SDWA regulations, may be more appropriately left to the USCG as part of its implementation, compliance, and enforcement requirements under CWA section 312(p)(5). EPA does not have information suggesting vessels made use of a comparable allowance present in the VGP for water meeting Health Canada's Guidelines, and the USCG ballast water regulations in 33 CFR part 151 did not provide for a comparable allowance. Thus, prior to the VIDA, this allowance for water meeting Health Canada's Guidelines applied solely to the universe of vessels regulated under the VGP but not USCG regulations (namely, vessels operating on the Great Lakes). However, an industry representative for U.S.-flagged vessels operating on the Great Lakes commented on the proposed rule that it is not operationally or economically feasible for a U.S.-flagged vessel to receive water meeting potable water requirements. Thus, while the intent of EPA's proposed rule was to retain the expanded exclusion from the VGP to include potable water used as ballast that meets Health Canada's Guidelines, the final rule does not include such expansion to more closely align with the statutory language and consistent with information in a comment EPA received demonstrating that the requirement would not be technologically available and economically achievable. EPA acknowledges that vessels discharging ballast water consisting solely of water taken onboard from public or commercial water sources may be deemed to be consistent with applicable requirements of the SDWA and that the USCG may establish procedures for use of such water as a means to comply with the ballast water discharge standard. EPA anticipates that USCG may address this issue as a matter of implementation, compliance, and enforcement in its corresponding rulemaking under the VIDA.

iv. Vessels Carrying All Permanent Ballast Water in Sealed Tanks

The final rule excludes discharges of ballast water from a vessel that carries all permanent ballast water in sealed tanks that are not subject to discharge. 40 CFR 139.10(b)(4). The final rule did not carry through the phrase “except under emergency circumstances” from the proposed rule in recognition that 40 CFR 139.1(b)(3) excludes discharges from VIDA regulation if compliance with this part would compromise the safety of life at sea. This 40 CFR 139.1(b)(3) exclusion would cover discharges of ballast water from a sealed tank in emergency circumstances. As such, clarification about emergency circumstances specific to discharges from sealed tanks is duplicative and unnecessary. This 40 CFR 139.10(b)(4) exclusion is different from the ballast water exchange and saltwater flush exemptions described in section VIII.B.1.h. of this preamble, *Ballast Water Exchange and Saltwater Flush*. 33 U.S.C. 1322(p)(2)(B)(ii)(IV).

v. Vessels Discharging Ballast Water Into a Reception Facility

The final rule excludes discharges of ballast water from a vessel that only discharges ballast water into a reception facility (which could include another vessel for the purpose of storing or treating that ballast water). In such instances, once the ballast water is offloaded to a reception facility, that ballast water would be subject to any applicable regulation for discharges from that reception facility. Consistent with the rationale provided in the 2013 VGP Fact Sheet, EPA would continue to expect that all vessel piping and supporting infrastructure up to the last manifold or valve immediately before the reception facility manifold connection, or similar appurtenance, prevents untreated ballast water from being discharged. Any such discharge not meeting this requirement would be expected to meet the ballast water discharge standards in the final rule. 40 CFR 139.10(b)(5); 33 U.S.C. 1322(p)(2)(B)(ii)(V).

c. Exemption From Existing USCG Regulations for Crude Oil Tankers Not Adopted

Crude oil tankers engaged in coastwise trade are exempted from the existing USCG regulation (33 CFR 151.2015(b)), consistent with section 1101(c)(2)(L) of the NISA (16 U.S.C. 4711). However, these same vessels are not exempted from meeting the ballast water requirements in the VGP and are not exempted under the VIDA.

Therefore, pursuant to CWA section 312(p)(4)(B)(iii), which requires this rule to be at least as stringent as specified parts of the VGP, the final rule does not exempt crude oil tankers engaged in coastwise trade from meeting the ballast water requirements set forth in the rule. Such vessels are not inherently unable to perform ballast water exchanges and other ANS management practices that their non-exempt counterparts routinely carry out. EPA expects this final rule to impose no additional costs given that the requirements are presently in effect under the VGP.

d. Ballast Water Best Management Practices

Pursuant to CWA section 312(p)(4)(B)(ii), the final rule includes six ballast water BMPs for all vessels with ballast tanks and one additional ballast water BMP specific to Lakers to control or abate the number of organisms taken up and discharged in ballast water. 40 CFR 139.10(c). The final rule retains many of the ballast water BMPs included in the VGP (and present in USCG regulations at 33 CFR part 151 subpart D), in line with the VIDA’s requirement that EPA’s standards be at least as stringent as the VGP with limited exceptions. At present, the ballast water BMPs in this section are widely implemented and EPA has not identified any unacceptable non-water quality environmental impacts (e.g., energy requirements, air impacts, solid waste impacts, and changes in waters use) related to these practices. These are demonstrated practices that EPA finds to be technologically available and economically achievable.

The final rule does not include one ballast water BMP that was included in both the VGP and USCG regulations at 33 CFR part 151 subparts C and D. The final rule does not require that vessel operators minimize or avoid uptake of ballast water in the following areas and situations: areas known to have infestations or populations of harmful organisms and pathogens (e.g., toxic algal blooms); areas near sewage outfalls; areas near dredging operations; areas where tidal flushing is known to be poor or times when a tidal stream is known to be turbid; in darkness, when bottom-dwelling organisms may rise in the water column; where propellers may stir up the sediment; and areas with pods of whales, convergence zones, and boundaries of major currents.

This change is based on extensive conversations with the USCG and comments received indicating that such requirements are not practical to

implement or enforce. During these conversations, new information from implementation of the VGP became available indicating that these conditions are not well-defined and are typically beyond the control of the vessel operator during the uptake and discharge of ballast water. Additionally, it is difficult for enforcement agencies to assess whether a vessel operator took appropriate actions as necessary to comply with these requirements. Therefore, it is not practical to continue to require that vessels minimize or avoid uptake of ballast water in those areas and situations. 33 U.S.C. 1314(b)(2)(B) and 33 U.S.C. 1322(p)(4)(D)(ii)(II)(aa). In lieu of including the uptake measures as individual requirements, EPA expects that appropriate vessel-specific ballast water BMPs will be incorporated into the ballast water management plans (BWMPs) discussed later in this section, as vessels must minimize the introduction and spread of ANS. For example, BWMPs could describe coordinating with local authorities to identify areas and situations of concern and any opportunities to mitigate potential issues. Demonstrating that these important considerations were made by vessel operators would provide for environmental protection but allow vessel operators to tailor measures specific to their vessel operations and routes.

Additionally, the VIDA authorizes a State to petition EPA to issue an emergency order as provided for in CWA section 312(p)(7)(A)(i) and in accordance with the procedures outlined in 40 CFR 139.50 in the event of a known outbreak of harmful algal blooms or other emergency situations. Similarly, the VIDA authorizes EPA to require, by order, the use of an emergency BMP for any region or category of vessels if it is necessary to reduce risk of introduction or establishment of ANS, or if EPA determines that the order will mitigate the adverse effects of a discharge that contributes to a violation of a water quality requirement under CWA section 303. 33 U.S.C. 1322(p)(4)(E)(i). Thus, similar BMPs may be established albeit through an order where EPA and/or the USCG identify specific instances when and where such practices must be implemented.

i. Develop a Ballast Water Management Plan

The final rule requires vessels equipped with ballast tanks to maintain a BWMP that addresses both the uptake and discharge of ballast water. 40 CFR 139.10(c)(1)(i). A vessel’s BWMP must

describe the vessel-specific (*i.e.*, considering the unique operational profile of the vessel) ballast water management practices and systems that, ensure compliance with the requirements in this section. Specific details of the BWMP, including how vessel operators are to implement and follow the plan, would fall under the USCG's implementing regulations established under CWA section 312(p)(5).

In general, this carries forward the requirement in part 2.2.3.2 of the VGP requiring a vessel-specific BWMP be developed and maintained. The VGP specifies, that at a minimum, the plan is to outline how the vessel will comply with all the VGP ballast water requirements. Additionally, the requirement to maintain a BWMP is consistent with existing USCG regulations at 33 CFR 151.2050. Through these regulations, promulgated pursuant to the NISA, the USCG has required the individual in charge of any vessel equipped with ballast water tanks that operates in the waters of the United States to maintain a BWMP that has been developed specifically for the vessel and that will allow those responsible for the plan's implementation to understand the vessel's ballast water management strategy and comply with the requirements. The USCG also required BWMPs to include detailed biofouling maintenance and sediment removal procedures (33 CFR 151.2050(g)(3)).

ii. Minimize Use of Gravity To Drain Ballast Tanks in Port

The final rule requires that vessels minimize the use of gravity to drain ballast tanks while in port. 40 CFR 139.10(c)(1)(ii). Instead, ballast tanks should be discharged in port using pumps. This BMP has been shown to increase the mortality rate of living organisms in ballast water during discharge, particularly zooplankton and other larger organisms, as a result of the physical action of the pumps (*e.g.*, cavitation, entrainment, and/or impingement), and thereby reduce the propagule pressure.

iii. Use High Sea Suction

The final rule requires that, when practicable, high sea suction sea chests must be used in port or where clearance to the bottom of the waterbody is less than five meters to the lower edge of the sea chest. 40 CFR 139.10(c)(1)(iii). An example of when the use of high sea suction may not be practicable is when it is necessary to avoid ice, algae, or other biofilm on the water surface. This BMP minimizes the potential for uptake

of bottom-dwelling organisms, suspended solids, particulate organic carbon, and turbidity into the ballast tanks.

iv. Avoid Ballast Water Discharge or Uptake in Areas With Coral Reefs

The final rule requires vessel owners/operators to avoid the discharge or uptake of ballast water in areas with coral reefs. 40 CFR 139.10(c)(1)(iv). This BMP is consistent with the VGP requirements; however, the VGP also included similar prohibitions for "marine sanctuaries, marine preserves, marine parks, . . . or other waters" listed in appendix A. The final rule carries forward these prohibitions in a section specific to activities in federally-protected waters, as described in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements* and in the regulations at 40 CFR 139.40.

Further, consistent with a USCG Marine Safety Information Bulletin (*Ballast Water Best Management Practices to Reduce the Likelihood of Transporting Pathogens That May Spread Stony Coral Tissue Loss Disease*), ballast water discharges should be conducted as far from coral reefs as possible, regardless of whether the reef is inside or outside of 12 NM from shore (USCG, 2019a).

v. Clean Ballast Tanks Periodically and Prohibit Ballast Tank Cleaning Discharges

The final rule requires ballast tanks to be cleaned periodically to remove sediment and biofouling organisms. 40 CFR 139.10(c)(1)(v). Residual sediment left in ballast tanks can negatively affect the ability of a vessel to meet discharge standards, even when a BWMS is properly operated and maintained. Sediments may also allow organisms to survive in ballast tanks for prolonged periods of time in resting stages. Additionally, the final rule prohibits the discharge of sediment from ballast tank cleanings in waters subject to this rule.

vi. Maintain Sea Chest Screens

The final rule requires that sea chest screen(s) be maintained and kept fully intact. 40 CFR 139.10(c)(1)(vi). This BMP is consistent with a VGP requirement for existing bulk carriers operating exclusively in the Laurentian Great Lakes (Lakers), but the final rule expands it to all vessels with ballast tanks. These screens are designed to prevent the largest living organisms, such as fish, as well as bacteria and viruses associated with these organisms, from entering ballast tanks. Adequately

maintaining sea chest screens is a simple technology-based practice that is available, economically achievable, and beneficial to all vessels to reduce the transport of organisms.

vii. New Laker Equipment Standard

The final rule establishes, as a BMP, a ballast water "equipment standard" that requires any new Laker to install, operate, and maintain a USCG type-approved BWMS. 40 CFR 139.10(c)(2). EPA's standard for new Lakers aligns with the "technology-forcing" nature of the BAT statutory standard. *See NRDC v. EPA*, 822 F.2d 104, 123 (D.C. Cir. 1987); *See also Southwestern Elec. Power Co. v. EPA*, 920 F.3d at 1003 ("By requiring BAT, the Act forces implementation of increasingly stringent pollution control methods."). This approach is consistent with the option discussed in the supplemental notice. Discussion of EPA's rationale for exempting both new and existing Lakers from the numeric ballast water discharge standard is provided in section VIII.B.1.f.v. of this preamble, *Vessels that Operate Exclusively in the Laurentian Great Lakes*.

The final rule defines a "new Laker" as any vessel 3,000 GT and above, and that operates exclusively in the Great Lakes and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to Pointe-de-l'Ouest (West Point), Anticosti Island, and west of a line along 63° W. longitude from Anticosti Island to the north shore of the St. Lawrence River, and constructed after the effective date of USCG regulations promulgated pursuant to CWA section 312(p)(5)(A)(i). 40 CFR 139.2. The final definition for, and use of the term, "new Laker" corrects an improper citation in the supplemental notice to the French spelling of "West Point" to correctly read "Pointe-de-l'Ouest" not "Pointe-Sude-Ouest." The final definition for "seagoing vessel" was also corrected to reference "Pointe-de-l'Ouest."

As described in section VIII.B.1.e.i.1 of this preamble, *BAT for Control of Ballast Water Discharges is the Use of a USCG Type-Approved BWMS*, the requirement to use a type-approved BWMS is a well-established and demonstrated process for selection of technologies. The final rule requires the use of a USCG type-approved BWMS because this process comprehensively addresses BWMS design, installation, operation, safety, and performance.

Land-based and shipboard testing of ultraviolet (UV) and chemical addition BWMSs in the Great Lakes have demonstrated a substantial reduction in organisms even when the numeric

discharge standard cannot be achieved (GSI, 2011; GSI 2015; Bailey et al., 2023). An equipment standard allows vessels flexibility to operate BWMSs in challenging water conditions through use of operational contingency measures. Additionally, these implementation details can be determined in the USCG regulations. Although contingencies may be necessary in certain locations or at certain times of the year in the Great Lakes, EPA expects that continued operation of a BWMS consistent with an equipment standard over the lifetime of a vessel will still provide reductions in the discharge of organisms. Additionally, new Lakers can be designed and constructed to accommodate a USCG type-approved BWMS and overcome certain operational and technical challenges such as corrosion, flow rate capacity, lack of space and lost cargo capacity, and adequate power.

As described in the supplemental notice in section IV.B., *Ballast Tanks—Equipment Standard for New Lakers* (88 FR 71788, October 18, 2023), the final rule does not establish an equipment standard for existing Lakers as BAT because technical and operational challenges would create disproportionately high costs to retrofit BWMSs onto existing Lakers. See 88 FR 71800, October 18, 2023, section IV.B.3.I. Existing Lakers also do not have the engineering flexibility available during the initial design and construction process to incorporate ballast water treatment capabilities.

Also, two provisions in the VIDA, when read together, demonstrate Congress' intent for EPA to undertake additional research to develop effective ballast water management solutions for existing Lakers. First, section 903(g) of the VIDA authorized the EPA Administrator to establish the Great Lakes and Lake Champlain Invasive Species Program within the Great Lakes National Program Office that has as one of its purposes "to develop, achieve type-approval for, and pilot shipboard or land-based ballast water management systems installed on, or available for use by, commercial vessels operating solely within the Great Lakes and Lake Champlain Systems to prevent the spread of aquatic nuisance species populations within the Great Lakes and Lake Champlain Systems." This program is to be developed in collaboration and consultation with several other Federal agencies. As described therein, "commercial vessels operating solely within the Great Lakes and Lake Champlain Systems" are, as defined by EPA, "Lakers." Thus,

Congress clearly intended for EPA to work towards finding ballast water management solutions for existing Lakers and acknowledged that there were special technological challenges presented by Lakers. Second, section 903(a)(1) of the VIDA, specifically as codified in CWA section 312(p)(6)(C), established a "period of use of installed BWMSs" clause that specifies that a vessel is deemed to be in compliance if the vessel is meeting the ballast water discharge standard that was applicable to the vessel at the time of installation of the existing BWMS, even if EPA subsequently establishes a more stringent discharge standard. Thus, an existing Laker required to install a BWMS to meet the discharge standard would be unlikely to benefit from any improved ballast water management practices developed as part of the ballast water research. EPA's seven-year Great Lakes Ballast Water Research and Development Plan is targeted to address the complexities and improve the operation of BWMSs on existing Lakers. EPA is also required to review and revise as appropriate its VIDA standards of performance every five years. 33 U.S.C. 1322(p)(4)(D)(i). As such, EPA expects the outcome of that research will support future discharge requirements for these vessels with a focus on finding effective technologies for the management of ballast water.

e. Numeric Ballast Water Discharge Standard

EPA is establishing BAT effluent limitations for ballast water based on the technologies required by the VGP and USCG ballast water regulations. The final rule at 40 CFR 139.10(d) continues, as a numeric discharge standard, the numeric limitations for biological parameters from the VGP and USCG ballast water regulations at 33 CFR part 151 subpart D, as follows:

- Organisms greater than or equal to 50 micrometers in minimum dimension: discharge must include less than 10 living organisms per cubic meter of ballast water.
- Organisms less than 50 micrometers and greater than or equal to 10 micrometers: discharge must include less than 10 living organisms per milliliter (mL) of ballast water.
- Indicator microorganisms must not exceed:

- Toxicogenic *Vibrio cholerae* (serotypes O1 and O139): a concentration of less than 1 colony-forming unit (cfu) per 100 mL.
- *Escherichia coli*: a concentration of less than 250 cfu, or Most Probable Number (MPN), per 100 mL.

- Intestinal enterococci: a concentration of less than 100 cfu, or MPN, per 100 mL.

The final rule defines "living" using the CWA section 312(p)(6)(D) clarification that the terms "live" and "living" shall not include an organism that has been rendered nonviable or preclude the consideration of any method of measuring the concentration of organisms in ballast water that are capable of reproduction. 40 CFR 139.2. However, it is important to recognize that, to date, the USCG has not identified any testing protocols, based on best available science, that are available for use to quantify organisms in ballast water that are capable of reproduction. As such, demonstrating compliance with the discharge standard would require the use of test methods, as detailed in the 2010 EPA Generic Protocol for the Verification of Ballast Water Treatment Technology, that do not consider non-viable organisms as part of the test protocol (U.S. EPA, 2010). In the future, should the USCG identify one or more testing protocols that enumerate organisms in ballast water capable of reproduction, such methods would be acceptable for demonstrating compliance with the numeric ballast water discharge standard.

The final rule reflects units of both MPN/mL and cfu/mL for *Escherichia coli* and intestinal enterococci in 40 CFR 139.10(d), and (g)(2) for the Pacific Region, based on input from commenters who pointed out that newer microbiological test methods have MPN outputs and that, while the test methods differ, the number of bacteria in the tested sample are comparable to the numeric discharge standard.

In addition, the final rule at 40 CFR 139.10(d)(2) continues the discharge limitations as a numeric standard for four biocide parameters contained in the VGP, namely:

- For any BWMS using chlorine dioxide, the chlorine dioxide must not exceed 200 µg/L;
- For any BWMS using chlorine or ozone, the total residual oxidizers must not exceed 100 µg/L; and
- For any BWMS using peracetic acid, the peracetic acid must not exceed 500 µg/L and the hydrogen peroxide must not exceed 1,000 µg/L.

The standard for both the organisms and biocide parameters represents instantaneous maximum values not to be exceeded.

The final rule continues the requirement contained in the VGP and USCG regulations (33 CFR part 151) that, prior to the compliance date for the vessel to meet the discharge standard,

ballast water exchange must be conducted as required in 40 CFR 139.10(e), or the applicable regional requirements in 40 CFR 139.10(f) and (g), for any vessel subject to the ballast water discharge standard. The USCG is required to include compliance dates in its implementing regulations established under CWA section 312(p)(5)(A)(iv).

For the reasons described in the following section, BAT for ballast water management remains the use of a USCG type-approved BWMS as required long-term under the USCG ballast water regulations and VGP. Accordingly, that is the technology on which EPA has based the numeric ballast water discharge standard.

i. BAT Rationale for Standard Pursuant to the VIDA

(1) BAT for Control of Ballast Water Discharges Is the Use of a USCG Type-Approved BWMS

(a) EPA Conducted a Comprehensive Survey of Technologies for Purposes of Identifying BAT

EPA based its analysis of prospective BAT model technologies largely on data generated through the USCG BWMS type-approval process. In response to concerns expressed by commenters that EPA failed to review sufficient data for the proposed rule, EPA requested and obtained directly from the USCG a large set of land-based and shipboard USCG BWMS type-approval data for the 37 BWMSs that had been type-approved as of the date of the proposed rule (October 2020) and similar data for 16 amendments to those systems. In total, EPA analyzed 1,820 treatment discharge results from 49 BWMS type-approval data sets. The complete set of USCG BWMS type-approval data provided to EPA by the USCG and the Agency's comprehensive *Ballast Water BAT Data Analysis* of these data, including a sensitivity analysis, are included in the docket (U.S. EPA, 2023), and are updated for the final rule (U.S. EPA, 2024). As of April 30, 2024, the USCG has type-approved 54 BWMSs. Some commenters suggested that EPA should analyze more recent data. However, EPA is unaware of any significant improvements in ballast water technology, monitoring, or testing. As such, allowing more time for the USCG to compile and share additional data with EPA on additional systems that have been type-approved since the proposed rule would not have meaningfully altered the results of the analysis. Additionally, it takes significant time for USCG to compile and share data with EPA. For example, EPA received USCG data 16 months

after the initial formal request to USCG for the compiled type-approval data. Thus, given the time it takes USCG to compile and share data with EPA, EPA selected an appropriate cutoff point for the collection of data to enable timely analysis to proceed.

EPA did not analyze IMO type-approval data for its BAT analysis here, and EPA's rationale for excluding IMO type-approval data from its analysis is described in both the proposed rule and supplemental notice (85 FR 67818, October 26, 2020, section VIII.B.1.v.A.3.i. and 88 FR 71788, October 18, 2023, section III.A.1).

(b) USCG Type-Approved BWMSs Are Technologically Available and Economically Achievable

Based on its review of available information, for this final rule, EPA selected all currently available USCG type-approved BWMSs as BAT for control of ballast water discharges. EPA's final rule includes a numeric ballast water discharge standard based on that technology. This outcome is consistent with the requirements in the VGP, which also identifies USCG type-approved BWMS as BAT and has the same numeric standards as the final rule.

EPA has determined that the standard for ballast water discharges in the final rule is technologically available and economically achievable. This determination is based in part on the fact that EPA assessed the same type-approval process and similar technologies under the VGP and determined that USCG type-approved BWMS were technologically available and economically achievable for that permit. As discussed in more depth below, EPA assessed additional data regarding USCG type-approved systems and, based both on its prior analysis and new data and analysis, continues to find the suite of USCG type-approved BWMSs to be BAT. Additionally, vessels in the United States have been required to meet the same numeric standard reflecting USCG type-approved BWMSs as BAT under the 2013 VGP, which further supports EPA's determination that such systems are technologically available and economically achievable.

The fact that these systems are approved through the USCG's type-approval process also supports their availability for use on the full universe of vessels regulated by the VIDA. USCG regulations include BWMS type-approval requirements that consider design, installation, operation, and testing to ensure any type-approved system meets both performance and

safety standards. 46 CFR 162.060. The type-approval process also supports the availability of these systems despite the challenges vessels present that are not present for stationary facilities for which EPA routinely establishes national discharge effluent limitations guidelines and standards based on BAT. For example, the USCG type-approval process separately requires that the BWMS be practicable onboard a vessel (e.g., able to operate despite roll, pitch, and vibration considerations), compatible with other onboard systems, durable, and be supported by credible and sustainable system manufacturers, suppliers, and servicers. Additionally, to be installed on any U.S.-flagged vessel, the USCG must verify the system meets certain installation and engineering requirements specified in 46 CFR subchapters F and J.

(c) USCG Type-Approved BWMSs Have Acceptable Non-Water Quality Environmental Impacts

EPA also considered non-water quality environmental impacts of its ballast water standards as part of its BAT analysis. EPA previously determined for the VGP that its numeric ballast water standards had acceptable non-water quality environmental impacts, and the Agency is not aware of any new information since the VGP that would cause EPA to reach a different determination for this final rule. In particular, based on its experience implementing this requirement for vessels since the 2008 VGP, EPA has not found this requirement to have unacceptable non-water quality environmental impacts. Specifically, EPA has considered the impacts of its standards related to increased energy usage for operating treatment equipment and associated greenhouse gases from an incremental increase in fuel consumption. Any such impacts are far exceeded by the effluent reduction benefits of treatment. Additionally, EPA's standard allows vessel operators to select from a broad range of type-approved systems to best meet their vessel's needs, including where appropriate to reduce energy requirements. For these reasons, EPA's ballast water numeric standard will not have unacceptable non-water quality environmental impacts.

(d) Harmonization With an International Standard Further Supports EPA's Selection of USCG Type-Approved BWMSs as BAT

In identifying a model BAT technology for this rule, EPA determined it was appropriate to consider whether its numeric standard

was harmonious with international standards and promoted international comity. In particular, for ballast water discharges, the current world economic and trade system is predicated on timely and efficient maritime transportation, a significant proportion of which operates globally where trade takes it. The final numeric ballast water discharge standard acknowledges, as described in the preamble to the proposed rule, that a majority of the vessels discharging ballast water in waters of the United States spend the majority of their time operating outside of waters of the United States (U.S. EPA, 2020) and that these vessels for the most part are obligated to comply with the IMO International Convention for the Control and Management of Ships' Ballast Water and Sediments (the BWM Convention)—an international treaty developed with a goal of establishing an international standard for the management of ballast water (IMO, 2004)—anywhere they operate in the world, including while operating in the United States. This is not to say that U.S. requirements must or should always be identical with the international standard; however, it is appropriate, in EPA's view, to consider whether U.S. requirements are harmonious with international obligations for the vessels of flag states that have signed onto that BWM Convention.

Indeed, the BWMS type-approval process was first developed as part of the IMO BWM Convention. The BWM Convention was adopted in 2004 after more than 14 years of complex negotiations between IMO member states and entered into force in 2017. The United States is not a party to the BWM Convention; however, both the USCG (serving as the lead for the U.S. delegation) and EPA were actively involved in the standard setting discussions that led to the BWM Convention numeric discharge standard that entered into force in September 2017. The USCG developed domestic type-approval regulations with the intent to harmonize as closely as possible with the adopted BWM Convention.

While EPA received comments arguing that it should identify BAT based on the performance of a subset of the perceived most stringent of type-approved systems, pollutant discharge reductions are not the sole factor relevant to BAT under CWA section 304(b). As discussed in more detail in the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.1.v.A.2.ii.), the BAT consideration factors in CWA section 304(b), particularly with respect

to the "process employed" and "engineering aspects of the application of various types of control techniques," weigh in favor of establishing the ballast water standard at a level of consistency with the IMO standard. Furthermore, section 304(b)(2)(B) authorizes EPA to consider "such other factors as the Administrator deems appropriate" and EPA has broad discretion in considering those factors and the weight attributed to such factors. *See Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1028, 1045 (D.C. Cir. 1978); *Texas Oil & Gas Ass'n v. EPA*, 161 F.3d 923, 928 (5th Cir. 1998). Here, EPA considers consistency with the international standard to be an appropriate factor that weighs in favor of the BAT selected in this final rule because it promotes international trade and comity.

(e) USCG Type-Approved BWMSs Make Reasonable Further Progress Toward the National Goal of Eliminating the Discharge of All Pollutants

EPA's ballast water standard based on USCG type-approved systems as BAT also makes reasonable further progress toward the national goal of eliminating the discharge of all pollutants. *See CWA* section 304(b)(2)(B). As detailed in the preamble for the proposed rule, these systems have been shown to substantially reduce the concentration of living organisms in ballast water discharges and beyond the reduction achieved through midocean exchange or unexchanged ballast water. Specifically, as illustrated in table 1 of the proposed rule, pollutant discharge reduction attributable to type-approved BWMS performance is extremely high, with properly operated and maintained systems achieving treatment efficiencies of more than 99 percent. Furthermore, EPA notes that vessel ballasting practices to minimize volumes of ballast water requiring management will likely continue to evolve into the future, further driving reductions of pollutant discharges.

Opportunities for advancement in ballast water treatment and technology may involve EPA and/or the USCG assisting the vessel community in addressing installation and operational challenges with the existing BWMSs and future type-approved systems and BMPs. The VIDA provides EPA and the USCG with this opportunity to enhance the ballast water regulations, which should aid with the operation of demonstrated, but not yet fully optimized, systems and with future systems as they continue to be developed and deployed.

(2) EPA Rejects Other Technologies as BAT for Controlling Discharges of Ballast Water

Some commenters suggested that EPA should identify a single-best performing BWMS or a subset of better-performing BWMSs and impose that perceived level of performance on the entirety of the universe of potentially affected entities. EPA disagrees that the available information indicates that a higher-performing system or subset of systems can be identified as BAT from the data in the record. Additionally, even if higher performing systems could be identified, the record does not demonstrate that a small subset of systems capable of meeting a more stringent standard would be available to all vessels that would be required to meet a standard based on those systems, given the tremendous variability among vessels.

Based on its analysis of USCG type-approval data described in the supplemental notice, EPA disagrees with commenters that the record allows for identification of a subset of so-called best-performing BWMSs. EPA's analysis specifically addressed commenters' suggestion and evaluated whether statistical differences in the treatment effectiveness of BWMSs could help identify systems that perform significantly better in terms of pollutant discharge reductions, such that they could reflect BAT. To do so, EPA compared treatment discharge concentrations of the BWMSs within six groups defined by the two common organism size class and three salinity categories. Statistical tests conducted and summarized in the Agency's comprehensive *Ballast Water BAT Data Analysis* (U.S. EPA, 2024) showed significant differences among systems within each group but did not point to any clear stratification of "best" or "worst" system groupings. Further complicating this analysis, the effectiveness of systems varied by organism size and/or salinity, such that systems had different relative comparisons depending on the group within which they were evaluated. For example, one system may have produced lower concentrations in one organism size class but not in the other size class, making an overall determination of that system's treatment effectiveness compared to other systems uncertain.

The results of this statistical analysis did not point to any clear identification of a subset of BWMSs that stood out as representing BAT. Test results for both the baseline and sensitivity analyses were within the same order of

magnitude as the standard in the proposed rule and fall within the margin of error expected due to the variability associated with the characteristics of ballast water and challenges associated with monitoring, analyzing, and enumerating organisms in the different size classes. Based on the data analysis of the USCG type-approval data, EPA did not identify any single system or subset of systems that might be identified as BAT based on their superior performance in terms of pollutant discharge reductions.

EPA also disagrees with the suggestion to base BAT on a small subset of systems because that suggestion does not account for the substantial variability among vessels. This variability dictates the need for a range of different BWMS options to adequately address organism reduction in ballast water discharges. That is, a BWMS that is technically and operationally appropriate for one vessel or set of conditions may not be available for a different vessel, or even a similar vessel with a different operating profile. EPA's BAT determination carries forward the existing regulatory approach, promoting the type-approval process using a range of types of BWMS disinfection technologies that operate under a wide range of conditions, thereby allowing vessel operators to select a system that is most appropriate for their vessel. The final rule provides the necessary flexibility for the vessel owner/operator to select a system that has been demonstrated through the existing USCG type-approval process as both capable of achieving the final numeric discharge standard and as suitable for their particular vessel.

(3) EPA's Numeric Ballast Water Discharge Standard Is Supported by the Data in the Record

EPA's numeric ballast water discharge standard is supported by the data in the record for several reasons. First, EPA's experience with the VGP has demonstrated that the numeric standard is achievable for vessels subject to regulation under this rule. Based on its BAT analysis for the VGP and its subsequent administration of the VGP, EPA has direct knowledge that the numeric standard can be attained.

Second, EPA's standard is based on USCG type-approved systems, which are designed and demonstrated to allow vessels to consistently achieve the numeric discharge standard. The goal of the USCG type-approval process is to demonstrate that a BWMS can treat ballast water such that organism concentrations in discharged water are sufficiently low to meet the discharge

standard (e.g., less than 10 organisms per cubic meter of ballast water as an instantaneous maximum) for a given number of consecutive valid tests. Type-approval is a critical step in verifying that a BWMS, when tested under standardized and relatively challenging conditions, is capable of consistently meeting a discharge standard. In the USCG type-approval testing process to determine biological efficacy, careful analyses are employed to: (1) assure the source water for testing meets a threshold concentration of organisms to meaningfully challenge the BWMS; and (2) to quantify (ideally, sparse) concentrations of living organisms in treated discharge water. As part of its type-approval procedure, the USCG regulations require BWMS land-based testing to be conducted pursuant to the ETV Protocol (i.e., the 2010 *Generic Protocol for the Verification of Ballast Water Treatment Technology*, developed under the now defunct EPA Environmental Technology Verification Program) that outlines the experimental design, sampling and analysis protocols, test, and reporting requirements (U.S. EPA, 2010). This rigorous process ensures that systems are consistently able to meet EPA's standard.

Third, EPA's numeric standard appropriately accounts for various sources of variability inherent in addressing organisms (including ANS) in ballast water, including:

- Vessel size and architectural characteristics, including but not limited to design of ballast tank(s), pump(s), and piping configuration;
- Vessel operational profile (e.g., voyage lengths, volumes of ballast water, ballast water flow rates, etc.);
- Vessel class and flag State;
- Temperature, salinity, and turbidity range of uptake water in areas where the vessel voyages;
- Duration of voyages and segments of each voyage that can affect the necessary holding time for certain systems;
- Ballast water capacity and required uptake and discharge pumping rates;
- Treatment system weight and space considerations, including but not limited to accessibility and acceptability for use in hazardous spaces;
- Availability of service, support, replacement parts, supplies, etc. in areas where the vessel voyages;
- Compatibility of treatment with vessel construction (e.g., corrosivity concerns);
- Power demand and energy consumption to pump ballast and operate treatment system; and

- Safety concerns (e.g., explosivity risks, particularly on oil and chemical carriers).

As EPA has historically done with respect to developing effluent limitations guidelines, EPA is not specifying a single technology that must be used, but rather it is identifying one or more technologies that have been demonstrated as being capable of meeting the discharge standard. The discharger is free to select a technology most suitable for its operations and compliance (to be determined by USCG) is able to be demonstrated through routine self-monitoring. The USCG type-approved its first BWMS in 2016 and, to date, more than fifty systems have been approved through that process (USCG, 2024). The wide range of systems demonstrated to meet EPA's numeric standard thus accounts for the variability in vessel characteristics, operations, and conditions.

(4) EPA Rejects an Alternative Numeric Standard Based on Several Factors

Commenters suggested that EPA adopt different or lower numeric standards for ballast water, arguing that EPA's data indicates that a limit of less than 10 organisms per volume of ballast water as an instantaneous maximum is not supported by available data as the most stringent limit that could be set based on USCG type-approved BWMSs. Specifically, commenters urged that EPA's results indicated that a numeric standard could be set at 6.01 or 6.66 organisms/volume for large and medium organisms size classes, respectively, or even at lower levels based on the results of single systems or subsets of systems. EPA has carefully considered this issue but disagrees with commenters for several reasons.

(a) Observed Numeric Differences in Test Results Are Not Scientifically Significant in Light of Existing Variability

EPA disagrees that the USCG test results that EPA reviewed as part of this rulemaking indicate that additional pollutant control may be achieved through the application of a more stringent discharge standard such as one around 6 organisms. Whether the standard is set at approximately 6 or 10 organisms, both results are within the margin of error expected given variability in type-approval sampling and analysis. For example, stratification in ballast tanks, variability between tanks, flow rates, and contamination in uptake and discharge pipes are just a few of the considerations that may impact type-approval testing. It is also a challenge to capture and count

appropriately sized organisms and to collect samples such that the sample collection process does not physically damage or kill these organisms (which should be counted as dead or nonviable only if such happens as a result of the BWMS, not because of poor sample collection and handling practices). Any perceived difference in system performance could easily be due to the variability in ballast water uptake and testing, and not necessarily indicative of improvement in treatment effectiveness that would warrant a revised standard. Indeed, the Second Circuit has recognized and upheld in the context of measuring aquatic organisms that discharge standards that are not identical may nonetheless represent the same level of control. *Riverkeeper, Inc. v. EPA*, 358 F.3d 174, 188–89 (2d Cir. 2004) (upholding EPA’s Track II requirements allowing for “substantially similar” reductions in impingement and entrainment at new facility cooling water intake structures as not a less stringent standard but the same standard accounting for the measurement margin of error when measuring in the natural environment).

Even a standard 10 to 100 times more stringent than EPA’s would be insignificant and within the margin of error in terms of the expected level of pollution control. For example, as EPA explained in its proposed rule, achieving a standard 10 times more stringent than the standard in the final rule would result in a difference of between 99.92 and 99.99 percent treatment efficiency for large organisms and 97.82 and 99.78 percent treatment efficiency for medium organisms. From the perspective of the effectiveness of the technology (and given the limitations in sampling and monitoring), the differences between 99.92 and 99.99 percent effective are scientifically insignificant.

(b) Alternative Numeric Standards Would Not Account for Variability

A more stringent numeric standard would also fail to account for the variability inherent in ballast water management. Variability is inherent to all treatment systems, including well-operated treatment systems. When EPA establishes BAT, it must consider the variability of a well-operated treatment system to ensure that technology is available to achieve the discharge standard. EPA’s approach to providing for some variability for well-operated systems in establishing BAT limits in effluent limitations guidelines rulemakings has been upheld. For example, in *Nat’l Wildlife Fed’n v. EPA*, 286 F.3d 554, 572 (D.C. Cir. 2002), the

D.C. Circuit upheld EPA’s decision to set the monthly average at the 95th percentile by stating that EPA has considerable discretion in determining a technical approach that will ensure that the effluent limitations reasonably account for the expected variability in plant operations while still maintaining an effective level of control. *See also Chemical Mfrs. Ass’n v. EPA*, 870 F.2d 177, 229 (5th Cir. 1989) (explaining that the purpose of these variability factors is to account for routine fluctuations that occur in plant operation, not to allow poor performance). As is typically the case in the effluent guidelines program, operators design pollution control systems to achieve results below the discharge standard on a long-term basis to account for normal variability of well-operated systems. Setting the numeric standard at the lowest measured levels or long-term average levels, as some commenters suggested, does not allow for this normal variability in system performance.

In the case of ballast water, the operators experience an even greater challenge meeting the numeric discharge standard than would exist at a shoreside facility subject to a typical effluent guideline. Instead of the numeric discharge standard being a long-term or monthly average as it is for most land-based facilities, the VIDA standard is based on an instantaneous maximum standard, never to be exceeded. EPA reasonably selected an instantaneous maximum as the unit of time for compliance monitoring because of the challenges associated with monitoring, acknowledging that variations in turbidity, salinity, temperature and other environmental factors can significantly affect a vessel operator’s ability to meet the discharge standard at all times. BWMS manufacturers must account for these two conflicting challenges—continuous compliance and inherent variability—in their system design and operation. BWMS vendors accomplish this by: (1) designing their systems to achieve long-term average discharge concentrations that are lower than the numeric discharge standard; and (2) adequately controlling for variation in BWMS performance such that the system can meet the numeric discharge standard even in the most challenging conditions. Designing and operating BWMSs to consistently achieve levels close to the numeric discharge standard is poor practice because even relatively slight variability would result in a high rate of non-compliance with the instantaneous maximum numeric discharge standard (and would not, for example, pass the

USCG type-approval testing process). This partially explains why some of the test results described by the Second Circuit Court decision on the VGP were lower than the current standard. *Nat. Res. Def. Council v. EPA*, 808 F.3d 566, 570 n.11 (2d Cir. 2015). EPA recognizes that variability in performance around the long-term average occurs during normal operations and that, at times, even well-operated BWMSs are certain to discharge at levels that are higher than the long-term average performance. EPA considered the need to consistently meet an instantaneous maximum standard given system variability in setting its numeric standard, but the standards suggested by commenters fail to do so.

(c) Alternative Numeric Standards Would Present Monitoring Challenges

As described in the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.1.v.A.3.iv.), there are monitoring challenges associated with collecting and analyzing ballast water to detect and quantify organisms at levels lower than the final numeric standard in this rule. These challenges gave EPA low confidence in the ability of a vessel to demonstrate compliance with a lower numeric discharge standard. Even monitoring to assess compliance with the final discharge standard presents challenges. For example, in the 2013 VGP, the three-component self-monitoring program excluded monitoring for the two largest organism size classes because of the difficulties/costs associated with directly self-monitoring living organisms in ballast water discharges. Rather, the 2013 VGP established a self-monitoring program that serves as an indicator of system performance while operating as the system was designed (and type-approved).

The proposed rule described the practical and statistical challenges associated with performing the tests that would be necessary to show that a well-operated BWMS is able to reliably meet a more stringent or “no detectable organisms” standard and after consideration of relevant comments, EPA also did not adopt a “no detectable organisms” standard in the final rule. There are no performance data available at concentrations of less than one organism per volume of ballast water for the two largest organism size classes. The Agency noted that test methods (and associated method detection limits) prevent demonstrating that any BWMS can achieve a standard more stringent than the 2013 VGP numeric discharge limit. EPA highlighted that, consistent with findings of EPA’s Science Advisory

Board (SAB), it was unreasonable to assume that a test result showing zero living organisms using currently available test methods demonstrates complete sterilization, if for no other reason than a sample taken represents a very small portion of the overall discharge and the collection of that sample may miss the few live organisms present in the discharge. Collecting larger volumes of ballast water to address this uncertainty is also impractical. For example, the SAB estimated that anywhere from 120 to 600 cubic meters of ballast water (similar to the amount of water that would be needed to fill about one to five standard school buses) would have to be collected to adequately assess whether the discharge meets a standard 10 times more stringent (U.S. EPA, 2011).

ii. Ballast Water Reception Facilities

EPA received comments urging that it should base BAT on the use of ballast water reception facilities. The VIDA expressly excludes from the discharge standards “ballast water from a vessel . . . that only discharges water into a reception facility.” 33 U.S.C. 1322(p)(2)(B)(ii)(V). As such, CWA section 312(p) does not authorize EPA to regulate the transfer of ballast water from ships to a reception facility under the VIDA. Nonetheless, for purposes of the final rule and consistent with the 2015 Second Circuit Court decision on the VGP, EPA reviewed and considered whether zero discharge or a more stringent discharge standard based on the use of a reception facility may be BAT for ballast water discharged from regulated vessels. *Nat. Res. Def. Council v. EPA*, 808 F.3d 566, 572–75 (2d Cir. 2015). Unless otherwise noted, the terms “onshore” and “reception facility” refer to both the transfer of ballast water to either an onshore reception facility or another vessel for the purpose of storing or treating that ballast water.

For the reasons detailed in the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.1.v.B.), based on the record before it, EPA continues to conclude that reception facilities are not technologically available or economically achievable at this time for the purpose of establishing a uniform Federal discharge standard. While EPA understands that the use of reception facilities, if available, may be a valid and effective component of ballast water management in certain situations, the challenges in creating such a comprehensive infrastructure nationwide make reception facilities not technologically available as BAT. (See 85 FR 67818, October 26, 2020, section

VIII.B.1.v.B., for a more detailed explanation of EPA’s consideration of ballast water reception facilities as BAT.) It is unlikely that ballast water reception facilities could become a national “one size fits all” option for ballast water management, principally because it cannot accommodate widely varying trade routes without the availability of reception facilities in most ports. Port-specific conditions may also preclude any technologically available and/or economically achievable reception facility alternatives. Integration with port and vessel operations would require careful planning, design, and operation. If in the future reception facilities become available and economically achievable and have acceptable non-water quality environmental impacts in specific locations for certain specialized sectors of the commercial vessel industry, EPA can revisit the standards. For now, such an option has not been demonstrated to reflect BAT. EPA’s finding that reception facilities do not represent BAT for purposes of establishing a Federal standard does not preclude a vessel from using such a facility for managing its ballast water where such an opportunity exists.

f. Exemptions From the Numeric Ballast Water Discharge Standard

The final rule exempts certain vessels from the numeric ballast water discharge standard as specified in 40 CFR 139.10(d)(3). These exemptions are generally consistent with the VGP and USCG regulations (33 CFR part 151 subparts C and D) except as described below. In contrast to the exclusions in 40 CFR 139(b) that exclude certain vessels from the ballast water discharge standard in its entirety, the eight exemptions in 40 CFR 139.10(d)(3)(i) through (viii), as described in this section, exempt vessels from the numeric ballast water discharge standard in 40 CFR 139.10(d) only. Exempt vessels are required to meet the ballast water BMPs and the ballast water exchange and saltwater flush requirements included in 40 CFR 139.10(c) and (e), respectively, as applicable. These exemptions are generally consistent with the VGP and USCG regulations (33 CFR part 151 subparts C and D), with some exceptions.

i. Vessels Less Than or Equal to 3,000 GT (1,600 GRT if GT Is Not Assigned) and That Do Not Operate Outside the EEZ

Consistent with the VGP and USCG regulations at 33 CFR 151.2015, the final rule exempts from the numeric ballast

water discharge standard vessels that are less than or equal to 3,000 GT (1,600 GRT if GT is not assigned) and that do not operate outside the EEZ. 40 CFR 139.10(d)(3)(i). This includes both seagoing and non-seagoing vessels. EPA bases this exemption on the finding that ballast water technologies are not available or economically achievable for this universe of smaller vessels (e.g., tugboats). BWMSs generally have been designed for larger vessels or vessels that only uptake or discharge ballast water on either end of longer voyages. EPA considered whether a different threshold in terms of size should be used; however, EPA did not identify, nor did commenters provide, information suggesting a different threshold would be appropriate. Therefore, EPA continues to conclude in this final rule that a numeric ballast water discharge standard is infeasible and that the BMPs imposed constitute BAT (requires this class of vessels to minimize the discharge of pollutants in ballast water through BMPs only).

ii. Vessels That Are Non-Seagoing, Unmanned, Unpowered Barges

The final rule exempts from the numeric ballast water discharge standard any non-seagoing, unmanned, unpowered barge that is not part of a dedicated vessel combination. 40 CFR 139.10(d)(3)(ii). A dedicated vessel combination includes an integrated or articulated tug barge (ATB) unit consisting of two separate vessels that operate in tandem, always together. The VGP, in Part 2.2.3.5.3.2, exempted all unmanned, unpowered barges from compliance with the numeric ballast water discharge standard; however, the USCG regulations at 33 CFR 151.2015 did not exempt any seagoing vessel 3,000 GT (1,600 GRT if GT is not assigned) and above or that operates outside of the EEZ.

The record indicates that an unmanned, unpowered barge, when part of a dedicated vessel combination, can install a BWMS as may be necessary to meet the discharge standard. As such, EPA is clarifying that these dedicated vessel combinations, even when they include an unmanned, unpowered barge component, are not exempt from compliance with the numeric ballast water discharge standard.

Most unmanned, unpowered barges operate in internal and coastal waterways (*i.e.*, non-seagoing) to transport bulk items such as grain, coal, and iron ore. These vessels have no onboard crew and do not have infrastructure that allows for complex or energy intensive operations. EPA understands that ballasting for some of

these barges is performed in limited instances, such as to pass under bridges or to improve stability in bad weather or other rough water. These barges typically do not have dedicated ballast tanks but can use wing tanks (void space) in the hull when ballasting is necessary. As such, minimal water is used for ballasting.

Unmanned, unpowered barges have been recognized as experiencing unique challenges for managing ballast water. For instance, EPA's Science Advisory Board (SAB) notes: "Inland waterways and coastal barges are not self-propelled, but rather are moved by towing or pushing with tugboats. Because these vessels have been designed to transport bulk cargo, or as working platforms, they commonly use ballast tanks or fill cargo spaces with water for trim and stability, or to prevent excessive motions in heavy seas. However, the application of [ballast water management systems] on these vessels presents significant logistical challenges because they typically do not have their own source of power or ballast pumps and are unmanned." (U.S. EPA, 2011b). Therefore, the final rule requires this class of vessels to minimize the discharge of pollutants in ballast water through BMPs only.

iii. Vessels That Uptake and Discharge Ballast Water Exclusively in the Contiguous Portions of a Single COTP Zone

Consistent with the VGP and USCG regulations at 33 CFR 151.2015(c) and (d)(3), the final rule exempts from the numeric ballast water discharge standard vessels that uptake and discharge ballast water exclusively in a single Captain of the Port Zone (COTP) Zone, but that may operate in more than one COTP Zone. 40 CFR 139.10(d)(3)(iii). The rule, as proposed and finalized, clarifies that this exemption applies within the contiguous portion of any single COTP Zone. EPA added the term "contiguous portions" of a single COTP Zone, consistent with its use in the VIDA (*See* 33 U.S.C. 1322(p)(6)(B)(ii)(II)(bb)), to clarify that the exemption applies to ballasting and deballasting operations within a single COTP Zone spanning contiguous waters within the Exclusive Economic Zone (EEZ) and does not apply in those instances when a COTP Zone includes areas that are not within a single bounded EEZ. For example, in the Pacific Region, Sector Honolulu covers all of the Hawaiian Island chain, American Samoa, Wake Island, and other widely dispersed areas in the Pacific Ocean that in certain instances

require vessels to leave the EEZ to travel from one location to another, all within the same COTP Zone.

This exemption is consistent with requirements of the VGP. Additionally, it recognizes that ensuring that the operations of these vessels remain within a single COTP zone is highly effective and the best available technology for minimizing the introduction and spread of ANS from vessel discharge because organisms discharged in their ballast water are unlikely to be foreign and invasive. This exemption does not apply to the ballast water BMPs for these vessels to ensure that ballast water is managed appropriately.

iv. Vessels That Travel No More Than 10 Nautical Miles and Do Not Pass Through Any Locks During Their Voyages

Consistent with the VGP, the final rule exempts from the numeric ballast water discharge standard vessels that travel no more than 10 NM and do not pass through any locks during their voyages. 40 CFR 139.10(d)(3)(iv). These vessels (*e.g.*, cross-river ferries) contribute insignificantly to the introduction and dispersal of ANS; however, the implementation of BMPs for these short-voyage vessels is intended to minimize the contribution of ANS that the vessels could cumulatively have in a region. Exempting these vessels also helps minimize other non-water quality environmental impacts, a consideration for setting technology-based standards (*See* 40 CFR 125.3(d)(3)) that may result from the operation of BWMSs, including increased energy usage and increased carbon emissions. Further, many existing BWMSs use biocides that require a minimum contact time to be effective. Short distance voyages may not provide the time necessary for biocides to be effective. In fact, the discharge of ballast water treated with biocides may contain residuals or byproducts from that treatment, and short voyage times may not permit adequate decay or neutralization.

v. Vessels That Operate Exclusively in the Laurentian Great Lakes

The final rule exempts all Lakers from the numeric ballast water discharge standard. 40 CFR 139.10(d)(3)(vi). As required by the VIDA, EPA assessed whether a technology exists that is technologically available and economically achievable. EPA determined that the ballast water numeric standard for the Lakers is infeasible because the same challenges that were identified and analyzed in the

VGP remain true today. EPA has decided to retain the VGP's exemption for Lakers from the numeric ballast water discharge standard. Specifically, this exemption is based on a set of unique circumstances, as described in the proposed rule at section VIII.B.1.vi.E, *Vessels that Operate Exclusively in the Laurentian Great Lakes* (85 FR 67854, October 26, 2020), including issues related to the unique nature of the waters of the Great Lakes, including extremely low salinity and high levels of suspended solids, turbidity, icing, filamentous bacteria, and dissolved organic carbon from tannins and humic acid. These environmental conditions can clog filters and inhibit BWMS treatment effectiveness and pose unique challenges to Lakers because, unlike other vessels operating in challenging water conditions, Lakers cannot leave the Great Lakes and thus do not have the option to perform a ballast water exchange and saltwater flush under more favorable conditions. In addition, the operational profile (*e.g.*, short voyages) and design of these freshwater vessels (*e.g.*, uncoated ballast tanks and piping systems that cannot withstand corrosive ballast water treatment chemicals) are not conducive to certain BWMSs.

EPA acknowledges that this exemption is less stringent than the VGP; however, consistent with CWA section 312(p)(4)(D)(ii)(II), the Administrator may revise a standard of performance to be less stringent than an applicable existing requirement if the Administrator determines that a material technical mistake occurred or if information becomes available that was not reasonably available when the Administrator promulgated the initial standard of performance. EPA has concluded that it made such a material technical mistake in the VGP when it determined that the environmental conditions and operational limitations identified as the basis for excluding Lakers constructed prior to 2009 from the numeric ballast water discharge standard would not be a limiting factor for those constructed after 2009. Additionally, the universe of post-2009 Lakers subject to the VGP numeric ballast water discharge standard is all operating under a USCG compliance date extension. Those extensions, granted in accordance with 33 CFR 151.2036, are in lieu of practical implementation of the numeric discharge standard in 33 CFR 151.1511, and are based on a USCG determination that Lakers are subject to unique

challenges affected by vessel operations and system limitations.

The proposed rule identified four more limited, alternative regulatory BMP options for Lakers, including: (1) require installation, operation, and maintenance of a USCG type-approved BWMS as an equipment standard; (2) require filtration only; (3) require open lake exchange of highly turbid water taken up in river ports; and (4) exempt the use of a BWMS for certain voyages when the operational parameters of an installed BWMS cannot be met.

As described in section VIII.B.1.d.vii of this preamble, *New Laker Equipment Standard*, EPA did establish an equipment standard as a ballast water BMP, for any new Laker, as defined in this final rule, to install, operate, and maintain a BWMS that has been type-approved by the USCG. However, EPA does not have adequate data to demonstrate the engineering aspects for the application of the other three alternative technologies or practices to reduce discharges of organisms. As described in section VIII.B.1.d.vii of this preamble, *New Laker Equipment Standard*, consistent with section 903(g) of the VIDA, EPA established the Great Lakes and Lake Champlain Invasive Species Program in part to develop solutions for such issues for ballast water discharges from Lakers.

Because the Laker fleet represents a very small percentage of the worldwide market, limited time and resources have been devoted to advance BWMSs for Lakers or demonstrate that these systems work onboard Lakers. As a result, Laker owners have no alternative in selecting a commercially available system that would achieve the numeric ballast water discharge standard. EPA's research program is a collaborative strategy intended to drive the market for this technology given the small number of vessels.

Under CWA section 312(p)(4)(D)(i), EPA must review its discharge standards at least every five years and revise the standards as appropriate. If data and information become available that can be used to identify additional BAT approaches for Lakers, whether it is installation of technology or implementation of additional BMPs, EPA can propose updates to the discharge standard to reflect new BAT-based requirements in advance of the five-year review date. Such an update may address the entire universe of vessels that operate exclusively on the Great Lakes, or reasonably could consider the appropriateness of the identified technology or practices to the different segments of the Great Lakes fleet, such as among classes, types, and

sizes and between new and existing vessels as provided for under the VIDA. EPA expects that the ballast water management research and development activities described under the Great Lakes and Lake Champlain Invasive Species Program may provide a sound basis for proposing new or updated standards in the future.

Notwithstanding EPA's determination that, in the context of a technology-based standard, it is appropriate to exempt all Lakers from the numeric ballast water discharge standard, Congress also created a role under the VIDA for states to promulgate enhanced Great Lakes requirements by enacting a process, codified in CWA section 312(p)(10)(B), in which Governors of the Great Lakes states can work together to develop an enhanced standard of performance or other requirements with respect to any incidental discharge, including ballast water. In all cases where Great Lakes Governors petition for an enhanced requirement, EPA and USCG may only reject the proposed requirement if it is less stringent than existing standards or requirements under this section, inconsistent with maritime safety, or inconsistent with applicable maritime and navigation laws and regulations. The procedures for such a petition are identified in this rule at 40 CFR 139.51.

vi. Vessels in the USCG Shipboard Technology Evaluation Program (STEP)

Consistent with the VGP and USCG regulations at 33 CFR part 151 subpart D, the final rule exempts from the numeric ballast water discharge standard any vessel equipped with ballast tanks if that vessel is enrolled by the USCG in the Shipboard Technology Evaluation Program (STEP). 40 CFR 139.10(d)(3)(vii). The STEP will continue to play a critical role in the development of effective BWMSs, as with many other related or similar programs the USCG might implement in the future. The program has encouraged pioneering vessel operators to install BWMSs, contributed to the development of effective sampling methods, and allowed for the collection of valuable shipboard ballast water treatment data needed to evaluate the efficacy of BWMSs. Furthermore, the STEP is a venue for treatment vendors to develop and refine systems that comply with the numeric ballast water discharge standard and can be successfully approved through the USCG type-approval process, resulting in the availability of a greater range of systems for vessel owners. Vessels involved in the STEP use ballast water treatment technologies that share

similarities in capabilities (and in many cases, are the same systems) as those described in the technical reports EPA used to inform the final rule. Therefore, the final rule exempts these vessels from meeting the numeric ballast water discharge standard as they are effectively using treatments systems that reflect BAT. Additionally, it would not be practicable for these vessels to simultaneously fulfill their purpose of testing BWMS to determine their effectiveness at meeting discharge standards while simultaneously requiring them to meet those discharge standards at all times.

vii. Vessels Discharging Ballast Water in the Same Location

Based on new information received in comments on the proposed rule, the final rule includes an additional exemption from the numeric ballast water discharge standard for discharges of ballast water at the same location where that ballast water originated, provided that no mixing with unmanaged ballast water and/or sediment from other areas has occurred. 40 CFR 139.10(d)(3)(v). Because such single-location ballast water by its nature could not be introducing ANS or other pollutants, EPA's view is that imposing numeric standards on this type of ballast water would not result in a greater level of pollution control. This exemption is consistent with the IMO BWM Convention Regulation A-3.5. If mixing has occurred, the ballast water taken from other areas is subject to the numeric ballast water discharge standard. This exemption is being added largely to allow for the practical reality of the operation of certain vessels, such as semi-submersible vessels, and how ballast water is used on such vessels. This exemption allows a vessel to discharge ballast water made up of managed ballast water from any location with unmanaged ballast water taken up and discharged in a single location. The residual ballast water transported between COTP Zones is subject to the numeric ballast water discharge standards and all ballast water BMPs apply. Specific ballast tank management requirements for vessels traveling between two COTP Zones and qualifying for this exemption would fall under the USCG's implementing regulations established under CWA section 312(p)(5).

viii. Discharges Prior to the Ballast Water Discharge Standard Compliance Date

The final rule includes an exemption providing that the ballast water discharge standard does not apply until

a given vessel's compliance date established pursuant to USCG regulations. 40 CFR 139.10(d)(3)(viii). This exemption is consistent with existing USCG procedures to address instances where the master, owner, operator, agent, or person in charge of a vessel can document that, despite all efforts, compliance with the numeric ballast water discharge standard is not possible. This exemption is also consistent with the VGP, where EPA acknowledged these procedures in its *Enforcement Response Policy for EPA's 2013 Vessel General Permit: Ballast Water Discharges and U.S. Coast Guard Extensions under 33 CFR part 151*, December 27, 2013 (U.S. EPA, 2013) whereby EPA would consider vessels operating under a Coast Guard extension letter pursuant to 33 CFR 151.2036 a low enforcement priority under the VGP.

g. Numeric Ballast Water Discharge Standard Compliance Dates

The final rule does not include compliance dates for the numeric ballast water discharge standard; rather, EPA expects the USCG to include such as part of its implementation, compliance, and enforcement rulemaking pursuant to CWA section 312(p)(5). EPA acknowledges and supports continuation of USCG procedures to address those cases where the master, owner, operator, agent, or person in charge of a vessel can document that, despite all efforts, compliance with the numeric ballast water discharge standard is not possible. The details of such vessel-specific requests would fall under the USCG's implementing regulations. For perspective, the existing USCG review considers safety and regulatory requirements of electrical equipment, vessel capacity to accommodate BWMS, vessel age, shipyard availability, or other similar factors and allowances are granted for no longer than the minimum time needed, as determined by the USCG, for the vessel to comply with the numeric ballast water discharge standard.

h. Ballast Water Exchange and Saltwater Flush

The final rule requires vessel operators to conduct a ballast water exchange or saltwater flush in certain instances. 40 CFR 139.10(e). The final rule codifies definitions of "ballast water exchange," "saltwater flush," and "empty ballast tank" from CWA section 312(p)(1) as these terms are used within the context of this section. 40 CFR 139.2.

The final rule, consistent with the provision in CWA section

312(p)(4)(B)(iii) that the requirements be no less stringent than the VGP, continues the interim ballast water management requirement for vessel operators, unless otherwise excepted from the requirement, to conduct ballast water exchange in lieu of treating ballast water prior to a vessel's compliance date for meeting the numeric ballast water discharge standard. 40 CFR 139.10(e). The interim ballast water exchange requirements in the final rule specify that before entering waters of the United States or waters of the contiguous zone, any vessel operating beyond the EEZ and with ballast water onboard that was taken within 200 NM of any shore must either meet the numeric discharge standard or conduct a midocean exchange further than 200 NM from any shore prior to discharging that ballast water in waters of the United States or waters of the contiguous zone. The exchange must occur as early as practicable in the voyage, so long as the exchange occurs more than 200 NM from shore. 40 CFR 139.10(e)(1). This requirement reduces the likelihood of the spread of ANS, prior to a numeric ballast water discharge standard compliance date, by increasing the mortality of living organisms in ballast tanks and ensuring that the discharge contains fewer viable living organisms.

The final rule, as directed by CWA section 312(p)(6)(B), expands ballast water exchange and saltwater flush requirements beyond those in the VGP and USCG regulations. Specifically, the final rule requires that vessels with empty ballast tanks bound for a port or place of destination subject to the jurisdiction of the United States shall, prior to arriving at that port or place of destination, conduct a ballast water exchange or saltwater flush of empty ballast tanks that carry unpumpable ballast water and residual sediments (or otherwise seal the tank so that there is no discharge or uptake and subsequent discharge of ballast water). Also, ballast water exchange or saltwater flush must occur no less than 200 NM from any shore for a voyage originating outside the United States or Canadian EEZ, or no less than 50 NM from any shore for a voyage originating within the United States or Canadian EEZ. 40 CFR 139.10(e)(2).

EPA notes that these saltwater flush requirements reflect a widely used, low-cost preventative approach that minimizes the risk that ANS will be introduced from unpumpable ballast water and residual sediment. A saltwater flush is most effective at eliminating organisms adapted to freshwater and low salinity environments due to the combined

impacts of saltwater shock and physical dilution. However, a saltwater flush should also reduce viable living organisms adapted to estuarine, coastal, and marine environments. A saltwater flush reduces viable living organisms in residual ballast water through dilution. It also reduces organisms in resting stages in the residual sediment. Resting stages of organisms often inhabit the sediment in ballast tanks; thus, a reduction in the number of these organisms will likely reduce the propagule of potential invaders.

The final rule incorporates from CWA section 312(p)(6)(B)(ii) certain exceptions to the ballast water exchange or saltwater flush requirements for empty tanks, including: if the unpumpable residual waters and sediments of an empty ballast tank were treated by a USCG type-approved BWMS; except as otherwise required under this part, if the unpumpable residual waters or sediments of an empty ballast tank were sourced within the same port or place of destination or sourced within the contiguous portions of a single COTP Zone; if complying with an applicable requirement would compromise the safety of the vessel or is otherwise prohibited by any Federal, Canadian, or international law (including regulations) pertaining to vessel safety; and if the vessel is operating exclusively within the internal waters of the United States or Canada. 40 CFR 139.10(e)(3).

CWA section 312(p)(6)(B)(ii)(IV) includes one additional exception to the ballast water exchange or saltwater flush requirement: "if design limitations of the vessel prevent a ballast water exchange or saltwater flush from being conducted" in accordance with applicable requirements. The final rule at 40 CFR 139.10(e)(3)(iv) largely incorporates this exclusion but, consistent with the proposed rule, limits its applicability only to existing vessels, defined as a vessel constructed prior to the date identified in the forthcoming USCG implementing regulations as described in 40 CFR 139.1(e). EPA interprets the "design limitation" exclusion in the VIDA to apply only to existing vessels since the VIDA added permanent exchange requirements, presumably because of the added benefit in performing such an exchange. If the design exclusion applied to new vessels, it would undermine the purpose of the statutory ballast water exchange and saltwater flush requirements by disincentivizing the design and construction of new vessels that are capable of conducting an exchange or flush. It is critical that new vessels have the capability to conduct

ballast water exchange and a saltwater flush, even if they install a BWMS, particularly as a contingency measure if the treatment system fails to operate as expected. The VGP included an additional exception, except for vessels entering the Great Lakes or in federally-protected waters, for a vessel to not be required to deviate from its voyage, or delay the voyage to conduct a ballast water exchange or saltwater flush. However, CWA section 312(p)(6)(B)(ii) did not include such an exemption and as such the final rule does not allow this route deviation or delay exemption to the final rule's requirements implementing CWA section 312(p)(6)(B)(i).

i. Vessels Entering the Great Lakes

The final rule requires, based on CWA section 312(p)(10)(A), vessels entering the St. Lawrence Seaway through the mouth of the St. Lawrence River to conduct a complete ballast water exchange or saltwater flush (as appropriate) not less than 200 NM from any shore for a voyage originating outside the EEZ; or not less than 50 NM from any shore for a voyage originating within the EEZ. 40 CFR 139.10(f)(1). There are exceptions to these requirements, including if: the vessel has no residual ballast water or sediments onboard to the satisfaction of the USCG; empty tanks are sealed; or ballast water is retained onboard while operating in the Great Lakes. 40 CFR 139.10(f)(2)(iii) through (v). Consistent with the VGP and the VIDA's text, the final rule does not contain an exception for vessels that use a BWMS to treat the ballast water prior to discharge.

Part 2.2.3.7 of the VGP required vessels that operate outside the EEZ and more than 200 NM from any shore and then enter the Great Lakes through the St. Lawrence Seaway to conduct ballast water exchange or a saltwater flush in addition to treatment, if ballast water uptake occurred within the previous 30 days from a coastal, estuarine, or freshwater ecosystem with a salinity of less than 18 parts per thousand. EPA determined that this requirement of the VGP is not necessary to include in the final rule given that the VIDA statutory requirement is more restrictive than (and supersedes) that VGP requirement.

Consistent with the VIDA, the final rule expands the requirement for exchange or a saltwater flush plus treatment for vessels entering the Great Lakes through the St. Lawrence River to a larger universe of vessels, as compared to the VGP requirements and USCG regulations found at 33 CFR part 151. Specifically, the final rule at 40 CFR 139.10(f)(1) extends the exchange and

saltwater flush requirements to "any vessel," while the VGP and USCG requirements limited these requirements to vessels operating outside the EEZ and more than 200 nm from any shore and having taken on ballast water with a salinity of less than 18 parts per thousand within the previous 30 days. In 2014 and 2015, a total of 81 unique vessels arrived at U.S. ports in the Great Lakes from overseas on 131 voyages. Most of these voyages departed from European ports (82 percent). However, there are limited data on the salinity of the origination ports. Therefore, it is difficult to estimate the affected universe from higher salinity ports that are now required to do exchange plus treatment. However, many of these vessels may have been conducting exchange plus treatment prior to the compliance dates for these vessels to install a BWMS, to ensure compliance with the VGP. Consequently, there may be minimal impact on these vessels, and the requirement are expected to be technologically available and economically achievable for these vessels.

Existing USCG regulations at 33 CFR 151.1502 require that vessels, after operating on the waters beyond the EEZ during any part of their voyage, that enter through the St. Lawrence Seaway or that navigate north of the George Washington Bridge on the Hudson River, perform a ballast water exchange or saltwater flush regardless of other port calls in the United States or Canada during that voyage, except as expressly provided in 33 CFR 151.2015(a). In the final rule, EPA does not specifically identify this universe of vessels as having to perform a ballast water exchange or saltwater flush prior to entering the Hudson River or St. Lawrence Seaway, unless the vessel is meeting the numeric ballast water discharge standard (e.g., has installed and is operating a USCG type-approved BWMS), as the final rule requires such ballast water exchange or saltwater flush for any vessels subject to the ballast water discharge standard. Therefore, while the final rule does not call out this universe of vessels specifically, similar requirements are being finalized for these and a larger universe of vessels.

Consistent with the CWA section 312(p)(10)(A)(ii)(I), the final rule includes exceptions to ballast water exchange or saltwater flush requirements for vessels entering the Great Lakes, if: (1) compliance would compromise the safety of the vessel; (2) compliance is otherwise prohibited by any Federal, Canadian, or international law (including regulations) pertaining to

vessel safety; or (3) design limitations of an existing vessel prevent a ballast water exchange from being conducted. 40 CFR 139.10(f)(2)(i) and (ii). As described in section VIII.B.1.h. of this preamble, *Ballast Water Exchange and Saltwater Flush*, the final rule adds a limitation to the design exclusion to apply only to existing vessels, defined as a vessel constructed prior to the date identified in the forthcoming USCG implementing regulations, as described in 40 CFR 139.1(e). This limitation is important to prevent the design and construction of new vessels that cannot conduct an exchange or flush. It is critical that new vessels entering the Great Lakes have this capability, even if they install a BWMS, particularly as a contingency measure if the treatment system fails to operate as expected.

j. Pacific Region

The VIDA establishes more stringent Pacific Region requirements for ballast water exchange than were required under the VGP. The final rule requires, as dictated by CWA section 312(p)(10)(C), that any vessel that operates either between two ports within the U.S. Pacific Region or between ports in the Pacific Region and the Canadian or Mexican Pacific Coast north of parallel 20 degrees north latitude, inclusive of the Gulf of California, conduct a complete ballast water exchange in waters more than 50 NM from shore. 40 CFR 139.10(g)(1). The term "Pacific Region" includes the entire EEZ adjacent to the states of Alaska, California, Hawaii, Oregon, and Washington. 33 U.S.C. 1322(p)(1)(S). There are exceptions in the VIDA to these exchange requirements, including if the vessel is using a type-approved BWMS or for voyages between or to specific ports in the states of Washington, Oregon, California, Alaska, and Hawaii, and the Port of Los Angeles, the Port of Long Beach, and the El Segundo offshore marine oil terminal, if the ballast water originated from specified areas. 33 U.S.C. 1322(p)(10)(C)(ii)(II).

As specified in the VIDA, and codified in 40 CFR 139.10(g)(2), the final rule requires that any vessel that transports ballast water sourced from low salinity waters (less than 18 parts per thousand) and voyages to a Pacific Region port or place of destination with low salinity must conduct a complete ballast water exchange. The exchange must occur not less than 50 NM from shore, if the ballast water was sourced from a Pacific Region port; or more than 200 NM from shore, if the ballast water was not sourced from a Pacific Region port. These exchange requirements do

not apply to any vessel voyaging to the Pacific Region that is using a type-approved BWMS that achieves standards of performance for low salinity water that are more stringent than the existing VGP and USCG numeric ballast water discharge standards. The low salinity water standards of performance as specified in CWA section 312(p)(10)(C)(iii)(II) are:

- Less than 1 organism per 10 cubic meters, if that organism (1) is living or has not been rendered nonviable; and (2) is 50 or more micrometers in minimum dimension;
- Less than 1 organism per 10 milliliters, if that organism (1) is living or has not been rendered nonviable; and (2) is more than 10, but less than 50, micrometers in minimum dimension; and
- Concentrations of indicator microbes that are less than (1) 1 colony-forming unit of toxicogenic *Vibrio cholerae* (serotypes O1 and O139) per 100 milliliters or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples; (2) 126 colony-forming units of *Escherichia coli* per 100 milliliters; and (3) 33 colony-forming units of intestinal enterococci per 100 milliliters.

The final rule corrects a typographical error from the proposed rule regulatory text that indicated a discharge standard of less than 1 organism per 100 milliliters (rather than the correct value of 1 organism per 10 milliliters) for organisms more than 10, but less than 50, micrometers in minimum dimension. The proposed rule preamble text reflected the correct value, which is carried forward into this final rule.

As established by the VIDA, the final rule at 40 CFR 139.10(g)(3) exempts vessels from the Pacific Region requirements if any of the following conditions exist: (1) compliance would compromise the safety of the vessel; (2) design limitations of an existing vessel prevent a ballast water exchange from being conducted; (3) the vessel has no residual ballast water or sediments onboard to the satisfaction of the Secretary, or the vessel retains all ballast water while in waters subject to the requirement; or (4) empty ballast tanks on the vessel are sealed in a manner that ensures that no discharge or uptake occurs and that any subsequent discharge of ballast water is subject to the requirement. As described in the previous ballast water exchange sections, the final rule limits the design exclusion only to existing vessels, defined as a vessel constructed prior to the date identified in the forthcoming USCG implementing regulations, as described in 40 CFR 139.1(e) and only

as determined by the USCG. This limitation is important to prevent the design and construction of new vessels that cannot conduct an exchange or flush as an alternative ballast water management option for those instances when, for example, an installed BWMS fails to operate as expected.

As compared to the VGP, the VIDA expanded requirements for the Pacific Region to include exchange or more stringent treatment for low salinity waters. Except for any vessel that transports low salinity ballast water (less than 18 ppt) and voyages to a low salinity Pacific Region port or place of destination, the final rule requirement to conduct ballast water exchange in the Pacific Region is an interim requirement until a vessel installs a type-approved BWMS that meets the ballast water discharge standard. As specified in CWA section 312(p)(10)(C)(iii), any vessel that transports low salinity ballast water (less than 18 ppt) and voyages to a low salinity Pacific Region port or place of destination must continue to conduct a complete ballast water exchange, unless it has installed a type-approved BWMS that achieves standards of performance, depending on the parameter, up to 100 times more stringent than the existing discharge standard. *Id.* (p)(10)(C)(iii)(II). Currently, there is not a USCG type-approval process for BWMSs to demonstrate the ability to achieve this more stringent standard. Therefore, vessels from low salinity waters must continue to conduct exchange until such a process is developed and BWMSs are approved to meet that more stringent standard.

For the most part, the continental shelf along the Pacific coast is narrow along both North and South America. Deep water environments beyond the continental shelf typically support ecosystems that are quite different than those which exist closer to shore. Due in part to the narrow width of the continental shelf and relatively deep waters beyond 50 NM from the Pacific shore, exchange at this distance from the Pacific shore will be effective.

In addition, the VIDA described the applicability of the Pacific Region exchange requirements differently as compared to the VGP. The final rule implements the VIDA requirements as established by Congress in the statute rather than as written in the VGP. The VGP required exchange for vessels on nearshore voyages that carry ballast water taken on in areas less than 50 NM from any shore. It defined nearshore voyages as those vessels engaged in coastwise trade along the U.S. Pacific coast operating in and between ports in Alaska, California, Oregon, and

Washington that travel between more than one COTP Zone. The VIDA did not include the stipulation that a vessel voyage must be between more than one COTP Zone. In addition, the VIDA includes vessels operating in ports in the State of Hawaii, with certain exceptions, in the exchange requirements that the VGP did not include. The VGP required exchange for all other vessels that sail from foreign, non-U.S. Pacific, Atlantic (including the Caribbean Sea), or Gulf of Mexico ports, that do not sail further than 200 NM from any shore, and that discharge or will discharge ballast water into the territorial sea or inland waters of Alaska or off the west coast of the continental United States. The VIDA did not identify nearshore voyages from outside of the Pacific Region EEZ (although it did include parts of Canada and Mexico) as being required to conduct exchange.

2. Bilges

Bilgewater consists of water and pollutant residues, such as oil, grease, and metals, that accumulate in the vessel's bilge (the lowest compartment of the vessel). The source of bilgewater is typically drainage from interior machinery, engine rooms, pipes, and decks. Bilgewater contains both conventional and toxic pollutants including oil, grease, volatile and semi-volatile organic compounds, inorganic salts, and metals. Volumes vary with the size of the vessel and discharges typically occur several times per week. Cruise ships have been estimated to generate 25,000 gallons of bilgewater per week for a 3,000 passenger/crew vessel (U.S. EPA, 2008). Bilgewater treatment technologies can be used to remove pollutants from bilgewater. For example, ultrafiltration can be effective in removing turbidity and suspended solids, organic carbon, and several trace metals (such as aluminum, iron, and zinc) from bilgewater, in addition to oil (Tomaszewska et al., 2005).

Under MARPOL Annex I, all ships of 400 GT and above are required to have equipment installed onboard that limits the discharge of oil to less than 15 parts per million (ppm) when a ship is underway. All vessels of 400 GT and above are also required to have an oil content monitor (OCM), including a bilge alarm, integrated into the piping system. In the United States, MARPOL is primarily implemented by APPS (33 U.S.C. 1901 *et seq.*). The USCG's implementing regulations for APPS are primarily found at 33 CFR part 151 and prohibit "any discharge of oil or oily mixtures into the sea from a ship" except when certain conditions are met,

including a discharge oil content of less than 15 ppm and that the ship operates oily water separating equipment, a bilge monitor, a bilge alarm, or a combination thereof. Additional regulations found at 46 CFR part 162 detail the approval procedures. Approval is based on testing of manufacturer-supplied oil pollution control equipment by an independent laboratory, in accordance with test conditions prescribed by the USCG (33 CFR parts 155 and 157 and 46 CFR part 162). Additionally, as appropriate, the discharge of bilgewater also must comply with related requirements in 33 CFR part 151, 40 CFR part 110, and 46 CFR part 162. Except as expressly provided, the final VIDA regulations do not affect the applicability of these other Federal laws to a vessel.

To develop the bilgewater standard, EPA considered whether increased stringency for the numeric discharge standard for oil content might have been appropriate and elected to request specific information on the matter. Specifically, EPA sought information from commenters regarding the availability of type-approved systems capable of meeting a 5 ppm numeric discharge standard for oil, as well as the availability and cost of OCMs that can accurately determine oil content at 5 ppm or lower detection levels. The majority of commenters responding to these queries indicated that systems capable of meeting a 5 ppm standard may not be widely available or reliable once installed onboard. Concerns regarding reliability were largely tied to OCM issues; namely, that their functionality can easily be disrupted and that measurements often differ from analytical results. Commenters were generally in agreement that the existing 15 ppm standard under APPS regulations is appropriate and that equipment is reliable to achieve this standard. None of the comments received provided specific information about OCMs or their cost. Because no information was provided by commenters that affirmatively demonstrates the availability and affordability of systems consistently and demonstrably meeting a 5 ppm standard, EPA is not establishing any new enhanced system requirements. In the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.2.), EPA explained that the VGP requirement for vessel operators to meet a discharge limit for oil of 15 ppm or to not discharge oil in quantities that may be harmful was consistent with the proposed general discharge standards for oil management. EPA also did not

want to be redundant to existing requirements under the APPS. As such, the proposed rule did not explicitly identify the 15 ppm oil content limit in the proposed bilges regulations, despite discussing this limit at length in the preamble. However, one commenter expressed confusion that the numeric limit from the VGP was missing. Based on its consideration of comments, EPA determined that it is appropriate and clearer to include the 15 ppm directly in the regulatory standard. This approach is consistent with the VGP and existing regulations and, as discussed in the preambles of both the proposed rule and this final rule, EPA determined that available systems are capable of meeting this numeric standard and it is an existing practice. Therefore, 40 CFR 139.11(c) requires that the oil content of any bilgewater discharges from any vessel of 400 GT and above must not exceed 15 ppm.

The final rule at 40 CFR 139.11 maintains the same requirements included in the proposed rule and includes one additional requirement based on comments received during the public comment period. Consistent with the proposed rule, the final rule includes both general and specific standards for bilgewater, detailed in 40 CFR part 139, subparts B and C, respectively. The general standards require vessels to minimize discharges and prohibit the discharge of oil in such quantities as may be harmful. The specific standards in the final rule require that the discharge of bilgewater must not contain any flocculants or other additives except when used with an oily water separator or to maintain or clean equipment. The use of any additives to remove the appearance of a visible sheen is also prohibited. 40 CFR 139.11(b).

EPA proposed to require all vessels of 400 GT and above to discharge treated bilgewater when underway but allowed such discharges to occur any distance from shore, except in federally-protected waters. The VGP, on the other hand, required vessels greater than 400 GT that regularly sail outside the territorial sea (*i.e., at least once per month*) to discharge treated bilgewater while underway and, if technologically feasible, at least 1 NM from shore (emphases added). EPA retained the requirement to discharge while underway, as discharging while underway is advantageous because it promotes dilution of the discharge and should be available to all vessels of 400 GT and above. EPA proposed, however, to broaden the applicability of the requirement to all vessels of 400 GT and above, and not just those vessels greater than 400 GT that regularly sail outside

the territorial sea. EPA proposed this new approach because it learned that the VGP requirement was difficult to implement and led to confusion about whether and when a vessel may be authorized to discharge treated bilgewater when not underway, particularly as it related to determining when a vessel would be considered to “regularly” sail outside the territorial sea. While EPA proposed to remove the discharge prohibition within 1 NM, commenters disagreed with its removal and EPA has concluded that the Agency does not have a basis for being less stringent than the VGP in this case that would be consistent with the exceptions laid out in CWA section 312(p)(4)(D)(ii)(II). As such, the final rule requires that bilgewater discharges from any vessel of 400 GT and above occur when the vessel is underway with an oil content that does not exceed 15 ppm and, if technologically feasible, at least 1 NM from shore. 40 CFR 139.11(c). Such vessels have the capability, in terms of process and engineering, to adjust the timing and location of bilgewater discharges and EPA does not expect this approach to impose any significant additional cost burden as some vessels were subject to this requirement under the VGP. Additionally, EPA found that more than 99.7 percent of vessels 400 GT and above did not discharge any bilgewater under the VGP, based on information from the annual reports for the 2019 operating year.

Finally, as noted above and as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule requires additional controls for bilgewater discharges from a vessel operating in federally-protected waters. 40 CFR 139.40(c).

3. Boilers

Boiler blowdown is the discharge of water and constituents from the boiler during regular intervals to avoid concentration of impurities and at intermittent intervals for cleaning or other purposes. Boiler blowdown occurs on vessels with steam propulsion or a steam generator to control anti-corrosion and anti-scaling treatment concentrations and to remove sludge from boiler systems. Routine blowdown involves releasing a volume of about one to 10 percent of the water in the boiler system to manage the accumulation of solids and buildup of dissolved solids in the boiler water. Frequency of required blowdown varies, typically between once every two weeks

to once every few months, although on some vessels blowdown may be as frequent as daily or even continuously. The constituents of boiler blowdown discharge vary according to the types of feed water treatment used, but may include toxic pollutants such as antimony, arsenic, cadmium, copper, chromium, lead, nickel, selenium, thallium, zinc, and bis (2-ethylhexyl) phthalate.

EPA was unable to identify new technology or best management practice options for discharges from boilers. Therefore, the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements, and the fact that the VGP requirements are currently in effect, to require substantively the same requirements included in the VGP. 40 CFR 139.12. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule requires that the discharge of boiler blowdown be minimized when in port. This requirement acknowledges that blowdown typically must be performed as necessary and that while the amount of blowdown can often be minimized, the timing of such blowdown, in many instances, cannot be safely changed, such as to only those times when a vessel is not in port. As such, this requirement is more specific to a location (when in port) than the general operation and maintenance requirements described in subpart B, for vessel operators to minimize discharges of blowdown to only those times when necessary and to discharge while the vessel is underway when practical and as far from shore as practical. To comply with the requirements of the VGP, vessels greater than 400 GT were adjusting the timing and location of blowdown events. EPA has determined that all vessels subject to the rule can similarly change the timing and location of their blowdown events as necessary to minimize the discharge. This will reduce the discharge of various pollutants but will not impose any significant additional cost burden.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule prohibits the discharge of boiler blowdown into federally-protected waters. 40 CFR 139.40(d).

4. Cathodic Protection

Cathodic protection systems are used on vessels to prevent steel hull or metal structure corrosion. The two types of cathodic protection are galvanic (*i.e.*, sacrificial anodes) and impressed

current cathodic protection (ICCP). Galvanic cathodic protection uses anodes, typically made of magnesium, zinc, or aluminum, that are “sacrificed” to the corrosive forces of the seawater, which creates a flow of electrons to the cathode, thereby preventing the cathode (*e.g.*, the hull) from corroding. With ICCP, a direct current is passed through the hull such that the electrochemical potential of the hull is sufficiently high to prevent corrosion. The ICCP system releases oxidants during the process, generally consisting of chlorinated and brominated substances from the reaction with seawater. The discharge from either method of cathodic protection is continuous when the vessel is waterborne. However, galvanic protection discharges include both toxic and nonconventional pollutants such as ionized zinc, magnesium, and aluminum.

EPA was unable to identify new technology or best management practice options for discharges resulting from cathodic protection, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP with slight modification based on comments received on the proposed standards. 40 CFR 139.13.

The final rule requires that any spaces between flush-fit anodes and the backing must be filled, because niche areas on the hull are more susceptible to biofouling and more difficult to clean. Additionally, the general operation and maintenance requirements described in subpart B require that any materials used onboard that are subsequently discharged be used only in the amount necessary to perform their intended function, including any sacrificial anodes. Therefore, sacrificial anodes must not be used more than necessary to adequately prevent corrosion of the vessel's hull, sea chest, rudder, and other exposed vessel areas.

EPA proposed to not carry forward a requirement from the VGP regarding the selection of sacrificial anode systems based on toxicity of the anode, though the proposed rule preamble did note that the Agency continues to support operators considering toxicity during selection. As described in the preamble of the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.4), EPA received new information from its implementation of the VGP that this requirement was not technologically feasible and/or economically practicable and achievable in many instances. Based on a commenter's suggestion to continue this concept through a BMP

encouraging anode selection based on toxicity, however, the final rule includes a requirement to consider selection of anode materials based on toxicity of the base metal. 40 CFR 139.13(c). At the same time, the requirement to consider, but not necessarily select, the least toxic metal acknowledges that the type of anode metal selected based on toxicity (magnesium, then aluminum, then zinc) may not be technologically feasible and/or economically practicable and achievable in all instances. For example, in harbors or estuaries with high pollutant loads, zinc is the preferred anode material for vessels that spend time in those waters because of concerns with pollutants causing aluminum anodes to passivate and lose effectiveness.

EPA did consider requiring use of ICCP because these systems eliminate or reduce the need for sacrificial anodes. However, there is a risk of overprotecting using these systems (*e.g.*, embrittlement in high-strength vessels) or debonding of protective coatings, and these systems generally should only be installed on vessels that are manned full-time by a highly skilled crew able to carefully monitor and maintain these systems. As such, the Agency recommends, but does not require, that operators consider the use of ICCP in place of, or to reduce the use of, sacrificial anodes when technologically feasible (*e.g.*, adequate power sources, appropriate for vessel hull size and design), safe, and adequate to protect against corrosion, particularly for new vessels.

5. Chain Lockers

Chain lockers are the storage area onboard for housing the vessel's anchor and chain. Water, sediment, biofouling organisms, and contaminants can enter and accumulate in the chain locker during anchor retrieval and precipitation events. The accumulation of water and other materials in the chain locker is often referred to as the chain locker effluent. This effluent can contain both conventional and nonconventional pollutants including biological organisms and residue from the inside of the locker itself, such as rust, paint chips, grease, and zinc. The sump collects these liquids and materials that enter the chain locker prior to discharge or disposal.

EPA was unable to identify new technology or best management practices options for discharges from chain lockers, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same

requirements included in the VGP. 40 CFR 139.14.

The final rule requires that vessel operators implement BMPs that would reduce or eliminate chain locker effluent discharge. Based on comments received on the proposed rule, the final rule clarifies that the chain locker requirements apply to accumulated biological organisms and sediment in addition to precipitation and seawater, and that such requirements are intended to prevent the discharge of accumulated biological organisms, sediment, precipitation, and seawater when deploying the anchor in a new port or place of destination. 40 CFR 139.14(a).

The final rule also requires that vessel operators rinse the anchor chain of biofouling organisms and sediment when the anchor is retrieved. 40 CFR 139.14(b). Additionally, the final rule prohibits the discharge of biological organisms, sediment, precipitation, and seawater from any chain locker when the vessel is in port. 40 CFR 139.14(c).

For all vessels that operate beyond the waters of the contiguous zone, the final rule requires anchors and anchor chains to be rinsed of biofouling organisms and sediment prior to entering the waters of the contiguous zone. 40 CFR 139.14(d). This requirement is intended to minimize the discharge of biofouling organisms when vessels that operate beyond waters of the contiguous zone re-enter these waters and subsequently drop anchor in waters of the United States or waters of the contiguous zone. Based on comments received on the proposed rule, the final rule at 40 CFR 139.14(d) clarifies that this requirement may be satisfied by rinsing when the anchor is retrieved at the commencement of the voyage or when the anchor was last retrieved on a previous voyage, so long as the rinsing occurs after the last use of the anchor beyond waters of the contiguous zone.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters*

Requirements, the final rule prohibits any discharge of accumulated biofouling organisms, water, and sediment from any chain locker into federally-protected waters. 40 CFR 139.40(e).

6. Decks

Deck discharges may result from deck runoff, deck washdown, or deck flooding. Deck runoff consists of rain and other precipitation or condensation, as well as freshwater and seawater, that sprays or washes over the deck, well decks, and bulkhead areas. Deck washdowns consist of cleaners and freshwater or saltwater. Deck flooding

generally consists of seawater from the flooding of a docking well (well deck) on a vessel used to transport, load, and unload amphibious vessels, or freshwater from washing the well deck and equipment and vessels stored in the well deck. Deck washdown, runoff, and flooding discharges include those from all deck and bulkhead areas and associated equipment. The constituents and volumes vary widely depending on a vessel's purpose and practices and may include both conventional and nonconventional pollutants such as oil, grease, fuel, cleaner or detergent residue, paint chips, paint droplets, and general debris. Based on comments received on the proposed rule, the final rule provides additional clarification on the list of deck discharges identified in the proposed rule to also include condensation, seawater spray and washover, flooding, and waters pumped from below deck on a barge, all of which are also covered under this section per 40 CFR 139.15(a).

The final rule also includes a new requirement at 40 CFR 139.15(h), consistent with Part 5.4.1. of the VGP, to clarify that barges which discharge water pumped from below deck must minimize the contact of below deck condensation with oily or toxic materials and any materials containing hydrocarbon.

EPA was unable to identify new technology or best management options for discharges from decks, therefore the Agency relied on the BAT analysis underlying the VGP. 40 CFR 139.15. EPA received comments requesting clarification on the proposed requirements for decks; therefore, the final deck discharge standards are similar to the proposed standards but include additional clarifications.

EPA determined that these BMPs are necessary to carry out the intent of this subsection of the VIDA and because it is infeasible to set a specific numeric discharge standard for discharges from decks and well decks due to the variation in vessel size and associated deck surface area, the types of equipment operated on the deck, limitations on space for treatment equipment, as well as the nature of the discharge. As such, the final rule includes BMPs to minimize the volume of discharges and various pollutants from decks. The final rule requires vessel operators to properly maintain the deck and bulkhead areas to keep the deck clean; prevent excess corrosion, leaks, and metal discharges; contain potential contaminants to keep them from entering the waste stream; and use minimally toxic, phosphate-free, and biodegradable products. Properly

maintaining the deck includes the use of coamings or drip pans for machinery on the deck that is expected to leak or otherwise release oil, so that any accumulated oils from these areas can be collected and managed appropriately per 40 CFR 139.15(b).

The final rule also requires that, prior to performing a deck washdown and when underway, exposed decks must be kept broom clean to remove existing debris and prevent the introduction of garbage or other debris into any waste stream. 40 CFR 139.15(e). As defined in 40 CFR 139.2, "broom clean" means a condition in which the deck shows that care has been taken to prevent or eliminate any visible concentration of surface residues. In response to comments received on the proposed rule, EPA is clarifying that broom cleaning is intended as a BMP to address residues. Spills may be more appropriately addressed through other BMPs in this section, such as coamings, drip pans, and other control measures. See 40 CFR 139.15(b). Similarly, control measures must be used to minimize the introduction of on-deck debris, garbage, residue, spills, floating solids, visible foam, halogenated phenolic compounds, dispersants, and surfactants into deck washdown and runoff. 40 CFR 139.15(d). During deck washdown, the final rule requires that the washdown be conducted with minimally-toxic, phosphate-free, and biodegradable soaps, cleaners, and detergents. 40 CFR 139.15(g). The final rule also requires that discharges from deck washdowns be minimized in port. 40 CFR 139.15(f). Lastly, the final rule requires that, where applicable by an international treaty or convention or the Secretary, a vessel must be fitted with and use physical barriers (e.g., spill rails, scuppers, and scupper plugs) during any washdown to collect runoff. 40 CFR 139.15(c). While applicable to any discharge addressed in this rule, due to the nature of deck discharges, EPA emphasizes that deck discharges must also meet any other applicable discharge requirements under this rule, including but not limited to the general discharge standards for general operation and maintenance and oil management detailed in subpart B.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule prohibits the discharge of deck wash from all vessels into federally-protected waters except those vessels that operate exclusively within the boundaries of federally-protected waters. 40 CFR 139.40(f). This prohibition is applicable

only to deck washdown and is not applicable to other deck runoff such as from precipitation or condensation. The final rule exempts vessels operating exclusively within federally-protected waters to address new information provided by commenters and concerns regarding necessary maintenance of these vessels that requires deck washdown.

7. Desalination and Purification Systems

Distilling and reverse osmosis plants, also known as water purification plants or desalination systems, generate freshwater from seawater for a variety of shipboard applications. These include potable water for drinking, onboard services (*e.g.*, laundry and food preparation), and high-purity feedwater for boilers. The wastewater from these systems is essentially concentrated seawater with the same constituents of seawater, including dissolved and suspended solids and metals; however, anti-scaling, anti-foaming, and acidic treatments and cleaning compounds are also injected into the distillation system and can be present in the discharge. As such, the wastewater can contain toxic, conventional, and nonconventional pollutants.

EPA was unable to identify new technology or best management practice options for discharges from desalination and purification systems, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.16. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule prohibits discharges resulting from the cleaning of desalination and purification systems with hazardous or toxic materials. 40 CFR 139.16(b).

8. Elevator Pits

Most vessels with multiple decks are equipped with elevators to facilitate the transportation of maintenance equipment, people, and cargo between decks. A pit at the bottom of the elevator collects liquids and debris from elevator operations. The liquid and debris that accumulates in the pits, often referred to as elevator pit effluent, can be emptied by gravity draining, discharged using the firemain, transferred to the bilge, or containerized for onshore disposal. The effluent may contain toxic, conventional, and nonconventional pollutants such as oil, hydraulic fluid, lubricants, cleaning solvents, soot, and paint chips.

EPA was unable to identify new technology or best management practice options for discharges from elevator pits, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP with slight modifications for clarity. 40 CFR 139.17. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule prohibits the discharge of untreated accumulated water and sediment from any elevator pit. 40 CFR 139.17(b).

9. Exhaust Gas Emission Control Systems

Exhaust gas emission control systems for reducing sulfur oxides (SO_x) and nitrogen oxides (NO_x) in marine exhaust can produce washwater and residues that must be treated or held for shoreside disposal. Two such systems are exhaust gas cleaning systems (EGCSs) and exhaust gas recirculation (EGR) systems.

An EGCS is used primarily to remove SO_x from marine exhaust. Commonly referred to as “scrubbers,” these systems capture contaminants that can end up in washwater and residue that result from the scrubbing process. EGCS washwater is typically treated and discharged overboard. Residues are usually disposed of onshore once the vessel is in port. Untreated EGCS washwater is more acidic than the surrounding seawater, and it contains toxic, conventional, and nonconventional pollutants including sulfur compounds, polycyclic aromatic hydrocarbons (PAHs), and traces of oil, NO_x, heavy metals, and captured particulate matter. Use of an EGCS to scrub emissions of SO_x reduces the pH significantly, primarily through the formation of sulfuric acid. The high volume of seawater that some vessels pump for the scrubbing process can result in higher turbidity in surrounding waters, particularly in shallow areas.

The use of scrubbers on vessels is in large part an outgrowth of international treaties for reducing sulfur emissions from marine exhaust. Under MARPOL Annex VI, to which the U.S. is a signatory, the highest permissible sulfur content of marine fuel used on a vessel when operating globally is 0.5 percent while the allowable fuel sulfur content for fuel used on a vessel operating in Emission Control Areas (ECAs) is restricted to 0.1 percent as of January 2015. In addition, MARPOL Annex VI includes three tiers of NO_x emission standards, where applicability is based on when the keel of a vessel is laid; the

most stringent Tier III NO_x limits apply to any engine while operated in a NO_x ECA. There are two ECAs relevant to the United States: the North American ECA and the U.S. Caribbean Sea ECA. Both of these ECAs are for sulfur, particulate matter, and NO_x emissions, and the requirements apply to all ships while operating in those areas. The 0.1 percent sulfur limit for marine fuel sulfur content has been in effect since 2015 for ships operating in the U.S. ECAs. These ECA requirements also apply to certain internal waters (ECA associated areas) through regulatory action.

Use of an EGCS is an equivalent method to comply with the MARPOL Annex VI fuel sulfur requirement as an alternative to costlier low sulfur fuels while operating in an ECA. Recent information from the International Council on Clean Transportation (ICCT, 2023) indicates that the classification society Det Norske Veritas (DNV) projects there will be over 5,000 scrubbers installed on vessels worldwide by 2025. A scrubber must meet the same sulfur emission limit as would be achieved using the relevant compliant fuel (ECA or global).

The EGCSs used on vessels, while a relatively recent development, are based on technologies that have been deployed for land-based systems for controlling smokestack emissions for years. This technology has transferred well to shipboard use for both new and existing vessels. EGCS technologies used on vessels to meet the MARPOL Annex VI fuel sulfur standards can be either “dry” or “wet” depending on whether they generate wastewater. Dry systems do not generate wastewater and hence are not subject to these final requirements. The two main wet EGCS technologies (*i.e.*, those systems that use either seawater or freshwater to scrub the exhaust) are open-loop and closed-loop systems. Open-loop systems remove the contaminants from marine exhaust by running the exhaust through seawater sourced from outside the vessel and then discharging the resulting washwater back out to sea. In contrast, closed-loop systems use freshwater and inject caustic soda to neutralize the exhaust. A small portion of the washwater is bled off and treated to remove suspended solids that are held for onshore disposal. While this design is not completely closed-loop, it can operate in zero discharge mode for a period. Hybrid scrubbers are systems that can operate either in open- or closed-loop mode. At sea, these hybrid systems typically operate in open-loop mode, whereas in nearshore waters, harbors, and estuaries, they operate in closed-loop mode.

EGR systems are used to reduce NO_x emissions in marine exhaust. Vessels often use EGR systems to achieve the mandatory Tier III NO_x emissions limits set out in MARPOL Annex VI. These systems minimize NO_x production by cooling part of the engine exhaust gas and then redirecting it back to the engine air intake. The addition of the recirculated engine exhaust reduces the amount of oxygen available for fuel combustion, reducing peak combustion temperatures and resulting in significantly reduced NO_x formation. The cooling of the recirculated exhaust gas causes condensation of water vapor formed during combustion, generating a continuous wastewater stream (bleed-off water) from the condensate. This condensate can contain toxic, conventional, and nonconventional pollutants such as particulates (soot, metals, and hydrocarbons) and sulfur. In some cases, the EGR systems also capture oils, for example from cylinder lubrication, that are emitted from the combustion process and collected as part of the scavenged air. Excess bleed-off water that accumulates in an EGR system is typically discharged overboard following treatment, and any residues are held for onshore disposal. On vessels that use high-sulfur fuel and an EGCS, the EGR system bleed-off water is often combined with the EGCS washwater and processed as a combined waste stream.

The final standard for EGCS in 40 CFR 139.18 is based largely on the IMO 2015 *Guidelines for Exhaust Gas Cleaning Systems* (Resolution MEPC.259(68)) (“2015 IMO EGCS Guidelines”), with additional updates consistent with the 2021 *Guidelines for Exhaust Gas Cleaning Systems*, MEPC.340(77), adopted November 26, 2021 (“2021 IMO EGCS Guidelines”). The discharge provisions in both the 2015 and 2021 IMO EGCS Guidelines are largely identical to the 2009 IMO EGCS Guidelines (MEPC.184(59)) that formed the basis of EPA’s BAT determination for the 2013 VGP, as carried forward here. Section 10 of these Guidelines set out discharge limits for five parameters in scrubber washwater: pH, PAH, turbidity, nitrates plus nitrites, and additives, as well as handling and disposal criteria for scrubber residues. This standard applies to all discharges, upon commissioning and any subsequent/ongoing discharges. The final standard carries forward most of the EGCS requirements as proposed with the following three changes.

First, the 2021 IMO EGCS Guidelines added a new section 10.1.7 that clarified discharge criteria for any EGCS water retained in a temporary storage tank

prior to discharge. For consistency with those international guidelines and to provide clarity on the applicability of the discharge criteria when water is retained prior to discharge, identical criteria (for pH, PAH, and turbidity) are included in the final rule. Based on the analysis and implementation of the 2021 IMO EGCS Guidelines, EPA finds this new requirement to represent BAT for the VIDA regulations.

Second, to align with the IMO EGCS Guidelines, the proposed rule had omitted the table from the VGP that specifies the nitrates plus nitrites limits at different flow rates. That table clarified how the limit varies depending on the discharge flowrates; however, the standard itself was already fully expressed in proposed rule text. Based on public comment noting that the table would help operators better understand the requirements, EPA added this table into the final rule at 40 CFR 139.18(b)(4)(i), acknowledging that addition of the table provides clarification but does not alter the requirements as proposed. Also, the final rule clarifies that the standards for PAH, turbidity, and nitrates plus nitrites apply downstream of the water treatment equipment including any reactant dosing unit but upstream of any seawater addition for pH control prior to discharge. EPA also incorporated concepts from the 2021 IMO EGCS Guidelines that were modified to provide more clarity on their application to the discharge standards, including clarification that megawatt (MW) refers to the Maximum Continuous Rating (MCR) or 80% of the power rating of all fuel oil combustion units whose discharge water is being monitored at that point.

Third, the final rule adds a new 40 CFR 139.18(b)(6) that clarifies the prohibition of discharges of sludge or residues generated from the treatment of EGCS or EGR washwater or bleed-off water. EPA added this requirement to the final rule to clarify the expectation of the proposed rule that treatment residuals are managed properly. This prohibition is consistent with both the 2021 IMO EGCS Guidelines and the VGP.

With respect to pH, several commenters requested additional detail and clarification on how the pH limit applies under the two different options in the standard. The first option is based strictly on the vessel’s washwater discharge having a pH of no less than 6.5 at overboard discharge except during maneuvering and transit, when a maximum difference of two pH units is allowed between inlet water and

overboard discharge. In that scenario, the following requirements apply:

- When stationary, the pH limit is 6.5; and
- During maneuvering and transit, a maximum difference of two pH units is allowed between inlet water and overboard discharge. So, during maneuvering and transit, if the pH of ambient (intake) water is, for example, 8.7, the pH limit is 6.7, or, if the ambient (intake) water is 8.0, the pH limit is 6.0.

The second option is modeling-based. Under this option, the vessel performs modeling to determine the pH at the overboard discharge point while the vessel is stationary that will not cause the ambient water at four meters from the hull to fall below a pH value of 6.5. For vessels that choose this option, the modeled value for pH of the overboard discharge then is the pH discharge limit at all times in all locations so that, for example, a modeled pH limit of 5.8 becomes the overboard discharge limit at all times, including while in port and during maneuvering and transit and for which there is no additional allowance of two pH units between uptake and discharge.

EPA also received several comments requesting that the Agency ban discharges from open-loop scrubbers outright (*i.e.*, establish a zero-discharge standard for open-loop scrubbers) as has been done in some other locations around the world. EPA received no information demonstrating that such a ban is technically available as a uniform national standard. For example, EPA has not received information demonstrating that there is sufficient low sulfur fuel (which may be needed to comply with emissions standards if scrubber discharges are not permitted) or that adequate onshore reception facilities are available for disposal of scrubber washwaters and residues that would be generated by the use of other scrubber configurations such as closed-loop or hybrid systems. Technical committees at the IMO are currently revisiting the need to perform additional assessments of environmental impacts from EGCS discharges, and EPA will continue to monitor the availability of research findings compiled in connection with these discussions.

Another commenter stated that EPA should have included use of shore power as an alternative to use of scrubbers; however, the use of shore power has many considerations and barriers (U.S. EPA, 2022). EPA recommended, but did not require, its use in the VGP. Currently, vessels use shore power when available, in part because that allows them to avoid the

turbidity issues associated with use of the EGCs. However, shore power is often not an option in smaller ports due to load issues. EPA continues to recommend, but not require, the use of shore power when available and feasible for vessel use.

The final exhaust gas emission control standard also includes requirements for discharges of EGR bleed-off water and residues in recognition of the fact that these discharges can exhibit low pH and contain other toxic, conventional, and nonconventional pollutants covered under the CWA. The VGP did not identify EGR discharges largely because EGR systems are relatively new to vessels, consistent with the effect of the NO_x emissions standards established in MARPOL Annex VI. The final standard for discharges from EGR systems is based primarily on the IMO 2018 *Guidelines for the Discharge of Exhaust Gas Recirculation (EGR) Bleed-Off Water* (MEPC 307(73)) (“2018 IMO EGR Guidelines”), that is similar to the 2015 IMO EGCs Guidelines, with a few key differences that recognize the composition of EGR bleed-off washwater and the onboard process for handling this waste stream. EPA has utilized the analysis and implementation of the 2018 IMO EGR Guidelines to aid it in determining that its new EGR standards are technologically available and economically achievable.

The final rule carries forward most of the EGR requirements as proposed with some modifications or clarifications, based on public comment. For clarity, EPA revised the heading of 40 CFR 139.18(c) from the proposed rule to reflect an “exclusion” from the 40 CFR 139.18(b) requirements rather than a different “applicability” of the requirements.

As described in the proposed rule preamble (85 FR 67818, October 26, 2020, section VIII.B.9.), EPA proposed to apply this standard based on the location of the vessel, consistent with how the Agency assessed and applied other requirements in the rule; namely, the proposed standard considered whether a vessel was in port, underway, or outside of the waters of the United States or the waters of the contiguous zone. The proposed rule did not specify that the exclusion from the discharge standard in 40 CFR 139.18(b) only applies if the vessel is no longer in port; however, EPA did describe such in the proposed rule preamble. Thus, to be consistent with both EPA’s intended approach and the 2018 IMO EGR Guidelines, the final rule clarifies that the EGR bleed-off exclusion from the 40 CFR 139.18(b) requirements only apply

if the EGR bleed-off is not retained in a holding tank prior to discharge, and the vessel is no longer in port, is underway, and is operating on a fuel that meets the sulfur content limits specified in Regulation 14 of MARPOL Annex VI (that is, 0.10 percent mass by mass (m/m) sulfur content limit while operating in the North American or U.S. Caribbean Sea ECAs, as of January 1, 2015; 0.50 percent m/m fuel sulfur content limit while operating in other U.S. coastal areas as of January 1, 2020).

Comments on the proposed EGR requirements highlighted that the exclusion and prohibition in the proposed rule may not have been clear with respect to applicability of requirements based on type of fuel used and whether EGR discharges are retained in a holding tank prior to discharge. As such, the language in the final rule is restructured with a goal of clarifying those instances when EGR discharges are or are not subject to the 40 CFR 139.18(b) discharge standard and consistent with the 2018 IMO EGR Guidelines. Notably, for a vessel not operating on fuel that meets the sulfur content limits specified in Regulation 14 of MARPOL Annex VI, the final rule prohibits the discharge of EGR bleed-off retained in a holding tank prior to discharge unless the vessel is underway, not in port, and in compliance with the 40 CFR 139.18(b) discharge standard.

10. Fire Protection Equipment

Fire protection equipment includes all components used for fire protection including, but not limited to, firemain systems, sprinkler systems, extinguishers, and firefighting agents, such as foam. Firemain systems draw in water through the sea chest to supply water for fire hose stations, sprinkler systems, and firefighting foam distribution stations. Firemain systems can be pressurized or non-pressurized and are necessary to ensure the safety of the vessel and crew. The systems are also tested regularly to ensure that the system will be operational in an emergency. Additionally, firemain systems have numerous secondary purposes onboard vessels, such as for deck and equipment washdowns and anchor/anchor chain rinsing. However, whenever the firemain system is used for a secondary purpose, such as deck washdown, any resulting incidental discharge is required to meet the Federal standard of performance for that secondary use. Firemain water can contain a variety of constituents, including copper, zinc, nickel, aluminum, tin, silver, iron, titanium, and chromium. Many of these constituents can be traced to the

corrosion and erosion of the firemain piping system, valves, or pumps.

Firefighting foams (fluorinated and non-fluorinated) can be added to a firemain system and mixed with seawater to address emergencies onboard a vessel. The constituents of firefighting foam can vary by manufacturer but can include persistent, bioaccumulative, toxic, and non-biodegradable ingredients. Discharges of firefighting foam can also contain phthalate, copper, nickel, and iron, which can be constituents in the composition of firemain piping. Fluorinated firefighting foam contains per- and poly-fluoroalkyl substances (PFAS) or their precursors; examples include aqueous film forming foam, alcohol resistant aqueous film forming foam, film-forming fluoroprotein foam, fluoroprotein foam, alcohol-resistant fluoroprotein foam, and other fluorinated compounds. Non-fluorinated firefighting foam does not contain PFAS or their precursors; examples include protein foam, alcohol-resistant protein foam, synthetic fluorine free foam, and synthetic alcohol-resistant fluorine free foam. PFAS such as perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), among others, are persistent and bioaccumulative. Many PFAS are toxic and/or carcinogenic. Information regarding the presence of fluorinated surfactants and toxic or hazardous substances in firefighting foam are typically found on the safety data sheets for individual products. Additionally, other types of foams exist that can be used in fire equipment systems that are not intended for fire suppression but are designed for testing and training. These foams are often called testing or training foams, tend to be less expensive, and can mimic the properties of firefighting foams.

The final rule applies to discharges from fire protection equipment during testing, training, maintenance, inspection, or certification. 40 CFR 139.19(c). Based on comments received on the proposed rule, the final rule includes a definition for “fire protection equipment” and clarifies in 40 CFR 139.19(a) the applicability of the standards to discharges from the firemain for secondary uses such as deck washdown and anchor and anchor chain rinsing. Per 40 CFR 139.19(a), the final standard does not apply to the use of fire protection equipment in emergency situations or when compliance would compromise the safety of the vessel or life at sea. See 40 CFR 139.1(b)(3).

The final rule prohibits the discharge of fluorinated firefighting foam except

in instances when required by the USCG (*i.e.*, the Secretary) for certification and inspection or by the marine inspector to ensure vessel safety and seaworthiness. 40 CFR 139.19(b). The final rule clarifies that this includes activities performed pursuant to 46 CFR 31.10 through 31.18(c) and 46 CFR 107.235(b)(4), or otherwise required by the marine inspector to ensure vessel safety and seaworthiness (*e.g.*, pursuant to 46 CFR 31.10 through 31.17(a)(4), 46 CFR 71.25 through 71.50, 46 CFR 91.25 through 91.50, or similar). *Id.* The USCG has indicated that, in limited circumstances, USCG-required inspections and certification testing of vessels with fluorinated foam systems may result in discharges of fluorinated foam while in port to ensure vessel safety. In many instances, vessels with fluorinated foams can test, train, or maintain the system without discharging the foam, such as testing without foam, collecting the foam such that it is not discharged, or using an alternative non-fluorinated foam (FFFC, 2020; NFPA, 2016). According to the National Fire Protection Association (NFPA), there are many firefighting foams and training foams that are non-fluorinated that can be used for testing, training, and maintenance (FFFC, 2020; NFPA, 2016). Several commenters expressed support for the prohibition of discharges of fluorinated foam except as directed by the USCG. Commenters confirmed that in many instances testing, training, and maintenance can be performed with water unless USCG regulations require foam.

EPA also considered other more stringent requirements than the VGP in relation to the discharge of firefighting foam. Specifically, EPA explored requirements that would include product substitution to use firefighting foams that do not contain bioaccumulative or toxic or hazardous materials. EPA has used product substitution for other technology-based rules, such as those that apply to oil and gas. See 40 CFR part 435. As such, EPA considered, for the purposes of testing, training, maintenance, inspection, or certification, also prohibiting the discharge of non-fluorinated firefighting foams that contain bioaccumulative or toxic or hazardous materials (as identified in 40 CFR 401.15 or defined in 49 CFR 171.8). Based on the *Best Practice Guidance for Use of Class B Firefighting Foams* from the Fire Fighting Foam Coalition (FFFC, 2020), NFPA codes and standards—NFPA 11—*Standards for Low-, Medium-, and High-Expansion Foam* (NFPA, 2016), and discussions with the USCG, testing and

training methods exist that limit or eliminate the need to discharge foam (FFFC, 2020; NFPA, 2016). Specifically, in many situations it may be possible to perform these activities by only using water (water equivalency method), collecting the foam, or using non-fluorinated training foam that does not contain bioaccumulative or toxic or hazardous materials. EPA reviewed numerous foam Safety Data Sheets for bioaccumulative or toxic or hazardous materials and identified several potential foam substitute options (U.S. EPA, 2020).

EPA solicited feedback on: (1) the availability of non-fluorinated foams, training foams, or surrogate test liquids that do not contain bioaccumulative or toxic or hazardous materials that can satisfy firefighting testing, training, and maintenance needs; (2) the extent to which vessels are already using these alternative foams; (3) the extent to which vessels are already performing testing, training, and maintenance using only water; (4) the number of vessels and types of systems that are not able to use the water-equivalency method; (5) the extent to which the vessel community is collecting foam prior to discharge; and (6) economic considerations associated with prohibiting the discharge of these types of non-fluorinated firefighting foams, and any other information that would support the Agency's determination of whether to expand the prohibition of the discharge of firefighting foams to include non-fluorinated foams that contain bioaccumulative or toxic or hazardous materials. Several commenters provided additional information on the solicited topics above, including materials demonstrating the limited availability of alternative foams and practical challenges associated with their use, such as the need for additional piping and onboard storage of multiple foam types. The input from commenters described above is consistent with the often limited information on bioaccumulation, toxicity, and hazardous substances found in Safety Data Sheets of foam formulations, as sections on environmental impact of chemicals are not mandatory (Appendix D to 29 CFR 1910.1200), and there is often omission or non-disclosure of information on presence and effects of persistent compounds (DEHP, 2016). EPA finds that it is not reasonable to require zero discharge of non-fluorinated foams that contain bioaccumulative or toxic or hazardous materials because the record does not demonstrate sufficient information and

availability of alternative foams that meet requirements for testing, training, maintenance, inspection, or certification in all instances, as well as practical challenges with their use. EPA deems it appropriate to consider whether alternatives are readily available which meet requirements (*i.e.* consistently available on the market) (see CWA 304(b)(2)(B) authorizing EPA to consider “such other factors as the Administrator deems appropriate”). Since the information does not support a finding that these products are readily available, EPA is not requiring zero discharge of non-fluorinated foams that contain bioaccumulative or toxic or hazardous materials. EPA may revisit this issue to determine whether a prohibition of certain types of discharge has become a practical option in the future.

EPA initially proposed to prohibit any discharge from fire protection equipment during testing, training, maintenance, inspection, or certification in port excluding USCG-required inspection or certification. However, several commenters expressed regulatory and safety concerns with this approach. These include inconsistencies with existing regulatory requirements for fire drills, such as in 46 CFR 199.180, as well as the inability to defer drills to outside of port in all instances. Several commenters also requested language analogous to the VGP that allows discharges in port if intake is from surrounding waters or potable water supplies and does not contain any additives or fluorinated firefighting foam. To address these concerns, the final rule allows for discharges in port from USCG-required inspection or certification activities to ensure vessel safety, as well as discharges from testing, training, maintenance, inspection, or certification activities if the intake is drawn from surrounding water or a potable water supply and does not contain additives. 40 CFR 139.19(c).

Several commenters also expressed concern over the lack of reference to secondary uses in the regulatory text. Some commenters interpreted the proposed regulations to prohibit secondary uses such as for deck washdown, anchor chain rinsing, and machinery cooling water. Commenters articulated that, as proposed, the standard would contradict the requirements in 40 CFR 139.14 requiring anchor and anchor chain washdown, as well as prevent vessel and deck washdown and necessary machinery cooling. Several commenters requested the addition of language similar to that in the VGP to allow discharges for secondary purposes

provided that the intake comes directly from the surrounding waters or potable water supplies, there are no additions to the water, and that the discharges meet the applicable standards for that secondary use. To clarify requirements for secondary uses, the final standard authorizes discharges from fire protection equipment in port for secondary uses (such as deck washdown or anchor and anchor chain rinsing) provided the intake is from surrounding water or a potable water source, does not contain additives, and the discharge meets requirements for the specific secondary use. 40 CFR 139.19(d).

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters*

Requirements, the final rule requires additional controls for discharges from fire protection equipment for testing, training, and maintenance purposes for vessels operating in federally-protected waters. 40 CFR 139.40(g).

11. Gas Turbines

Gas turbines are used on some vessels for propulsion and electricity generation. Occasionally, they must be cleaned to remove byproducts that can accumulate and affect their operation. The byproducts and cleaning products can include toxic and conventional pollutants including salts, lubricants, combustion residuals, naphthalene, and other hydrocarbons. Additionally, due to the nature of the materials being cleaned, there is a higher probability of heavy metal concentrations. Rates and concentrations of gas turbine wash water discharge vary according to the frequency of washdown, and under most circumstances vessel operators can choose where and when to wash down gas turbines.

EPA was unable to identify new technology or best management practice options for discharges from gas turbines, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.20. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule prohibits the discharge of untreated gas turbine washwater unless determined to be infeasible. 40 CFR 139.20(b).

12. Graywater Systems

Graywater is water drained or collected from sources such as galleys, showers, baths, sinks, and laundry facilities. Graywater includes drainage from dishwater; however, the discharge

of food waste and food waste derivatives are regulated as garbage and are not incidental to the normal operation of a vessel. Therefore, they are not considered graywater for purposes of this rule. Graywater discharges can contain bacteria, pathogens, oil and grease, detergent and soap residue, metals (e.g., cadmium, chromium, lead, copper, zinc, silver, nickel, mercury), solids, and nutrients. Some vessels have the capacity to collect and hold graywater for later treatment and discharge. Vessels that do not have graywater holding capacity continuously discharge it to receiving waters. It is estimated that 30 to 85 gallons of graywater is generated per person per day. Graywater generation rates per person can vary based on the types of activities onboard the vessel. For example, vessels with overnight accommodations and onboard leisure activities are expected to generate higher volumes of graywater than a working vessel because passengers and crew are using more water for bathing, food preparation, and other such activities (U.S. EPA, 2011d). Estimates of graywater generation by cruise ships that can accommodate approximately 3,000 passengers and crew range from 96,000 to 272,000 gallons of graywater per day or 1,000,000 gallons per week. Strategies to minimize the discharge of graywater can include reducing the production of graywater, holding the graywater onboard, or using a reception facility.

The final rule defines “graywater” to mean drainage from galley, shower, laundry, bath, water fountain, and sink drains, and other similar sources. 40 CFR 139.2. The revised definition is intended to provide better clarity regarding the sources of graywater; however, it does not change the types of wastewaters that were covered by the VGP and now regulated under this final rule. The definition now explicitly references the galley drains as a graywater source, and favors the term “sinks” over “washbasins” as a more appropriately expansive term. The definition for “graywater” in the proposed rule included a sentence describing drainage from sources that do not constitute graywater, but the list was removed as it was not exhaustive. EPA notes, however, that drainage from toilets, urinals, hospitals or other medical spaces or equipment, animal spaces, and cargo spaces are not considered graywater for purposes of this rule.

The final rule maintains many of the requirements included in the proposed rule, including the requirements for vessel operators to minimize the

discharge of graywater and to discharge while underway when practical and as far from shore as practical. The final rule also requires that soaps, cleaners, and detergents used by vessel owner/operators that enter the graywater system be minimally-toxic, phosphate-free, and biodegradable. The final rule clarifies the requirement to include products provided to persons onboard (e.g., passengers) by vessel owner/operators. EPA acknowledges the difficulty in applying such a requirement to products brought onboard by passengers/guests and therefore does not include such a requirement. The final rule also clarifies the requirement to include “other substances” to ensure that similar products entering the graywater systems are similarly minimally-toxic, phosphate-free, and biodegradable. The final rule includes the requirement to minimize the introduction of kitchen oils and food and oil residue to the graywater system. While filtered dishwater and drainage from galley sinks and floor drains are regulated as graywater under this rule, food waste and its derivatives are not. EPA acknowledges that food waste may unavoidably enter the graywater system during normal dishwashing, so this requirement is intended to ensure that the amount entering the system is minimized.

The final rule identifies a numeric discharge standard that must be met for discharges of graywater from any new vessel of 400 GT and above that is certificated to carry 15 or more persons and provides overnight accommodations to those persons; any passenger vessel (excluding any ferry) with overnight accommodations for 500 or more persons; any passenger vessel (excluding any ferry) with overnight accommodations for 100–499 persons unless the vessel was constructed before December 19, 2008, and does not voyage beyond 1 NM from shore; and any new ferry authorized by the USCG to carry 250 or more persons. Such vessels could be equipped either with a treatment system to meet the standards in 40 CFR 139.21(f) or sufficient storage capacity to retain all graywater onboard while operating in waters subject to the VIDA. Under the proposed rule, the discharge of graywater from any new vessel of 400 GT and above was required to meet the numeric discharge standard. This proposal was based on VGP reporting data that indicated between one-third and one-half of manned vessels of 400 GT or above that are not cruise ships or ferries are equipped with a treatment system for graywater, graywater mixed

with sewage, or a combined treatment system that may treat graywater. Based on EPA's knowledge of sewage handling practices, a wastewater that is frequently commingled with graywater, and comments received regarding the need for adequate pumpout facilities, EPA further assumed that vessels built with storage capacity would be serviced by stationary and mobile (e.g., trucks and barges) pumpout facilities that currently receive sewage and graywater from vessels, with increasing demand for these services driving increased availability. In light of public comments received on the proposed rule, however, EPA presented an additional regulatory option in the 2023 supplemental notice to limit the applicability of the provision to those new vessels of 400 GT and above that are certificated to carry 15 or more persons and provide overnight accommodations to those persons. This additional regulatory option was adopted in this rule on the basis of the information presented by EPA in the supplemental notice and the feedback received during the comment period. The final rule also now defines "new ferry" to clarify the applicability of 40 CFR 139.21(e)(4). Additionally, the final rule clarifies that "passenger vessel" in 40 CFR 139.21(e)(2) and (3) does not include ferries for purposes of those provisions. This is consistent with the VGP that previously used the terminology "cruise ship" for those requirements. Furthermore, the graywater systems standard already includes specific requirements for ferries.

The final numeric discharge standard generally mirrors that from the proposed rule, but deviates from the VGP in that it does not include the percent removal requirements for BOD and TSS. EPA acknowledges that, in the absence of the percent removal requirements for BOD and TSS, this provision may be less stringent than the VGP; however, consistent with CWA section 312(p)(4)(D)(ii)(II), the Administrator may revise a standard of performance to be less stringent than an applicable existing requirement if the Administrator determines that a material technical mistake occurred or if information becomes available that was not reasonably available when the Administrator promulgated the initial standard of performance. EPA made a material technical mistake in the VGP by including the percent removal requirement, because it is based on secondary treatment regulations for land-based municipal sewage, wherein the characteristics of the influent are well-understood but the facility has

little control over the inputs. Onboard vessels, there is significant variability in graywater characteristics but greater ability to control the contribution of BOD and TSS, for example, by separating galley graywater from other sources of graywater entering the treatment system. EPA also became aware of new information through implementation of the VGP that the requirement for the 30-day average percent removal for BOD and TSS to not be less than 85 percent is also difficult to monitor and enforce on a vessel, unlike at a land-based facility where influents and effluents are more easily monitored, which was information not available to the Administrator when the percent removal requirement was promulgated. Additionally, the retained requirements are substantively the same as those under the VGP in terms of pollutant reductions achieved. The numeric limits are consistent with the VGP, while the percent removal requirements did not make sense in the context of onboard application. VGP reporting data for graywater systems demonstrates that the majority of vessels did not, or were not able to, characterize influent for BOD and TSS. Without influent information, it is not possible to calculate percent reduction. Therefore, the technical mistake discussed above, coupled with this new information, contributed to EPA's determination that it was appropriate to eliminate the percent removal requirements.

As requested by commenters, the final numeric discharge standard includes additional clarifying language. First, the standard for fecal coliform at 40 CFR 139.21(f)(1)(i) and (ii) reflects units of both MPN/mL and cfu/mL on the basis that newer microbiological test methods have MPN outputs and, while the test methods differ, the number of bacteria in the tested sample are comparable to the numeric discharge standard. The standard for fecal coliform at 40 CFR 139.21(f)(1)(ii) now also clarifies that percentage of samples required to comply with the specified fecal coliform limit is tied to the same 30-day period as the geometric mean standard in 40 CFR 139.21(f)(1)(i). Finally, the standard at 40 CFR 139.21(f)(5) and (f)(5)(i) uses "total residual oxidizers," instead of "total residual chlorine" for consistency with the wording in other similar standards (e.g., ballast tanks). The provision now reads, "For any discharge from a graywater system using chlorine, total residual oxidizers must not exceed 10.0 µg/L."

The numeric discharge standards are based on the performance of "advanced wastewater treatment systems (AWTSs)," which are sophisticated

marine sanitation devices. In evaluating options for graywater treatment, EPA reaffirmed that treatment of commingled graywater and sewage by an AWTS produces significant constituent reductions in the resulting effluent. AWTSs differ from traditional treatment systems in that they generally employ enhanced methods for treatment, solids separation, and disinfection, such as through the use of membrane technologies and UV disinfection. The numeric discharge standard for graywater systems uses the pathogen indicator fecal coliform, though AWTSs also greatly reduce the concentrations of other pathogen indicators, such as *E. coli* and enterococci, during treatment and disinfection (U.S. EPA, 2008). AWTSs are currently in wide use and economically achievable for certain vessel classes. For example, the Cruise Lines International Association (2019) reports that 68 percent of member lines' global fleet capacity is currently served by AWTSs. Also, all new ships on order by member lines will be equipped with AWTSs. In Alaska, under the existing "Large Cruise Ship General Permit," certain large commercial passenger vessels may only discharge wastewater (including sewage and graywater) that has been treated by an AWTS or equivalent system. As an alternative to using a treatment system to meet the numeric discharge standard, these vessels may instead be equipped with sufficient storage capacity to retain graywater onboard while operating in waters subject to the VIDA.

For graywater, the numeric discharge standards rely on a mix of averaging periods and instantaneous maximums, both of which are commonly used in setting numeric effluent discharge limits depending on the nature of the pollutant and the characteristics of the discharger. Where EPA adopted a long-term average as opposed to an instantaneous or daily maximum, it did so based on two reasons. First, EPA considered the regulatory setting. Monitoring discharges onboard a vessel can present unique challenges compared to monitoring discharges from land-based facilities, which is the typical regulatory context for numeric effluent discharge limits. Systems that are designed to meet an instantaneous maximum require a higher level of control, and therefore less variability, in the system. Where it was practical to adopt a standard based on an instantaneous or daily maximum, EPA attempted to do so. For example, the final standard for discharges from ballast tanks includes the use of instantaneous maximums. As indicated in the ballast tanks section,

the challenges associated with collecting and testing representative samples of ballast water at the time of discharge required a different approach. Second, EPA considered how the pollutant operates in the environment. The use of an instantaneous maximum is preferred over the use of a long-term average where the upper bounds of variability in the discharge may cause serious environmental harm. As compared to, for example, the discharge of ANS from untreated ballast water which can potentially spread and reproduce, the pollution associated with untreated graywater discharges contributes to a more gradual decline in environmental quality. As such, the use of long-term averages in 40 CFR 139.21(f) allows for the variability that is expected in a well-operated treatment system.

At the same time, the monthly averages require the vessel operator to remain vigilant to ensure that, despite this variability, discharges consistently meet the numeric limit. Vessels to which the standard applies are expected to operate treatment systems that can consistently achieve compliance with the monthly average based on the vessel's expected loadings (or otherwise be equipped with storage to prevent discharges). Pursuant to the general operation and maintenance standards described in subpart B, vessels are expected to discharge while underway when practical and as far from shore as practical. This encourages commingling of the graywater constituents and further decreases the risks associated with variability in the system. EPA recognizes that the option to install AWTs or sufficient holding capacity may be unavailable for certain vessels for such reasons as cost, stability of the vessel, or space constraints. As such, EPA does not propose that all vessels be required to treat graywater discharges to the numeric discharge standard found in 40 CFR 139.21(f).

The final rule prohibits the discharge of graywater in certain locations unless the discharge meets the numeric discharge standard in 40 CFR 139.21(f). The prohibition applies to discharges within 3 NM from shore for any vessel that voyages at least 3 NM from shore and has remaining available graywater storage capacity. Similarly, the prohibition applies to the discharge of graywater within 1 NM from shore from any vessel that voyages at least 1 NM but not more than 3 NM from shore and has remaining available graywater storage capacity. In other words, for vessels that voyage at least 3 NM from shore and have available storage capacity, the discharge of untreated

graywater must occur while further than 3 NM from shore. For vessels that voyage at least 1 NM but not beyond 3 NM from shore and have available storage capacity, the discharge of untreated graywater must occur while further than 1 NM from shore. These limitations apply unless the graywater is treated in accordance with 40 CFR 139.21(f), and the language in 40 CFR 139.21(f) was updated to make clear that the vessels identified in 40 CFR 139.21(d) must also meet the numeric discharge standard if discharging graywater, not just those identified in 40 CFR 139.21(e). If a vessel is configured to be able to divert graywater to tanks typically used for other purposes, and it is safe and permissible to do so, then such tanks are considered by EPA to be available capacity for purposes of the foregoing requirements. These requirements are intended to limit nearshore discharges of pollutants without a significant increase in compliance costs because the requirements apply only to those vessels with available storage capacity.

The final rule does not include graywater discharge standards for commercial vessels in the Great Lakes, consistent with CWA section 312(a)(6) that specifies the term "sewage," with respect to commercial vessels on the Great Lakes, shall include graywater. As such, graywater discharges from commercial vessels on the Great Lakes are subject to the requirements in CWA sections 312(a)-(l) and the implementing regulations at 40 CFR part 140 and 33 CFR part 159. Additionally, per CWA section 312(p)(9)(A)(v), the general preemption of State authority to adopt or enforce any law, regulation, or other requirement with respect to the covered incidental discharges does not apply to the discharge of graywater from a passenger vessel in Alaska (including all waters in the Alexander Archipelago) carrying 50 or more passengers.

Non-commercial vessels operating on the Great Lakes may only discharge graywater if the discharge is treated such that it does not exceed 200 fecal coliform forming units per 100 milliliters and contains no more than 150 milligrams per liter of suspended solids. This is because the Agency determined that graywater treatment using an existing system meeting the 40 CFR part 140 standards represents the appropriate level of control for those non-commercial vessels operating in the Great Lakes that do not hold their graywater for onshore disposal. Hence, either treatment devices or adequate holding capacity are available and used for managing graywater from vessels operating on the Great Lakes. The final

rule clarifies that this provision only applies if the vessel is not subject to the requirements under 40 CFR 139.21(e), where EPA has determined a differing level of control is appropriate, to avoid ambiguity when a vessel is potentially subject to both 40 CFR 139.21(e) and (g).

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule establishes additional controls for discharges from graywater systems into federally-protected waters. 40 CFR 139.40(h).

13. Hulls and Associated Niche Areas

a. Anti-Fouling Coatings

Vessel hulls are often coated with anti-fouling compounds to prevent or inhibit the attachment and growth of biofouling organisms. Selection, application, and maintenance of an appropriate anti-fouling coating type and thickness according to vessel profile is critical to effective biofouling management, and therefore preventing the introduction and spread of ANS from the vessel hull and associated niche areas. Multiple types of anti-fouling coatings are available for use, including hard, controlled depletion or ablative, self-polishing copolymer, and fouling release coatings. The use of non-biocidal and non-ablative anti-fouling coatings, when practicable, is recommended. Anti-fouling coatings may employ physical, biological, chemical, or a combination of controls to reduce biofouling. Those that contain biocides prevent the attachment of biofouling organisms to the vessel surface by continuously leaching substances that are toxic to aquatic life. The most commonly used anti-fouling biocide is copper. Manufacturers may also combine copper with other biocides, often called booster biocides, to increase the effectiveness of the anti-fouling coating. Cleaning the anti-fouling coating typically results in pulses of biocide into the environment, particularly if surfaces are cleaned within the first 90 days following application.

The final rule requires that the selection of an anti-fouling coating for the hull and associated niche areas must be specific to the vessel's operational profile, and that any biocidal anti-fouling coatings used must have appropriate biocide release rates and components that are biodegradable once separated from the vessel surface. 40 CFR 139.22(c)(1). Operational profile factors can influence biofouling rates and include the vessel speed during a typical voyage, aquatic environments

traversed, type of surface painted, typical water flow for any hull and niche areas, planned periods between drydock, and expected periods of inactivity or idleness. Generally, an optimal biocide will have broad spectrum activity, low mammalian toxicity, low water solubility, no bioaccumulation up the food chain, no persistence in the environment, and compatibility with raw materials (IMO, 2002). Non-biocidal anti-fouling coatings are available and vessels that typically operate at high speeds may effectively manage biofouling, particularly macrofouling, with non-biocidal anti-fouling coatings. Additionally, vessels operating in waters with lower biofouling pressure and those that spend less time at dock are expected to have a lower biofouling rate and should select either non-biocidal anti-fouling coatings or anti-fouling coatings with low biocide discharge rates. However, these non- or low-biocidal anti-fouling coatings may not be suitable for all operational profiles (*e.g.*, for vessels that occasionally endure extended idling).

Adherence to manufacturer specifications is necessary to ensure the longevity and effectiveness of the anti-fouling coating and is considered best practice. If an anti-fouling coating is not properly selected, applied, or maintained, it will likely show signs of deterioration, such as indications of excessive cleaning actions (*e.g.*, brush marks) or blistering due to the internal failure of the paint system. Such deterioration may allow for biofouling organisms to grow on exposed surfaces, increasing the potential for the introduction and spread of ANS. Improper application and maintenance of an anti-fouling coating may also increase the discharge of particles into the aquatic environment and degradation of the integrity of wetted surfaces. The VGP required that any anti-fouling coatings be applied, maintained, and removed consistent with the FIFRA label, if applicable. The final rule similarly requires that anti-fouling coatings be applied, maintained, and reapplied consistent with manufacturer specifications, including but not limited to the thickness, the method of application, and the lifespan of the coating. 40 CFR 139.22(c)(2). One option for meeting this requirement is to schedule the in-service period of the anti-fouling coating to match the vessel's drydock cycles. Larger vessels, particularly those used in the carriage of goods, are subject to requirements for safety inspections and maintenance activities that dictate how frequently

they must be drydocked. Factoring this schedule into coating selection ensures the anti-fouling coating will sufficiently protect the vessel for the period needed without creating additional leachate or wastes.

b. Tributyltin (TBT) Requirements

The International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention) was adopted in 2001 and came into force in 2008. The United States became a contracting party to the AFS Convention on November 21, 2012. Domestically, the Clean Hull Act of 2009 implements the requirements of the AFS Convention. Consistent with the AFS Convention, the Clean Hull Act, and the VGP, the final rule requires that anti-fouling coatings not contain TBT or any other organotin compound used as a biocide. Additionally, 40 CFR 139.22(c)(3)(i) requires that any vessel hull previously covered with an anti-fouling coating containing TBT (whether used as a biocide or not) or any other organotin compound (if used as a biocide) must either (1) maintain an effective overcoat that forms a barrier on the vessel hull so that no TBT or other organotin leaches from the vessel hull; or (2) remove any TBT or other organotin compound from the vessel hull. EPA is unaware of any non-biocidal use of TBT that would result in a residual presence in anti-fouling paints. Combined, the requirements in the final rule are substantively equivalent to a zero-discharge standard of TBT from vessel hulls. EPA expects that few, if any, vessels have exposed TBT coatings on their hulls and that the final standard for all organotin compounds, including TBT, is technologically available based on other anti-fouling coating options.

Other less toxic organotin compounds such as dibutyltin oxide are used in small quantities as catalysts in some non-biocidal anti-fouling coatings. One class of non-biocidal anti-fouling coatings, sometimes referred to as fouling release coatings, produce a non-stick surface to which fouling organisms cannot firmly adhere. To function properly, the coating surface must remain smooth, intact, and not leach into the surrounding water. Because these less toxic organotins are used as a catalyst in the production of non-biocidal anti-fouling coatings, such production may result in trace amounts of organotin in anti-fouling coatings. Consistent with the AFS Convention, the Clean Hull Act, and the VGP, the final rule authorizes the use of non-biocidal anti-fouling coatings that contain trace amounts of catalytic

organotin (other than TBT) if the trace amounts of organotin are not used as a biocide. The final rule requires that, when used as a catalyst, an organotin compound must contain less than 2,500 milligrams total tin per kilogram of dry paint and must not be designed to slough or otherwise peel from the vessel hull. 40 CFR 139.22(c)(4). Incidental amounts of an anti-fouling coating discharged by abrasion during cleaning or after contact with other hard surfaces (*e.g.*, moorings) are acceptable.

c. Cybutryne Requirements

Cybutryne, commonly known as Irgarol 1051, is a biocide that functions by inhibiting the electron transport mechanism in algae, thus inhibiting growth. There are numerous commercially available antifoulants that are similar in cost and are less harmful to the aquatic environment (IMO, 2018). Restrictions on cybutryne are already in place in a number of countries globally, and cybutryne is therefore less widely used compared to other antifoulants (IMO, 2017). Anti-fouling coatings that do not contain cybutryne are both technologically available and economically achievable. Consistent with a recent 2020 MEPC amendment to the AFS Convention, the final rule prohibits the application of cybutryne-containing anti-fouling coatings on hulls and niche areas. 40 CFR 139.22(c)(5). In cases where anti-fouling coatings contain cybutryne in the external anti-fouling coating layer of the hull or external parts of surfaces, the final rule requires either (1) the removal of any cybutryne coating; or (2) the application and maintenance of an effective overcoat that forms a barrier so that no cybutryne leaches from the underlying anti-fouling coating. The latter is provided as an option to comply with this requirement because overcoats are commercially available. Incidental amounts of anti-fouling coating discharged by abrasion during cleaning or after contact with other hard surfaces (*e.g.*, moorings) are acceptable.

d. Copper Requirements

Copper, primarily in the form of cuprous oxide, is the most common biocidal anti-fouling coating, accounting for approximately 90 percent of the volume of sales of specialty anti-fouling coatings in the United States (U.S. EPA, 2018). Copper is a broad-spectrum biocide that effectively prevents both microfouling and macrofouling. Copper is considered less harmful to the aquatic environment than TBT-containing compounds, but its use has nevertheless contributed to loadings in copper-impaired waters. The final rule requires

that, as appropriate based on vessel class and operations, alternatives to copper-based anti-fouling coatings (*e.g.*, non-biocidal anti-fouling coatings) or coatings with lower biocidal release rates be considered for vessels spending 30 or more days per year in copper-impaired waters or using these waters as their home port. 40 CFR 139.22(c)(6). EPA determined that there are no direct substitutions for copper as a biocide that are as affordable or as effective without posing similar risks to non-target aquatic species (U.S. EPA, 2018). As such, the final rule does not require the selection of an alternative anti-fouling coating for vessels.

The significance of discharges from a biocidal anti-fouling coating depends not only on the substance used, but also on the leaching rate of the biocide (IMO, 2009). The leaching rate is the rate of discharge or entry into the environment from the coating itself. While the leaching rate of copper from anti-fouling coatings is relatively low (average discharge rates range from 3.8–22 µg/cm²/day), copper-containing anti-fouling coatings can still account for significant accumulations of metals in receiving waters of ports where numerous vessels are present (Valkirs et al., 2003; Zirino and Seligman, 2002). While maximum leaching rates for copper-based anti-fouling coatings on recreational vessels have been established both federally and locally, EPA does not currently have the data available to establish a leaching rate that would be appropriate for the wide variety of largely commercial vessels subject to this rule. Therefore, the final rule does not require a specific, maximum copper leaching rate for anti-fouling coatings, acknowledging that use of anti-fouling coatings is also regulated in the United States through the FIFRA.

e. Cleaning

Most commercial seagoing vessels are required to undertake periodic hull and niche area surveys as part of International Association of Classification Societies rules and in accordance with IMO conventions to ensure that hulls and niche areas are maintained in a satisfactory condition. The VGP, in part 4.1, required all vessels subject to that permit to inspect the hull annually, or during drydock for those areas that are not otherwise safe to inspect. Cleaning of hulls and niche areas, including the removal of any biofouling, is an important component of hull and niche area maintenance. Niche areas account for approximately 10 percent of the total wetted surface area of a vessel (Moser et al., 2017).

However, over 80 percent of species sampled in vessel biofouling studies were found in niche areas (Bell et al., 2011). Therefore, while representing a smaller surface area compared to the hull, niche areas may disproportionately contribute to the discharge of biofouling organisms.

Vessels generally use two types of cleaning techniques to remove biofouling: cleaning while in drydock and in-water cleaning. Techniques for in-water cleaning of vessel surfaces can be broadly separated into two categories: (1) in-water cleaning with capture (IWCC); and (2) in-water cleaning without capture. IWCC is the use and operation of a cleaning system for vessel surfaces that is designed to capture and transport coatings and biofouling organisms to an adjacent barge or shore-based facility for collection and processing. The waste stream is processed by a separate service provider, not the vessel. As such, EPA views these discharges as similar to the discharge of treated ballast water from a barge-based or shore-based treatment facility, which are not subject to regulation under the VIDA pursuant to CWA section 312(p)(9)(C). In-water cleaning without capture refers to any in-water cleaning techniques that do not use a capture device.

Vessels following effective biofouling management strategies generally should be able to maintain fouling at or below the microfouling level. The final rule requires that hulls and niche areas be managed to minimize biofouling, such as through preventative cleaning of microfouling. 40 CFR 139.22(d)(2). Preventative in-water cleaning, also referred to as proactive cleaning, is the frequent, gentle cleaning of the vessel hull and appendages to prevent or reduce the attachment and growth of macrofouling, with minimal impacts to the anti-fouling system. Preventative cleaning of microfouling can have many benefits, including but not limited to drag reduction, operations enhancement, and reduced discharge of biofouling organisms. Studies have estimated that even light microfouling can increase the drag on a vessel by up to 25 percent (Townsin, 2003; Schultz, 2007). Predictive analytics have shown that preventative cleaning reduces fuel consumption and that increasing cleaning to an interval of approximately six months can save hundreds of thousands of dollars in annual fuel costs per vessel (Marr, 2017). Additionally, preventative cleaning has been shown to effectively reduce biofouling without significantly increasing biocide loading into the aquatic environment (Tribou and Swain, 2017). However, one study

of preventative in-water cleaning showed elevated levels of copper directly above cleaning brushes during cleaning (Scianni et al., 2023).

Monitoring the condition of hulls and niche areas and removal of any biofouling identified is considered an industry best practice in large part due to the economic incentive involved, as the costs associated with regular in-water cleaning (namely, the cleaning services, disruptions to a vessel's schedule, and staff time), are outweighed by the fuel savings that result from managing vessel biofouling at or below the microfouling level. As such, EPA finds that preventative cleaning of microfouling represents BAT to control the release of biofouling organisms and biocides from hulls and niche areas, with likely long-term savings to the vessel industry.

The final rule prohibits any discharge from in-water cleaning without capture of macrofouling. 40 CFR 139.22(d)(4). Removal of macrofouling requires more abrasive techniques that may damage the anti-fouling coating, resulting in increased likelihood of subsequent biofouling, as well as a larger pulse of biocides and particles into the aquatic environment. Furthermore, macrofouling is composed of more diverse and reproductively mature organisms and, depending on geographic origin, may present a greater risk of discharging biofouling organisms than microfouling (Davidson et al., 2013; Morrissey et al., 2013; Department of the Environment [DOE] and New Zealand Ministry for Primary Industries [MPI], 2015). By effective preventative cleaning of microfouling, cleaning in drydock when practicable, and other best practices required in the final rule, vessels may minimize the need to conduct in-water cleaning of macrofouling. In circumstances where such cleaning is necessary, IWCC is available to vessels.

The final rule requires that hull and niche area cleanings must minimize the damage to the anti-fouling coating, minimize the release of biocides, and follow applicable cleaning requirements found on the anti-fouling coating manufacturers' instructions and any applicable FIFRA label. 40 CFR 139.22(d)(3). This is consistent with requirements in the Uniform National Discharge Standards for Vessels of the Armed Forces for underwater ship husbandry at 40 CFR 1700.37. These requirements are considered best practices and ensure the longevity and effectiveness of the anti-fouling coating, while minimizing pollutant loading into the surrounding waters. Similar to the final standards for deck washdowns in

this rule at 40 CFR 139.15(g), the final standards for hulls and associated niche areas at 40 CFR 139.22(d)(7) require any soap, cleaner, or detergent used on vessel surfaces, including but not limited to the scum lines of the hull, to be minimally-toxic, phosphate-free, and biodegradable.

40 CFR 139.22(d)(5) prohibits any discharge from in-water cleaning without capture of any copper-based hull coatings in a copper-impaired waterbody within the first 365 days after application of that coating. The final rule also prohibits in-water cleaning without capture on any section of an anti-fouling coating that shows excessive cleaning actions (e.g., brush marks) or blistering due to internal failure of the paint system. 40 CFR 139.22(d)(6). Such a level of deterioration indicates failure at the anti-corrosive/anti-fouling interface, which is more likely to be broken by cleaning. The rupturing of paint blisters results in discharges of anti-fouling coating particles and an increased rate of damage to the anti-fouling system more generally. In turn, the exposed surface is subject to increased fouling and risk of corrosion. EPA expects that an anti-fouling system selected in accordance with the vessel's operational profile and cleaned with minimally abrasive cleaning methods should not present signs of significant deterioration at the anti-corrosive/anti-fouling interface. Therefore, adherence to this standard is achievable by following the coating and cleaning practices in the final standards. In consideration of implementation and enforcement challenges, the final rule excludes the terms "local in origin" and "plume or cloud of pain" from the proposed rule in regard to hull and niche area cleaning, but retains the terms "frequent," "gentle," "minimal," and "minimize release of biocides."

The final rule stipulates that cleanings should take place in drydock when practicable. at 40 CFR 139.22(d)(1). Drydock schedules should be factored into the inspection and management of areas susceptible to biofouling. EPA recognizes that it may not be technologically available or economically achievable for a vessel to be drydocked outside of the regular schedule to clean biofouling from the hull or niche areas. For example, some vessels are too large to be regularly removed from the water, and any repair or maintenance required on the hull or niche areas must occur while the vessel is pierside between drydockings. Several mechanisms are used by vessel owners/operators to determine the necessary cleaning interval, including

regular inspections, ISO standard 19030 measurements of hull and propeller performance, and/or advanced data analytics. Further, many technologies are available for preventative in-water cleaning, including diver-operated technologies or remotely operated vehicles. A review of the market of hull cleaning robots sponsored by the USCG in 2016 identified no fewer than 15 technologies capable of conducting in-water cleaning of vessel hulls. More recently, remotely operated vehicles for preventative cleaning have also been developed as equipment attached to the vessel itself, enabling flexibility in cleaning schedules along a vessel's route.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule prohibits the discharge from in-water cleaning of vessel hulls and niche areas into federally-protected waters except by any vessel owned or under contract with the United States, State, or local government to do business exclusively in any federally-protected waters. 40 CFR 139.40(i).

14. Inert Gas Systems

Inert gas is used on tankers for several reasons, with one of the primary uses being to control the oxygen levels in the atmosphere of cargo and ballast tanks to prevent explosion and suppress flammability. Inert gas system discharges consist of scrubber washwater and water from deck water seals when used as an integral part of the inert gas system.

EPA was unable to identify new technology or best management practice options for discharges from inert gas systems, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.23. EPA did not receive any comments suggesting revisions to the proposed standards. EPA did, however, modify the structure of the requirements from the proposed rule to clarify that while there are no additional discharge-specific requirements applicable to inert gas systems, as with any discharge incidental to the normal operation of vessel subject to regulation under this part, discharges from inert gas systems must meet the general discharge requirements in subpart B of this part.

15. Motor Gasoline and Compensating Systems

Motor gasoline compensating system discharge is the discharge of seawater

that is taken into motor gasoline tanks to replace the weight of fuel as it is used and eliminates free space where vapors could accumulate. The compensating system is used for fuel tanks to supply pressure for the gasoline and to keep the tank full to prevent potentially explosive gasoline vapors from forming. The seawater is discharged when the vessel refills the tanks with gasoline or when performing maintenance. The discharge can contain both toxic and conventional pollutants including residual oils or traces of gasoline constituents, which can include alkanes, alkenes, aromatics (e.g., benzene, toluene, ethylbenzene, phenol, and naphthalene), metals, and additives. Most vessels by design do not produce this discharge.

EPA was unable to identify new technology or best management practice options for discharges from motor gasoline compensating system, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP with slight modifications for consistency and clarity. 40 CFR 139.24. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule does not include additional discharge-specific requirements applicable to motor gasoline compensating systems except in federally-protected waters (40 CFR 139.24(b)), but as with any discharge incidental to the normal operation of vessel subject to regulation under this part, discharges from motor gasoline compensating systems must meet the general discharge requirements in subpart B of this part (including requirements set forth for oily discharges as appropriate for the vessel).

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule requires several additional controls for discharges from motor gasoline compensating systems from a vessel operating in federally-protected waters. 40 CFR 139.40(j).

16. Non-Oily Machinery

Non-oily machinery wastewater is the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, propulsion engine jacket coolers, fire pumps, and seawater and potable water pumps. Non-oily machinery wastewater systems are intended to keep wastewater from machinery that does

not contain oil separate from wastewater that has oil content. Non-oily machinery wastewater discharge rates vary by vessel size and operation type, ranging from 100 to 4,000 gallons per hour. Constituents of non-oily machinery wastewater discharge can include a suite of conventional and nonconventional pollutants including metals and organics.

EPA was unable to identify new technology or best management practice options for discharges of non-oily machinery wastewater, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP with minor modifications for clarity. 40 CFR 139.25. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule prohibits the discharge of untreated non-oily machinery wastewater and packing gland or stuffing box effluent that contains toxic or bioaccumulative additives, or the discharge of oil in such quantities as may be harmful. 40 CFR 139.25(b).

17. Pools and Spas

Cruise ships and other vessels occasionally have freshwater or seawater pools or spas onboard that use water treated with chlorine or bromine as a disinfectant. When pools or spas are drained, the water is discharged overboard or sent to an AWTs. The discharge water can contain nonconventional pollutants such as bromine and chlorine.

EPA was unable to identify new technology or best management practice options for discharges from pools and spas, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.26. EPA determined the dechlorination limits by using those established for BWMSs and by evaluating comments submitted by the public on the 2008 and 2013 VGPs that indicated such limits are achievable. Furthermore, the final numeric discharge standard is consistent with common dechlorination limits from shore-based sewage treatment facilities.

As such, the final pool and spa discharge standards are the same as the proposed standards. The final rule requires vessel operators, except for unintentional or inadvertent releases from overflows across the decks and into overboard drains, to discharge while underway unless determined to be infeasible, and dechlorinate and/or

debrominate any pool or spa water, prior to discharging overboard. 40 CFR 139.26(b). To be considered dechlorinated, the total residual chlorine in the pool or spa effluent must be less than 100 µg/L. To be considered debrominated, the total residual oxidant in the pool or spa effluent must be less than 25 µg/L.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule requires additional controls for discharges from pools and spas from vessels operating in federally-protected waters. 40 CFR 139.40(k).

18. Refrigeration and Air Conditioning

Condensation from cold refrigeration or evaporator coils of air conditioning systems drips from the coils and collects in drip troughs that typically channel to a drainage system. The condensate discharge may contain toxic, conventional, and nonconventional pollutants including but not limited to detergents, seawater, food residue, and trace metals. This waste stream can easily be segregated from oily wastes and toxic or hazardous materials and safely discharged. Condensation is generally directed overboard, or in some instances may be collected for temporary holding until onshore disposal or otherwise drained to the bilge.

EPA was unable to identify new technology or best management practice options for refrigeration and air conditioning condensate, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.27.

The final rule prohibits the discharge of refrigeration and air conditioning condensate that contains toxic or hazardous materials. 40 CFR 139.27(b). Any discharges from refrigeration and air conditioning that are commingled with other discharges (e.g., through the bilge or non-oily machinery) must meet the requirements for both discharges.

19. Seawater Piping

Seawater piping systems carry seawater to various locations onboard the vessel via a network of pipes and pumps. This seawater is critical to the proper functioning of a vessel and is used for activities such as ballasting and firefighting, as well as in a variety of systems (e.g., engines, hydraulics, cleaning equipment, refrigeration, toilet systems). Based on comments received on the proposed rule, the final rule

includes a definition for “seawater piping system.” (See 40 CFR 139.2 definition of “seawater piping system”). Some components of seawater piping systems, including sea chests, sea inlet pipes, and overboard discharges, are also considered niche areas (See 40 CFR 139.2, definition of “niche areas”). Niche areas that are part of the seawater piping system are subject to requirements at 40 CFR 139.22.

Seawater piping systems can harbor and discharge a large quantity of biofouling organisms and represent a challenge for biofouling management as they are generally more difficult to access. They are also protected from hydrodynamic forces, facilitating the accumulation and survivorship of biofouling organisms. Ensuring that seawater piping systems are unobstructed by biofouling is vital to vessel operations, including the structural integrity of the vessel and the safety of the crew.

The final rule also requires that any vessel with a seawater piping system that accumulates macrofouling must be fitted with a Marine Growth Prevention System (MGPS). 40 CFR 139.28(c). The most common MGPSs for seawater include sacrificial anodic copper systems and chlorine-based dosing systems. These systems are already widely used and available. EPA recognizes that there may be a variety of systems capable of addressing biofouling in seawater piping systems, and an effective, preventative biofouling management strategy may include a combination of different systems (e.g., chemical injection; electrolysis, ultrasound, ultraviolet radiation, or electrochlorination; application of an anti-fouling coating; and use of cupronickel piping). Additionally, based on comments received on the proposed rule, the final rule includes glass-reinforced filament-wound epoxy-based composite piping as an acceptable component of a MGPS. 40 CFR 139.28(c)(2)(v). EPA considers the operation and maintenance of an MGPS to represent BAT for the control of biofouling organisms associated with seawater piping systems due to the many options available and the wide extent of their current use.

An MGPS can vary widely in operational characteristics and placement suitability. The final rule requires that MGPS selection must consider the level, frequency, and type of expected biofouling and the design, location, and area in which the system will be used. 40 CFR 139.28(c)(1). For example, it has been suggested that an MGPS installed in the sea chest provides protection to both the sea chest

and internal pipework, while one installed in the strainer may only protect the internal pipework. Furthermore, anti-fouling coating selection and application should be appropriate to the material of the piping and level of waterflow to which the coated area is subjected. Based on the potential differences in profile of the coated areas, the anti-fouling coating applied to a seawater piping system may be different from the anti-fouling coating applied to the vessel hull. EPA recommends that the MGPS be selected, installed, and maintained according to the manufacturer specifications.

Upon identification of macrofouling in the seawater piping system despite preventative measures, reactive measures such as use of physical cleaning devices must be used to remove biofouling; however, discharges from reactive measures used to remove macrofouling are prohibited in port. 40 CFR 139.28(c)(3). A vessel may use a separate service provider to clean and capture wastes from the cleaning process provided any discharges from those activities are managed pursuant to other applicable legal authorities (e.g., CWA section 402), consistent with 40 CFR 139.22. The frequency of inspection and identification of macrofouling in a seawater piping system (and use of reactive measures when macrofouling is present) will be vessel-specific, so the final rule does not identify a specific time interval for such measures. Time intervals should be determined based on a vessel's operational profile.

Seawater piping system discharges include non-contact engine cooling water, hydraulic system cooling water, refrigeration cooling water, and freshwater lay-up wastewater. Such systems use ambient seawater to absorb the heat from heat exchangers, propulsion systems, and mechanical auxiliary systems. The water is typically circulated through an enclosed system that does not come in direct contact with machinery, but still may contain sediment from water intake, traces of hydraulic or lubricating oils, and trace metals leached or eroded from the pipes within the system. Additionally, because it is used for cooling, the effluent will have an increased temperature. Cooling water can reach high temperatures with the thermal difference between seawater intake and discharge typically ranging from 5 °C to 25 °C, with maximum temperatures reaching 140 °C. The use of shore power may reduce the discharges of seawater from cooling systems. Because shore power may not be available in all locations, may not be sufficient for the

electricity needs of the vessel, and/or may not be compatible with the vessel's systems, the final rule does not require the use of shore power to reduce thermal discharges from seawater piping systems although EPA does recommend the use of shore power when available and feasible for vessel use.

Based on comments received on the proposed rule, the final rule includes a new 40 CFR 139.28(b) requiring that seawater piping systems must be inspected, maintained, and cleaned as necessary to minimize the accumulation and discharge of biofouling organisms. EPA added this requirement as a BMP that is reasonably necessary to carry out the purpose of reducing and eliminating the discharge of pollutants. Inspection and maintenance, with occasional cleaning as necessary, is technologically available and economically achievable. As discussed in section VII. of this preamble, *Definitions*, the final rule dispenses with the use of the Navy Fouling Rating scale employed in the proposed rule in favor of the term "macrofouling" to identify fouling that had been designated as FR-20 in the proposed rule.

Finally, as discussed in section VIII.C. of this preamble, *Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements*, the final rule requires controls for discharges seawater piping systems from vessels operating in federally-protected waters. 40 CFR 139.40(l).

20. Sonar Domes

Sonar dome discharge consists of leachate from anti-fouling materials into the surrounding seawater and the discharge of seawater or freshwater retained within the sonar dome. Sonar domes house detection, navigation, and ranging equipment and are filled with water to maintain their shape and pressure. They are typically found on research vessels but may be present on other vessel classes. Sonar dome discharge occasionally occurs when the water in the dome is drained for maintenance or repair, and discharge rates are estimated to range from 300 to 74,000 gallons from inside the sonar dome for each repair event. This discharge from inside the dome may include toxic pollutants including zinc, copper, nickel, and epoxy paints. Additionally, discharge occurs when materials leach from the exterior of the dome. Components that may leach into surrounding waters include anti-fouling agents, plastic, iron, and rubber.

EPA was unable to identify new technology or best management practice options for discharges from sonar

domes, therefore the Agency relied on the BPT/BCT/BAT analysis underlying the VGP requirements and is requiring substantively the same requirements included in the VGP. 40 CFR 139.29. EPA did not receive any comments suggesting revisions to the proposed requirements.

The final rule prohibits the discharge of water from inside the sonar dome during maintenance or repair. 40 CFR 139.29(b). The final rule also prohibits the discharge of bioaccumulative biocides from the exterior of the sonar dome when non-bioaccumulative alternatives are available. 40 CFR 139.29(c).

C. Discharges Incidental to the Normal Operation of a Vessel—Federally-Protected Waters Requirements

CWA section 312(p)(4)(B)(iii) specifies that, with limited exceptions, EPA must establish Federal standards of performance that are no less stringent than the VGP requirements relating to effluent limits and related requirements, including with respect to waters subject to Federal protection, in whole or in part, for conservation purposes. Therefore, the final rule prohibits or limits discharges in federally-protected waters consistent with the VGP requirements established for "waters federally-protected for conservation purposes." 40 CFR 139.40.

The final rule includes several updates to these VGP requirements. EPA determined that these new requirements are technologically available because the scope of waters to which the requirements would apply are limited, such that vessels are able to operate while restricting their discharges in these protected waters. For example, a vessel traveling through the Florida Keys National Marine Sanctuary can ordinarily wait to discharge accumulated water and sediment from any chain locker or chemically-dosed seawater piping until no longer in those federally-protected waters. EPA determined that the requirement is economically achievable because EPA does not have any information indicating that vessels undertaking an activity such as holding the discharge until it is no longer in federally-protected waters would incur costs.

1. Identification of Federally-Protected Waters

The designated federally-protected waters for this rulemaking include National Marine Sanctuaries, Marine National Monuments, National Parks, National Wildlife Refuges, National Wilderness Areas, or parts of the National Wild and Scenic Rivers

System, consistent with the categories of waters listed in appendix G of the VGP. These VGP categories were based on EPA's review of several Federal authorities that protect waters that are known to be of high value or sensitive to environmental impacts, such as those administered by the Bureau of Land Management (BLM), the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the Forest Service (USFS), and the National Oceanic and Atmospheric Administration (NOAA). Consistent with CWA section 312(p)(9)(E), the requirements of this part (40 CFR part 139) are in addition to any requirements established by the Secretary of Commerce or the Secretary of the Interior to administer any land or waters under their administrative control (*e.g.*, National Marine Sanctuaries Act requirements applicable to these areas established pursuant to 16 U.S.C. 1431 *et seq.*; 15 CFR part 922; 50 CFR part 404).

Federally-protected waters are likely to be of high quality and consist of unique ecosystems that may include distinctive species of aquatic animals and plants. Furthermore, as protected areas, these waters are more likely to have a greater abundance of sensitive species of plants and animals that may have difficulty surviving in areas with greater anthropogenic impact. Such waters are important to the public at large, as evidenced by the waters' special status or designation by the Federal Government as National Marine Sanctuaries, Marine National Monuments, National Parks, National Wildlife Refuges, National Wilderness Areas, or parts of the National Wild and Scenic Rivers System. The areas considered to be federally-protected waters are as follows:

- National Marine Sanctuaries—as designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and implementing regulations found at 15 CFR part 922 and 50 CFR part 404. EPA retrieved this information from <https://sanctuaries.noaa.gov/visit/#locations> on 5/1/2024.
- Marine National Monuments—as designated by presidential proclamation under the Antiquities Act of 1906 (54 U.S.C. 320301 *et seq.*). EPA retrieved this information from <https://www.fisheries.noaa.gov/pacific-islands/habitat-conservation/marine-national-monuments-pacific> and <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/northeast-canyons-and-seamounts-marine-national> on 5/13/24.
- National Parks (including National Preserves and National Monuments)—as

designated under the National Park Service Organic Act, as amended (54 U.S.C. 100101 *et seq.*) within the National Park System by the NPS within the U.S. Department of the Interior. EPA retrieved this information from <https://www.nps.gov/aboutus/national-park-system.htm> on 5/6/2024.

- National Wildlife Refuges (including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Area, and National Fish and Wildlife Refuges)—as designated under the National Wildlife Refuge System Administration Act of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*). EPA retrieved this information directly from USFWS, 5/10/2024; *See also* <https://www.fws.gov/our-facilities>.

- National Wilderness Areas—as designated under the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*). Section 4(c) of the Wilderness Act strictly prohibits motorized vehicles, vessels, aircrafts or equipment for the purposes of transport of any kind within the boundaries of all wilderness areas (16 U.S.C. 1133(c)). Exceptions to this Act include motorized vehicle use for the purposes of gathering information on minerals or other resources; for the purposes of controlling fire, insects, or disease; and in wilderness areas where aircraft or motorized boat use have already been established prior to 1964. EPA retrieved this information from <https://wilderness.net/practitioners/wilderness-areas/search.php#resultsSection> on 4/22/2024. National Wild and Scenic Rivers—as designated under the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*). EPA retrieved this information from <https://www.rivers.gov/river-miles> on 4/22/2024.

EPA does not consider Outstanding National Resource Waters (ONRWs) as federally-protected waters for purposes of this rule, as these are *State* or *Tribal* water quality-based designations under the antidegradation policy of the CWA. By contrast, CWA section 312(p)(4)(B)(iii) requires EPA to promulgate regulations that are no less stringent than the VGP with respect to “waters subject to *Federal* protection” (emphasis added). In excluding ONRWs from the list of waters subject to Federal protection in the final rule even though such waters were considered federally-protected under the VGP, EPA finds that it made a material technical mistake or misinterpretation of law when it required protection of ONRWs as “Waters Federally Protected Wholly or

in Part for Conservation Purposes” under the VGP.

EPA solicited comments on the use of the VGP's appendix G, and the proposed rule's equivalent appendix A, as the list of federally-protected waters. EPA updated the list of appendix A in the final rule based on information available from Federal agencies at the time of this public notice, as specified above. In response to commenter concerns regarding the usability of the list in appendix A, particularly for operators unfamiliar with U.S. federally-protected waters, EPA added an asterisk (“*”) modifier to denote those federally-protected waters that may be most relevant to vessels regulated under this rule. However, EPA reiterates that 40 CFR 139.40 remains applicable to all federally-protected waters listed in appendix A. Specific areas in appendix A were marked with an asterisk if they were within 0.1 mile of the coast or Great Lakes, or within 0.5 miles of National Waterway Network lines (DOT, 2024). Methodology for this analysis is available in the docket. While this approach may not perfectly correspond with areas where vessels do not/do transit, it can assist the regulated community, particularly international operators who may be less familiar with U.S. waterways, to identify federally-protected waters that they may be most likely to transit, while maintaining the level of stringency from the VGP.

The final appendix A was also modified to address both public and interagency comments to remove several National Marine Sanctuaries that are protected solely for cultural or historical purposes, rather than marine resource conservation purposes, and for which there is no evidence that discharges from vessels subject to this rule would threaten these resources (*i.e.*, Thunder Bay, Mallows Bay, Potomac River, Monitor, Wisconsin Shipwreck, and Lake Ontario NMS). Excluding waters that are protected solely for cultural or historical purposes and not for marine resource conservation purposes is consistent with the requirement that EPA's regulations continue VGP requirements to protect waters subject to Federal protection “for conservation purposes.” 33 U.S.C. 1322(p)(4)(B)(iii)(I). Such exclusion is also consistent with the National Marine Sanctuaries Act, as some federally-protected waters regulations are narrowly tailored to protect shipwrecks and other resources. For these areas, NOAA specifically chose not to regulate vessel discharges because it found no evidence that discharges would threaten the cultural or historical resources.

EPA also received comments related to the applicability of the VIDA to federally-protected waters outside of 12 NM. The VIDA (and by extension this rule) is only applicable within waters of the United States or waters of the contiguous zone (12 NM under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone). Therefore, EPA removed the following three sanctuaries from appendix A that are located fully outside of these waters: Flower Garden Banks, Grey's Reef, and Monitor National Marine Sanctuaries. For federally-protected waters that contain portions that are subject to the VIDA but also extend outside of waters subject to the VIDA (e.g., Stellwagen Bank National Marine Sanctuary; Florida Keys National Marine Sanctuary; Papahānaumokuākea Marine National Monument), the standards promulgated here only apply to the portion of federally-protected waters within 12 NM.

2. Discharge-Specific Requirements in Federally-Protected Waters

The final rule includes specific requirements for discharges into federally-protected waters, as listed in appendix A and consistent with CWA section 312(p)(4)(B)(iii). These requirements are in addition to any applicable general or specific discharge requirements in subparts B and C. EPA specifically solicited comments on the additional discharge requirements proposed for vessels operating in federally-protected waters. Commenters generally expressed support for the federally-protected waters requirements except for certain discharges from vessels that operate exclusively in federally-protected waters. To address these concerns, the final rule identifies exclusions for vessels operating exclusively within federally-protected waters for discharges from ballast tanks, decks, fire protection equipment, and hulls and associated niche areas in 40 CFR 139.40(b), (f), (g) and (i), respectively. The additional requirements for vessels operating in federally-protected waters are described in the following paragraphs and are generally consistent with the relevant section(s) of the VGP and based on a similar BAT finding that these requirements are technologically available and economically achievable and do not have any unacceptable non-water quality environmental impacts, including energy requirements.

Ballast Tanks (40 CFR 139.40(b)): The discharge or uptake of ballast water must be avoided in federally-protected waters, with certain exceptions. This requirement does not apply to a vessel

operating within the boundaries of any National Marine Sanctuary that preserves shipwrecks or maritime heritage in the Great Lakes unless the designation documents for the sanctuary do not allow taking up or discharging ballast water in such sanctuary, pursuant to section 610 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 as amended by the Coast Guard Reauthorization Act of 2015. Based on comments received which provided new information on feasibility of the proposed rule, the final rule exempts any vessel that operates solely in a federally-protected water within a single COTP Zone from the discharge prohibition in federally-protected waters. Because they don't leave federally-protected waters, such vessels have no feasible way of discharging outside these areas, and ballast water discharge is a necessary part of normal vessel operations. This exemption is consistent with a comparable single COTP Zone ballast water exclusion applicable in other, non-federally-protected waters. Additionally, as described in the proposed rule (85 FR 67818, October 26, 2020, section VIII.B.1.i), this requirement does not apply beyond the boundaries of a federally-protected water. While the VGP required avoidance of uptake or discharge into waters that "may directly affect" federally-protected waters, EPA did not include this expanded affected area as applied in the VGP because information needed to make a determination regarding a potential direct affect is highly dependent on the specific instant at which a ballast water uptake or discharge event is to occur, is not readily available, and is not easily characterized. This determination was based on new information on feasibility from commenters. As practical guidance for vessel operators that can delay a ballast water discharge (e.g., an exchange) until the vessel is further away from federally-protected waters, EPA recommends that the discharge or uptake of ballast water be conducted as far from federally-protected waters as possible.

Bilges (40 CFR 139.40(c)): The discharge of bilgewater into federally-protected waters is prohibited from any vessel of 400 GT and above.

Boilers (40 CFR 139.40(d)): Any discharge from a boiler into federally-protected waters is prohibited. This requirement acknowledges, however, that small volumes of routine blowdown may be discharged, including from boilers that are designed and operated to blowdown automatically, if preventing such discharge would compromise the

safety of life at sea pursuant to 40 CFR 139.1(b)(3).

Chain Lockers (40 CFR 139.40(e)): The discharge of accumulated biological organisms, water, and sediment from any chain locker into federally-protected waters is prohibited. Cleanout of chain lockers can be scheduled when a vessel is outside of protected waters. This prohibition does not mean that vessels should avoid rinsing their *anchor chain* in federally-protected waters after they have been anchored there, as generally required by 139.14(b) ("Anchors and anchor chains must be rinsed of biofouling organisms and sediment when the anchor is retrieved").

Decks (40 CFR 139.40(f)): The discharge of deck washdown into federally-protected waters is prohibited; however, the final rule exempts any vessel operating exclusively within federally-protected waters. As commenters noted, deck washdown is part of necessary maintenance for these vessels. Additionally, while the VGP extended this requirement to only large ferries (see VGP Part 5.3), the final rule applies it to all vessels (except those exempted) because deck washdowns for all vessels (except those exempted) can be scheduled when a vessel is outside of protected waters.

Fire Protection Equipment (40 CFR 139.40(g)): Several commenters expressed concerns regarding compliance with USCG fire drill requirements and anchor chain washdown requirements in 40 CFR 139.14 of the proposed rule, which both result in the discharge of water from fire protection equipment. The VGP allowed anchor chain wash down from the firemain in federally-protected waters to comply with wash down requirements, but did not include any specifics for meeting USCG fire drill requirements. EPA has determined that the ability to discharge water to comply with USCG fire drill requirements is necessary to maintain safety and prevent loss of life at sea. Based on the requirements of the VGP and new information provided through comments on the proposed rule, the discharge from fire protection equipment into federally-protected waters is prohibited except to comply with USCG fire drill requirements or anchor and anchor chain requirements in 40 CFR 139.14. When USCG fire drills are required, only vessels owned or under contract with the United States, a State, or a local government to do business exclusively in any federally-protected waters may discharge firefighting foam into federally-protected waters. 40 CFR 139.19 already prohibits the use of

fluorinated firefighting foam in waters subject to this rule, with few exceptions.

Graywater Systems (40 CFR

139.40(h)): The discharge of graywater into federally-protected waters is prohibited from any vessel with remaining available graywater storage capacity.

Hulls and Associated Niche Areas (40 CFR 139.40(i)): The discharge from in-water cleaning of vessel hulls and niche areas into federally-protected waters is prohibited; however, the final rule exempts any vessel operating exclusively within federally-protected waters to address commenters' concerns regarding necessary maintenance. Other than for vessels that operate exclusively within federally-protected waters, in-water cleaning of vessel hulls and niche areas can be scheduled when the vessel is outside of protected waters.

Motor Gasoline and Compensating Discharge (40 CFR 139.40(j)): The discharge of motor gasoline and compensating discharges into federally-protected waters is prohibited.

Pools and Spas (40 CFR 139.40(k)): The discharge of pool or spa water into federally-protected waters is prohibited. This prohibition includes all discharges of pool or spa water regardless of chemical concentrations, including seawater pools. While the VGP requirement was only for medium and large cruise ships, the final rule extends it to all vessels with pools or spas because for all vessels with pools and spas these discharges can be scheduled when the vessel is outside of protected waters.

Seawater Piping Systems (40 CFR 139.40(l)): The discharge of chemical dosing, as required in 40 CFR 139.28, into federally-protected waters is prohibited. Chemical dosing and the resultant discharge can be scheduled when the vessel is outside of protected waters.

D. Discharges Incidental to the Normal Operation of a Vessel—Previous VGP Discharges No Longer Requiring Control

The final rule excludes fish hold effluent and small boat engine wet exhaust as independent discharges incidental to the normal operation of a vessel. A fish hold is the area where fish are kept once caught and kept fresh during the remainder of the vessel's voyage before being offloaded to shore or another tender vessel. The fish hold is typically a refrigerated seawater holding tank, where the fish are kept cool by mechanical refrigeration or ice. With the exception of ballast water, CWA section 312(p)(2)(B)(i)(III) excludes from these final regulations discharges incidental to the normal

operation of a fishing vessel; therefore, although this discharge was included in the VGP, it is not a discharge incidental to the normal operation of a vessel subject to these regulations.

Small boat engines use ambient water that is injected into the exhaust for cooling and noise reduction purposes. Similar to fishing vessels, with the exception of ballast water, CWA section 312(p)(2)(B)(i)(III) excludes from these final regulations discharges incidental to the normal operation of a vessel less than 79 feet; therefore, although this discharge was included in the VGP, it is not a discharge incidental to the normal operation of a vessel subject to these regulations.

IX. Procedures for States To Request Changes to Standards, Regulations, or Policy Promulgated by the Administrator

A. Petition by a Governor for the Administrator To Establish an Emergency Order or Review a Standard, Regulation, or Policy

Under CWA section 312(p)(7)(A), a Governor of a State may submit a petition to the Administrator to either (1) issue an emergency order; or (2) review any standard of performance, regulation, or policy promulgated under that section if there exists new information that could reasonably result in a change. The final rule requires that such a petition be signed by the Governor (or a designee) and include the purpose of the petition (request for emergency order or review of any standard of performance, regulation, or policy); any applicable scientific or technical information that forms the basis of the petition; and the direct and indirect benefits if the requested petition were to be granted by the Administrator.

In issuing an emergency order under CWA section 312(p)(4)(E), the statute directs EPA to consider the risk of introduction or establishment of an ANS or the adverse effects of a discharge that contributes to a violation of a water quality requirement. As such, EPA is not requiring that a petition for an emergency order include submission of direct and indirect cost information due to the statute's directive to consider risk reduction and the protection of environmental quality. Before issuing an emergency order, CWA section 312(p)(4)(E)(ii) requires the Administrator to request written concurrence from the Secretary. Should the Secretary fail to concur within 60 days of the request, the Administrator may issue the order but must include in the administrative record

documentation of the request and a response to any written objections received from the Secretary.

To review any standard, regulation, or policy, on the other hand, EPA is requiring that a petition include the costs to the affected classes, types, and/or sizes of vessels if the petition were granted. 40 CFR 139.50(b)(4). This is because, in setting a standard under the VIDA, EPA must comply with all other applicable provisions of CWA section 312(p), which includes setting standards based on BPT, BCT, and BAT. This includes a consideration of economic achievability.

After considering the information provided in the petition and other factors, as appropriate and based on EPA's discretion, the Administrator shall grant or deny the petition. If granted, the Administrator will either issue the relevant emergency order for a petition to issue an emergency order (40 CFR 139.50(d)(1)), or submit a Notice of Proposed Rulemaking to the **Federal Register** for comment for a petition to review any standard of performance, regulation, or policy (40 CFR 139.50(d)(2)).

EPA solicited comments on the proposed process for Governors to petition for the issuance of an emergency order or to review any standard of performance, regulation, or policy, including whether a more detailed process should be developed. Based on comments received on the proposed rule, the final rule utilizes the 180-day and one-year statutory timeframes associated with responding to a petition for issuance of an emergency order or to review any standard, regulation, or policy, respectively. 40 CFR 139.50(c). The final rule also includes an additional information requirement for petitions to review any standard of performance, regulation, or policy. Namely, a petition must identify the anticipated costs if the requested petition were to be granted by EPA. 40 CFR 139.50(b)(4). As explained earlier in this section, this is in keeping with the fact that the VIDA directs EPA to apply the CWA technology-based standards for BPT, BCT, and BAT when developing Federal standards of performance. These CWA standards require the Agency to account for the projected cost of achieving pollution reductions. Finally, EPA fixed a minor typographical error that was present in the proposed rule; the final rule correctly references CWA section 312(p)(4)(E), not 312(p)(4)(e), in 40 CFR 139.50(a)(1).

B. Petition by a Governor for the Administrator To Establish Enhanced Great Lakes System Requirements

CWA section 312(p)(10)(B) identifies a process for establishing enhanced Federal standards or requirements to apply within the Great Lakes System in lieu of any comparable standards or requirements promulgated under CWA section 312(p)(4)–(5). CWA section 312(p)(10)(B)(i)–(ii) provides that any Governor of a Great Lakes State (or the Governor's designee) may initiate the process by submitting a petition for an enhanced standard of performance or other requirement to the Governor of each of the other Great Lakes states, the Executive Director of the Great Lakes Commission, and the Director of EPA's Great Lakes National Program Office proposing that other Governors of the Great Lakes states endorse the petition. The final rule incorporates the requirements at CWA section 312(p)(10)(B)(iii)(I)(bb) that a petition shall include an explanation regarding why the applicable standard of performance or other requirement is (1) at least as stringent as a comparable standard of performance or other requirement in the final rule; and (2) in accordance with maritime safety and applicable maritime and navigation laws and regulations. 40 CFR 139.51(b). After following the applicable statutory procedures, CWA section 312(p)(10)(B)(iii)(I)(aa) provides that the Great Lakes Governors may jointly submit to the Administrator and the Secretary an endorsement of a proposed standard of performance or other requirement to apply within the Great Lakes System. CWA section (p)(10)(B)(ii)(III)(bb) requires that any proposed standard or other requirement must be endorsed by all Great Lakes Governors if the proposal would impose any additional equipment requirement on a vessel, or at least five Great Lakes Governors if the proposal would not impose any additional equipment requirement on a vessel.

Upon receipt of the proposed standard of performance or requirement from a Great Lakes Governor, CWA section 312(p)(10)(B)(iii)(II) provides that the Administrator and the Secretary must sign for publication in the **Federal Register** a joint notice that provides an opportunity for public comment on the proposed standard of performance or requirement. Pursuant to CWA section 312(p)(10)(B)(iii)(III)(aa), as soon as practicable after publication of the joint notice, the Administrator shall commence a review of the proposed standard of performance or requirement to determine if it is at least as stringent

as the comparable CWA section 312(p) standards and requirements, while the Secretary concurrently reviews to determine whether the proposed standard of performance or requirement is in accordance with maritime safety and applicable maritime and navigation laws and regulations. During review, pursuant to CWA section 312(p)(10)(B)(iii)(III)(bb), the Administrator and the Secretary shall consult with the Governor of each Great Lakes State and representatives from the Federal and provincial governments of Canada; shall take into consideration any relevant data or public comments received; and shall not take into consideration any preliminary assessment by the Great Lakes Commission or dissenting opinion submitted by a Governor of a Great Lake State except to the extent that such an assessment or opinion is relevant to the criteria for the applicable determination under CWA section 312(p)(10)(B)(iii)(III)(aa). CWA section 312(p)(10)(B)(iii)(IV) provides that not later than 180 days after receipt of the proposed standard of performance or requirement, the Administrator and the Secretary shall (1) approve or disapprove the proposal; and (2) submit to the Governor of each Great Lakes State, and issue in the **Federal Register**, a notice of the determination. Under CWA section 312(p)(10)(B)(iii)(V), if the proposal is disapproved, the Administrator and Secretary shall sign and submit a notice of determination to the **Federal Register** for publication that describes the reasons why the standard of performance or requirement is less stringent or inconsistent with applicable maritime safety or maritime navigational laws and regulations, and provide any recommendations for modifications that the Great Lakes states could make to conform the disapproved portion of the proposal to the applicable requirements. Under CWA section 312(p)(10)(B)(iii)(VI), if the Administrator and Secretary approve a proposed standard of performance or other requirement, the Administrator shall establish, by regulation, the proposed standard or requirement within the Great Lakes in lieu of any comparable standard or other requirements promulgated under CWA section 312(p)(4), and the Secretary shall establish, by regulation, any requirements necessary to implement, ensure compliance with, and enforce any new standard or requirement promulgated pursuant to this petition process, or to apply the proposed requirement, within the Great Lakes System in lieu of any comparable

requirement promulgated under paragraph CWA section (312)(p)(5).

EPA solicited comments on the process to request enhanced Great Lakes system requirements, including the extent to which EPA should provide further details in the final rule considering language already included in the VIDA. Based on comments received on the proposed rule and to improve clarity, EPA both replaced and added language in the regulations to mirror the VIDA statutory language more closely. This includes adding an additional provision that speaks to the timing and effect of a Governor's withdrawal of an endorsement for a proposed standard (40 CFR 139.51(f)), as well as a clarification that a complete prohibition of one or more discharges only applies to those waters of states with Governors endorsing the prohibition (40 CFR 139.51(k)). EPA received one comment that led to a reexamination of the provision dealing with judicial review and determined that, because the statute speaks for itself on this matter, it does not require repetition in the regulations and was therefore removed. EPA also made minor modifications to the standards to improve consistency between related paragraphs, add statutorily identified timeframes for the petition process, and fix minor typographical errors in CWA references.

C. Application by a State for the Administrator To Establish a State No-Discharge Zone

Under CWA section 312(p)(10)(D), states have the opportunity to apply to EPA to prohibit one or more discharges incidental to the normal operation of a vessel, whether treated or not, into specified waters, if the State determines that the protection and enhancement of the quality of some or all its waters require greater environmental protection.

Pursuant to CWA section 312(p)(10)(D)(ii), a discharge prohibition established by EPA through regulation would not apply until the date the Administrator makes a determination as described in paragraph (iii) establishing that (1) the prohibition would protect and enhance the quality of the specified waters; (2) adequate facilities for the safe and sanitary removal of the discharge incidental to the normal operation of a vessel are reasonably available for the waters to which the prohibition would apply; and (3) the discharge can safely be collected and stored until a vessel reaches a discharge facility or other location. If the no-discharge zone (NDZ) concerns ballast water discharges regulated under CWA

section 312(p), then the Administrator must also determine that adequate facilities are reasonably available for vessels subject to the proposed NDZ after considering, at a minimum, water depth, dock size, pumpout capacity and flow rate, availability of year-round operations, proximity to navigational routes, and the ratio of pumpout facilities to vessels in operation in the specified waters, and that the prohibition for ballast water discharges will not unreasonably interfere with the safe loading and unloading of cargo, passengers, or fuel.

CWA section 312(p)(9)(A)(v) provides Alaska the authority to regulate the discharge of graywater within State waters from a passenger vessel carrying 50 or more passengers. Pursuant to section 1410 of Title XIV, Certain Alaskan Cruise Ship Operations, Alaska may petition EPA under CWA section 312(f) to prohibit the discharge of graywater and sewage from cruise ships operating in some or all of the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve. For all other incidental discharges and types of vessels subject to this rule, Alaska, as with the rest of the states, must adhere to the application process identified in the VIDA and these regulations.

The final rule is substantively similar to the proposed rule; however, the final rule incorporates some modifications to improve and clarify the application requirements and process and to address comments received during the public comment period. The application requirements are intended to ensure that the State applicant provides sufficient information for EPA to make the necessary determination identified in CWA section 312(p)(10)(D)(iii)(I) without undue delay. EPA's experience with CWA section 312(f) sewage NDZs suggests that an informed determination requires a detailed understanding of the proposed waters and affected vessel population to ensure that the discharge prohibition is both environmentally beneficial and achievable. For example, EPA cannot make a determination as to the adequacy and reasonable availability of facilities if the application does not characterize the location and operational capabilities of each facility. EPA does, however, recognize that certain information requirements may not be static or otherwise readily available to the State. Information provided by the State to fulfill these information requirements in the application may be projections or estimates; however, projections and

estimates must be justified and explained in the application.

The final rule identifies the information requirements for a state's application and the key procedural steps associated with EPA approval and USCG concurrence. Based on comments received, EPA made adjustments to some of the requirements. Among other facility characteristics identified in the proposed rule, the final rule requires the state's application to include information on the connections at each facility for offloading discharge(s) from vessels to account for the design of vessels and the potential issue that incompatible connections may pose for vessel access to facilities. 40 CFR 139.52(c)(5). To address transport concerns raised during the comment period, the final rule incorporates a new application requirement for the State to explain the wastewater handling procedures of each facility. 40 CFR 139.52(c)(6). The purpose of this requirement is to ensure that storage and transport of offloaded wastewater is conducted safely and in conformance with applicable laws. This information will also assist EPA in making a timely determination regarding the adequacy of facilities for pumpout and treatment of the wastewater, as required by the VIDA. The final rule also updates the provision concerning the map of facility locations to allow a State to provide the coverage area for mobile facilities in lieu of a specific point location. 40 CFR 139.52(c)(7). EPA notes that some facility characteristics identified as required in the final rule may not always be relevant to mobile facilities. However, any pertinent restrictions that may affect vessel access to the facility must be noted. At commenters' request, EPA also added clarifying information in this preamble regarding applicability of the NDZ program to graywater in Alaska and the use of projections in the State application. To the extent that commenters otherwise asked EPA to require additional information in State NDZ applications, such requirements are unnecessary for EPA to evaluate the applications for an NDZ under the VIDA.

In light of comments received, EPA concluded that the requirement for the application to include a table identifying the location and geographic area of each proposed NDZ was unclear. Therefore, the final rule instead includes a provision requiring a narrative explanation of the location of the proposed waters and a map delineating the boundaries of the requested prohibition using geographic coordinates. 40 CFR 139.52(c)(1). EPA has further concluded that the 40 CFR

139.52(h) provision from the proposed rule was not necessary to include in the final rule because it repeated the contents of 40 CFR 139.52(b). In 40 CFR 139.52(d)(2), EPA added that "the availability of operational changes as a means to reduce the discharge" is another factor considered in making an adequacy determination, because operational changes may be available as an alternative to pumpout facilities for certain discharges. Lastly, EPA made minor changes to the standards to consistently refer to the state's submittal as an "application," to emphasize that only existing facilities can be considered as part of EPA's adequacy determination, and to simplify the provisions related to the application process for clarity.

Regarding the application process, EPA notes that within 90 days of receipt of an application from a State containing the required information, EPA will send a determination letter to the applicant with a tentative approval or disapproval. Following a tentative approval, EPA will proceed through the rulemaking process, including issuance of a Notice of Proposed Rulemaking and a request for concurrence from the USCG. If appropriate after review of public comments, EPA will publish a final rule establishing a prohibition. An NDZ will be enforced according to CWA section 312(k) and will have an effective date 30 days after publication of the final rule unless the State and EPA agree to a later date. If EPA concludes that it is appropriate to disapprove the application, either initially or after review of public comments on the Notice of Proposed Rulemaking, EPA will notify the public of the disapproval by publishing a notice in the **Federal Register** that includes an explanation of EPA's decision-making.

X. Implementation, Compliance, and Enforcement

CWA section 312(p)(5) directs the USCG to develop implementing regulations governing the design, construction, testing, approval, installation, and use of marine pollution control devices as are necessary to ensure compliance with the Federal standards of performance presented in this final rule. Additionally, the USCG shall promulgate requirements to ensure, monitor, and enforce compliance of the final standards. As such, this final rule does not include implementation, compliance, or enforcement provisions.

XI. Economic Analysis

An Economic Analysis (EA) was developed to accompany this final rule.

In the EA, EPA projects that the incremental costs arising from the final rule will be minor and that the vessel community will experience a net savings of \$11.3 million annually, based on \$16.1 million of annualized incremental costs and \$27.4 million of annualized incremental cost savings, at a two percent discount rate. The cost savings are principally the result of the VIDA's exclusion of small vessels and fishing vessels from Federal incidental discharge requirements (e.g., CWA permits and national discharges standards), except for ballast water. When compared to the VGP requirements, this exclusion will reduce burden on more than 160,000 vessels. The EA includes a qualitative discussion of benefits.

EPA estimates that 69,000 U.S.-flagged and 16,000 foreign-flagged vessels will be subject to the discharge standards in this final rule. The EA evaluates the cost impacts to the 69,000 U.S.-flagged vessels, as well as the approximately 600 foreign-flagged vessels that are U.S.-owned.

To estimate cost impacts, the EA uses compliance with the VGP and the sVGP, as well as other regulations and industry standards, as the analytic baseline because it represents the *status quo* that existed prior to the passage of the VIDA. The analysis projected cost impacts expected as a result of the final EPA standards compared to the baseline experienced by the regulated community immediately prior to passage of the VIDA legislation. The VIDA repealed the sVGP effective immediately upon signature, while stipulating that VGP requirements are to remain in place until the new VIDA program is fully in force and effective. This analysis accounts for both the impacts of the final EPA standards as well as the regulatory relief expected as a result of the VIDA's exclusion of small vessels and fishing vessels from the discharge requirements, except for ballast water, and the corresponding repeal of the sVGP.

The cost analysis groups the final rule's major impacts into three major categories: (1) costs due to rule provisions dictated by the VIDA; (2) costs for rule provisions unchanged from the VGP; and (3) other rule provisions (including changes from the VGP). The first category—costs due to rule provisions dictated by the VIDA—include those legislative changes mandated directly in the VIDA that give rise to incremental costs to vessel owners/operators. These provisions impose new ballast water requirements nationally, as well as regionally in the Pacific Region and the Great Lakes. The

estimated incremental cost for vessels to meet these ballast water-related Congressionally-mandated provisions is \$5.5 million annually. There is also an incremental cost associated with the State petition processes provided for in the VIDA, estimated at \$6 thousand annually based on expected burden from information collection activities over the next three years. The second category—costs for rule provisions unchanged from the VGP—specifically addresses the final standard for oil-to-sea interfaces, which clarifies that the scope of this discharge category includes discharge of lubricants from equipment that extends overboard, and vessels must therefore use EALs in equipment that extends overboard as well as equipment with oil-to-sea interfaces below the waterline. The economic analysis accompanying the 2013 VGP did not include a cost estimate for EAL use on equipment that extends overboard, so this EA rectifies that omission. EPA estimated an average annual incremental cost of \$5.7 million for this category. The final category discusses other rule provisions including changes from the VGP. First, it discusses the final standards that result in incremental costs compared to existing VGP requirements. This includes the standards promulgated for graywater systems and seawater piping systems for which incremental costs are projected to increase by \$2.7 million annually. This category also discusses the costs of the new requirement for new Lakers to install, operate, and maintain a BWMS that has been type-approved by the USCG. The EA calculated the total annualized cost to be \$2.2 million for the new Laker equipment standard. Finally, this category discusses final standards that are not expected to result in incremental costs compared to the VGP baseline because they are largely consistent with the VGP and/or reflect practices already in place on vessels as a result of other regulations and industry standards. These include certain aspects of the standards for desalination and purification systems, exhaust gas recirculation systems, fire protection equipment, and hulls and associated niche area management.

The EA also characterizes the reduction in costs projected to result from the VIDA's exclusion of small vessels and fishing vessels from the discharge requirements, except for ballast water, and the corresponding repeal of the sVGP. EPA estimates that this regulatory relief will result in annual cost savings of about \$27.4 million to the vessel community. EPA

did not evaluate the cost impacts from changes in monitoring, reporting, inspection, or recordkeeping associated with the USCG's authorities and responsibilities under the VIDA.

To evaluate the potential impact of the final rule on small entities, EPA used a cost-to-revenue test to evaluate potential severity of economic impact on vessels owned by small entities. The test calculates annualized pre-tax compliance cost as a percentage of total revenues and uses a threshold of 1 and 3 percent to identify entities that would be significantly impacted by this final rule. EPA projects the potential impacts would not exceed these conventional cost/revenue thresholds. In addition, the Agency completed estimates of the paperwork burden associated with the final rule. These estimates project the annualized paperwork burden on states that voluntarily petition EPA for any one of the following: establishment of no-discharge zones, review of Federal standards of performance, issuance of emergency orders, and establishment of enhanced Great Lakes System requirements.

EPA also assessed the environmental impacts from this final rule. The Agency does not expect the final rule to change environmental benefits significantly compared to those realized by the VGP. This is because the 2013 VGP already includes requirements for incidental discharges from the vessels subject to this rule, so the environmental benefits derived from having discharge standards in place are a significant part of the baseline. Additionally, the existing VGP requirements are largely adopted as the new discharge standards in this rule, in part due to the VIDA's requirement that EPA's standards be at least as stringent as those requirements in the 2013 VGP, barring certain specified exemptions. EPA notes that the VIDA exclusion of small vessels and fishing vessels, except for ballast water, and the corresponding repeal of the sVGP could potentially lead to a reduction in environmental benefits to the extent that affected vessels no longer adhere to practices previously required under the sVGP. In particular, the EA examines possible losses in benefits from the elimination of the sVGP discharge management requirements for bilgewater, graywater, and anti-fouling hull coatings.

The EA updates and replaces the Regulatory Impact Analysis (RIA) that was prepared alongside the proposed rule. Based on comments received on the proposed rule, the EA includes a revised U.S. ferry vessel estimate based on new sources identified by a commenter and information available

from EPA's 2013 VGP electronic reporting system. The final EA is available in the docket.

XII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is a "significant regulatory action" as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to Executive Order 12866 review is available in the docket. EPA prepared an analysis of the potential costs and benefits associated with this action. This Economic Analysis is available in the docket.

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 EPA prepared has been assigned EPA ICR number 2605.02. 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.

This action, once implemented through corresponding USCG requirements addressing implementation, compliance, and enforcement, would impose an information collection burden to states under the PRA. The action imposes a new information collection burden on states seeking to petition EPA to establish different Federal standards of performance including enhanced standards in the Great Lakes, issue emergency orders, or establish no-discharge zones. EPA does not anticipate an information collection burden on states until the USCG has established final implementing requirements (required by the VIDA as soon as practicable but not later than two years after the EPA discharge standards proposed in this rulemaking are finalized). After such time, the information collection burden relates to the voluntary preparation and submission of petitions by states and is therefore an intermittent activity.

The ICR submitted for approval to the OMB as part of this rulemaking reflects an anticipated burden to states in the third year of the three-year ICR cycle. This includes one petition of each type: Modification of Federal standards of performance, issuance of emergency orders, and establishment no-discharge zones. EPA does not expect petitions for enhanced Great Lakes System requirements during this ICR cycle. The type and level of detail of information that a State would need to generate to petition EPA under CWA section 312(p) is most analogous to the information prepared for an application to EPA under the existing CWA section 312 ICR (OMB control number 2040-0187), which includes State activities related to petitioning EPA for no-discharge zones for sewage and discharges incidental to the normal operation of vessels of the Armed Forces. For incidental discharges from vessels of the Armed Forces, states may also petition EPA for a review of standards. Because of the parallels in discharge types and State activities, EPA used the burden estimates in the existing ICR to inform the expected burden for this proposed rule. Looking ahead, EPA expects that this new ICR will be combined with the existing CWA section 312 ICR (OMB control number 2040-0187) expected to be renewed no later than September 30, 2026. This would create a single ICR that would include the information collection burden for all three vessel programs under CWA section 312 (sewage, vessels of the Armed Forces, and commercial vessels).

The hour and cost estimates, summarized below, include such activities as reviewing the relevant regulations and guidance documents, gathering and analyzing the required information, and preparing and submitting the application.

Respondents/affected entities: State governments (NAICS code 924110) are the only respondents to the data collection activities described in this ICR.

Respondent's obligation to respond: Preparation and submission of a petition is a voluntary action that may be undertaken by the respondent. This is not a reporting requirement, nor are there any deadlines associated with these petitions.

Estimated number of respondents: Three respondents are anticipated during this three-year ICR cycle.

Frequency of response: Three petitions are anticipated during this three-year ICR cycle, each in the third year, including one petition each for establishment of a no-discharge zone; review of any standard of performance,

regulation, or policy; and issuance of an emergency order.

Total estimated burden:

Approximately 83 hours per year.

Total estimated cost: \$5,604 per year, including \$150 annualized operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. Although this action will impose requirements on any small entity that operates a vessel subject to the standards, EPA used a cost-to-revenue test to evaluate the potential severity of economic impact on vessels owned by small entities. EPA determined that the projected cost burden would not exceed 1 percent of annual revenue. Details of the screening analysis are presented in section 8.3 ("Regulatory Flexibility Act") in the Economic Analysis available in the docket.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

EPA has concluded that this action has federalism implications because it preempts State law. The VIDA added a new CWA section 312(p)(9)(A) that specifies that, beginning on the effective date of the requirements promulgated by the Secretary established under CWA section 312(p)(5), no State, political subdivision of a State, or interstate agency may adopt or enforce any law, regulation, or other requirement with respect to an incidental discharge subject to regulation under the VIDA except insofar as such law, regulation, or other requirement is identical to or less stringent than the Federal regulations under the VIDA.

EPA provides the following federalism summary impact statement. EPA consulted with State and local officials early in the process of developing the proposed action to permit them to have meaningful and timely input into its development. EPA and the USCG conducted a Federalism consultation briefing on July 9, 2019, in Washington, DC to allow for such input. EPA provided an overview of the VIDA, described the interim requirements and the framework of future regulations, identified State provisions associated with the VIDA, and received comments and questions. The briefing was attended by representatives from the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, the County Executives of America, the National Association of Counties, the National League of Cities, Environmental Council of the States, the Association of Clean Water Administrators, the National Water Resources Association, the Association of Fish and Wildlife Agencies, the National Association of State Boating Law Administrators, the Western Governors Association, and the Western States Water Council. Pre-proposal comments were accepted from July 9, 2019 to September 9, 2019 and are described in conjunction with the Governors' Consultation comments. After the public comment period concluded, EPA met with state representatives to discuss topics of interest between June and October 2021 to inform the development of the supplemental notice and final rule.

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

This action has Tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law. Tribes may be interested in this action because commercial vessels may operate in or near Tribal waters. Additionally, EPA may be authorized to treat eligible federally recognized Tribes as a State (TAS) under section 309 of the CWA.

EPA consulted with Tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation and coordination follows.

EPA initiated a Tribal consultation and coordination process for EPA's 2020 Notice of Proposed Rulemaking (85 FR 67818, October 26, 2020) by sending a

"Notice of Consultation and Coordination" letter on June 18, 2019, to all 573 Tribes that were federally recognized at the time.⁸ The letter invited Tribal leaders and designated consultation representatives to participate in the Tribal consultation and coordination process that lasted from July 11 to September 11, 2019. EPA held an informational webinar for Tribal representatives on July 11, 2019, to obtain meaningful and timely input during the development of the proposed rule. During the webinar, EPA provided an overview of the VIDA, described the interim requirements and the framework of future regulations, and identified Tribal provisions associated with the VIDA. A total of nine Tribal representatives participated in the webinar. EPA also provided an informational presentation on the VIDA during the Region 10 Regional Tribal Operations Committee (RTOC) call on July 18, 2019, as requested by the RTOC. During the consultation period, Tribes and Tribal organizations sent two pre-proposal comment letters to EPA as part of the consultation process. In addition, EPA held one consultation meeting with the leadership of a Tribe, at the Tribe's request, to obtain pre-proposal input and answer questions regarding the forthcoming rule.

EPA incorporated the feedback it received from Tribal representatives in the proposed rule. Records of the Tribal informational webinar and a consultation summary of the written and verbal comments submitted by Tribes are included in the public docket for this rule. Several Tribes requested additional consultation in comments submitted during the public comment period of the proposed rule. EPA offered additional consultation opportunities and met with Tribal representatives of the Gun Lake Tribe and Chippewa Ottawa Resource Authority in September and October 2021, respectively, to inform development of the supplemental notice and final rule.

As required by section 7(a), the EPA's Tribal Consultation Official has certified that the requirements of the executive order have been met in a meaningful and timely manner. A copy of the certification is included in the docket.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental

health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply. However, overall, this rule would reduce the amount of pollution entering waterbodies from vessels through the minimization and control of discharges entering the waters of the U.S. and the contiguous zone that may contain pollutants such as aquatic nuisance species (ANS), nutrients, bacteria or pathogens, oil and grease, metals, as well as other toxic, nonconventional, and conventional pollutants (e.g., organic matter, bicarbonate, and suspended solids). This would yield human health benefits due to decreased exposure to these pollutants and improve the recreational utility of waterbodies where vessels would be subject to the proposed standards.

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

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Any additional energy usage would be insignificant compared to the total energy usage of vessels and the total annual U.S. energy consumption. Additionally, given that the rule establishes national standards of performance for vessel incidental discharges, and that these standards are largely borne out of existing requirements under the 2013 Vessel General Permit, EPA does not anticipate any significant climate impacts.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards. For informational purposes, EPA notes the existence of voluntary standards applicable to vessel activities developed by NACE; these standards cover topics such as corrosion prevention and biofouling inspections.

⁸ In December 2019, the Little Shell Tribe of Chippewa Indians became the 574th federally recognized Tribe.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. While EPA was unable to perform a detailed environmental justice analysis because it lacks data on the exact location of vessels and their associated discharges, the rulemaking would increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The Agency recognizes that the burdens of environmental pollution disproportionately fall on certain communities with environmental justice concerns. Overall, this rule would reduce the amount of pollution entering waterbodies from vessels through the minimization and control of discharges entering the waters of the U.S. and the contiguous zone that may contain pollutants such as aquatic nuisance species (ANS), nutrients, bacteria or pathogens, oil and grease, metals, as well as other toxic, nonconventional, and conventional pollutants (e.g., organic matter, bicarbonate, and suspended solids). This would yield human health benefits due to decreased exposure to these pollutants and improve the recreational utility of waterbodies where vessels would be subject to the proposed standards.

The information supporting this Executive Order review is contained in section III.C. of this preamble, *Environmental Impacts of Discharges for Which Technology-Based Discharge Standards Are Established by This Rule*, which provides information on the pollutants found in the vessel discharges that this rule is intended to prevent or reduce from entering waters of the United States or the contiguous zone. Section V. of this preamble, *Stakeholder Engagement*, describes the public participation opportunities associated with this rule that allowed for meaningful and timely input on rule development and decision-making, including any relevant environmental justice concerns.

K. Congressional Review Act (CRA)

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

XIII. References

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List of Subjects in 40 CFR Part 139

Environmental protection,
Commercial vessels, Coastal zone,
Incidental discharges.

Michael S. Regan,
Administrator.

■ Therefore, for the reasons set forth in the preamble, EPA amends 40 CFR chapter I, subchapter D by adding part 139 to read as follows:

PART 139—DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF VESSELS

Subpart A—Scope

- Sec.
- 139.1 Coverage.
- 139.2 Definitions.
- 139.3 Other Federal laws.

Subpart B—General Standards for Discharges Incidental to the Normal Operation of a Vessel

- 139.4 General operation and maintenance.
- 139.5 Biofouling management.
- 139.6 Oil management.

Subpart C—Standards for Specific Discharges Incidental to the Normal Operation of a Vessel

- 139.10 Ballast tanks.
- 139.11 Bilges.
- 139.12 Boilers.
- 139.13 Cathodic protection.
- 139.14 Chain lockers.
- 139.15 Decks.
- 139.16 Desalination and purification systems.
- 139.17 Elevator pits.
- 139.18 Exhaust gas emission control systems.
- 139.19 Fire protection equipment.
- 139.20 Gas turbines.
- 139.21 Graywater systems.
- 139.22 Hulls and associated niche areas.
- 139.23 Inert gas systems.
- 139.24 Motor gasoline and compensating systems.
- 139.25 Non-oily machinery.
- 139.26 Pools and spas.
- 139.27 Refrigeration and air conditioning.
- 139.28 Seawater piping.
- 139.29 Sonar domes.

Subpart D—Special Area Requirements

- 139.40 Federally-protected waters.

Subpart E—Procedures for States to Request Changes to Standards, Regulations, or Policy Promulgated by the Administrator

- 139.50 Petition by a Governor for the Administrator to establish an emergency order or review a standard, regulation, or policy.
- 139.51 Petition by a Governor for the Administrator to establish enhanced Great Lakes System requirements.
- 139.52 Application by a State for the Administrator to establish a State no-discharge zone.

Appendix A to Part 139—Federally-Protected Waters

Authority: 33 U.S.C. 1251 *et seq.*

PART 139—DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF VESSELS

Subpart A—Scope

§ 139.1 Coverage.

(a) *Vessel discharges.* Except as provided in paragraph (b) of this section, this part applies to:

- (1) Any discharge incidental to the normal operation of a vessel; and
- (2) Any discharge incidental to the normal operation of a vessel (such as most graywater) that is commingled with sewage, subject to the conditions that:

(i) Nothing in this part prevents a State from regulating sewage discharges; and

(ii) Any such commingled discharge must comply with all applicable requirements of:

- (A) This part; and

(B) Any law applicable to the discharge of sewage.

(b) *Exclusions.* This part does not apply to any discharge:

(1) Incidental to the normal operation of:

(i) A vessel of the Armed Forces subject to 33 U.S.C. 1322(n);

(ii) A recreational vessel subject to 33 U.S.C. 1322(o);

(iii) A small vessel or fishing vessel, except that this part applies to any discharge of ballast water from a small vessel or fishing vessel; or

(iv) A floating craft that is permanently moored to a pier, including, but not limited to, a floating casino, hotel, restaurant, or bar; or

(2) That results from, or contains material derived from, an activity other than the normal operation of the vessel, such as material resulting from an industrial or manufacturing process onboard the vessel; or

(3) If compliance with this part would compromise the safety of life at sea.

(c) *Area of coverage.* The standards in this part apply to any vessel identified in paragraph (a) of this section, not otherwise excluded in paragraph (b) of this section, while operating in the waters of the United States or the waters of the contiguous zone.

(d) *Effective date.* (1) The standards in this part are effective beginning on the date upon which regulations promulgated by the Secretary governing the design, construction, testing, approval, installation, and use of marine pollution control devices as necessary to ensure compliance with the standards are final, effective, and enforceable.

(2) As of the effective date identified in paragraph (d)(1) of this section, the requirements of the Vessel General Permit and all regulations promulgated by the Secretary pursuant to section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711), including the regulations contained in 46 CFR 162.060 and 33 CFR part 151 subparts C and D, as in effect on December 3, 2018, shall be deemed repealed and have no force or effect.

§ 139.2 Definitions.

The following definitions apply for the purposes of this part. Terms not defined in this section have the meaning as defined under the Clean Water Act (CWA) and applicable regulations.

Active discharge of biofouling means the discharge of biofouling from a vessel resulting from in-water cleaning activities.

Administrator means the Administrator of the Environmental Protection Agency.

Anti-fouling coating means a coating or paint designed to prevent, repel, or facilitate the detachment of biofouling from hull and niche areas that are typically or occasionally submerged.

Anti-fouling system means a coating, paint, surface treatment, surface, or device that is used on a vessel to control or prevent attachment of organisms.

Aquatic nuisance species (ANS) means a nonindigenous species that threatens the diversity or abundance of a native species; the ecological stability of waters of the United States or the waters of the contiguous zone; or a commercial, agricultural, aquacultural, or recreational activity that is dependent on waters of the United States or the waters of the contiguous zone.

Ballast tank means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

Ballast water means any water, to include suspended matter and other materials taken onboard a vessel, to control or maintain trim, draft, stability, or stresses of the vessel, regardless of the means by which any such water or suspended matter is carried; or taken onboard a vessel during the cleaning, maintenance, or other operation of a ballast tank or ballast water management system of the vessel. The term does not include any substance that is added to that water that is directly related to the operation of a properly functioning ballast water management system.

Ballast water exchange means the replacement of ballast water in a ballast tank using one of the following methods:

(1) Flow-through exchange, in which ballast water is flushed out by pumping in midocean water at the bottom of the tank if practicable, and continuously overflowing the tank from the top, until three full volumes of tank water have been changed.

(2) Empty and refill exchange, in which ballast water is pumped out until the pump loses suction, after which the ballast tank is refilled with water from the midocean.

Ballast water management system (BWMS) means any marine pollution control device (including all ballast water treatment equipment, ballast tanks, pipes, pumps, and all associated control and monitoring equipment) that processes ballast water to kill, render nonviable, or remove organisms; or to avoid the uptake or discharge of organisms.

Bioaccumulative means the failure to meet one or more of the criteria established in the definition of *not bioaccumulative*.

Biodegradable for the following classes of substances, means (all percentages are on a weight/weight concentration basis):

(1) For oils: At least 90% of the formulation (for any substances present above 0.1%) demonstrates, within 28 days, either the removal of at least 70% of dissolved organic carbon (DOC), production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand). Up to 5% of the formulation may be non-biodegradable but may not be bioaccumulative. The remaining 5% must be inherently biodegradable.

(2) For greases: At least 75% of the formulation (for any substances present above 0.1%) demonstrates, within 28 days, either the removal of at least 70% of DOC, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand). Up to 25% of the formulation may be non-biodegradable or inherently biodegradable but may not be bioaccumulative.

(3) For soaps, cleaners, and detergents: A product that demonstrates, within 28 days, either the removal of at least 70% of DOC, production of at least 60% of the theoretical carbon dioxide, or consumption of at least 60% of the theoretical oxygen demand.

(4) For biocides: A compound or mixture that, within 28 days, demonstrates removal of at least 70% of DOC and production of at least 60% of the theoretical carbon dioxide.

Biofouling means the accumulation of aquatic organisms, such as microorganisms, plants, and animals, on surfaces and structures immersed in or exposed to the aquatic environment.

Broom clean means a condition in which care has been taken to prevent or eliminate any visible concentration of tank or cargo residues, so that any remaining tank or cargo residues consist only of dust, powder, or isolated and random pieces, none of which exceeds one inch in diameter.

Captain of the Port (COTP) Zone means such zone as established by the Secretary or Commandant of the Coast Guard pursuant to sections 501, 503, and 504 of title 14, United States Code, as reorganized in Title I of the Frank LoBiondo Coast Guard Authorization Act of 2018).

Commercial vessel means, except as the term is used in § 139.10(g), any vessel used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel. As used in

§ 139.10(g), the term *commercial vessel* means a vessel operating between:

(1) Two ports or places of destination within the Pacific Region; or

(2) A port or place of destination within the Pacific Region and a port or place of destination on the Pacific Coast of Canada or Mexico north of parallel 20 degrees north latitude, inclusive of the Gulf of California.

Constructed with respect to a vessel means a stage of construction when one of the following occurs:

(1) The keel of a vessel is laid;

(2) Construction identifiable with the specific vessel begins;

(3) Assembly of the vessel has commenced and comprises at least 50 tons or 1 percent of the estimated mass of all structural material, whichever is less; or

(4) The vessel undergoes a major conversion.

Contiguous zone means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Discharge means *discharge incidental to the normal operation of a vessel* as defined in this section.

Discharge incidental to the normal operation of a vessel means a discharge, including:

(1) Graywater, bilgewater, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of the vessel; and

(2) A discharge in connection with the testing, maintenance, and repair of a system described in clause (1):

(i) Whenever the vessel is waterborne; and does not include:

(A) A discharge of rubbish, trash, garbage, or other such material discharged overboard;

(B) An air emission resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator; or

(3) A discharge that is not covered by § 122.3 of this chapter (as in effect on February 10, 1996).

Discharge of oil in such quantities as may be harmful means any discharge of oil, including an oily mixture, in such quantities identified in 40 CFR 110.3 and excluding those discharges specified in 40 CFR 110.5.

Empty ballast tank means a tank that has previously held ballast water that has been drained to the limit of the

functional or operational capabilities of the tank (such as loss of pump suction); is recorded as empty on a vessel log; and may contain unpumpable residual ballast water and sediment.

Environmentally acceptable lubricant (EAL) means a lubricant or hydraulic fluid, including any oil or grease, that is “biodegradable,” “minimally-toxic,” and “not bioaccumulative,” as these terms are defined in this section.

Exclusive Economic Zone (EEZ) means the area established by Presidential Proclamation Number 5030, dated March 10, 1983, that extends from the base line of the territorial sea of the United States seaward 200 nautical miles, and the equivalent zone of Canada.

Existing vessel means a vessel constructed, or where construction has begun, prior to the date identified in regulations promulgated by the Secretary as described in § 139.1(e).

Federally-protected waters means any waters of the United States or the waters of the contiguous zone subject to Federal protection, in whole or in part, for conservation purposes, located within any area listed in appendix A, as designated under:

(1) National Marine Sanctuaries designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*);

(2) Marine National Monuments designated under the Antiquities Act of 1906;

(3) A unit of the National Park System, including but not limited to National Preserves and National Monuments, designated by the National Park Service within the U.S. Department of the Interior;

(4) A unit of the National Wildlife Refuge System, including Wetland Management Districts, Waterfowl Production Areas, National Game Preserves, Wildlife Management Areas, and National Fish and Wildlife Refuges designated under the National Wildlife Refuge System Administration Act of 1966 as amended by the National Wildlife Refuge System Improvement Act of 1997;

(5) National Wilderness Areas designated under the Wilderness Act of 1964 (16 U.S.C. 1131–1136); and

(6) Any component designated under the National Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1273.

Ferry means a vessel that is used on a regular schedule to:

(1) Provide transportation only between places that are not more than 300 miles apart; and

(2) Transport only:

(i) Passengers; or

(ii) Vehicles or railroad cars that are being used, or have been used, in transporting passengers or goods.

Fire protection equipment includes all components used for fire protection including but not limited to firemain systems, sprinkler systems, extinguishers, and firefighting agents such as foam.

Graywater means drainage from galley, shower, laundry, bath, water fountain, and sink drains, and other similar sources.

Great Lakes means Lake Ontario, Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

Great Lakes State means any of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

Gross register tonnage (GRT) means the gross tonnage measurement of the vessel under the Regulatory Measurement System.

Gross tonnage (GT) means the gross tonnage measurement of the vessel under the Convention Measurement System.

Impaired waterbody means a waterbody identified by a State, tribe, or EPA pursuant to section 303(d) of the CWA as not meeting applicable State or Tribal water quality standards (these waters are called "water quality limited segments" under 40 CFR 130.2(j)) and includes both waters with approved or established Total Maximum Daily Loads (TMDLs) and those for which a TMDL has not yet been approved or established.

Inherently biodegradable means the property of being able to be biodegraded when subjected to sunlight, water, and naturally occurring microbes to the following level: greater than 70% biodegraded after 28 days using Organization for Economic Cooperation and Development (OECD) Test Guidelines 302C or greater than 20% but less than 60% biodegraded after 28 days using OECD Test Guidelines 301 A–F.

Internal waters means:

(1) With respect to the United States, the waters shoreward of the territorial sea baseline, including waters of the Great Lakes extending to the maritime boundary with Canada; and

(2) With respect to any other nation, the waters shoreward of its territorial sea baseline, as recognized by the United States.

In-water cleaning with capture (IWCC) means the use and operation of a cleaning system for vessel surfaces that is designed to capture and transport coatings and biofouling organisms to an adjacent barge or shore-based facility for collection and processing.

In-water cleaning without capture means any in-water cleaning of vessel surfaces that does not use in-water cleaning with capture.

Live or living, notwithstanding any other provision of law (including regulations), does not:

(1) Include an organism that has been rendered nonviable; or

(2) Preclude the consideration of any method of measuring the concentration of organisms in ballast water that are capable of reproduction.

Macrofouling means biofouling caused by the attachment and subsequent growth of visible plants and animals on surfaces and structures immersed in or exposed to the aquatic environment. Macrofouling includes large, distinct multicellular individual or colonial organisms visible to the human eye, such as barnacles, tubeworms, mussels, fronds/filaments of algae, bryozoans, sea squirts, and other large attached, encrusting, or mobile organisms.

Major conversion means a conversion of an existing vessel:

(1) That substantially alters the dimensions or carrying capacity of the vessel; or

(2) That changes the type of the vessel; or

(3) The intent of which, in the opinion of the government of the country under whose authority the vessel is operating, is substantially to prolong its life; or

(4) Which otherwise so alters the vessel that, if it were a new vessel, it would become subject to relevant provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL) not applicable to it as an existing vessel.

Marine Growth Prevention System (MGPS) means an anti-fouling system used for the prevention of biofouling accumulation in seawater piping systems and sea chests.

Marine Inspector means any person from the civilian or military branch of the Coast Guard assigned under the superintendence and direction of an Officer in Charge, Marine Inspection, or any other person as may be designated for the performance of duties with respect to inspection, enforcement, and administration of Subtitle II of Title 46, United States Code, Title 46 and Title 33 United States Code, and regulations issued under these statutes.

Marine pollution control device (MPCD) means any equipment or management practice (or combination of equipment and management practice) for installation and use onboard a vessel that is:

(1) Designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel; and

(2) Determined by the Administrator and the Secretary to be the most effective equipment or management practice (or combination of equipment and a management practice) to reduce the environmental impacts of the discharge, consistent with the factors considered in developing the standards in this part.

Master means the officer having command of a vessel.

Microfouling means biofouling caused by bacteria, fungi, microalgae, protozoans, and other microscopic organisms on structures and surfaces immersed in or exposed to the aquatic environment that creates a biofilm, also called a slime layer.

Midocean means greater than 200 nautical miles (NM) from any shore, except when a ballast water exchange or saltwater flush outside of 50 NM is authorized in this part, then it means greater than 50 NM from any shore.

Minimally-toxic means, for lubricants (all percentages are on a weight/weight basis):

(1) If both the complete formulation and the main constituents (that is constituents making up greater than or equal to 5% of the complete formulation) are evaluated, then the acute aquatic toxicity of lubricants, other than greases and total loss lubricants, must be at least 100 mg/L and the LC50 of greases and total loss lubricants must be at least 1000 mg/L; or

(2) If each constituent is evaluated, rather than the complete formulation and main constituents, then for each constituent present above 0.1%: up to 20% of the formulation can have an LC50 greater than 10 mg/L but less than 100 mg/L and an NOEC greater than 1 mg/L but less than 10 mg/L; up to 5% of the formulation can have an LC50 greater than 1 mg/L but less than 10 mg/L and an NOEC greater than 0.1 mg/L but less than 1 mg/L; and up to 1% of the formulation can have an LC50 less than 1 mg/L and an NOEC less than 0.1 mg/L.

Minimally-toxic, phosphate-free, and biodegradable means properties of a substance or mixture of substances that:

(1) Have an acute aquatic toxicity value corresponding to a concentration greater than 10 ppm;

(2) Do not produce residuals with an LC50 less than 10 ppm;
 (3) Are not bioaccumulative;
 (4) Do not cause the pH of the receiving water to go below 6.0 or above 9.0;

(5) Contain, by weight, 0.5% or less of phosphates or derivatives of phosphate; and

(6) Are biodegradable.

Minimize means to reduce or eliminate to the extent achievable using any control measure that is technologically available and economically practicable and achievable and supported by demonstrated best management practices such that compliance can be documented in shipboard logs and plans.

New ferry means a ferry that is constructed after the effective date of USCG regulations promulgated pursuant to CWA section 312(p)(5)(A)(i).

New Laker means a vessel 3,000 GT and above, and that operates exclusively in the Great Lakes and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to Pointe-de-l'Ouest (West Point), Anticosti Island, and west of a line along 63° W longitude from Anticosti Island to the north shore of the St. Lawrence River, and constructed after the effective date of USCG regulations promulgated pursuant to CWA section 312(p)(5)(A)(i).

Niche areas means a subset of the submerged surface area on a vessel that may be more susceptible to biofouling than the main hull due to structural complexity, different or variable hydrodynamic forces, susceptibility to anti-fouling coating wear or damage, or inadequate or no protection by an anti-fouling system.

Not bioaccumulative means any of the following:

(1) The partition coefficient in the marine environment is log KOW less than 3 or greater than 7;

(2) The molecular mass is greater than 800 Daltons;

(3) The molecular diameter is greater than 1.5 nanometer;

(4) The bioconcentration factor (BCF) or bioaccumulation factor (BAF) is less than 100 L/kg; or

(5) The polymer with molecular weight fraction below 1,000 g/mol is less than 1%.

Oil means oil of any kind or in any form, including but not limited to any petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

Oily mixture means a mixture, in any form, with any oil content, including but not limited to:

(1) Slops from bilges;

(2) Slops from oil cargoes (such as cargo tank washings, oily waste, and oily refuse);

(3) Oil residue; and

(4) Oily ballast water from cargo or fuel oil tanks.

Oil-to-sea interface means any seal or surface on shipboard equipment where the design is such that oil or oily mixtures can escape directly into surrounding waters. Oil-to-sea interfaces are found on equipment that is subject to submersion as well as equipment above the surface line that extends overboard or is mounted to the exterior of the hull.

Organism means an animal, including fish and fish eggs and larvae; a plant; a pathogen; a microbe; a virus; a prokaryote (including any archaeon or bacterium); a fungus; and a protist.

Pacific Region means any Federal or State water adjacent to the State of Alaska, California, Hawaii, Oregon, or Washington; and extending from shore. The term includes the entire exclusive economic zone (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) adjacent to each Pacific Region State identified herein.

Passenger vessel means a vessel of at least 100 gross tons:

(1) Carrying more than 12 passengers, including at least one passenger for hire;

(2) That is chartered and carrying more than 12 passengers;

(3) That is a submersible vessel carrying at least one passenger for hire; or

(4) That is a ferry carrying a passenger.

Passive discharge of biofouling means the discharge of biofouling from a vessel (for example, sloughing) during a period in which the vessel is not undergoing active cleaning activities.

Port or place of destination means a port or place to which a vessel is bound to anchor, to moor, or be otherwise secured.

Reception facility refers to any fixed, floating, or mobile facility capable of receiving wastes and residues from vessels and fit for that purpose.

Render nonviable means, with respect to an organism in ballast water, the action of a ballast water management system that renders the organism permanently incapable of reproduction following treatment.

Saltwater flush means the addition of as much midocean water into each empty ballast tank of a vessel as is safe for the vessel and crew; and the mixing of the flush water with residual ballast water and sediment through the motion of the vessel; and the discharge of that mixed water, such that the resultant residual water remaining in the tank has

the highest salinity possible; and is at least 30 parts per thousand. A saltwater flush may require more than one fill-mix-empty sequence, particularly if only small quantities of water can be safely taken onboard a vessel at one time.

Seagoing vessel means a vessel in commercial service that operates beyond either the boundary line established by 46 CFR part 7 or the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to Pointe-de-l'Ouest (West Point), Anticosti Island, and west of a line along 63° W longitude from Anticosti Island to the north shore of the St. Lawrence River. It does not include a vessel that navigates exclusively on internal waters.

Seawater piping system means a system onboard a vessel that provides seawater for other vessel uses (e.g., ballast, engines, hydraulic systems, firefighting capacity, cleaning equipment, air conditioning, refrigeration, toilet systems) and includes any sea chest, grate, and similar appurtenances (e.g., strainers, filters, valves). Some components of a seawater piping system including sea chests, sea inlet pipes, and overboard discharges are also considered niche areas.

Secretary means the Secretary of the department in which the United States Coast Guard (USCG) is operating.

Small vessel or fishing vessel means a vessel with a vessel length that is less than 79 feet; or a fishing vessel, fish processing vessel, or fish tender vessel (as those terms are defined in section 2101 of title 46, United States Code), regardless of the vessel length.

Toxic or hazardous materials means any toxic pollutant as defined in 40 CFR 401.15 or any hazardous material as defined in 49 CFR 171.8.

Underway means a vessel is not at anchor, or made fast to the shore, or aground.

Vessel General Permit (VGP) means the permit that is the subject of the notice of final permit issuance entitled "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges Incidental to the Normal Operation of a Vessel" (**Federal Register** publication on April 12, 2013).

Vessel length means the horizontal distance between the foremost part of a vessel's stem to the aftermost part of its stern, excluding fittings and attachments.

Visible sheen means, with respect to oil and oily mixtures, a silvery or metallic sheen or gloss, increased reflectivity, visual color, iridescence, or an oil slick on the surface of the water.

Voyage means any transit by a vessel traveling from or destined for any United States port or place.

§ 139.3 Other Federal laws.

(a) Except as expressly provided in this part, nothing in this part affects the applicability to a vessel of any other provision of Federal law, including:

(1) Sections 311 and 312 of the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.* and 33 U.S.C. 1322 *et seq.*), also known as the CWA;

(2) The Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*);

(3) Title X of the Coast Guard Authorization Act of 2010 (33 U.S.C. 3801 *et seq.*), also known as the Clean Hulls Act;

(4) The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*); and

(5) The National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and implementing regulations found at 15 CFR part 922 and 50 CFR part 404.

(b) Nothing in this part affects the authority of the Secretary of Commerce or the Secretary of the Interior to administer any land or waters under the administrative control of the Secretary of Commerce or the Secretary of the Interior, respectively.

(c) Nothing in this part shall be construed to affect, supersede, or relieve the master of any otherwise applicable requirements or prohibitions associated with a vessel's right to innocent passage as provided for under customary international law.

Subpart B—General Standards for Discharges Incidental to the Normal Operation of a Vessel

§ 139.4 General operation and maintenance.

(a) The requirements in paragraph (b) of this section apply to any discharge incidental to the normal operation of a vessel subject to regulation under this part, including but not limited to those discharges identified in subpart C of this part.

(b) Vessels must implement the following practices:

(1) Minimize discharges through management practices including but not limited to storage onboard the vessel, proper storage or transfer of materials, or reduced production of discharge.

(2) Discharge while underway when practicable and as far from shore as practicable.

(3) Addition of any materials to a discharge, other than for treatment of the discharge, that is not incidental to the normal operation of the vessel is prohibited.

(4) Dilution of any discharge for the purpose of meeting any standard in this part is prohibited.

(5) Any material used onboard that will be subsequently discharged (*e.g.*, disinfectants, cleaners, biocides, coatings, sacrificial anodes) must:

(i) Be used according to manufacturer specifications and only in the amount necessary to perform the intended function of that material;

(ii) Not contain any materials banned for use in the United States; and

(iii) If subject to FIFRA registration, be used according to the FIFRA label.

Proper use includes labeling requirements for proper application sites, rates, frequency of application, and methods; maintenance; removal; and storage and disposal of wastes and containers.

(6) To minimize and prevent discharge of cargo or other onboard materials, cargo must be containerized or covered except for hopper barges without a fixed cover or where covering cargo would negatively impact safety of the vessel, risk loss of life at sea, or otherwise interfere with essential vessel operations.

(7) To minimize and prevent discharge of toxic or hazardous materials, vessels must:

(i) Store toxic or hazardous materials in appropriately sealed, labeled, and secured containers located in areas of the vessel that minimize exposure to ocean spray and precipitation consistent with vessel design, unless the master determines this would interfere with essential vessel operations or safety of the vessel or crew, or would violate any applicable regulations that establish specifications for safe transportation, handling, carriage, and storage of toxic or hazardous materials.

(ii) Ensure containers holding toxic or hazardous materials are not overfilled and incompatible materials (*i.e.*, substances which, if mixed, will create hazards greater than posed by the individual substances) are not mixed.

(8) The overboard discharge or disposal of any containers holding toxic or hazardous materials is prohibited.

(9) Prior to washing any compartment, tank, cargo or other space and discharging washwater overboard from the area, that space must be in broom clean condition or its equivalent.

(10) Topside surfaces (*e.g.*, exposed decks, hull above waterline, tank, cargo, and related appurtenances) must be maintained to minimize the discharge of cleaning compounds, paint chips, non-skid material fragments, and other materials associated with exterior surface preservation.

(11) Painting and coating techniques on topside surfaces must minimize the discharge of paints, coatings, surface preparation materials, and similar substances.

(12) Discharge of unused paint and coatings is prohibited.

(13) Any equipment that may release, drip, leak, or spill oil or oily mixtures, fuel, or other toxic or hazardous materials, including to the bilge, must be maintained to minimize or eliminate the discharges.

§ 139.5 Biofouling management.

(a) The requirements in paragraph (b) of this section apply to any vessel subject to regulation under this part.

(b) A biofouling management plan must be developed to minimize the discharge of biofouling organisms. The plan elements must prioritize procedures and strategies to prevent macrofouling, thereby minimizing the potential for the introduction and spread of ANS. The plan must describe the vessel-specific anti-fouling systems and biofouling management practices necessary to comply with the requirements in this section. See §§ 139.13, 139.14, 139.22, 139.28, and 139.29 for additional biofouling management requirements.

§ 139.6 Oil management.

(a) The requirements in paragraphs (b) through (e) of this section apply to vessel equipment and operations that use or discharge oil or oily mixtures.

(b) The discharge of used or spent oil no longer being used for its intended purpose is prohibited.

(c) The discharge of oil in such quantities as may be harmful is prohibited.

(d) During fueling, maintenance, and other vessel operations, control and response measures must be used to prevent, minimize, and contain spills and overflows.

(e) An environmentally acceptable lubricant (EAL) must be used in any oil-to-sea interface unless such use is technically infeasible. Operators of new build vessels should endeavor to use seawater-based systems for stern tube lubrication to eliminate the discharge of oil from these interfaces to the aquatic environment.

Subpart C—Standards for Specific Discharges Incidental to the Normal Operation of a Vessel

§ 139.10 Ballast tanks.

(a) *Applicability.* Except for any vessel otherwise excluded in paragraph (b) of this section, the requirements in paragraphs (c) through (h) of this section

apply to any vessel equipped with one or more ballast tanks.

(b) *Exclusions.* The requirements of this section do not apply to the following vessels:

(1) A vessel that continuously takes on and discharges ballast water in a flow-through system, if the Administrator determines that system cannot materially contribute to the spread or introduction of ANS into waters of the United States;

(2) A vessel in the National Defense Reserve Fleet scheduled for disposal, if the vessel does not have an operable ballast water management system (BWMS);

(3) A vessel that discharges ballast water consisting solely of water taken onboard from a public or commercial source that, at the time the water is taken onboard, meets the applicable requirements or permit requirements of the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*);

(4) A vessel that carries all permanent ballast water in sealed tanks that are not subject to discharge; or

(5) A vessel that only discharges ballast water to a reception facility.

(c) *Ballast Water Best Management Practices.* (1) Any vessel equipped with ballast tanks must minimize the introduction and spread of aquatic nuisance species (ANS) by adhering to the following practices:

(i) Maintain a ballast water management plan that addresses both the uptake and discharge of ballast water. The plan must describe the vessel-specific BWMSs and practices necessary to comply with the requirements in this section.

(ii) Minimize the use of gravity to drain ballast tanks in port.

(iii) Use high sea suction in port or where clearance to the bottom of the waterbody is less than 5 meters to the lower edge of the sea chest, as practicable.

(iv) Avoid the discharge or uptake of ballast water in areas with coral reefs. Discharge and uptake should be conducted as far from coral reefs as practicable.

(v) Periodically clean ballast tanks to remove sediment. Discharge of sediment from ballast tank cleaning is prohibited.

(vi) Maintain, and keep fully intact, sea chest screens.

(2) Any new Laker equipped with ballast tanks must install, operate, and maintain a BWMS that has been type-approved by the USCG.

(d) *Ballast Water Discharge Standard.* Unless exempted in paragraph (d)(3) of this section, any ballast water discharge must meet the following numeric discharge standard:

(1) Biological parameters (expressed as instantaneous maximums).

(i) Organisms greater than or equal to 50 micrometers in minimum dimension: less than 10 living organisms per cubic meter.

(ii) Organisms less than 50 micrometers and greater than or equal to 10 micrometers: less than 10 living organisms per milliliter (mL).

(iii) Toxicogenic *Vibrio cholerae* (serotypes O1 and O139): less than 1 colony-forming unit (cfu) per 100 mL.

(iv) *Escherichia coli*: a concentration of less than 250 cfu, or Most Probable Number (MPN), per 100 mL.

(v) Intestinal enterococci: a concentration of less than 100 cfu, or MPN, per 100 mL.

(2) Biocide parameters (expressed as instantaneous maximums).

(i) Chlorine dioxide: for any discharge from a BWMS using chlorine dioxide, chlorine dioxide must not exceed 200 µg/L.

(ii) Total residual oxidizers: for any discharge from a BWMS using chlorine or ozone, total residual oxidizers must not exceed 100 µg/L.

(iii) Peracetic acid: for any discharge from a BWMS using peracetic acid, peracetic acid must not exceed 500 µg/L.

(iv) Hydrogen peroxide: for any discharge from a BWMS using peracetic acid, hydrogen peroxide must not exceed 1,000 µg/L.

(3) Exemptions: The ballast water discharge standards in paragraphs (d)(1) and (2) of this section do not apply to any vessel that:

(i) Is less than or equal to 3,000 GT (1,600 GRT if GT is not assigned), and does not operate outside of the EEZ;

(ii) Is a non-seagoing, unmanned, unpowered barge, except any barge that is part of a dedicated vessel combination such as an integrated or articulated tug and barge unit;

(iii) Takes on and discharges ballast water exclusively in the contiguous portions of a single COTP Zone;

(iv) Does not travel more than 10 NM and passes through no locks;

(v) Discharges ballast water at the same location where that ballast water originated, provided that no mixing with unmanaged ballast water or sediment from other areas has occurred;

(vi) Operates exclusively in the Great Lakes and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to Pointe-de-l'Ouest (West Point), Anticosti Island, and west of a line along 63° W. longitude from Anticosti Island to the north shore of the St. Lawrence River;

(vii) Is enrolled in the USCG Shipboard Technology Evaluation Program (STEP); or

(viii) Discharges ballast water prior to an applicable ballast water discharge standard compliance date established in regulations promulgated by the Secretary as described in 139.1(d).

(e) *Ballast Water Exchange and Saltwater Flush.* Except for any vessel identified in paragraph (f) or (g) of this section, prior to an applicable ballast water discharge standard compliance date established in regulations promulgated by the Secretary as described in § 139.1(d), any vessel must meet the requirements in paragraphs (e)(1) and (2) of this section unless excluded under paragraph (e)(3) of this section.

(1) Any vessel that carries ballast water taken on in areas less than 200 NM from any shore that will subsequently operate outside the EEZ and more than 200 NM from any shore must:

(i) Conduct ballast water exchange in waters not less than 200 NM from any shore prior to discharging that ballast water; and

(ii) Commence ballast water exchange not less than 200 NM from any shore and as early in the vessel voyage as practicable.

(2) For any ballast tank that is empty or contains unpumpable residual water on a vessel bound for a port or place of destination subject to the jurisdiction of the United States, the master must, prior to arriving at that port or place of destination, either:

(i) Seal the tank so that there is no discharge or uptake and subsequent discharge of ballast water, or

(ii) Conduct a ballast water exchange or saltwater flush:

(A) Not less than 200 NM from any shore for a voyage originating outside the United States or Canadian EEZ; or

(B) Not less than 50 NM from any shore for a voyage originating within the United States or Canadian EEZ.

(3) Exceptions: Paragraphs (e)(1) and (2), do not apply under any of the following circumstances:

(i) If the unpumpable residual waters and sediments of an empty ballast tank were subject to treatment, in compliance with applicable requirements, through a BWMS approved or accepted by the Secretary;

(ii) Except as otherwise required under this part, if the unpumpable residual waters and sediments of an empty ballast tank were sourced solely within:

(A) The same port or place of destination; or

(B) Contiguous portions of a single COTP Zone;

(iii) If complying with an applicable requirement of this paragraph (e):

(A) Would compromise the safety of the vessel; or

(B) Is otherwise prohibited by any Federal, Canadian, or international law (including regulations) pertaining to vessel safety;

(iv) If design limitations of an existing vessel prevent a ballast water exchange or saltwater flush from being conducted in accordance with this paragraph (e); or

(v) If the vessel is operating exclusively within the internal waters of the United States and Canada.

(f) *Vessels entering the Great Lakes.*

(1) Ballast Water Exchange: Except as provided in paragraph (f)(2) of this section, any vessel entering the St. Lawrence Seaway through the mouth of the St. Lawrence River must conduct a complete ballast water exchange or saltwater flush:

(i) Not less than 200 NM from any shore for a voyage originating outside the EEZ; or

(ii) Not less than 50 NM from any shore for a voyage originating within the EEZ.

(2) Exceptions: The requirements of paragraph (f)(1) of this section do not apply to any vessel if:

(i) Complying with paragraph (f)(1) of this section:

(A) Would compromise the safety of the vessel; or

(B) Is otherwise prohibited by any Federal, Canadian, or international law (including regulations) pertaining to vessel safety.

(ii) Design limitations of an existing vessel prevent a ballast water exchange from being conducted in accordance with an applicable requirement of paragraph (f)(1) of this section.

(iii) The vessel has no residual ballast water or sediments onboard.

(iv) The vessel retains all ballast water while in waters subject to the requirement.

(v) The empty ballast tanks on the vessel are sealed in a manner that ensures that no discharge or uptake occurs, and any subsequent discharge of ballast water is subject to the requirement.

(g) *Pacific Region.* (1) Ballast Water Exchange:

(i) Except as provided in paragraphs (g)(1)(ii) and (g)(3) of this section, any vessel that operates either between two ports or places of destination within the Pacific Region; or a port or place of destination within the Pacific Region and a port or place of destination on the Pacific Coast of Canada or Mexico north of parallel 20 degrees north latitude, inclusive of the Gulf of California, must conduct a complete ballast water exchange in waters more than 50 NM from shore.

(ii) Exemptions: The requirements of paragraph (g)(1)(i) of this section do not apply to any vessel:

(A) Using, in compliance with applicable requirements, a type-approved BWMS approved or accepted by the Secretary.

(B) Voyaging:

(1) Between or to a port or place of destination in the State of Washington, if the ballast water to be discharged from the commercial vessel originated solely from waters located between the parallel 46 degrees north latitude, including the internal waters of the Columbia River, and the internal waters of Canada south of parallel 50 degrees north latitude, including the waters of the Strait of Georgia and the Strait of Juan de Fuca;

(2) Between ports or places of destination in the State of Oregon, if the ballast water to be discharged from the commercial vessel originated solely from waters located between the parallel 40 degrees north latitude and the parallel 50 degrees north latitude;

(3) Between ports or places of destination in the State of California within the San Francisco Bay area east of the Golden Gate Bridge, including the Port of Stockton and the Port of Sacramento, if the ballast water to be discharged from the commercial vessel originated solely from ports or places within that area;

(4) Between the Port of Los Angeles, the Port of Long Beach, and the El Segundo offshore marine oil terminal, if the ballast water to be discharged from the commercial vessel originated solely from the Port of Los Angeles, the Port of Long Beach, or the El Segundo offshore marine oil terminal;

(5) Between a port or place of destination in the State of Alaska within a single COTP Zone;

(6) Between ports or places of destination in different counties of the State of Hawaii, if the vessel conducts a complete ballast water exchange in waters that are more than 10 NM from shore and at least 200 meters deep; or

(7) Between ports or places of destination within the same county of the State of Hawaii, if the vessel does not transit outside State marine waters during the voyage.

(2) Low-Salinity Ballast Water:

(i) Except as provided in paragraphs (g)(2)(ii) and (g)(3) of this section, a complete ballast water exchange must be conducted for any commercial vessel that transports ballast water sourced from waters with a measured salinity of less than 18 parts per thousand and voyages to a Pacific Region port or place of destination with a measured salinity of less than 18 parts per thousand:

(A) Not less than 50 NM from shore, if the ballast water was sourced from a Pacific Region port or place of destination.

(B) More than 200 NM from shore, if the ballast water was not sourced from a Pacific Region port or place of destination.

(ii) Exception: The requirements of paragraph (g)(2)(i) of this section do not apply to any vessel voyaging to a port or place of destination in the Pacific Region that is using, in compliance with applicable requirements, a type-approved BWMS accepted by the Secretary, or a type-approved BWMS approved by the Secretary to achieve the following numeric discharge standard for biological parameters (expressed as instantaneous maximums):

(A) Organisms greater than or equal to 50 micrometers in minimum dimension: less than 1 living organism per 10 cubic meters.

(B) Organisms less than 50 micrometers and greater than or equal to 10 micrometers: Less than 1 living organisms per 10 milliliters (mL).

(C) Toxicogenic *Vibrio cholerae* (serotypes O1 and O139): less than 1 colony-forming unit (cfu) per 100 mL or less than 1 cfu per gram of wet weight of zoological samples.

(D) *Escherichia coli*: less than 126 cfu, or MPN, per 100 mL.

(E) Intestinal enterococci: less than 33 cfu, or MPN, per 100 mL.

(3) General Exceptions: The requirements of paragraphs (g)(1) and (2) of this section do not apply to a commercial vessel if:

(i) Complying with the requirement would compromise the safety of the commercial vessel.

(ii) If design limitations of an existing vessel, prevent a ballast water exchange from being conducted in accordance with paragraphs (g)(1) and (2) of this section, as applicable.

(iii) The commercial vessel:

(A) Has no residual ballast water or sediments onboard; or

(B) Retains all ballast water while in waters subject to those requirements.

(iv) Empty ballast tanks on the commercial vessel are sealed in a manner that ensures that:

(A) No discharge or uptake occurs; and

(B) Any subsequent discharge of ballast water is subject to those requirements.

(h) *Federally-protected waters.* Additional standards applicable to discharges from ballast tanks when a vessel is operating in federally-protected waters are contained in § 139.40(b).

§ 139.11 Bilges.

(a) The requirements in paragraphs (b) through (d) of this section applies to bilgewater, which is the discharge of wastewater from the bilge consisting of water and residue that accumulates in a lower compartment of the vessel's hull below the waterline. This includes, but is not limited to, any water and residue from a cargo area that comes into contact with oily materials or a below-deck parking area or other storage area for motor vehicles or other motorized equipment.

(b) The discharge of bilgewater from any vessel must not contain any flocculants or other additives except when used with an oily water separator or to maintain or clean equipment. The use of any additives to remove the appearance of a visible sheen is prohibited.

(c) For any vessel of 400 GT and above, the discharge of bilgewater must:

(1) Occur when the vessel is underway;

(2) Not have an oil content that exceeds 15 ppm; and

(3) If technologically feasible, occur at least 1 NM from shore.

(d) Additional standards applicable to discharges from bilges when a vessel is operating in federally-protected waters are contained in § 139.40(c).

§ 139.12 Boilers.

(a) The requirements in paragraphs (b) and (c) of this section apply to discharges resulting from boiler blowdown.

(b) The discharge from boiler blowdown must be minimized in port.

(c) Additional standards applicable to discharges from boilers when a vessel is operating in federally-protected waters are contained in § 139.40(d).

§ 139.13 Cathodic protection.

(a) The requirements in paragraph (b) of this section apply to discharges resulting from a vessel's cathodic corrosion control protection device, including but not limited to sacrificial anodes and impressed current cathodic protection (ICCP) systems.

(b) Spaces between any flush-fit anode and backing must be filled to remove potential hotspots for biofouling organisms.

(c) The vessel operator must consider using, but is not required to use, less toxic metals when selecting sacrificial anodes.

§ 139.14 Chain lockers.

(a) The requirements in paragraphs (b) through (e) of this section apply to accumulated biological organisms, sediment, precipitation, and seawater

that is emptied from the compartment used to store the anchor chain on a vessel and are intended to prevent the discharge of accumulated biological organisms, sediment, precipitation, and seawater when deploying the anchor in a new port or place of destination.

(b) Anchors and anchor chains must be rinsed of biofouling organisms and sediment when the anchor is retrieved.

(c) The discharge of biological organisms, sediment, precipitation, and seawater from any chain locker is prohibited in port.

(d) Anchors and anchor chains used beyond waters of the contiguous zone must be rinsed of biofouling organisms and sediment prior to entering the waters of the contiguous zone. This requirement may be satisfied by rinsing when the anchor is retrieved at the commencement of the voyage or when the anchor was last retrieved on a previous voyage, so long as the rinsing occurs after the last use of the anchor beyond waters of the contiguous zone.

(e) Additional standards applicable to a discharge from chain lockers when a vessel is operating in federally-protected waters are contained in § 139.40(e).

§ 139.15 Decks.

(a) The requirements in paragraphs (b) through (i) of this section apply to the discharge of washdown and runoff from decks, well decks, and bulkhead areas, including but not limited to precipitation, condensation, seawater spray and wash over, and flooding, as well as waters pumped from below deck on a barge.

(b) Coamings or drip pans must be used for machinery that is expected to leak or otherwise release oil on the deck; accumulated oil must be collected.

(c) Where required by an applicable international treaty or convention or the Secretary, the vessel must be fitted with and use physical barriers (e.g., spill rails, scuppers and scupper plugs) during any washdown.

(d) Control measures must be used to minimize the introduction of on-deck debris, garbage, residue, spills, floating solids, visible foam, halogenated phenolic compounds, dispersants, and surfactants into deck washdown and runoff.

(e) Vessel decks must be kept in broom clean condition whenever the vessel is underway and prior to any deck washdown.

(f) Discharges from deck washdowns must be minimized in port.

(g) Any soap, cleaner, or detergent used for deck washdown must be minimally-toxic, phosphate-free, and biodegradable.

(h) Barges that discharge water pumped from below deck must minimize the contact of below deck condensation with oily or toxic materials and any materials containing hydrocarbons.

(i) Additional standards applicable to discharges from decks when a vessel is operating in federally-protected waters are contained in § 139.40(f).

§ 139.16 Desalination and purification systems.

(a) The requirements in paragraph (b) of this section apply to discharges from onboard desalination and purification systems used to generate freshwater from seawater or otherwise purify water.

(b) The discharge resulting from the cleaning of desalination and purification systems with toxic or hazardous materials is prohibited.

§ 139.17 Elevator pits.

(a) The requirements in paragraph (b) of this section apply to the liquid that accumulates in, and is discharged from, the sumps of elevator wells.

(b) The discharge of untreated accumulated water and sediment from any elevator pit is prohibited.

§ 139.18 Exhaust gas emission control systems.

(a) *Applicability.* The requirements in paragraphs (b) through (d) of this section apply to discharges from the operation and cleaning of any exhaust gas cleaning system (EGCS) and exhaust gas recirculation (EGR) system.

(b) *Discharge requirements.* Unless excluded in paragraph (c) of this section, any discharge identified in paragraph (a) of this section must meet the following discharge requirements.

(1) *pH.*

(i) The discharge must meet one of the following requirements:

(A) The discharge must have a pH of no less than 6.5 as measured at the vessel's overboard discharge point with the exception that during maneuvering and transit, the maximum difference of two pH units is allowed between inlet water and overboard discharge values; or

(B) The pH discharge limit is the value that will achieve a minimum pH of 6.5 at 4 meters from the overboard discharge point with the vessel stationary. This overboard pH discharge limit is to be determined at the overboard discharge monitoring point and is to be recorded as the vessel's discharge limit. The overboard pH limit can be determined either by means of direct measurement, or by using a calculation-based methodology (computational fluid dynamics or other

equally scientifically established empirical formulas).

(ii) The pH numeric discharge standard may be exceeded for up to 15 minutes in any 12-hour period.

(2) *PAHs (Polycyclic Aromatic Hydrocarbons).*

(i) The maximum continuous PAH concentration in the discharge must be no greater than 50 µg/L PAHphe (phenanthrene equivalents) above the inlet water PAH concentration. This

standard applies downstream of any wastewater treatment equipment including any reactant dosing unit but upstream of any seawater addition for control of pH prior to discharge.

(ii) The 50 µg/L numeric discharge standard is normalized for a discharge flow rate, before any seawater neutralization for pH control, of 45 tons (t)/megawatt-hour (MWh) where the mega-watt (MW) refers to the Maximum Continuous Rating (MCR) or 80% of the

power rating of the fuel oil combustion units whose EGCS discharge water PAH is being monitored at that point. In cases where sensors are installed in a separate measurement cell, the PAH limit applies to the flow in the main discharge pipe from which the water is bypassed. This numeric discharge standard is adjusted upward or downward for different discharge flow rates, pursuant to table 1 to paragraph (b)(2)(ii) of this section.

TABLE 1 TO PARAGRAPH (b)(2)(ii)

Discharge water flowrate before any seawater addition for pH control (t/MWh)	Numeric discharge standard (µg/L PAHphe equivalents)	Measurement technology
0–1	2,250	Ultraviolet light
2.5	900	– “ –
5	450	Fluorescence ^a
11.25	200	– “ –
22.5	100	– “ –
45	50	– “ –
90	25	– “ –

^aFor any Flow Rate greater than 2.5 t/MWh, Fluorescence technology must be used.

(iii) The continuous PAHphe numeric discharge standard may be exceeded by 100% for up to 15 minutes in any 12-hour period.

(3) *Turbidity/suspended particulate matter.*

(i) The wastewater treatment system must be designed to minimize suspended particulate matter, including but not limited to heavy metals and ash.

(ii) The maximum continuous turbidity in the discharge must be no greater than 25 FNU (formazin nephelometric units) or 25 NTU (nephelometric turbidity units) or equivalent units above the inlet water turbidity. However, to account for periods of high inlet turbidity, readings

must be a rolling average over a 15-minute period to a maximum of 25 FNU or NTU. This standard applies downstream of any wastewater treatment equipment including any reactant dosing unit but upstream of any seawater addition for control of pH prior to discharge.

(iii) For an aggregated 15-minute period in any rolling 12-hour period, the continuous turbidity discharge limit may be exceeded by 20%.

(4) *Nitrates plus nitrites:*

(i) The wastewater treatment system must prevent the discharge of nitrates plus nitrites beyond that associated with a 12% removal of NO_x from the exhaust, or beyond 60 mg/L normalized

for a discharge rate of 45 tons/MWh, whichever is greater, where the MW refers to the MCR or 80% of the power rating of all those fuel oil combustion units whose EGCS discharge water nitrates plus nitrites are being monitored at that point. This standard applies downstream of any wastewater treatment equipment including any reactant dosing unit but upstream of any seawater addition for control of pH prior to discharge. The 60-mg/L limit is adjusted upward for lower wastewater flow rates per MWh, and vice-versa, and the applicable permit limits are contained in table 2 to paragraph (b)(4)(i) of this section.

TABLE 2 TO PARAGRAPH (b)(4)(i)

Discharge water flowrate before any seawater addition for pH control (t/MWh)	Numeric discharge standard (mg/L nitrate + nitrite)
0–1	2,700
2.5	1,080
5	540
11.25	240
22.5	120
45	60

(5) *Discharge water from temporary storage:*

(i) pH. See § 139.18(b)(1).

(ii) PAH. Maximum of 50 µg/L PAHphe before any addition of seawater (or similar) for control of pH.

(iii) Turbidity. Not greater than 25 FNU or 25 NTU or equivalent units, before any addition of seawater (or similar) for pH control.

(6) *Treatment Residuals:* Discharges of sludge or residues generated from treatment of EGCS or EGR wastewater or bleed-off water are prohibited.

(c) *Exclusion.* For a vessel operating on fuel that meets the sulfur content limits specified in Regulation 14 of MARPOL Annex VI, discharge of EGR bleed-off water is excluded from

paragraph (b) of this section if the vessel:

(1) Does not retain the EGR bleed-off onboard in a holding tank prior to discharge, and

(2) Is underway, and

(3) Not in port.

(d) *Prohibition.* For a vessel not operating on fuel that meets the sulfur content limits specified in Regulation 14 of MARPOL Annex VI, discharge of EGR

bleed-off water which is retained in a holding tank is prohibited unless the vessel:

- (1) Is underway;
- (2) Not in port; and
- (3) In compliance with the discharge standard in paragraph (b) of this section.

§ 139.19 Fire protection equipment.

(a) The requirements in paragraphs (b) through (e) of this section apply to the discharge from fire protection equipment, including discharges for secondary purposes (e.g., anchor and anchor chain rinsing and deck washdown). As specified in § 139.1(b)(3), these requirements do not apply to discharges from fire protection equipment when used for emergencies or when compliance with such requirements would compromise the safety of the vessel or life at sea.

(b) The discharge of fluorinated firefighting foam is prohibited unless required for certification or inspection under 46 CFR 31.10 through 31.18(c), 46 CFR 107.235(b)(4), or by the marine inspector to ensure vessel safety and seaworthiness.

(c) The discharge from fire protection equipment to ensure operability (e.g., during testing, training, maintenance, inspection, or certification) is prohibited in port unless:

(1) The intake is drawn from surrounding waters or a potable water supply and contains no additives (e.g., firefighting foam); or

(2) Required in port by the Secretary for certification or inspection under 46 CFR 31.10 through 31.18(c), 46 CFR 107.235(b)(4), or by the marine inspector to ensure vessel safety.

(d) The discharge from fire protection equipment for secondary uses is prohibited in port unless:

(1) The intake is drawn from surrounding waters or a potable water supply and contains no additives (e.g., firefighting foam); and

(2) The discharge meets applicable requirements under this part for the secondary use.

(e) Additional requirements applicable to discharges from fire protection equipment when a vessel is operating in federally-protected waters are contained in § 139.40(g).

§ 139.20 Gas turbines.

(a) The requirements in paragraph (b) of this section apply to discharges from the washing of gas turbine components.

(b) The discharge of untreated gas turbine washwater is prohibited unless infeasible.

§ 139.21 Graywater systems.

(a) The requirements in paragraphs (b) through (g) of this section apply to

discharges of graywater except for graywater from any commercial vessel on the Great Lakes that is subject to the requirements in 40 CFR part 140 and 33 CFR part 159.

(b) The introduction of kitchen waste, food, oils, and oily residues to the graywater system must be minimized.

(c) Any soaps, cleaners, detergents, and other substances used by vessel operators or provided by vessel operators to persons onboard and discharged in graywater must be minimally-toxic, phosphate-free, and biodegradable.

(d) The discharge of graywater is prohibited from any vessel:

(1) Within 3 NM from shore that voyages at least 3 NM from shore and has remaining available graywater storage capacity, unless the discharge meets the standards in paragraph (f) of this section; and

(2) Within 1 NM from shore that voyages at least 1 NM from shore but not beyond 3 NM from shore and has remaining available graywater storage capacity, unless the discharge meets the standards in paragraph (f) of this section.

(e) The discharge of graywater from the following vessels must meet the numeric discharge standard established in paragraph (f) of this section:

(1) Any new vessel of 400 GT (400 GRT if GT is not assigned) and above that is certificated to carry 15 or more persons and provides overnight accommodations to those persons;

(2) Any passenger vessel, excluding any ferry, with overnight accommodations for 500 or more persons;

(3) Any passenger vessel, excluding any ferry, with overnight accommodations for 100–499 persons unless the vessel was constructed before December 19, 2008, and does not voyage beyond 1 NM from shore; and

(4) Any new ferry authorized by the Secretary to carry 250 or more persons.

(f) A vessel identified in paragraph (d) or (e) of this section that is discharging graywater must meet the following numeric discharge standard:

(1) *Fecal coliform*.

(i) The 30-day geometric mean must not exceed 20 cfu, or MPN, per 100 mL.

(ii) Greater than 90% of samples must not exceed 40 cfu, or MPN, per 100 mL during any 30-day period.

(2) *BOD₅*.

(i) The 30-day average must not exceed 30 mg/L.

(ii) The 7-day average must not exceed 45 mg/L.

(3) *Suspended solids*.

(i) The 30-day average must not exceed 30 mg/L.

(ii) The 7-day average must not exceed 45 mg/L.

(4) *pH*.

(i) Must be maintained between 6.0 and 9.0.

(ii) [Reserved]

(5) Total residual oxidizers.

(i) For any discharge from a graywater system using chlorine, total residual oxidizers must not exceed 10.0 µg/L.

(ii) [Reserved]

(g) Unless from a vessel subject to paragraph (e) of this section, the discharge of graywater from any vessel operating on the Great Lakes that is not a commercial vessel must not exceed 200 fecal coliform forming units per 100 milliliters and contain no more than 150 milligrams per liter of suspended solids.

(h) Additional standards applicable to discharges from graywater systems when a vessel is operating in federally-protected waters are contained in § 139.40(h).

§ 139.22 Hulls and associated niche areas.

(a) *Applicability*. The requirements in paragraphs (b) through (d) of this section apply to the discharge of anti-fouling coatings, biofouling organisms, and other materials from vessel hull and niche areas.

(b) *Transport and passive discharge*.

The transport of attached living organisms and passive discharge of biofouling must be minimized when traveling into U.S. waters from outside the EEZ or between COTP Zones.

Management measures to minimize the transport of attached living organisms and the passive discharge of biofouling are described in paragraphs (c) and (d) of this section.

(c) *Anti-fouling coatings*. (1) Anti-fouling coatings applied to the vessel must be specific to the operational profile of the vessel and the equipment to which it is applied, including, for biocidal coatings, having appropriate biocide release rates and components that are biodegradable once separated from the vessel surface.

(2) Anti-fouling coatings must be applied, maintained, and reapplied consistent with manufacturer specifications, including but not limited to the thickness, the method of application, and the lifespan of the coating.

(3) Anti-fouling coatings must not contain tributyltin (TBT) or any other organotin compound used as a biocide.

(i) Any vessel hull previously covered with an anti-fouling coating containing TBT (whether or not used as a biocide) or any other organotin compound (if used as a biocide) must:

(A) Maintain an effective overcoat that forms a barrier so that no TBT or other

organotin leaches from the underlying anti-fouling coating; or

(B) Remove any TBT or other organotin compound from the vessel hull.

(4) When an organotin compound other than TBT is used as a catalyst in the anti-fouling coating (e.g., dibutyltin), the anti-fouling coating must:

(i) Contain less than 2,500 mg total tin per kilogram of dry paint; and

(ii) Not be designed to slough or otherwise peel from the vessel hull, noting that incidental amounts of anti-fouling coating discharged by abrasion during cleaning or after contact with other hard surfaces (e.g., moorings) are acceptable.

(5) Anti-fouling coatings must not contain cybutryne.

(i) Any vessel that has previously applied an anti-fouling coating that contains cybutryne in the external coating layer of their hulls or external parts or surfaces must:

(A) Apply and maintain an effective overcoat that forms a barrier so that no cybutryne leaches from the underlying anti-fouling coating, noting that incidental amounts of anti-fouling coating discharged by abrasion during cleaning or after contact with other hard surfaces (e.g., moorings) are acceptable; or

(B) Remove any cybutryne coating.

(6) As appropriate based on vessel class and operations, alternatives to copper-based anti-fouling coatings (e.g., non-biocidal anti-fouling coatings) or coating with lower biocidal release rates must be considered for vessels spending 30 or more days per year in a copper-impaired waterbody or using these waters as their home port.

(d) *Cleaning.* (1) Cleanings should take place in drydock when practicable.

(2) Hulls and niche areas must be managed to minimize biofouling such as through preventative cleaning of microfouling.

(3) Hull and niche area cleanings must minimize damage to the anti-fouling coating, minimize release of biocides, and follow applicable cleaning requirements found on the coating manufacturers' instructions and any applicable FIFRA label.

(4) Any discharge from in-water cleaning without capture of macrofouling is prohibited.

(5) A discharge from in-water cleaning without capture of any copper-based hull coating in a copper-impaired water body within the first 365 days after application of that coating is prohibited.

(6) In-water cleaning must not be conducted on any section of an anti-fouling coating that shows excessive

cleaning actions (e.g., brush marks) or blistering due to the internal failure of the paint system.

(7) Any soap, cleaner, or detergent used on vessel surfaces, including but not limited to a scum line of the hull, must be minimally toxic, phosphate-free, and biodegradable.

(8) Additional standards applicable to discharges from hulls and associated niche areas when a vessel is operating in federally-protected waters are contained in § 139.40(i).

§ 139.23 Inert gas systems.

There are no additional discharge-specific requirements that apply to the discharge of washwater from an inert gas system and deck seal water when used as an integral part of that system.

§ 139.24 Motor gasoline and compensating systems.

(a) The requirements in paragraph (b) of this section apply to the discharge of motor gasoline and compensating ambient water added to keep gasoline tanks full to prevent potentially explosive gasoline vapors from forming.

(b) Additional standards applicable to discharges from motor gasoline and compensating systems when a vessel is operating in federally-protected waters are contained in § 139.40(j).

§ 139.25 Non-oily machinery.

(a) The requirements in paragraph (b) of this section apply to discharges from machinery that contains no oil, including but not limited to discharges from the operation of desalination systems, water chillers, valve packings, water piping, low- and high-pressure air compressors, propulsion engine jacket coolers, fire pumps, and seawater and potable water pumps.

(b) The discharge of untreated non-oily machinery wastewater and packing gland or stuffing box effluent containing toxic or bioaccumulative additives, or the discharge of oil in such quantities as may be harmful, is prohibited.

§ 139.26 Pools and spas.

(a) The requirements in paragraphs (b) and (c) of this section apply to discharges from pools and spas.

(b) Except for unintentional or inadvertent releases from overflows across the decks and into overboard drains caused by, but not limited to, weather, vessel traffic, marine wildlife avoidance or navigational maneuvering, discharge of pool and spa water must:

(1) Occur only while the vessel is underway, unless determined to be infeasible; and

(2) Meet the following numeric discharge standard:

(i) For chlorine disinfection: total residual chlorine less than 100 µg/L; and

(ii) For bromine disinfection: total residual oxidant less than 25 µg/L.

(c) Additional standards applicable to discharges from pools and spas when a vessel is operating in federally-protected waters are contained in § 139.40(k).

§ 139.27 Refrigeration and air conditioning.

(a) The requirements in paragraph (b) of this section apply to discharges of condensation from refrigeration, air conditioning, and similar chilling equipment.

(b) The direct overboard discharge of any condensate that contacts toxic or hazardous materials is prohibited.

§ 139.28 Seawater piping.

(a) The requirements in paragraphs (b) through (d) of this section apply to discharges from seawater piping systems, including while a vessel is in port or in layup.

(b) Seawater piping systems must be inspected, maintained, and cleaned as necessary to minimize the accumulation and discharge of biofouling organisms.

(c) Seawater piping systems that accumulate macrofouling must be fitted with a Marine Growth Prevention System (MGPS).

(1) An MGPS must be selected to address:

(i) The level, frequency, and type of expected biofouling; and

(ii) The design, location, and area in which the system will be used.

(2) An MGPS must include one, or some combination of the following:

(i) Chemical injection;

(ii) Electrolysis, ultrasound, ultraviolet radiation, or electrochlorination;

(iii) Application of an antifouling coating;

(iv) Use of cupro-nickel piping; or

(v) Use of glass-reinforced/filament-wound epoxy-based composite piping.

(3) Upon identification of macrofouling in a seawater piping system, reactive measures to manage the macrofouling must be used. Discharges resulting from reactive measures to remove macrofouling are prohibited in port.

(d) Additional standards applicable to discharges from seawater piping systems when a vessel is operating in federally-protected waters are contained in § 139.40(l).

§ 139.29 Sonar domes.

(a) The requirements in paragraphs (b) and (c) of this section apply to discharges from sonar domes.

(b) The discharge of water from inside the sonar dome is prohibited during maintenance or repair.

(c) Any discharge from the use of bioaccumulative biocides on the exterior of the sonar dome is prohibited when non-bioaccumulative alternatives are available.

Subpart D—Special Area Requirements

§ 139.40 Federally-protected waters.

(a) *Applicability.* The requirements in paragraphs (b) through (l) of this section are in addition to applicable standards in subparts B and C of this part and apply when a vessel is operating in federally-protected waters.

(b) *Ballast tanks.* The discharge or uptake of ballast water in federally-protected waters must be avoided except for vessels:

(1) Operating within the boundaries of any national marine sanctuary that preserves shipwrecks or maritime heritage in the Great Lakes, unless the designation documents for such sanctuary do not allow taking up or discharging ballast water in such sanctuary, pursuant to 16 U.S.C. 1431 note (Pub. L. 113–281, title VI, § 610, Dec. 18, 2014, 128 Stat. 3064, as amended by Pub. L. 114–120, title VI, § 602(1), Feb. 8, 2016, 130 Stat. 79); or

(2) That operate solely within federally-protected waters and take on and discharge ballast water exclusively in the contiguous portions of a single COTP Zone.

(c) *Bilges.* For any vessel of 400 GT and above, the discharge of bilgewater into federally-protected waters is prohibited.

(d) *Boilers.* The discharge of boiler blowdown into federally-protected waters is prohibited.

(e) *Chain lockers.* The discharge of accumulated water and sediment from any chain locker into federally-protected waters is prohibited.

(f) *Decks.* The discharge of deck washdown into federally-protected waters is prohibited except for those vessels operating exclusively within these protected waters provided the discharge is in compliance with all other requirements in § 139.15.

(g) *Fire protection equipment.* The discharge from fire protection equipment into federally-protected water is prohibited except to comply with USCG fire drill requirements or anchor and anchor chain requirements in § 139.14. When USCG fire drills are conducted, the discharge of any firefighting foam into federally-protected waters is prohibited except by any vessel owned or under contract

with the United States, State, or local government to do business exclusively in any federally-protected waters.

(h) *Graywater systems.* The discharge of graywater into federally-protected waters from any vessel with remaining available graywater storage capacity is prohibited.

(i) *Hulls and associated niche areas.* The discharge from in-water cleaning of vessel hulls and niche areas into federally-protected waters is prohibited except by any vessel owned or under contract with the United States, State, or local government to do business exclusively in any federally-protected waters.

(j) *Motor gasoline and compensating systems.* The discharge of motor gasoline and compensating discharges into federally-protected waters is prohibited.

(k) *Pools and spas.* The discharge of pool or spa water into federally-protected waters is prohibited.

(l) *Seawater piping systems.* The discharge of chemical dosing, as described in § 139.28, into federally-protected waters is prohibited.

Subpart E—Procedures for States to Request Changes to Standards, Regulations, or Policy Promulgated by the Administrator

§ 139.50 Petition by a Governor for the Administrator to establish an emergency order or review a standard, regulation, or policy.

(a) The Governor of a State (or a designee) may submit a petition to the Administrator:

(1) To issue an emergency order under CWA section 312(p)(4)(E); or

(2) To review any standard of performance, regulation, or policy promulgated by the Administrator under CWA section 312(p)(4) or (6), if there exists new information that could reasonably result in a change to:

(i) The standard of performance, regulation, or policy; or

(ii) A determination on which the standard of performance, regulation, or policy was based.

(b) A petition under paragraph (a) of this section shall be signed by the Governor (or a designee) and must include:

(1) The purpose of the petition (request for emergency order or a review of a standard, regulation, or policy);

(2) Any applicable scientific or technical information that forms the basis of the petition;

(3) The direct and indirect benefits if the requested petition were to be granted by the Administrator; and

(4) For a petition under paragraph (a)(2) of this section, the costs to the

affected classes, types, and/or sizes of vessels if the requested petition were to be granted by the Administrator.

(c) The Administrator shall grant or deny:

(1) A petition under paragraph (a)(1) of this section by not later than the date that is 180 days after the date on which the petition is submitted; and

(2) A petition under paragraph (a)(2) of this section by not later than the date that is one year after the date on which the petition is submitted.

(d) If the Administrator determines to grant a petition:

(1) In the case of a petition under paragraph (a)(1) of this section, the Administrator shall immediately issue the relevant emergency order under CWA section 312(p)(4)(E); or

(2) In the case of a petition under paragraph (a)(2) of this section, the Administrator shall sign a Notice of Proposed Rulemaking for publication in the **Federal Register** to revise the relevant standard, requirement, regulation, or policy under CWA section 312(p)(4) or (6), as applicable, as soon as possible and not later than 30 days after the date of the determination.

(e) If the Administrator determines to deny a petition, the Administrator shall sign a notice of the determination for publication in the **Federal Register** that includes a detailed explanation of the scientific, technical, or operational factors that form the basis of the determination, as soon as possible and not later than 30 days after the date of the determination.

§ 139.51 Petition by a Governor for the Administrator to establish enhanced Great Lakes system requirements.

(a) The Governors endorsing a proposed standard or requirement under CWA section 312(p)(10)(B)(ii)(III)(bb) may jointly submit to the Administrator and the Secretary for approval each proposed standard of performance or other requirement developed and endorsed pursuant to CWA section 312(p)(10)(B)(ii) with respect to any discharge that is subject to regulation under this part and occurs within the Great Lakes System.

(b) A petition under paragraph (a) of this section must include:

(1) An explanation regarding why the applicable standard of performance or other requirement is at least as stringent as a comparable standard of performance or other requirement under this part;

(2) An explanation regarding why the standard of performance or other requirement is in accordance with maritime safety; and

(3) An explanation regarding why the standard of performance or other

requirement is in accordance with applicable maritime and navigation laws and regulations.

(c) On receipt of a proposed standard of performance or other requirement under paragraph (b) of this section, the Administrator and the Secretary shall sign and transmit to the Office of Federal Register for publication a joint notice that, at minimum:

(1) States that the proposed standard or requirement is publicly available; and

(2) Provides an opportunity for public comment regarding the proposed standard or requirement during the 90-day period beginning on the date of receipt by the Administrator of the proposed standard or requirement.

(d) The Administrator shall commence a review of each proposed standard of performance or other requirement covered by the notice to determine whether that standard or requirement is at least as stringent as comparable standards and requirements under this part.

(e) In carrying out paragraph (d) of this section, the Administrator:

(1) Shall consult with the Secretary,

(2) Shall consult with the Governor of each Great Lakes State and representatives from the Federal and provincial governments of Canada;

(3) Shall take into consideration any relevant data or public comments received under paragraph (c)(2) of this section; and

(4) Shall not take into consideration any preliminary assessment by the Great Lakes Commission or any dissenting opinion by a Governor of a Great Lakes State, except to the extent that such an assessment or opinion is relevant to the criteria for the applicable determination under paragraph (d) of this section.

(f) If a Governor of a Great Lakes State withdraws the endorsement by not later than 90 days after the Administrator receives the proposed standard or requirement, and the withdrawal results in the proposed standard or requirement not having the applicable number of endorsements, the Administrator shall terminate review.

(g) Upon review and determination, the Administrator and the Secretary shall approve each proposed standard or other requirement, unless the Administrator determines that the proposed standard or other requirement is not at least as stringent as comparable standards and requirements under this part or the Secretary determines that the proposed standard or requirement is not in accordance with maritime safety or is not in accordance with applicable maritime and navigation laws and regulations.

(h) If the Administrator and the Secretary approve a proposed standard or other requirement, the Administrator and the Secretary shall sign a notice of the determination and transmit the notice to the Governor of each Great Lakes State and to the Office of Federal Register for publication.

(i) If the Administrator and the Secretary disapprove a proposed standard or other requirement, the Administrator and the Secretary shall sign a notice of the determination and transmit it to the Governor of each Great Lakes State and to the Office of Federal Register for publication. The notice must include:

(1) A description of the reasons why the standard or requirement is, as applicable, less stringent than a comparable standard or requirement under this part, and

(2) Any recommendations regarding changes the Governors of the Great Lakes states could make to conform the disapproved portion of the standard or requirement to the requirements of this section.

(j) The Administrator and the Secretary shall make an approval or disapproval determination under this section and transmit a notice of such determination to the Governor of each Great Lakes State and the Office of Federal Register not later than 180 days after the date of receipt of the proposed standard or regulation.

(k) On approval by the Administrator and the Secretary of a proposed standard of performance or other requirement, the Administrator shall establish, by regulation, the proposed standard or requirement within the Great Lakes System in lieu of any comparable standard or other requirement promulgated under CWA section 312(p)(4). A requirement to prohibit one or more types of discharge, whether treated or not treated, into waters within the Great Lakes System shall not apply outside the waters of the Great Lakes states of the Governors endorsing the requirement.

§ 139.52 Application by a State for the Administrator to establish a State no-discharge zone.

(a) If any State determines that the protection and enhancement of the quality of some or all of the waters within the State require greater environmental protection, the Governor of a State (or a designee) may submit an application to the Administrator to establish a regulation prohibiting one or more discharges, whether treated or not treated, into such waters subject to the application.

(b) A prohibition by the Administrator under paragraph (a) of this section shall not apply until the Administrator, in concurrence with the Secretary, reviews the State application and makes the applicable determinations described in paragraph (d) of this section and publishes a regulation establishing the prohibition.

(c) An application submitted by the State under paragraph (a) of this section shall be signed by the Governor (or a designee) and must include:

(1) A narrative explanation of the location of the proposed waters and a map delineating the boundaries of the requested prohibition using geographic coordinates;

(2) A certification that a prohibition of the discharge(s) would protect and enhance the quality of the specific waters within the State to a greater extent than the applicable Federal standard provides;

(3) A detailed analysis of the direct and indirect benefits of the requested prohibition for each individual discharge for which the State is seeking a prohibition;

(4) A table identifying the types and number of vessels operating in the waterbody and a table identifying the types and number of vessels that would be subject to the prohibition;

(5) A table identifying the location, operating schedule, draft requirements, pumpout capacity, pumpout flow rate, connections, and fee structure of each existing facility capable of servicing the vessels that would be subject to the prohibition and available to receive the prohibited discharge;

(6) A description of the wastewater handling procedures of each facility identified in paragraph (c)(5) of this section, including information on how wastewater is stored, transported, treated, and/or disposed by each facility;

(7) A map indicating the location of each stationary facility, and the coverage area of each mobile facility, identified in paragraph (c)(5) of this section within the proposed waters;

(8) A detailed analysis of the impacts to vessels subject to the prohibition, including a discussion of how these vessels may feasibly collect and store the discharge, the extent to which retrofitting may be required, costs that are incurred as a result of the discharge prohibition, and any safety implications.

(d) On application of a State, the Administrator, in concurrence with the Secretary, shall, by regulation, prohibit the discharge from a vessel of one or more discharges subject to regulation under this part, whether treated or not

treated, into the waters covered by the application if the Administrator determines that:

(1) The prohibition of the discharge(s) would protect and enhance the quality of the specified waters within the State;

(2) Adequate facilities for the safe and sanitary removal and treatment of the prohibited discharge(s) are reasonably available, including taking costs into consideration, for the water and all vessels to which the prohibition would apply. A determination of adequacy shall consider, at a minimum, water depth, dock size, pumpout facility capacity and flow rate, availability of year-round operations, proximity to navigation routes, the availability of operational changes as a means to reduce the discharge, and the ratio of pumpout facilities to the population and discharge capacity of vessels operating in those waters;

(3) The discharge(s) can be safely collected and stored until a vessel reaches an appropriate facility or location for discharge;

(4) In the case of an application for the prohibition of the discharge of ballast water in port (or in any other location where cargo, passengers, or fuel are loaded and unloaded):

(i) The considerations for adequate facilities described in paragraph (d)(2) of this section apply; and

(ii) The prohibition will not unreasonably interfere with the safe loading and unloading of cargo, passengers, or fuel.

(e) The Administrator shall submit to the Secretary a request for written concurrence on a determination made to establish a prohibition.

(1) A failure by the Secretary to concur with the Administrator 60 days after the date on which the Administrator submits a request for concurrence shall not prevent the Administrator from prohibiting the discharge or discharges, subject to the condition that the Administrator shall include in the administrative record of the promulgation:

(i) Documentation of the request for concurrence; and

(ii) The response of the Administrator to any written objections received from the Secretary relating to the prohibition during the 60-day period beginning on the date of the request for concurrence.

(f) If the Administrator determines that an application meets the criteria in paragraph (c) of this section and approves the application, the Administrator shall notify the State of the tentative approval and develop a Notice of Proposed Rulemaking for transmittal to the Office of the Federal Register.

Appendix A to Part 139—Federally-Protected Waters ¹

The asterisk (“*”) modifier in appendix A to part 139 identifies those areas vessels subject to these Federal standards may be most likely to transit based on proximity to waters where these vessels may operate.

A.1 National Marine Sanctuaries

American Samoa National Marine Sanctuary *
Channel Islands National Marine Sanctuary *
Cordell Bank National Marine Sanctuary *
Florida Keys National Marine Sanctuary *
Greater Farallones National Marine Sanctuary *
Hawaiian Islands Humpback Whale National Marine Sanctuary *
Monterey Bay National Marine Sanctuary *
Olympic Coast National Marine Sanctuary *
Stellwagen Bank National Marine Sanctuary *

A.2 Marine National Monuments

Mariana Trench Marine National Monument *
Northeast Canyons and Seamounts Marine National Monument *
Pacific Remote Islands Marine National Monument *
Papahānaumokuākea Marine National Monument *
Rose Atoll Marine National Monument

A.3 National Parks (National Reserves and Monuments)

Alabama

Birmingham Civil Rights National Monument
Freedom Riders National Monument
Horseshoe Bend National Military Park
Little River Canyon National Preserve
Muscle Shoals National Heritage Area
Natchez Trace National Scenic Trail *
Russell Cave National Monument
Selma to Montgomery National Historic Trail
Trail of Tears National Historic Trail
Tuskegee Airmen National Historic Site
Tuskegee Institute National Historic Site

Alaska

Aleutian World War II National Historic Area
Aniakchak National Monument and Preserve *
Bering Land Bridge National Preserve *
Cape Krusenstern National Monument *
Chilkoot National Historic Trail
Denali National Park and Preserve
Gates of the Arctic National Park and Preserve *
Glacier Bay National Park and Preserve *
Iditarod National Historic Trail
Inupiat Heritage Center
Katmai National Park and Preserve *
Kenai Fjords National Park *
Kenai Mountains-Turnagain Arm National Heritage Area
Klondike Gold Rush National Historical Park *
Kobuk Valley National Park *
Lake Clark National Park and Preserve *
Noatak National Preserve *
Sitka National Historical Park *

Wrangell–St. Elias National Park and Preserve *

Yukon–Charley Rivers National Preserve *

American Samoa

National Park of American Samoa *

Arizona

Arizona National Scenic Trail
Butterfield Overland National Historic Trail
Canyon de Chelly National Monument
Casa Grande Ruins National Monument
Chiricahua National Monument
Coronado National Memorial
Fort Bowie National Historic Site
Glen Canyon National Recreation Area
Grand Canyon–Parashant National Monument
Grand Canyon National Park
Hohokam Pima National Monument
Hubbell Trading Post National Historic Site
Lake Mead National Recreation Area
Montezuma Castle National Monument
Navajo National Monument
Old Spanish National Historic Trail
Organ Pipe Cactus National Monument
Petrified Forest National Park
Pipe Spring National Monument
Saguaro National Park
Santa Cruz Valley National Heritage Area
Sunset Crater Volcano National Monument
Tonto National Monument
Tumacacori National Historical Park
Tuzigoot National Monument
Walnut Canyon National Monument
Wupatki National Monument
Yuma Crossing National Heritage Area

Arkansas

Arkansas Post National Memorial *
Buffalo National River *
Butterfield Overland National Historic Trail
Charleston National Commemorative Site
Fort Smith National Historic Site *
Hot Springs National Park
Little Rock Central High School National Historic Site
Mississippi Delta National Heritage Area
Pea Ridge National Military Park
President William Jefferson Clinton Birthplace Home National Historic Site
Trail of Tears National Historic Trail

California

Butterfield Overland National Historic Trail
Cabrillo National Monument *
California National Historic Trail
Castle Mountains National Monument
Cesar E. Chavez National Monument
Channel Islands National Park *
Death Valley National Park
Devils Postpile National Monument
Eugene O'Neill National Historic Site
Fort Point National Historic Site *
Golden Gate National Recreation Area *
John Muir National Historic Site
Joshua Tree National Park
Juan Bautista de Anza National Historic Trail
Kings Canyon National Park
Lassen Volcanic National Park
Lava Beds National Monument
Manzanar National Historic Site
Mojave National Preserve
Muir Woods National Monument
Old Spanish National Historic Trail
Pacific Crest National Scenic Trail
Pinnacles National Park

Point Reyes National Seashore *
 Pony Express National Historic Trail
 Port Chicago Naval Magazine National Memorial *
 Redwood National Park *
 Roosevelt Campobello International Park
 Rosie the Riveter/World War II Home Front National Historical Park *
 Sacramento-San Joaquin Delta National Heritage Area
 San Francisco Maritime National Historical Park *
 Santa Monica Mountains National Recreation Area *
 Sequoia National Park
 Tule Lake National Monument
 Whiskeytown-Shasta-Trinity National Recreation Area
 Yosemite National Park

Colorado

Amache National Historic Site
 Bent's Old Fort National Historic Site
 Black Canyon of the Gunnison National Park
 Cache La Poudre River National Heritage Area
 California National Historic Trail
 Colorado National Monument
 Continental Divide National Scenic Trail
 Curecanti National Recreation Area
 Dinosaur National Monument
 Florissant Fossil Beds National Monument
 Great Sand Dunes National Park and Preserve
 Hovenweep National Monument
 Mesa Verde National Park
 Old Spanish National Historic Trail
 Pony Express National Historic Trail
 Rocky Mountain National Park
 Sand Creek Massacre National Historic Site
 Sangre de Cristo National Heritage Area
 Santa Fe National Historic Trail
 South Park National Heritage Area
 Yucca House National Monument

Connecticut

Appalachian National Scenic Trail *
 Coltsville National Historical Park
 New England National Scenic Trail
 The Last Green Valley National Heritage Corridor
 Upper Housatonic Valley National Heritage Area
 Washington-Rochambeau Revolutionary Route National Historic Trail
 Weir Farm National Historical Park

Delaware

Captain John Smith Chesapeake National Historic Trail
 First State National Historical Park *
 Washington-Rochambeau Revolutionary Route National Historic Trail

District of Columbia

Adams Memorial
 Belmont-Paul Women's Equality National Monument
 Captain John Smith Chesapeake National Historic Trail
 Carter G. Woodson Home National Historic Site
 Chesapeake and Ohio Canal National Historical Park *
 Constitution Gardens
 Desert Storm/Desert Shield Memorial
 Dwight D. Eisenhower Memorial
 Ford's Theatre National Historic Site

Franklin Delano Roosevelt Memorial *
 Frederick Douglass National Historic Site
 George Washington Memorial Parkway
 Global War on Terrorism Memorial
 Korean War Veterans Memorial *
 Lincoln Memorial *
 Lyndon Baines Johnson Memorial Grove on the Potomac *
 Martin Luther King Jr. Memorial *
 Mary McLeod Bethune Council House National Historic Site
 National Capital Parks—East *
 National Mall and Memorial Parks
 Pennsylvania Avenue National Historic Site
 Potomac Heritage National Scenic Trail
 Rock Creek Park
 Star-Spangled Banner National Historic Trail
 The White House and President's Park
 Theodore Roosevelt Island *
 Thomas Jefferson Memorial *
 Vietnam Veterans Memorial
 Washington-Rochambeau Revolutionary Route National Historic Trail
 Washington Monument *
 World War I Memorial
 World War II Memorial *

Florida

Big Cypress National Preserve *
 Biscayne National Park *
 Canaveral National Seashore *
 Castillo de San Marcos National Monument *
 De Soto National Memorial *
 Dry Tortugas National Park *
 Everglades National Park *
 Florida National Scenic Trail
 Fort Caroline National Memorial *
 Fort Matanzas National Monument *
 Gulf Islands National Seashore *
 Gullah/Geechee Cultural Heritage Corridor
 Timucuan Ecological and Historic Preserve *

Georgia

Andersonville National Historic Site
 Appalachian National Scenic Trail
 Arabia Mountain National Heritage Area
 Augusta Canal National Heritage Area
 Chattahoochee River National Recreation Area
 Chickamauga and Chattanooga National Military Park *
 Cumberland Island National Seashore *
 Fort Frederica National Monument *
 Fort Pulaski National Monument *
 Gullah/Geechee Cultural Heritage Corridor
 Jimmy Carter National Historical Park
 Kennesaw Mountain National Battlefield Park
 Kettle Creek Battlefield
 Martin Luther King Jr. National Historical Park
 Ocmulgee Mounds National Historical Park *
 Trail of Tears National Historic Trail

Guam

War in the Pacific National Historical Park *

Hawaii

Ala Kahakai National Historic Trail
 Haleakalā National Park *
 Hawai'i Volcanoes National Park *
 Honouliuli National Historic Site
 Kalaupapa National Historical Park *
 Kaloko-Honōkahu National Historical Park *
 Pearl Harbor National Memorial *
 Pu'uhonua o Hōnaunau National Historical Park *

Pu'ukoholā Heiau National Historic Site *

Idaho

California National Historic Trail
 City of Rocks National Reserve
 Continental Divide National Scenic Trail
 Craters of the Moon National Monument and Preserve
 Hagerman Fossil Beds National Monument
 Lewis and Clark National Historic Trail
 Minidoka National Historic Site *
 Nez Perce (Nee-Me-Poo) National Historic Trail
 Nez Perce National Historical Park
 Oregon National Historic Trail
 Pacific Northwest National Scenic Trail
 Yellowstone National Park

Illinois

Abraham Lincoln National Heritage Area
 Chicago Portage National Historic Site
 Emmett Till and Mamie Till-Mobley National Monument
 Gateway Arch National Park *
 Illinois and Michigan Canal National Heritage Corridor
 Lewis and Clark National Historic Trail *
 Lincoln Home National Historic Site
 Mormon Pioneer National Historic Trail
 New Philadelphia National Historic Site
 Pullman National Historical Park
 Ronald Reagan Boyhood Home National Historic Site
 Trail of Tears National Historic Trail

Indiana

George Rogers Clark National Historical Park
 Indiana Dunes National Park *
 Kennedy-King National Commemorative Site
 Lewis and Clark National Historic Trail
 Lincoln Boyhood National Memorial

Iowa

America's Agricultural Heritage Partnership (Silos and Smokestacks National Heritage Area)
 Effigy Mounds National Monument *
 Herbert Hoover National Historic Site
 Lewis and Clark National Historic Trail
 Mormon Pioneer National Historic Trail

Kansas

Brown v. Board of Education National Historical Park
 California National Historic Trail
 Fort Larned National Historic Site
 Fort Scott National Historic Site
 Freedom's Frontier National Heritage Area
 Lewis and Clark National Historic Trail
 Nicodemus National Historic Site
 Oregon National Historic Trail
 Pony Express National Historic Trail
 Quindaro Townsite
 Santa Fe National Historic Trail
 Tallgrass Prairie National Preserve

Kentucky

Abraham Lincoln Birthplace National Historical Park
 Big South Fork National River and Recreation Area
 Camp Nelson National Monument *
 Cumberland Gap National Historical Park
 Fort Donelson National Battlefield *
 Lewis and Clark National Historic Trail
 Mammoth Cave National Park *
 Mill Springs Battlefield National Monument *

Trail of Tears National Historic Trail

Louisiana

Atchafalaya National Heritage Area
Cane River Creole National Historical Park
Cane River National Heritage Area
El Camino Real de los Tejas National Historic Trail
Jean Lafitte National Historical Park and Preserve *
Mississippi Delta National Heritage Area
New Orleans Jazz National Historical Park
Poverty Point National Monument
Vicksburg National Military Park *

Maine

Acadia National Park *
Appalachian National Scenic Trail
Katahdin Woods and Waters National Monument
Saint Croix Island International Historic Site

Maryland

Antietam National Battlefield
Appalachian Forest National Heritage Area
Appalachian National Scenic Trail
Assateague Island National Seashore *
Baltimore National Heritage Area
Captain John Smith Chesapeake National Historic Trail
Catoctin Mountain Park
Chesapeake and Ohio Canal National Historical Park
Clara Barton National Historic Site
Fort McHenry National Monument and Historic Shrine *
Fort Washington Park *
George Washington Memorial Parkway *
Greenbelt Park
Hampton National Historic Site
Harpers Ferry National Historical Park
Harriet Tubman Underground Railroad National Historical Park
Journey Through Hallowed Ground National Heritage Area
Monocacy National Battlefield
National Capital Parks—East *
Piscataway Park *
Potomac Heritage National Scenic Trail
Star-Spangled Banner National Historic Trail
Thomas Stone National Historic Site
Washington-Rochambeau Revolutionary Route National Historic Trail

Massachusetts

Adams National Historical Park
Appalachian National Scenic Trail
Boston African American National Historic Site *
Boston Harbor Islands National Recreation Area *
Boston National Historical Park *
Cape Cod National Seashore *
Essex National Heritage Area
Frederick Law Olmsted National Historic Site
Freedom's Way National Heritage Area
John Fitzgerald Kennedy National Historic Site
John H. Chafee Blackstone River Valley National Heritage Corridor
Longfellow—Washington's Headquarters National Historic Site
Lowell National Historical Park
Minute Man National Historical Park
New Bedford Whaling National Historical Park *
New England National Scenic Trail

Salem Maritime National Historic Site *
Saugus Iron Works National Historic Site *
Springfield Armory National Historic Site
The Last Green Valley National Heritage Corridor
Upper Housatonic Valley National Heritage Area
Washington-Rochambeau Revolutionary Route National Historic Trail

Michigan

Father Marquette National Memorial
Isle Royale National Park *
Keweenaw National Historical Park *
MotorCities National Heritage Area
North Country National Scenic Trail
Pictured Rocks National Lakeshore *
River Raisin National Battlefield Park *
Sleeping Bear Dunes National Lakeshore *

Minnesota

Grand Portage National Monument *
Mississippi National River and Recreation Areas *
North Country National Scenic Trail
Pipestone National Monument
Saint Croix National Scenic Riverway
Voyageurs National Park *

Mississippi

Brices Cross Roads National Battlefield Site
Emmett Till and Mamie Till-Mobley National Monument
Gulf Islands National Seashore
Medgar and Myrlie Evers Home National Monument
Mississippi Delta National Heritage Area
Mississippi Gulf Coast National Heritage Area
Mississippi Hills National Heritage Area
Natchez National Historical Park *
Natchez Trace National Scenic Trail
Natchez Trace Parkway
Tupelo National Battlefield
Vicksburg National Military Park

Missouri

Butterfield Overland National Historic Trail
California National Historic Trail
Freedom's Frontier National Heritage Area
Gateway Arch National Park
George Washington Carver National Monument
Harry S Truman National Historic Site
Lewis and Clark National Historic Trail
Oregon National Historic Trail
Ozark National Scenic Riverways
Pony Express National Historic Trail
Santa Fe National Historic Trail
St. Genevieve National Historical Park
Trail of Tears National Historic Trail
Ulysses S. Grant National Historic Site
Wilson's Creek National Battlefield

Montana

Big Hole National Battlefield
Bighorn Canyon National Recreation Area
Continental Divide National Scenic Trail
Fort Union Trading Post National Historic Site
Glacier National Park
Grant-Kohrs Ranch National Historic Site
Lewis and Clark National Historic Trail
Little Bighorn Battlefield National Monument
Nez Perce (Nee-Me-Poo) National Historic Trail
Nez Perce National Historical Park

Pacific Northwest National Scenic Trail
Yellowstone National Park

Nebraska

Agate Fossil Beds National Monument
California National Historic Trail
Chimney Rock National Historic Site
Homestead National Historical Park
Lewis and Clark National Historic Trail
Missouri National Recreational River *
Mormon Pioneer National Historic Trail
Niobrara National Scenic River
Oregon National Historic Trail
Pony Express National Historic Trail
Scotts Bluff National Monument

Nevada

California National Historic Trail
Death Valley National Park
Great Basin National Heritage Route
Great Basin National Park
Lake Mead National Recreation Area
Old Spanish National Historic Trail
Pony Express National Historic Trail
Tule Springs Fossil Beds National Monument

New Hampshire

Appalachian National Scenic Trail
Freedom's Way National Heritage Area
Saint-Gaudens National Historical Park

New Jersey

Appalachian National Scenic Trail
Crossroads of the American Revolution National Heritage Area
Delaware Water Gap National Recreation Area
Gateway National Recreation Area *
Great Egg Harbor National Scenic and Recreational River
Middle Delaware National Scenic River
Morristown National Historical Park
Paterson Great Falls National Historical Park
Pinelands National Reserve
Statue of Liberty National Monument *
Thomas Edison National Historical Park
Washington-Rochambeau Revolutionary Route National Historic Trail

New Mexico

Aztec Ruins National Monument
Bandelier National Monument
Butterfield Overland National Historic Trail
Capulin Volcano National Monument
Carlsbad Caverns National Park
Chaco Culture National Historical Park
Continental Divide National Scenic Trail
El Camino de Tierra Adentro National Historic Trail
El Malpais National Monument
El Morro National Monument
Fort Union National Monument
Gila Cliff Dwellings National Monument
Manhattan Project National Historical Park
Northern Rio Grande National Heritage Area
Old Spanish National Historic Trail
Pecos National Historical Park
Petroglyph National Monument
Salinas Pueblo Missions National Monument
Santa Fe National Historic Trail
Valles Caldera National Preserve
White Sands National Park

New York

African Burial Ground National Monument
Appalachian National Scenic Trail
Captain John Smith Chesapeake National Historic Trail

Castle Clinton National Monument *

Champlain Valley National Heritage Partnership

Eleanor Roosevelt National Historic Site

Erie Canalway National Heritage Corridor

Federal Hall National Memorial

Fire Island National Seashore *

Fort Stanwix National Monument

Gateway National Recreation Area *

General Grant National Memorial

Governors Island National Monument *

Hamilton Grange National Memorial

Harriet Tubman National Historical Park

Home of Franklin D. Roosevelt National Historic Site *

Kate Mullany National Historic Site

Lower East Side Tenement National Historic Site

Martin Van Buren National Historic Site

Maurice D. Hinchey Hudson River National Heritage Area

Middle Delaware National Scenic River

Niagara Falls National Heritage Area

North Country National Scenic Trail

Sagamore Hill National Historic Site *

Saint Paul's Church National Historic Site

Saratoga National Historical Park *

Statue of Liberty National Monument *

Stonewall National Monument

Theodore Roosevelt Birthplace National Historic Site

Theodore Roosevelt Inaugural National Historic Site

Thomas Cole National Historic Site

Upper Delaware Scenic and Recreational River

Vanderbilt Mansion National Historic Site *

Washington-Rochambeau Revolutionary Route National Historic Trail

Women's Rights National Historical Park *

North Carolina

Appalachian National Scenic Trail

Blue Ridge National Heritage Area

Blue Ridge Parkway

Cape Hatteras National Seashore *

Cape Lookout National Seashore *

Carl Sandburg Home National Historic Site

Fort Raleigh National Historic Site *

Great Smoky Mountains National Park

Guilford Courthouse National Military Park

Gullah/Geechee Cultural Heritage Corridor

Moore Creek National Battlefield

Overmountain Victory National Historic Trail

Trail of Tears National Historic Trail

Wright Brothers National Memorial

North Dakota

Fort Union Trading Post National Historic Site

International Peace Garden

Knife River Indian Villages National Historic Site

Lewis and Clark National Historic Trail

North Country National Scenic Trail

Northern Plains National Heritage Area

Theodore Roosevelt National Park

Northern Mariana Islands

American Memorial Park *

Ohio

Charles Young Buffalo Soldiers National Monument

Cuyahoga Valley National Park

Dayton Aviation Heritage National Historical Park

Fallen Timbers Battlefield and Fort Miamis National Historic Site

First Ladies National Historic Site

Hopewell Culture National Historical Park

James A. Garfield National Historic Site

Lewis and Clark National Historic Trail

National Aviation National Heritage Area

North Country National Scenic Trail

Ohio and Erie National Heritage Canalway

Perry's Victory and International Peace Memorial *

William Howard Taft National Historic Site

Oklahoma

Butterfield Overland National Historic Trail

Chickasaw National Recreation Area

Fort Smith National Historic Site

Oklahoma City National Memorial

Santa Fe National Historic Trail

Trail of Tears National Historic Trail

Washita Battlefield National Historic Site

Oregon

California National Historic Trail

Crater Lake National Park

John Day Fossil Beds National Monument

Lewis and Clark National Historic Trail

Lewis and Clark National Historical Park *

Nez Perce (Nee-Me-Poo) National Historic Trail

Nez Perce National Historical Park

Oregon Caves National Monument and Preserve

Oregon National Historic Trail

Pacific Crest National Scenic Trail

Pennsylvania

Allegheny Portage Railroad National Historic Site

Appalachian National Scenic Trail

Benjamin Franklin National Memorial

Captain John Smith Chesapeake National Historic Trail

Delaware and Lehigh National Heritage Corridor

Delaware Water Gap National Recreation Area

Edgar Allan Poe National Historic Site

Eisenhower National Historic Site

Flight 93 National Memorial

Fort Necessity National Battlefield

Friendship Hill National Historic Site *

Gettysburg National Military Park

Gloria Dei (Old Swedes') Church National Historic Site

Hopewell Furnace National Historic Site

Independence National Historical Park *

Johnstown Flood National Memorial

Journey Through Hallowed Ground National Heritage Area

Lackawanna Valley National Heritage Area

Lewis and Clark National Historic Trail

Middle Delaware National Scenic River

North Country National Scenic Trail

Oil Region National Heritage Area

Potomac Heritage National Scenic Trail

Rivers of Steel National Heritage Area

Schuylkill River Valley National Heritage Area

Southwestern Pennsylvania Industrial Heritage Route (Paths of Progress National Heritage Route)

Steamtown National Historic Site

Susquehanna National Heritage Area

Thaddeus Kosciuszko National Memorial

Upper Delaware Scenic and Recreational River

Valley Forge National Historical Park

Washington-Rochambeau Revolutionary Route National Historic Trail

Puerto Rico

San Juan National Historic Site *

Rhode Island

Blackstone River Valley National Historical Park

John H. Chafee Blackstone River Valley National Heritage Corridor

Roger Williams National Memorial

Touro Synagogue National Historic Site

Washington-Rochambeau Revolutionary Route National Historic Trail

South Carolina

Charles Pinckney National Historic Site

Congaree National Park *

Cowpens National Battlefield

Eutaw Springs Battlefield

Fort Sumter and Fort Moultrie National Historical Park *

Gullah/Geechee Cultural Heritage Co

Historic Camden Revolutionary War Site

Kings Mountain National Military Park

Ninety Six National Historic Site

Overmountain Victory National Historic Trail

Reconstruction Era National Historical Park *

South Carolina National Heritage Corridor

South Dakota

Badlands National Park

Jewel Cave National Monument

Lewis and Clark National Historic Trail

Minuteman Missile National Historic Site

Missouri National Recreational River

Mount Rushmore National Memorial

Wind Cave National Park

Tennessee

Andrew Johnson National Historic Site

Appalachian National Scenic Trail

Big South Fork National River and Recreation Area

Chickamauga and Chattanooga National Military Park

Cumberland Gap National Historical Park

Fort Donelson National Battlefield

Great Smoky Mountains National Park

Manhattan Project National Historical Park *

Natchez Trace National Scenic Trail

Overmountain Victory National Historic Trail

Parkers Crossroads Battlefield

Shiloh National Military Park *

Stones River National Battlefield

Tennessee Civil War National Heritage Area

Trail of Tears National Historic Trail

Texas

Alibates Flint Quarries National Monument

Amistad National Recreation Area *

Big Bend National Park

Big Thicket National Preserve

Blackwell School National Historic Site

Butterfield Overland National Historic Trail

Chamizal National Memorial

El Camino de Tierra Adentro National Historic Trail

El Camino Real de los Tejas National Historic Trail

Fort Davis National Historic Site

Guadalupe Mountains National Park

Lake Meredith National Recreation Area

Lyndon B. Johnson National Historical Park

Padre Island National Seashore *

Palo Alto Battlefield National Historical Park
Rio Grande Wild and Scenic River
San Antonio Missions National Historical
Park
Waco Mammoth National Monument

Utah

Arches National Park
Bryce Canyon National Park
California National Historic Trail
Canyonlands National Park
Capitol Reef National Park
Cedar Breaks National Monument
Dinosaur National Monument
Glen Canyon National Recreation Area
Golden Spike National Historical Park
Great Basin National Heritage Route
Hovenweep National Monument
Mormon Pioneer National Heritage Area
Mormon Pioneer National Historic Trail
Natural Bridges National Monument
Old Spanish National Historic Trail
Pony Express National Historic Trail
Rainbow Bridge National Monument
Timpanogos Cave National Monument
Zion National Park

Vermont

Appalachian National Scenic Trail
Champlain Valley National Heritage
Partnership
Marsh-Billings-Rockefeller National
Historical Park
North Country National Scenic Trail

Virgin Islands

Buck Island Reef National Monument *
Christiansted National Historic Site *
Salt River Bay National Historical Park and
Ecological Preserve *
Virgin Islands Coral Reef National
Monument *
Virgin Islands National Park *

Virginia

Appalachian National Scenic Trail
Appomattox Court House National Historical
Park
Arlington House, The Robert E. Lee Memorial
Assateague Island National Seashore
Blue Ridge Parkway
Booker T. Washington National Monument
Captain John Smith Chesapeake National
Historic Trail
Cedar Creek and Belle Grove National
Historical Park
Colonial National Historical Park *
Cumberland Gap National Historical Park
Fort Monroe National Monument *
Fredericksburg and Spotsylvania County
Battlefields Memorial National Military
Park *
George Washington Birthplace National
Monument *
George Washington Memorial Parkway
Green Springs National Historic Landmark
District
Harpers Ferry National Historical Park
Jamestown National Historic Site
Journey Through Hallowed Ground National
Heritage Area
Maggie L. Walker National Historic Site
Manassas National Battlefield Park
Natural Bridge State Park
Overmountain Victory National Historic Trail
Petersburg National Battlefield *
Potomac Heritage National Scenic Trail

Prince William Forest Park
Red Hill Patrick Henry National Memorial
Richmond National Battlefield Park *
Shenandoah National Park
Shenandoah Valley Battlefields National
Historic District
Star-Spangled Banner National Historic Trail
Washington-Rochambeau Revolutionary
Route National Historic Trail
Wolf Trap National Park for the Performing
Arts

Washington

Ebey's Landing National Historical Reserve *
Fort Vancouver National Historic Site *
Klondike Gold Rush National Historical Park
Lake Chelan National Recreation Area
Lake Roosevelt National Recreation Area *
Lewis and Clark National Historic Trail
Lewis and Clark National Historical Park
Manhattan Project National Historical Park
Maritime Washington National Heritage Area
Mount Rainier National Park
Mountains to Sound Greenway National
Heritage Area
Nez Perce National Historical Park
North Cascades National Park
Olympic National Park *
Oregon National Historic Trail
Pacific Crest National Scenic Trail
Pacific Northwest National Scenic Trail
Ross Lake National Recreation Area
San Juan Island National Historical Park *
Whitman Mission National Historic Site
Wing Luke Museum of the Asian Pacific
American Experience

West Virginia

Appalachian Forest National Heritage Area
Appalachian National Scenic Trail
Bluestone National Scenic River
Chesapeake and Ohio Canal National
Historical Park
Gauley River National Recreation Area
Harpers Ferry National Historical Park
Lewis and Clark National Historic Trail
National Coal National Heritage Area
New River Gorge National Park and Preserve
Wheeling National Heritage Area

Wisconsin

Apostle Islands National Lakeshore *
Ice Age National Scenic Trail
Ice Age National Scientific Reserve
North Country National Scenic Trail
Saint Croix National Scenic Riverway

Wyoming

Bighorn Canyon National Recreation Area
California National Historic Trail
Continental Divide National Scenic Trail
Devils Tower National Monument
Fort Laramie National Historic Site
Fossil Butte National Monument
Grand Teton National Park
John D. Rockefeller Jr. Memorial Parkway
Mormon Pioneer National Historic Trail
Nez Perce (Nee-Me-Poo) National Historic
Trail
Oregon National Historic Trail
Pony Express National Historic Trail
Yellowstone National Park

A.4 National Wildlife Refuges

Alabama

Bon Secour National Wildlife Refuge *

Cahaba River National Wildlife Refuge
Choctaw National Wildlife Refuge *
Eufaula National Wildlife Refuge *
Fern Cave National Wildlife Refuge
Grand Bay National Wildlife Refuge *
Key Cave National Wildlife Refuge *
Mountain Longleaf National Wildlife Refuge
Sauta Cave National Wildlife Refuge
Watercress Darter National Wildlife Refuge
Wheeler National Wildlife Refuge *

Alaska

Alaska Maritime National Wildlife Refuge *
Alaska Peninsula National Wildlife Refuge *
Arctic National Wildlife Refuge *
Becharof National Wildlife Refuge *
Innoko National Wildlife Refuge *
Izembek National Wildlife Refuge *
Kanuti National Wildlife Refuge *
Kenai National Wildlife Refuge *
Kodiak National Wildlife Refuge *
Koyukuk National Wildlife Refuge *
Nowitna National Wildlife Refuge *
Selawik National Wildlife Refuge *
Tetlin National Wildlife Refuge
Togiak National Wildlife Refuge *
Yukon Delta National Wildlife Refuge *
Yukon Flats National Wildlife Refuge *

American Samoa

Rose Atoll National Wildlife Refuge *

Arizona

Bill Williams River National Wildlife Refuge
Buenos Aires National Wildlife Refuge
Cabeza Prieta National Wildlife Refuge
Cibola National Wildlife Refuge
Havas National Wildlife Refuge
Imperial National Wildlife Refuge
Kofa National Wildlife Refuge
Leslie Canyon National Wildlife Refuge
San Bernardino National Wildlife Refuge

Arkansas

Bald Knob National Wildlife Refuge
Big Lake National Wildlife Refuge
Cache River National Wildlife Refuge *
Dale Bumpers White River National Wildlife
Refuge *
Felsenthal National Wildlife Refuge *
Holla Bend National Wildlife Refuge *
Logan Cave National Wildlife Refuge
Overflow National Wildlife Refuge
Pond Creek National Wildlife Refuge
Wapanocca National Wildlife Refuge

California

Antioch Dunes National Wildlife Refuge *
Bitter Creek National Wildlife Refuge
Blue Ridge National Wildlife Refuge
Butte Sink Wildlife Management Area
Castle Rock National Wildlife Refuge *
Cibola National Wildlife Refuge
Clear Lake National Wildlife Refuge
Coachella Valley National Wildlife Refuge
Colusa National Wildlife Refuge
Delevan National Wildlife Refuge
Don Edwards San Francisco Bay National
Wildlife Refuge *
Ellicott Slough National Wildlife Refuge
Farallon Islands National Wildlife Refuge *
Grasslands Wildlife Management Area
Guadalupe-Nipomo Dunes National Wildlife
Refuge *
Havas National Wildlife Refuge
Hopper Mountain National Wildlife Refuge
Humboldt Bay National Wildlife Refuge *

Imperial National Wildlife Refuge
Kern National Wildlife Refuge
Lower Klamath National Wildlife Refuge
Marin Islands National Wildlife Refuge *
Merced National Wildlife Refuge
Modoc National Wildlife Refuge
Pixley National Wildlife Refuge
Sacramento National Wildlife Refuge
Sacramento River National Wildlife Refuge *
Salinas River National Wildlife Refuge *
San Diego Bay National Wildlife Refuge *
San Diego National Wildlife Refuge
San Joaquin River National Wildlife Refuge
San Luis National Wildlife Refuge
San Pablo Bay National Wildlife Refuge *
Seal Beach National Wildlife Refuge *
Sonny Bono Salton Sea National Wildlife Refuge
Steve Thompson North Central Valley Wildlife Management Area *
Stone Lakes National Wildlife Refuge *
Sutter National Wildlife Refuge
Tijuana Slough National Wildlife Refuge *
Tulare Basin Wildlife Management Area
Tule Lake National Wildlife Refuge
Willow Creek-Lurline Wildlife Management Area

Colorado

Alamosa National Wildlife Refuge
Arapaho National Wildlife Refuge
Baca National Wildlife Refuge
Browns Park National Wildlife Refuge
Colorado River Wildlife Management Area
Monte Vista National Wildlife Refuge
Rocky Flats National Wildlife Refuge
Rocky Mountain Arsenal National Wildlife Refuge
San Luis Valley Conservation Area
Sangre De Cristo Conservation Area
Two Ponds National Wildlife Refuge

Connecticut

Great Thicket National Wildlife Refuge *
Silvio O. Conte National Fish And Wildlife Refuge
Stewart B. Mckinney National Wildlife Refuge *

Delaware

Bombay Hook National Wildlife Refuge *
Prime Hook National Wildlife Refuge *

Florida

Archie Carr National Wildlife Refuge *
Arthur R. Marshall Loxahatchee National Wildlife Refuge
Caloosahatchee National Wildlife Refuge *
Cedar Keys National Wildlife Refuge *
Chassahowitzka National Wildlife Refuge *
Crocodile Lake National Wildlife Refuge *
Crystal River National Wildlife Refuge *
Egmont Key National Wildlife Refuge *
Everglades Headwaters National Wildlife Refuge And Conservation Area
Everglades To Gulf Conservation Area
Florida Panther National Wildlife Refuge
Great White Heron National Wildlife Refuge *
Island Bay National Wildlife Refuge *
J. N. Ding Darling National Wildlife Refuge *
Key West National Wildlife Refuge
Lake Wales Ridge National Wildlife Refuge
Lake Woodruff National Wildlife Refuge *
Lower Suwannee National Wildlife Refuge *
Matlacha Pass National Wildlife Refuge *
Merritt Island National Wildlife Refuge *

Nathaniel P. Reed Hobe Sound National Wildlife Refuge *
National Key Deer Refuge *
Okefenokee National Wildlife Refuge
Passage Key National Wildlife Refuge *
Pelican Island National Wildlife Refuge *
Pine Island National Wildlife Refuge *
Pinellas National Wildlife Refuge *
St. Johns National Wildlife Refuge
St. Marks National Wildlife Refuge *
St. Vincent National Wildlife Refuge *
Ten Thousand Islands National Wildlife Refuge *

Georgia

Banks Lake National Wildlife Refuge
Blackbeard Island National Wildlife Refuge *
Bond Swamp National Wildlife Refuge *
Eufaula National Wildlife Refuge *
Harris Neck National Wildlife Refuge
Okefenokee National Wildlife Refuge
Piedmont National Wildlife Refuge
Savannah National Wildlife Refuge *
Wassaw National Wildlife Refuge *
Wolf Island National Wildlife Refuge *

Guam

Guam National Wildlife Refuge *

Hawaii

Hakalau Forest National Wildlife Refuge
Hanalei National Wildlife Refuge
Hawaiian Islands National Wildlife Refuge *
Hul'ia National Wildlife Refuge
James Campbell National Wildlife Refuge *
Kakahai'a National Wildlife Refuge *
Kelia Pond National Wildlife Refuge *
Kilauea Point National Wildlife Refuge *
Ohahu Forest National Wildlife Refuge
Pearl Harbor National Wildlife Refuge *

Idaho

Bear Lake National Wildlife Refuge
Bear River Watershed Conservation Area
Camas National Wildlife Refuge
Deer Flat National Wildlife Refuge
Grays Lake National Wildlife Refuge
Kootenai National Wildlife Refuge
Minidoka National Wildlife Refuge
Oxford Slough Waterfowl Production Area

Illinois

Chautauqua National Wildlife Refuge *
Clarence Cannon National Wildlife Refuge *
Crab Orchard National Wildlife Refuge
Cypress Creek National Wildlife Refuge *
Emiquon National Wildlife Refuge *
Great River National Wildlife Refuge *
Hackmatack National Wildlife Refuge
Kankakee National Wildlife Refuge And Conservation Area
Meredosia National Wildlife Refuge *
Middle Mississippi River National Wildlife Refuge *
Port Louisa National Wildlife Refuge
Two Rivers National Wildlife Refuge *
Upper Mississippi River National Wildlife And Fish Refuge *

Indiana

Big Oaks National Wildlife Refuge
Muscatatuck National Wildlife Refuge
Patoka River National Wildlife Refuge and Management Area

Iowa

Desoto National Wildlife Refuge *

Driftless Area National Wildlife Refuge
Iowa Wetland Management District
Neal Smith National Wildlife Refuge
Northern Tallgrass Prairie National Wildlife Refuge
Port Louisa National Wildlife Refuge *
Union Slough National Wildlife Refuge
Upper Mississippi River National Wildlife and Fish Refuge *

Kansas

Flint Hills Legacy Conservation Area
Flint Hills National Wildlife Refuge
Kirwin National Wildlife Refuge
Marais Des Cygnes National Wildlife Refuge
Quivira National Wildlife Refuge

Kentucky

Clarks River National Wildlife Refuge
Green River National Wildlife Refuge *
Ohio River Islands National Wildlife Refuge *
Reelfoot National Wildlife Refuge

Louisiana

Atchafalaya National Wildlife Refuge
Bayou Cocodrie National Wildlife Refuge
Bayou Sauvage Urban National Wildlife Refuge *
Bayou Teche National Wildlife Refuge *
Big Branch Marsh National Wildlife Refuge *
Black Bayou Lake National Wildlife Refuge
Bogue Chitto National Wildlife Refuge *
Breton National Wildlife Refuge *
Cameron Prairie National Wildlife Refuge *
Cat Island National Wildlife Refuge *
Catahoula National Wildlife Refuge
D'Arbonne National Wildlife Refuge
Delta National Wildlife Refuge *
Grand Cote National Wildlife Refuge
Handy Brake National Wildlife Refuge
Lacassine National Wildlife Refuge *
Lake Ophelia National Wildlife Refuge *
Mandalay National Wildlife Refuge *
Red River National Wildlife Refuge *
Sabine National Wildlife Refuge *
Shell Keys National Wildlife Refuge *
Tensas River National Wildlife Refuge
Upper Ouachita National Wildlife Refuge *

Maine

Aroostook National Wildlife Refuge
Carlton Pond Waterfowl Production Area
Cross Island National Wildlife Refuge *
Franklin Island National Wildlife Refuge *
Great Thicket National Wildlife Refuge *
Moosehorn National Wildlife Refuge
Petit Manan National Wildlife Refuge *
Pond Island National Wildlife Refuge *
Rachel Carson National Wildlife Refuge *
Seal Island National Wildlife Refuge *
Sunkhaze Meadows National Wildlife Refuge
Umbagog National Wildlife Refuge

Maryland

Blackwater National Wildlife Refuge *
Chincoteague National Wildlife Refuge *
Eastern Neck National Wildlife Refuge *
Martin National Wildlife Refuge *
Patuxent Research Refuge
Susquehanna National Wildlife Refuge *

Massachusetts

Assabet River National Wildlife Refuge
Great Meadows National Wildlife Refuge
Mashpee National Wildlife Refuge
Massasoit National Wildlife Refuge
Monomoy National Wildlife Refuge *

Nantucket National Wildlife Refuge *
Nomans Land Island National Wildlife Refuge *
Oxbow National Wildlife Refuge
Parker River National Wildlife Refuge *
Silvio O. Conte National Fish And Wildlife Refuge *
Thacher Island National Wildlife Refuge *

Michigan

Detroit River International Wildlife Refuge *
Green Bay National Wildlife Refuge *
Harbor Island National Wildlife Refuge *
Huron National Wildlife Refuge *
Kirtland's Warbler Wildlife Management Area
Michigan Islands National Wildlife Refuge *
Michigan Wetland Management District
Seney National Wildlife Refuge *
Shiawassee National Wildlife Refuge

Minnesota

Agassiz National Wildlife Refuge
Big Stone National Wildlife Refuge
Big Stone Wetland Management District
Crane Meadows National Wildlife Refuge
Detroit Lakes Wetland Management District
Fergus Falls Wetland Management District
Glacial Ridge National Wildlife Refuge
Hamden Slough National Wildlife Refuge
Litchfield Wetland Management District
Mille Lacs National Wildlife Refuge
Minnesota Valley National Wildlife Refuge *
Minnesota Valley Wetland Management District
Morris Wetland Management District
Northern Tallgrass Prairie National Wildlife Refuge
Rice Lake National Wildlife Refuge
Rydell National Wildlife Refuge
Sherburne National Wildlife Refuge
Tamarac National Wildlife Refuge
Tamarac Wetland Management District
Upper Mississippi River National Wildlife And Fish Refuge *
Windom Wetland Management District

Mississippi

Bogue Chitto National Wildlife Refuge *
Coldwater River National Wildlife Refuge
Dahomey National Wildlife Refuge
Grand Bay National Wildlife Refuge *
Hillside National Wildlife Refuge
Holt Collier National Wildlife Refuge
Mathews Brake National Wildlife Refuge *
Mississippi Sandhill Crane National Wildlife Refuge *
Morgan Brake National Wildlife Refuge
Panther Swamp National Wildlife Refuge *
Sam D. Hamilton Noxubee National Wildlife Refuge
St. Catherine Creek National Wildlife Refuge *
Tallahatchie National Wildlife Refuge
Theodore Roosevelt National Wildlife Refuge *
Yazoo National Wildlife Refuge

Missouri

Big Muddy National Fish And Wildlife Refuge *
Clarence Cannon National Wildlife Refuge *
Great River National Wildlife Refuge
Loess Bluffs National Wildlife Refuge
Middle Mississippi River National Wildlife Refuge *
Mingo National Wildlife Refuge

Ozark Cavefish National Wildlife Refuge
Pilot Knob National Wildlife Refuge
Swan Lake National Wildlife Refuge
Two Rivers National Wildlife Refuge

Montana

Benton Lake National Wildlife Refuge
Benton Lake Wetland Management District
Black Coulee National Wildlife Refuge
Blackfoot Valley Conservation Area
Bowdoin National Wildlife Refuge
Bowdoin Wetland Management District
Charles M. Russell National Wildlife Refuge
Charles M. Russell Wetland Management District
Creedman Coulee National Wildlife Refuge
Grass Lake National Wildlife Refuge
Hailstone National Wildlife Refuge
Hewitt Lake National Wildlife Refuge
Lake Mason National Wildlife Refuge
Lake Thibadeau National Wildlife Refuge
Lamesteer National Wildlife Refuge
Lee Metcalf National Wildlife Refuge
Lost Trail Conservation Area
Lost Trail National Wildlife Refuge
Medicine Lake National Wildlife Refuge
Ninepipe National Wildlife Refuge
Northeast Montana Wetland Management District
Northwest Montana Wetland Management District
Pablo National Wildlife Refuge
Red Rock Lakes National Wildlife Refuge
Rocky Mountain Front Conservation Area
Swan River National Wildlife Refuge
Swan Valley Conservation Area
UL
Bend National Wildlife Refuge
War Horse National Wildlife Refuge

Nebraska

Boyer Chute National Wildlife Refuge *
Crescent Lake National Wildlife Refuge
Desoto National Wildlife Refuge *
Fort Niobrara National Wildlife Refuge
John W. and Louise Seier National Wildlife Refuge
Karl E. Mundt National Wildlife Refuge
North Platte National Wildlife Refuge
Rainwater Basin Wetland Management District
Valentine National Wildlife Refuge

Nevada

Anaho Island National Wildlife Refuge
Ash Meadows National Wildlife Refuge
Desert National Wildlife Refuge
Fallon National Wildlife Refuge
Moapa Valley National Wildlife Refuge
Pahranagat National Wildlife Refuge
Ruby Lake National Wildlife Refuge
Sheldon National Wildlife Refuge
Stillwater National Wildlife Refuge

New Hampshire

Great Bay National Wildlife Refuge *
John Hay National Wildlife Refuge
Silvio O. Conte National Fish And Wildlife Refuge *
Umbagog National Wildlife Refuge
Wapack National Wildlife Refuge

New Jersey

Cape May National Wildlife Refuge *
Edwin B. Forsythe National Wildlife Refuge *
Great Swamp National Wildlife Refuge

Supawna Meadows National Wildlife Refuge *
Wallkill River National Wildlife Refuge

New Mexico

Bitter Lake National Wildlife Refuge
Bosque Del Apache National Wildlife Refuge
Grulla National Wildlife Refuge
Las Vegas National Wildlife Refuge
Maxwell National Wildlife Refuge
Rio Mora National Wildlife Refuge and Conservation Area
San Andres National Wildlife Refuge
Sangre De Cristo Conservation Area
Sevilleta National Wildlife Refuge
Valle De Oro National Wildlife Refuge

New York

Amagansett National Wildlife Refuge *
Congressman Lester Wolff Oyster Bay National Wildlife Refuge *
Conscience Point National Wildlife Refuge *
Elizabeth A. Morton National Wildlife Refuge *
Great Thicket National Wildlife Refuge *
Iroquois National Wildlife Refuge
Lido Beach Wildlife Management Area *
Montezuma National Wildlife Refuge *
Seatuck National Wildlife Refuge *
Shawangunk Grasslands National Wildlife Refuge
Target Rock National Wildlife Refuge *
Wallkill River National Wildlife Refuge
Wertheim National Wildlife Refuge *

North Carolina

Alligator River National Wildlife Refuge *
Cedar Island National Wildlife Refuge *
Currituck National Wildlife Refuge *
Great Dismal Swamp National Wildlife Refuge *
Mackay Island National Wildlife Refuge *
Mattamuskeet National Wildlife Refuge
Mountain Bogs National Wildlife Refuge
Pea Island National Wildlife Refuge *
Pee Dee National Wildlife Refuge
Pocosin Lakes National Wildlife Refuge *
Roanoke River National Wildlife Refuge *
Swanquarter National Wildlife Refuge *

North Dakota

Appert Lake National Wildlife Refuge
Ardoch National Wildlife Refuge
Arrowwood National Wildlife Refuge
Arrowwood Wetland Management District
Audubon National Wildlife Refuge
Audubon Wetland Management District
Bone Hill National Wildlife Refuge
Brumba National Wildlife Refuge
Buffalo Lake National Wildlife Refuge
Camp Lake National Wildlife Refuge
Canfield Lake National Wildlife Refuge
Chase Lake National Wildlife Refuge
Chase Lake Wetland Management District
Cottonwood Lake National Wildlife Refuge
Crosby Wetland Management District
Dakota Grassland Conservation Area
Dakota Lake National Wildlife Refuge
Dakota Tallgrass Prairie Wildlife Management Area
Des Lacs National Wildlife Refuge
Devils Lake Wetland Management District
Florence Lake National Wildlife Refuge
Half-Way Lake National Wildlife Refuge
Hiddenwood National Wildlife Refuge
Hobart Lake National Wildlife Refuge
Hutchinson Lake National Wildlife Refuge

J. Clark Salyer National Wildlife Refuge
 J. Clark Salyer Wetland Management District
 Johnson Lake National Wildlife Refuge
 Kellys Slough National Wildlife Refuge
 Kulm Wetland Management District
 Lake Alice National Wildlife Refuge
 Lake George National Wildlife Refuge
 Lake Ilo National Wildlife Refuge
 Lake Nettie National Wildlife Refuge
 Lake Otis National Wildlife Refuge
 Lake Patricia National Wildlife Refuge
 Lake Zahl National Wildlife Refuge
 Lambs Lake National Wildlife Refuge
 Little Goose National Wildlife Refuge
 Long Lake National Wildlife Refuge
 Long Lake Wetland Management District
 Lords Lake National Wildlife Refuge
 Lost Lake National Wildlife Refuge
 Lostwood National Wildlife Refuge
 Lostwood Wetland Management District
 Maple River National Wildlife Refuge
 Mclean National Wildlife Refuge
 North Dakota Wildlife Management Area
 Pleasant Lake National Wildlife Refuge
 Pretty Rock National Wildlife Refuge
 Rabb Lake National Wildlife Refuge
 Rock Lake National Wildlife Refuge
 Rose Lake National Wildlife Refuge
 School Section Lake National Wildlife Refuge
 Shell Lake National Wildlife Refuge
 Sheyenne Lake National Wildlife Refuge
 Sibley Lake National Wildlife Refuge
 Silver Lake National Wildlife Refuge
 Slade National Wildlife Refuge
 Snyder Lake National Wildlife Refuge
 Springwater National Wildlife Refuge
 Stewart Lake National Wildlife Refuge
 Stoney Slough National Wildlife Refuge
 Storm Lake National Wildlife Refuge
 Stump Lake National Wildlife Refuge
 Sunburst Lake National Wildlife Refuge
 Tewaukon National Wildlife Refuge
 Tewaukon Wetland Management District
 Tomahawk National Wildlife Refuge
 Upper Souris National Wildlife Refuge
 Valley City Wetland Management District
 White Horse Hill National Game Preserve
 White Lake National Wildlife Refuge
 Wild Rice Lake National Wildlife Refuge
 Willow Lake National Wildlife Refuge
 Wintering River National Wildlife Refuge
 Wood Lake National Wildlife Refuge

Ohio

Cedar Point National Wildlife Refuge *
 Ottawa National Wildlife Refuge *
 West Sister Island National Wildlife Refuge *

Oklahoma

Deep Fork National Wildlife Refuge
 Little River National Wildlife Refuge
 Optima National Wildlife Refuge
 Ozark Plateau National Wildlife Refuge
 Salt Plains National Wildlife Refuge
 Sequoyah National Wildlife Refuge *
 Tishomingo National Wildlife Refuge
 Washita National Wildlife Refuge
 Wichita Mountains Wildlife Refuge

Oregon

Ankeny National Wildlife Refuge *
 Bandon Marsh National Wildlife Refuge *
 Baskett Slough National Wildlife Refuge
 Bear Valley National Wildlife Refuge
 Cape Meares National Wildlife Refuge *
 Cold Springs National Wildlife Refuge
 Deer Flat National Wildlife Refuge

Hart Mountain National Antelope Refuge
 Julia Butler Hansen Refuge For The
 Columbian White Tail Deer *
 Klamath Marsh National Wildlife Refuge
 Lewis And Clark National Wildlife Refuge *
 Lower Klamath National Wildlife Refuge
 Malheur National Wildlife Refuge
 Mckay Creek National Wildlife Refuge
 McNary National Wildlife Refuge *
 Nestucca Bay National Wildlife Refuge *
 Oregon Islands National Wildlife Refuge *
 Sheldon National Wildlife Refuge
 Siletz Bay National Wildlife Refuge *
 Three Arch Rocks National Wildlife Refuge *
 Tualatin River National Wildlife Refuge
 Umatilla National Wildlife Refuge *
 Upper Klamath National Wildlife Refuge
 Wapato Lake National Wildlife Refuge
 William L. Finley National Wildlife Refuge

Pennsylvania

Cherry Valley National Wildlife Refuge
 Erie National Wildlife Refuge
 John Heinz National Wildlife Refuge At
 Tinicum
 Ohio River Islands National Wildlife Refuge *

Puerto Rico

Cabo Rojo National Wildlife Refuge *
 Culebra National Wildlife Refuge *
 Desecheo National Wildlife Refuge *
 Laguna Cartagena National Wildlife Refuge
 Vieques National Wildlife Refuge *

Rhode Island

Block Island National Wildlife Refuge *
 John H. Chafee National Wildlife Refuge
 Ninigret National Wildlife Refuge *
 Sachuest Point National Wildlife Refuge *
 Trustum Pond National Wildlife Refuge *

South Carolina

Cape Romain National Wildlife Refuge *
 Carolina Sandhills National Wildlife Refuge
 Ernest F. Hollings Ace Basin National
 Wildlife Refuge *
 Pinckney Island National Wildlife Refuge *
 Santee National Wildlife Refuge *
 Savannah National Wildlife Refuge *
 Tybee National Wildlife Refuge *
 Waccamaw National Wildlife Refuge *

South Dakota

Bear Butte National Wildlife Refuge
 Dakota Grassland Conservation Area
 Dakota Tallgrass Prairie Wildlife
 Management Area
 Huron Wetland Management District
 Karl E. Mundt National Wildlife Refuge
 Lacreek National Wildlife Refuge
 Lake Andes National Wildlife Refuge
 Lake Andes Wetland Management District
 Madison Wetland Management District
 Sand Lake National Wildlife Refuge
 Sand Lake Wetland Management District
 Waubay National Wildlife Refuge
 Waubay Wetland Management District

Tennessee

Chickasaw National Wildlife Refuge *
 Cross Creeks National Wildlife Refuge *
 Hatchie National Wildlife Refuge
 Lake Isom National Wildlife Refuge
 Lower Hatchie National Wildlife Refuge *
 Paint Rock River National Wildlife Refuge
 Reelfoot National Wildlife Refuge
 Tennessee National Wildlife Refuge *

Texas

Anahuac National Wildlife Refuge *
 Aransas National Wildlife Refuge *
 Attwater Prairie Chicken National Wildlife
 Refuge
 Balcones Canyonlands National Wildlife
 Refuge
 Big Boggy National Wildlife Refuge *
 Brazoria National Wildlife Refuge *
 Buffalo Lake National Wildlife Refuge
 Caddo Lake National Wildlife Refuge
 Grulla National Wildlife Refuge
 Hagerman National Wildlife Refuge
 Laguna Atascosa National Wildlife Refuge *
 Little Sandy National Wildlife Refuge
 Lower Rio Grande Valley National Wildlife
 Refuge *
 Mcfaddin National Wildlife Refuge *
 Moody National Wildlife Refuge *
 Muleshoe National Wildlife Refuge
 Neches River National Wildlife Refuge
 San Bernard National Wildlife Refuge *
 Santa Ana National Wildlife Refuge
 Texas Point National Wildlife Refuge *
 Trinity River National Wildlife Refuge *

United States Minor Outlying Islands

Baker Island National Wildlife Refuge *
 Howland Island National Wildlife Refuge *
 Jarvis Island National Wildlife Refuge *
 Johnston Atoll National Wildlife Refuge *
 Kingman Reef National Wildlife Refuge *
 Mariana Arc Of Fire National Wildlife
 Refuge *
 Mariana Trench National Wildlife Refuge
 Midway Atoll National Wildlife Refuge *
 Navassa Island National Wildlife Refuge *
 Palmyra Atoll National Wildlife Refuge *
 Wake Atoll National Wildlife Refuge *

Utah

Bear River Migratory Bird Refuge
 Bear River Watershed Conservation Area
 Colorado River Wildlife Management Area
 Fish Springs National Wildlife Refuge
 Ouray National Wildlife Refuge

Vermont

Missisquoi National Wildlife Refuge *
 Silvio O. Conte National Fish And Wildlife
 Refuge *

Virgin Islands

Buck Island National Wildlife Refuge *
 Green Cay National Wildlife Refuge *
 Sandy Point National Wildlife Refuge *

Virginia

Back Bay National Wildlife Refuge *
 Chincoteague National Wildlife Refuge *
 Eastern Shore Of Virginia National Wildlife
 Refuge *
 Elizabeth Hartwell Mason Neck National
 Wildlife Refuge *
 Featherstone National Wildlife Refuge *
 Fisherman Island National Wildlife Refuge *
 Great Dismal Swamp National Wildlife
 Refuge *
 James River National Wildlife Refuge *
 Mackay Island National Wildlife Refuge *
 Martin National Wildlife Refuge *
 Nansemond National Wildlife Refuge *
 Occoquan Bay National Wildlife Refuge *
 Plum Tree Island National Wildlife Refuge *
 Presquile National Wildlife Refuge *
 Rappahannock River Valley National
 Wildlife Refuge *

Wallops Island National Wildlife Refuge *

Washington

Billy Frank Jr. Nisqually National Wildlife Refuge *
Columbia National Wildlife Refuge
Conboy Lake National Wildlife Refuge
Copalis National Wildlife Refuge *
Dungeness National Wildlife Refuge *
Flattery Rocks National Wildlife Refuge *
Franz Lake National Wildlife Refuge *
Grays Harbor National Wildlife Refuge *
Julia Butler Hansen Refuge For The Columbian White Tail Deer
Little Pend Oreille National Wildlife Refuge
McNary National Wildlife Refuge *
Pierce National Wildlife Refuge
Protection Island National Wildlife Refuge *
Quillayute Needles National Wildlife Refuge *
Ridgefield National Wildlife Refuge *
Saddle Mountain National Wildlife Refuge
San Juan Islands National Wildlife Refuge *
Steigerwald Lake National Wildlife Refuge
Toppenish National Wildlife Refuge
Turnbull National Wildlife Refuge
Umatilla National Wildlife Refuge *
Willapa National Wildlife Refuge *

West Virginia

Canaan Valley National Wildlife Refuge
Ohio River Islands National Wildlife Refuge *

Wisconsin

Fox River National Wildlife Refuge
Gravel Island National Wildlife Refuge *
Green Bay National Wildlife Refuge *
Hackmatack National Wildlife Refuge
Horicon National Wildlife Refuge
Leopold Wetland Management District
Necedah National Wildlife Refuge
St. Croix Wetland Management District
Trempealeau National Wildlife Refuge *
Upper Mississippi River National Wildlife And Fish Refuge *
Whittlesey Creek National Wildlife Refuge *

Wyoming

Bamforth National Wildlife Refuge
Bear River Watershed Conservation Area
Cokeville Meadows National Wildlife Refuge
Hutton Lake National Wildlife Refuge
Mortenson Lake National Wildlife Refuge
National Elk Refuge
Pathfinder National Wildlife Refuge
Seedskaadee National Wildlife Refuge
Wyoming Toad Conservation Area

A.5 National Wilderness Areas

Alabama

Cheaha Wilderness
Dugger Mountain Wilderness
Sipsey Wilderness

Alaska

Aleutian Islands Wilderness *
Andreafsky Wilderness
Becharof Wilderness *
Bering Sea Wilderness *
Bogoslof Wilderness *
Chamisso Wilderness *
Chuck River Wilderness *
Coronation Island Wilderness *
Denali Wilderness
Endicott River Wilderness
Forrester Island Wilderness *

Gates of the Arctic Wilderness *

Glacier Bay Wilderness *
Hazy Islands Wilderness *
Innoko Wilderness
Izembek Wilderness *
Jay S. Hammond Wilderness *
Karta River Wilderness *
Katmai Wilderness *
Kenai Wilderness *
Kobuk Valley Wilderness *
Kootznoowoo Wilderness *
Koyukuk Wilderness *
Kuiu Wilderness *
Maurelle Islands Wilderness *
Misty Fjords National Monument Wilderness *
Mollie Beattie Wilderness *
Noatak Wilderness
Nunivak Wilderness *
Petersburg Creek-Duncan Salt Chuck Wilderness *
Pleasant/Lemururier/Inian Islands Wilderness *
Russell Fjord Wilderness *
Saint Lazarina Wilderness *
Selawik Wilderness
Semidi Wilderness *
Simeonof Wilderness *
South Baranof Wilderness *
South Etolin Wilderness *
South Prince of Wales Wilderness *
Stikine-LeConte Wilderness *
Tebenkof Bay Wilderness *
Togiak Wilderness
Tracy Arm-Fords Terror Wilderness *
Tuxedni Wilderness *
Unimak Wilderness *
Warren Island Wilderness *
West Chichagof-Yakobi Wilderness *
Wrangell-Saint Elias Wilderness *

Arizona

Apache Creek Wilderness
Aravaipa Canyon Wilderness
Arrastra Mountain Wilderness
Aubrey Peak Wilderness
Baboquivari Peak Wilderness
Bear Wallow Wilderness
Beaver Dam Mountains Wilderness
Big Horn Mountains Wilderness
Cabeza Prieta Wilderness
Castle Creek Wilderness
Cedar Bench Wilderness
Chiricahua National Monument Wilderness
Chiricahua Wilderness
Cottonwood Point Wilderness
Coyote Mountains Wilderness
Dos Cabezas Mountains Wilderness
Eagletail Mountains Wilderness
East Cactus Plain Wilderness
Escudilla Wilderness
Fishhooks Wilderness
Fossil Springs Wilderness
Four Peaks Wilderness
Galiuro Wilderness
Gibraltar Mountain Wilderness
Grand Wash Cliffs Wilderness
Granite Mountain Wilderness
Harcuvar Mountains Wilderness
Harquahala Mountains Wilderness
Hassayampa River Canyon Wilderness
Havasui Wilderness
Hells Canyon Wilderness
Hellsgate Wilderness
Hummingbird Springs Wilderness
Imperial Refuge Wilderness

Juniper Mesa Wilderness
Kachina Peaks Wilderness
Kanab Creek Wilderness
Kendrick Mountain Wilderness
Kofa Wilderness
Mazatzal Wilderness
Miller Peak Wilderness
Mount Baldy Wilderness
Mount Logan Wilderness
Mount Nutt Wilderness
Mount Tipton Wilderness
Mount Trumbull Wilderness
Mount Wilson Wilderness
Mt. Wrightson Wilderness
Muggins Mountain Wilderness
Munds Mountain Wilderness
Needle's Eye Wilderness
New Water Mountains Wilderness
North Maricopa Mountains Wilderness
North Santa Teresa Wilderness
Organ Pipe Cactus Wilderness
Paiute Wilderness
Pajarita Wilderness
Paria Canyon-Vermilion Cliffs Wilderness
Peloncillo Mountains Wilderness
Petrified Forest National Wilderness Area
Pine Mountain Wilderness
Pusch Ridge Wilderness
Rawhide Mountains Wilderness
Red Rock-Secret Mountain Wilderness
Redfield Canyon Wilderness
Rincon Mountain Wilderness
Saddle Mountain Wilderness
Saguaro Wilderness
Salome Wilderness
Salt River Canyon Wilderness
Santa Teresa Wilderness
Sierra Ancha Wilderness
Sierra Estrella Wilderness
Signal Mountain Wilderness
South Maricopa Mountains Wilderness
Strawberry Crater Wilderness
Superstition Wilderness
Swansea Wilderness
Sycamore Canyon Wilderness
Table Top Wilderness
Tres Alamos Wilderness
Trigo Mountain Wilderness
Upper Burro Creek Wilderness
Wabayuma Peak Wilderness
Warm Springs Wilderness
West Clear Creek Wilderness
Wet Beaver Wilderness
White Canyon Wilderness
Woodchute Wilderness
Woolsey Peak Wilderness

Arkansas

Big Lake Wilderness
Black Fork Mountain Wilderness
Buffalo National River Wilderness *
Caney Creek Wilderness
Dry Creek Wilderness
East Fork Wilderness
Flatside Wilderness
Hurricane Creek Wilderness
Leatherwood Wilderness
Poteau Mountain Wilderness
Richland Creek Wilderness
Upper Buffalo Wilderness

California

Agua Tibia Wilderness
Ansel Adams Wilderness
Argus Range Wilderness
Avawatz Mountains Wilderness

Beauty Mountain Wilderness
 Big Maria Mountains Wilderness
 Bigelow Cholla Garden Wilderness
 Bighorn Mountain Wilderness
 Black Mountain Wilderness
 Bright Star Wilderness
 Bristol Mountains Wilderness
 Bucks Lake Wilderness
 Buzzards Peak Wilderness
 Cache Creek Wilderness
 Cadiz Dunes Wilderness
 Cahuilla Mountain Wilderness
 Caribou Wilderness
 Carrizo Gorge Wilderness
 Carson-Iceberg Wilderness
 Castle Crags Wilderness
 Cedar Roughs Wilderness
 Chancelulla Wilderness
 Chemehuevi Mountains Wilderness
 Chimney Peak Wilderness
 Chuckwalla Mountains Wilderness
 Chumash Wilderness
 Cleghorn Lakes Wilderness
 Clipper Mountain Wilderness
 Coso Range Wilderness
 Coyote Mountains Wilderness
 Cucamonga Wilderness
 Darwin Falls Wilderness
 Dead Mountains Wilderness
 Death Valley Wilderness
 Desolation Wilderness
 Dick Smith Wilderness
 Dinkey Lakes Wilderness
 Domeland Wilderness
 El Paso Mountains Wilderness
 Elkhorn Ridge Wilderness
 Emigrant Wilderness
 Farallon Wilderness *
 Fish Creek Mountains Wilderness
 Funeral Mountains Wilderness
 Garcia Wilderness
 Golden Trout Wilderness
 Golden Valley Wilderness
 Granite Chief Wilderness
 Granite Mountain Wilderness
 Grass Valley Wilderness
 Great Falls Basin Wilderness
 Hain Wilderness
 Hauser Wilderness
 Havasu Wilderness
 Hollow Hills Wilderness
 Hoover Wilderness
 Ibex Wilderness
 Imperial Refuge Wilderness
 Indian Pass Wilderness
 Inyo Mountains Wilderness
 Ishi Wilderness
 Jacumba Wilderness *
 Jennie Lakes Wilderness
 John Krebs Wilderness
 John Muir Wilderness
 Joshua Tree Wilderness
 Kaiser Wilderness
 Kelso Dunes Wilderness
 Kiavah Wilderness
 King Range Wilderness *
 Kingston Range Wilderness
 Lassen Volcanic Wilderness
 Lava Beds Wilderness
 Little Chuckwalla Mountains Wilderness
 Little Picacho Wilderness
 Machesna Mountain Wilderness
 Magic Mountain Wilderness
 Malpais Mesa Wilderness
 Manly Peak Wilderness
 Marble Mountain Wilderness

Matilija Wilderness
 Mecca Hills Wilderness
 Mesquite Wilderness
 Milpitas Wash Wilderness
 Mojave Wilderness
 Mokelumne Wilderness
 Monarch Wilderness
 Mount Lassic Wilderness
 Mt. Shasta Wilderness
 Newberry Mountains Wilderness
 Nopah Range Wilderness
 North Algodones Dunes Wilderness
 North Fork Wilderness
 North Mesquite Mountains Wilderness
 Old Woman Mountains Wilderness
 Orocopia Mountains Wilderness
 Otay Mountain Wilderness *
 Owens Peak Wilderness
 Owens River Headwaters Wilderness
 Pahrump Valley Wilderness
 Palen/McCoy Wilderness
 Palo Verde Mountains Wilderness
 Phillip Burton Wilderness *
 Picacho Peak Wilderness
 Pine Creek Wilderness
 Pinto Mountains Wilderness
 Piper Mountain Wilderness
 Piute Mountains Wilderness
 Pleasant View Ridge Wilderness
 Red Buttes Wilderness
 Resting Spring Range Wilderness
 Rice Valley Wilderness
 Riverside Mountains Wilderness
 Rocks and Islands Wilderness *
 Rodman Mountains Wilderness
 Russian Wilderness
 Sacatar Trail Wilderness
 Saddle Peak Hills Wilderness
 San Gabriel Wilderness
 San Gorgonio Wilderness
 San Jacinto Wilderness
 San Mateo Canyon Wilderness
 San Rafael Wilderness
 Sanhedrin Wilderness
 Santa Lucia Wilderness
 Santa Rosa Wilderness
 Sawtooth Mountains Wilderness
 Sequoia-Kings Canyon Wilderness
 Sespe Wilderness
 Sheep Mountain Wilderness
 Sheephole Valley Wilderness
 Silver Peak Wilderness
 Siskiyou Wilderness
 Snow Mountain Wilderness
 Soda Mountains Wilderness
 South Fork Eel River Wilderness
 South Fork San Jacinto Wilderness
 South Nopah Range Wilderness
 South Sierra Wilderness
 South Warner Wilderness
 Stateline Wilderness
 Stepladder Mountains Wilderness
 Surprise Canyon Wilderness
 Sylvania Mountains Wilderness
 Thousand Lakes Wilderness
 Trilobite Wilderness
 Trinity Alps Wilderness
 Turtle Mountains Wilderness
 Ventana Wilderness
 Whipple Mountains Wilderness
 White Mountains Wilderness
 Yolla Bolly-Middle Eel Wilderness
 Yosemite Wilderness
 Yuki Wilderness

Colorado

Black Canyon of the Gunnison Wilderness

Black Ridge Canyons Wilderness
 Buffalo Peaks Wilderness
 Byers Peak Wilderness
 Cache La Poudre Wilderness
 Collegiate Peaks Wilderness
 Comanche Peak Wilderness
 Dominguez Canyon Wilderness
 Eagles Nest Wilderness
 Flat Tops Wilderness
 Fossil Ridge Wilderness
 Great Sand Dunes Wilderness
 Greenhorn Mountain Wilderness
 Gunnison Gorge Wilderness
 Hermosa Creek Wilderness
 Holy Cross Wilderness
 Hunter-Fryingpan Wilderness
 Indian Peaks Wilderness
 James Peak Wilderness
 La Garita Wilderness
 Lizard Head Wilderness
 Lost Creek Wilderness
 Maroon Bells-Snowmass Wilderness
 Mesa Verde Wilderness
 Mount Evans Wilderness
 Mount Massive Wilderness
 Mount Sneffels Wilderness
 Mount Zirkel Wilderness
 Neota Wilderness
 Never Summer Wilderness
 Platte River Wilderness
 Powderhorn Wilderness
 Ptarmigan Peak Wilderness
 Raggeds Wilderness
 Rawah Wilderness
 Rocky Mountain National Park Wilderness
 Sangre de Cristo Wilderness
 Sarvis Creek Wilderness
 South San Juan Wilderness
 Spanish Peaks Wilderness
 Uncompahgre Wilderness
 Vasquez Peak Wilderness
 Weminuche Wilderness
 West Elk Wilderness

Florida

Alexander Springs Wilderness *
 Big Gum Swamp Wilderness
 Billies Bay Wilderness
 Bradwell Bay Wilderness
 Cedar Keys Wilderness *
 Chassahowitzka Wilderness *
 Florida Keys Wilderness *
 Island Bay Wilderness *
 J.N. "Ding" Darling Wilderness *
 Juniper Prairie Wilderness
 Lake Woodruff Wilderness *
 Little Lake George Wilderness *
 Marjory Stoneman Douglas Wilderness *
 Mud Swamp/New River Wilderness
 Passage Key Wilderness *
 Pelican Island Wilderness *
 St. Marks Wilderness *

Georgia

Big Frog Wilderness
 Blackbeard Island Wilderness *
 Blood Mountain Wilderness
 Brasstown Wilderness
 Cohutta Wilderness
 Cumberland Island Wilderness *
 Ellicott Rock Wilderness
 Mark Trail Wilderness
 Okefenokee Wilderness
 Raven Cliffs Wilderness
 Rich Mountain Wilderness
 Southern Nantahala Wilderness

Tray Mountain Wilderness
Wolf Island Wilderness *

Hawaii

Haleakalā Wilderness
Hawai'i Volcanoes Wilderness *

Idaho

Big Jacks Creek Wilderness
Bruneau-Jarbridge Rivers Wilderness
Cecil D. Andrus-White Clouds Wilderness
Craters of the Moon National Wilderness
Area
Frank Church-River of No Return Wilderness
Gospel-Hump Wilderness
Hells Canyon Wilderness
Hemingway-Boulders Wilderness
Jim McClure-Jerry Peak Wilderness
Little Jacks Creek Wilderness
North Fork Owyhee Wilderness
Owyhee River Wilderness
Pole Creek Wilderness
Sawtooth Wilderness
Selway-Bitterroot Wilderness

Illinois

Bald Knob Wilderness
Bay Creek Wilderness
Burden Falls Wilderness
Clear Springs Wilderness
Crab Orchard Wilderness
Garden of the Gods Wilderness
Lusk Creek Wilderness
Panther Den Wilderness

Indiana

Charles C. Deam Wilderness

Kentucky

Beaver Creek Wilderness
Clifty Wilderness

Louisiana

Breton Wilderness *
Kisatchie Hills Wilderness
Lacassine Wilderness

Maine

Caribou-Speckled Mountain Wilderness
Moosehorn (Baring Unit) Wilderness
Moosehorn Wilderness *

Massachusetts

Monomoy Wilderness *

Michigan

Beaver Basin Wilderness *
Big Island Lake Wilderness
Delirium Wilderness
Horseshoe Bay Wilderness *
Huron Islands Wilderness *
Isle Royale Wilderness *
Mackinac Wilderness
McCormick Wilderness
Michigan Islands Wilderness *
Nordhouse Dunes Wilderness *
Rock River Canyon Wilderness
Round Island Wilderness *
Seney Wilderness
Sleeping Bear Dunes Wilderness *
Sturgeon River Gorge Wilderness
Sylvania Wilderness

Minnesota

Agassiz Wilderness
Boundary Waters Canoe Area Wilderness *
Tamarac Wilderness

Mississippi

Black Creek Wilderness
Gulf Islands Wilderness *
Leaf Wilderness

Missouri

Bell Mountain Wilderness
Devils Backbone Wilderness
Hercules-Glades Wilderness
Irish Wilderness
Mingo Wilderness
Paddy Creek Wilderness
Piney Creek Wilderness
Rockpile Mountain Wilderness

Montana

Absaroka-Beartooth Wilderness
Anaconda Pintler Wilderness
Bob Marshall Wilderness
Cabinet Mountains Wilderness
Gates of the Mountains Wilderness
Great Bear Wilderness
Lee Metcalf Wilderness
Medicine Lake Wilderness
Mission Mountains Wilderness
Rattlesnake Wilderness
Red Rock Lakes Wilderness
Scapegoat Wilderness
Selway-Bitterroot Wilderness
UL Bend Wilderness
Welcome Creek Wilderness

Nebraska

Fort Niobrara Wilderness
Soldier Creek Wilderness

Nevada

Alta Toquima Wilderness
Arc Dome Wilderness
Arrow Canyon Wilderness
Bald Mountain Wilderness
Becky Peak Wilderness
Big Rocks Wilderness
Black Canyon Wilderness
Black Rock Desert Wilderness
Boundary Peak Wilderness
Bridge Canyon Wilderness
Bristlecone Wilderness
Cain Mountain Wilderness
Calico Mountains Wilderness
Clan Alpine Mountains Wilderness
Clover Mountains Wilderness
Currant Mountain Wilderness
Death Valley Wilderness
Delamar Mountains Wilderness
Desatoya Mountains Wilderness
East Fork High Rock Canyon Wilderness
East Humboldts Wilderness
Eldorado Wilderness
Far South Egans Wilderness
Fortification Range Wilderness
Goshute Canyon Wilderness
Government Peak Wilderness
Grant Range Wilderness
High Rock Canyon Wilderness
High Rock Lake Wilderness
High Schells Wilderness
Highland Ridge Wilderness
Ireteba Peaks Wilderness
Jarbridge Wilderness
Jimbilnan Wilderness
Jumbo Springs Wilderness
La Madre Mountain Wilderness
Lime Canyon Wilderness
Little High Rock Canyon Wilderness
Meadow Valley Range Wilderness

Mormon Mountains Wilderness
Mount Grafton Wilderness
Mt. Charleston Wilderness
Mt. Irish Wilderness
Mt. Moriah Wilderness
Mt. Rose Wilderness
Muddy Mountains Wilderness
Nellis Wash Wilderness
North Black Rock Range Wilderness
North Jackson Mountains Wilderness
North McCullough Wilderness
Pahute Peak Wilderness
Parsnip Peak Wilderness
Pine Forest Range Wilderness
Pinto Valley Wilderness
Quinn Canyon Wilderness
Rainbow Mountain Wilderness
Red Mountain Wilderness
Ruby Mountains Wilderness
Santa Rosa-Paradise Peak Wilderness
Shellback Wilderness
South Egan Range Wilderness
South Jackson Mountains Wilderness
South McCullough Wilderness
South Pahroc Range Wilderness
Spirit Mountain Wilderness
Table Mountain Wilderness
Tunnel Spring Wilderness
Wee Thump Joshua Tree Wilderness
Weepah Spring Wilderness
White Pine Range Wilderness
White Rock Range Wilderness
Worthington Mountains Wilderness
Wovoka Wilderness

New Hampshire

Great Gulf Wilderness
Pemigewasset Wilderness
Presidential Range-Dry River Wilderness
Sandwich Range Wilderness
Wild River Wilderness

New Jersey

Brigantine Wilderness *
Great Swamp National Wildlife Refuge
Wilderness

New Mexico

Aden Lava Flow Wilderness
Ah-shi-sle-pah Wilderness
Aldo Leopold Wilderness
Apache Kid Wilderness
Bandelier Wilderness
Bisti/De-Na-Zin Wilderness
Blue Range Wilderness
Bosque del Apache Wilderness
Broad Canyon Wilderness
Capitan Mountains Wilderness
Carlsbad Caverns Wilderness
Cebolla Wilderness
Cerro del Yuta Wilderness
Chama River Canyon Wilderness
Cinder Cone Wilderness
Columbine-Hondo Wilderness
Cruces Basin Wilderness
Dome Wilderness
East Potrillo Mountains Wilderness
Gila Wilderness
Latir Peak Wilderness
Manzano Mountain Wilderness
Mount Riley Wilderness
Ojito Wilderness
Organ Mountains Wilderness
Pecos Wilderness
Potrillo Mountains Wilderness
Rio San Antonio Wilderness
Robledo Mountains Wilderness

Sabinoso Wilderness
Salt Creek Wilderness
San Pedro Parks Wilderness
Sandia Mountain Wilderness
Sierra de las Uvas Wilderness
West Malpais Wilderness
Wheeler Peak Wilderness
White Mountain Wilderness
Whitethorn Wilderness
Withington Wilderness

New York

Otis Pike Fire Island High Dune Wilderness *

North Carolina

Birkhead Mountains Wilderness
Catfish Lake South Wilderness
Ellicott Rock Wilderness
Joyce Kilmer-Slickrock Wilderness
Linville Gorge Wilderness
Middle Prong Wilderness
Pocosin Wilderness
Pond Pine Wilderness
Sheep Ridge Wilderness
Shining Rock Wilderness
Southern Nantahala Wilderness
Swanquarter Wilderness *

North Dakota

Chase Lake Wilderness
Lostwood Wilderness
Theodore Roosevelt Wilderness

Ohio

West Sister Island Wilderness *

Oklahoma

Black Fork Mountain Wilderness
Upper Kiamichi River Wilderness
Wichita Mountains Wilderness

Oregon

Badger Creek Wilderness
Black Canyon Wilderness
Boulder Creek Wilderness
Bridge Creek Wilderness
Bull of the Woods Wilderness
Clackamas Wilderness
Copper Salmon Wilderness
Cummins Creek Wilderness
Devil's Staircase Wilderness *
Diamond Peak Wilderness
Drift Creek Wilderness
Eagle Cap Wilderness
Gearhart Mountain Wilderness
Grassy Knob Wilderness
Hells Canyon Wilderness
Kalmiopsis Wilderness
Lower White River Wilderness
Mark O. Hatfield Wilderness *
Menagerie Wilderness
Middle Santiam Wilderness
Mill Creek Wilderness
Monument Rock Wilderness
Mount Hood Wilderness
Mount Jefferson Wilderness
Mount Thielsen Wilderness
Mount Washington Wilderness
Mountain Lakes Wilderness
North Fork John Day Wilderness
North Fork Umatilla Wilderness
Opal Creek Wilderness
Oregon Badlands Wilderness
Oregon Islands Wilderness *
Red Buttes Wilderness
Roaring River Wilderness
Rock Creek Wilderness

Rogue-Umpqua Divide Wilderness
Salmon-Huckleberry Wilderness
Sky Lakes Wilderness
Soda Mountain Wilderness
Spring Basin Wilderness
Steens Mountain Wilderness
Strawberry Mountain Wilderness
Table Rock Wilderness
Three Arch Rocks Wilderness *
Three Sisters Wilderness
Waldo Lake Wilderness
Wenaha-Tucannon Wilderness
Wild Rogue Wilderness

Pennsylvania

Allegheny Islands Wilderness
Hickory Creek Wilderness

Puerto Rico

El Toro Wilderness

South Carolina

Cape Romain Wilderness *
Congaree National Park Wilderness *
Ellicott Rock Wilderness
Hell Hole Bay Wilderness
Little Wambaw Swamp Wilderness
Wambaw Creek Wilderness
Wambaw Swamp Wilderness

South Dakota

Badlands Wilderness
Black Elk Wilderness

Tennessee

Bald River Gorge Wilderness
Big Frog Wilderness
Big Laurel Branch Wilderness
Citico Creek Wilderness
Cohutta Wilderness
Gee Creek Wilderness
Joyce Kilmer-Slickrock Wilderness
Little Frog Mountain Wilderness
Pond Mountain Wilderness
Sampson Mountain Wilderness
Unaka Mountain Wilderness
Upper Bald River Wilderness

Texas

Big Slough Wilderness
Guadalupe Mountains Wilderness
Indian Mounds Wilderness
Little Lake Creek Wilderness
Turkey Hill Wilderness
Upland Island Wilderness

Utah

Ashdown Gorge Wilderness
Beartrap Canyon Wilderness
Beaver Dam Mountains Wilderness
Big Wild Horse Mesa Wilderness
Black Ridge Canyons Wilderness
Blackridge Wilderness
Box-Death Hollow Wilderness
Canaan Mountain Wilderness
Cedar Mountain Wilderness Area
Cold Wash Wilderness
Cottonwood Canyon Wilderness
Cottonwood Forest Wilderness
Cougar Canyon Wilderness
Dark Canyon Wilderness
Deep Creek North Wilderness
Deep Creek Wilderness
Deseret Peak Wilderness
Desolation Canyon Wilderness
Devil's Canyon Wilderness
Doc's Pass Wilderness

Eagle Canyon Wilderness
Goose Creek Wilderness
High Uintas Wilderness
Horse Valley Wilderness
Labyrinth Canyon Wilderness
LaVerkin Creek Wilderness
Little Ocean Draw Wilderness
Little Wild Horse Canyon Wilderness
Lone Peak Wilderness
Lower Last Chance Wilderness
Mexican Mountain Wilderness
Middle Wild Horse Mesa Wilderness
Mount Naomi Wilderness
Mount Nebo Wilderness
Mount Olympus Wilderness
Mount Timpanogos Wilderness
Muddy Creek Wilderness
Nelson Mountain Wilderness
Paria Canyon-Vermilion Cliffs Wilderness
Pine Valley Mountain Wilderness
Red's Canyon Wilderness
Red Butte Wilderness
Red Mountain Wilderness
San Rafael Reef Wilderness
Sid's Mountain Wilderness
Slaughter Creek Wilderness
Taylor Creek Wilderness
Turtle Canyon Wilderness
Twin Peaks Wilderness
Wellsville Mountain Wilderness
Zion Wilderness

Vermont

Big Branch Wilderness
Breadloaf Wilderness
Bristol Cliffs Wilderness
George D. Aiken Wilderness
Glastenbury Wilderness
Joseph Battell Wilderness
Lye Brook Wilderness
Peru Peak Wilderness

Virginia

Barbours Creek Wilderness
Beartown Wilderness
Brush Mountain East Wilderness
Brush Mountain Wilderness
Garden Mountain Wilderness
Hunting Camp Creek Wilderness
James River Face Wilderness
Kimberling Creek Wilderness
Lewis Fork Wilderness
Little Dry Run Wilderness
Little Wilson Creek Wilderness
Mountain Lake Wilderness
Peters Mountain Wilderness
Priest Wilderness
Raccoon Branch Wilderness
Ramseys Draft Wilderness
Rich Hole Wilderness
Rough Mountain Wilderness
Saint Mary's Wilderness
Shawvers Run Wilderness
Shenandoah Wilderness
Stone Mountain Wilderness
Three Ridges Wilderness
Thunder Ridge Wilderness

Washington

Alpine Lakes Wilderness
Boulder River Wilderness
Buckhorn Wilderness
Clearwater Wilderness
Colonel Bob Wilderness
Daniel J. Evans Wilderness *
Glacier Peak Wilderness
Glacier View Wilderness

Goat Rocks Wilderness
Henry M. Jackson Wilderness
Indian Heaven Wilderness
Juniper Dunes Wilderness
Lake Chelan-Sawtooth Wilderness
Mount Adams Wilderness
Mount Baker Wilderness *
Mount Rainier Wilderness
Mount Skokomish Wilderness
Noisy-Diobsud Wilderness
Norse Peak Wilderness
Pasayten Wilderness *
Salmo-Priest Wilderness *
San Juan Wilderness *
Stephen Mather Wilderness *
Tatoosh Wilderness
The Brothers Wilderness
Trapper Creek Wilderness
Washington Islands Wilderness *
Wenaha-Tucannon Wilderness
Wild Sky Wilderness
William O. Douglas Wilderness
Wonder Mountain Wilderness

West Virginia

Big Draft Wilderness
Cranberry Wilderness
Dolly Sods Wilderness
Laurel Fork North Wilderness
Laurel Fork South Wilderness
Mountain Lake Wilderness
Otter Creek Wilderness
Roaring Plains West Wilderness
Spice Run Wilderness

Wisconsin

Blackjack Springs Wilderness
Gaylord Nelson Wilderness *
Headwaters Wilderness
Porcupine Lake Wilderness
Rainbow Lake Wilderness
Whisker Lake Wilderness
Wisconsin Islands Wilderness *

Wyoming

Absaroka-Beartooth Wilderness
Bridger Wilderness
Cloud Peak Wilderness
Encampment River Wilderness
Fitzpatrick Wilderness
Gros Ventre Wilderness
Huston Park Wilderness
Jedediah Smith Wilderness
North Absaroka Wilderness
Platte River Wilderness
Popo Agie Wilderness
Savage Run Wilderness
Teton Wilderness
Washakie Wilderness
Winegar Hole Wilderness

A.6 National Wild and Scenic River**Alabama**

Sipsey Fork of the West Fork River

Alaska

Alagnak River
Alatna River
Andreafsky River *
Aniakchak River
Beaver Creek
Birch Creek
Charley River *
Chilikadrotna River
Delta River
Fortymile River *

Gulkana River
Ivishak River
John River
Kobuk River
Mulchatna River
Noatak River
North Fork Koyukuk River *
Nowitna River
Salmon River *
Selawik River
Sheenjek River
Tinayguk River
Tlikakila River *
Unalakleet River
Wind River

Arizona

Fossil Creek
Verde River

Arkansas

Big Piney Creek
Buffalo River
Cossatot River
Hurricane Creek
Little Missouri River
Mulberry River
North Sylamore Creek
Richland Creek

California

Amargosa River
American (Lower) River *
Bautista Creek
Big Sur River
Black Butte River
Cottonwood Creek
Deep Creek
Eel River *
Feather River
Fuller Mill Creek
Kern River
Kings River
Klamath River *
Merced River
North Fork American River *
North Fork San Jacinto River
Owens River Headwaters
Palm Canyon Creek
Piru Creek
Sespe Creek
Sisquoc River
Smith River *
Surprise Canyon Creek
Trinity River
Tuolumne River
Whitewater River

Colorado

Cache la Poudre River

Connecticut

Eightmile River *
Farmington (Lower) River and Salmon Brook *
Housatonic River
West Branch Farmington River
Wood-Pawcatuck Rivers Watershed *

Delaware

White Clay Creek *

Florida

Loxahatchee River
Wekiva River *

Georgia

Chattooga River

Idaho

Battle Creek
Big Jacks Creek
Bruneau River
Cottonwood Creek
Deep Creek
Dickshooter Creek
Duncan Creek
Jarbridge River
Little Jacks Creek
Middle Fork Clearwater River
Middle Fork Salmon River
North Fork Owyhee River
Owyhee River
Rapid River
Red Canyon
Saint Joe River *
Salmon River
Sheep Creek
Snake River *
South Fork Owyhee River
West Fork Bruneau River
Wickahoney Creek

Illinois

Middle Fork Vermilion River

Kentucky

Red River

Louisiana

Saline Bayou

Maine

Allagash River
York River *

Massachusetts

Nashua, Squannacook and Nissitissit Rivers
Sudbury, Assabet and Concord Rivers
Taunton River *
Westfield River

Michigan

Au Sable River
Bear Creek
Black River *
Carp River *
East Branch Tahquamenon River
Indian River
Manistee River
Ontonagon River
Paint River
Pere Marquette River
Pine River
Presque Isle River
Sturgeon River (Hiawatha National Forest) *
Sturgeon River (Ottawa National Forest) *
Whitefish River *
Yellow Dog River

Minnesota

St. Croix River *

Mississippi

Black Creek

Missouri

Eleven Point River

Montana

East Rosebud Creek
Flathead River
Missouri River *

Nebraska

Missouri River *

Niobrara River

New Hampshire

Lamprey River *

Nashua, Squannacook and Nissitissit Rivers

Wildcat River

New Jersey

Delaware (Lower) River *

Delaware (Middle) River

Great Egg Harbor River *

Maurice River *

Musconetcong River

New Mexico

East Fork Jemez River

Pecos River

Rio Chama

Rio Grande

New York

Delaware (Upper) River

North Carolina

Chattooga River

Horsepasture River

Lumber River

New River

Wilson Creek

Ohio

Big and Little Darby Creeks

Little Beaver Creek *

Little Miami River *

Oregon

Big Marsh Creek

Chetco River

Clackamas River

Collawash River

Crescent Creek

Crooked River

Deschutes River

Donner und Blitzen River

Eagle Creek (Mt. Hood National Forest)

Eagle Creek (Wallowa-Whitman National Forest)

East Fork Hood River

Elk Creek

Elk River

Elkhorn Creek

Fifteenmile Creek

Fish Creek

Franklin Creek *

Grande Ronde River

Illinois River *

Imnaha River

Jenny Creek

John Day River

Joseph Creek

Klamath River

Little Deschutes River

Lobster Creek

Lostine River

Malheur River

McKenzie River

Metolius River

Middle Fork Hood River

Minam River

Molalla River

Nestucca River

North Fork Crooked River

North Fork John Day River

North Fork Malheur River

North Fork Middle Fork Willamette River

North Fork Owyhee River

North Fork Silver Creek

North Fork Smith River

North Fork Sprague River

North Powder River

North Umpqua River

Owyhee River

Powder River

Quartzville Creek

River Styx

Roaring River

Rogue (Upper) River

Rogue River *

Salmon River

Sandy River

Snake River *

South Fork Clackamas River

South Fork John Day River

South Fork Roaring River

Spring Creek

Sycan River

Walker Creek

Wallowa River

Wasson Creek

Wenaha River

West Little Owyhee River

White River

Whychus Creek

Wildhorse and Kiger Creeks

Zig Zag River

Pennsylvania

Allegheny River *

Clarion River

Delaware (Lower) River *

Delaware (Middle) River

Delaware (Upper) River

White Clay Creek

Puerto Rico

Rio de la Mina

Rio Icacos

Rio Mameyes

Rhode Island

Wood-Pawcatuck Rivers Watershed *

South Carolina

Chattooga River

South Dakota

Missouri River *

Tennessee

Obed River

Texas

Rio Grande

Utah

Green River

Virgin River

Vermont

Missisquoi and Trout Rivers

Washington

Illabot Creek

Klickitat River *

Middle Fork Snoqualmie River

Pratt River

Skagit River *

White Salmon River

West Virginia

Bluestone River

Wisconsin

St. Croix River *

Wolf River

Wyoming

Clarks Fork River

Snake River Headwaters

[FR Doc. 2024-22013 Filed 10-8-24; 8:45 am]

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Federal Register

Vol. 89, No. 196

Wednesday, October 9, 2024

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

79731-80054.....	1
80055-80360.....	2
80361-80714.....	3
80715-80992.....	4
80993-81286.....	7
81287-81814.....	8
81815-82158.....	9

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

170.....	79731
184.....	79731
200.....	79731
300.....	80055

3 CFR

Proclamations:

10773 (amended by Proc. 10817)	80351
10817.....	80351
10818.....	80355
10819.....	80357
10820.....	80359
10821.....	80361
10822.....	80363
10823.....	80365
10824.....	80367
10825.....	80369
10826.....	80371
10827.....	80375
10828.....	80377
10829.....	81287
10830.....	81815
10831.....	81817
10832.....	81821
10833.....	81823

Administrative Orders:

Presidential Permit of October 3, 2024	81289

Executive Orders:

14127.....	80345

7 CFR

2.....	80073
305.....	79733
319.....	79733
3434.....	81293

Proposed Rules:

800.....	81396

8 CFR

208.....	81156
235.....	81156
1208.....	81156

10 CFR

2.....	80715
429.....	81994
430.....	81295
431.....	81994

Proposed Rules:

51.....	80797

12 CFR

201.....	80075
Ch. X.....	80075
1006.....	80715

Proposed Rules:

375.....	80135
1227.....	79785

1277.....	80422

13 CFR

120.....	79734

14 CFR

1.....	80310
3.....	81305
11.....	80020, 80310
25.....	81313
39.....	80077, 80379, 80724, 80729, 80734, 80993, 80995, 81314, 81320, 81324, 81326, 81329, 81333, 81336
61.....	80020, 80310
63.....	80020
65.....	80020
71.....	80382, 80383, 80739, 81338, 81339
91.....	80310, 80384, 81313
95.....	80997
97.....	79741, 79742
121.....	81313
125.....	81313
141.....	80020

Proposed Rules:

39.....	79789, 80155, 80427, 80827, 81403
71.....	79792, 80157, 80430, 80432, 80433, 81406, 81408
259.....	80435
261.....	80435

15 CFR

748.....	80080

16 CFR

1215.....	81825

Proposed Rules:

1.....	81871
1240.....	80159
1421.....	80831

17 CFR

242.....	81620

18 CFR

Proposed Rules:

40.....	79794

26 CFR

1.....	81341

Proposed Rules:

1.....	81871
301.....	81871

27 CFR

Proposed Rules:

24.....	80160

29 CFR

1910.....	81829

31 CFR	50.....80055	1007.....80055	313.....80634
501.....81358	51.....80055		314.....80634
587.....80740, 80741, 80742	51a.....80055	45 CFR	315.....80634
32 CFR	51b.....80055	16.....80055	316.....80634
49.....80390	51c.....80055	63.....80055	318.....80634
Proposed Rules:	51d.....80055	75.....80055	319.....80634
220.....79804	52.....80055	87.....80055	322.....80634
33 CFR	52a.....80055	95.....80055	323.....80634
100.....80396, 81004, 81006, 81361	52b.....80055	98.....80055	324.....80634
165.....80093, 80396, 80398, 80400, 80742, 80743, 81008	52c.....80055	261.....80055	325.....80634
Proposed Rules:	52d.....80055	262.....80055	326.....80634
117.....80436	52e.....80055	263.....80055	327.....80634
37 CFR	55a.....80055	265.....80055	330.....80634
42.....79744	56.....80055	286.....80055	331.....80634
201.....80743	57.....80055	287.....80055	332.....80634
229.....80743	59.....80055	301.....80055	333.....80634
38 CFR	59a.....80055	302.....80055	334.....80634
Proposed Rules:	62.....80055	303.....80055	335.....80634
3.....79815	63a.....80055	304.....80055	336.....80634
81.....80172	64.....80055	309.....80055	337.....80634
40 CFR	65.....80055	400.....80055	341.....80634
52.....79752, 80402, 80745, 80749, 81008, 81361	65a.....80055	1000.....80055	342.....80634
139.....82074	66.....80055	1303.....80055	343.....80634
170.....80767	67.....80055	1321.....80055	344.....80634
180.....81010	124.....80055	1328.....80055	345.....80634
281.....79756	136.....80055	1336.....80055	347.....80634
282.....79756, 80788	405.....80098	1355.....80055	352.....80634
Proposed Rules:	412.....80095, 80098, 80131, 80405	1357.....80055	370.....80634
51.....80833	413.....80098, 80132	47 CFR	3025.....79851
52.....79828, 80439, 80445, 81036, 81409	417.....80055	9.....81013	3052.....79851
81.....81409	418.....79764	Proposed Rules:	
180.....80446	430.....80055	64.....80449	49 CFR
281.....79850	431.....80098		225.....79767
282.....79850, 80853	433.....80055	48 CFR	571.....81836
372.....81776	434.....80055	Ch. 4.....81014	
42 CFR	436.....80055	Proposed Rules:	50 CFR
38.....80055	438.....80055	301.....80634	17.....81388
	440.....80055	302.....80634	217.....79777, 81848
	441.....80055	303.....80634	223.....81867
	456.....80055	304.....80634	622.....81031
	457.....80055	305.....80634	635.....81032
	482.....80098	306.....80634	648.....79778, 80795, 81869
	485.....80098	308.....80634	679.....79783, 81034, 81394
	488.....80132	309.....80634	Proposed Rules:
	495.....80098	311.....80634	17.....79857, 79880
	512.....80098	312.....80634	660.....81878
	1001.....80055		

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

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Last List October 8, 2024

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