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Proclamation 10915 of April 9, 2025

The President

National Crime Victims' Rights Week, 2025

By the President of the United States of America

A Proclamation

All Americans should be able to thrive in their communities, raise their families, and lead long and fulfilling lives without fear of being victimized by crime. Tragically, in recent years, soft-on-crime policies have emboldened vicious criminals, murderers, and gang members to wage war on our public safety, endanger our public spaces, and break down the rule of law. This National Crime Victims' Rights Week, we offer our unending support to every victim of crime, and we recognize that freedom in America cannot survive without safety in America.

Under the previous administration, violent crime skyrocketed in virtually every city of our great Nation, with 12 major cities breaking all-time high murder records in 2021. Over the last 4 years, radical left-wing policies empowered some of the most depraved criminals on the planet and made it harder for police officers to do their jobs. Earlier this year, President Biden commuted the sentences of 37 death row criminals guilty of the most heinous acts imaginable—including rape, child molestation, and murder. These commutations stand as a devastating betrayal of innocent victims and their families.

During the Biden Administration, the United States Border Patrol recorded over 10.8 million encounters of illegal aliens nationwide, along with over 2 million known “got aways”—a number that could be underreported by as much as 20 percent. Millions of illegal aliens have entered or evaded capture, with countless criminals and potential national security threats now at large in our Country. That is why within hours of taking the oath of office, I declared a national emergency on our southern border. We have also begun the largest deportation operation in the history of our country—and as your 47th President, the first bill I signed into law was the Laken Riley Act, which mandates the detention of all dangerous criminal aliens who threaten public safety.

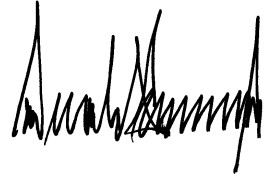
To aid the righteous mission of the men and women in blue, my Administration is committed to enhancing legal protections for law enforcement officers. I am also asking the Congress for a new crime bill that will get tough on repeat offenders while enhancing protection for our law enforcement officials, so they can do their jobs without fear of their lives being destroyed.

Under my leadership, America will soon, once again, be a country where the blessings of life and peace exist freely in our homes, at places of work and worship, and throughout our cities, streets, and neighborhoods. Our citizens will be able to live without the threat of getting robbed, assaulted, or shot. This week, as we honor the lives of victims and their families, I reaffirm my solemn pledge to build a safer, stronger, and more secure Nation for citizens of every race, religion, color, and creed.

NOW, THEREFORE, I, DONALD J. TRUMP, 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 April 6 through April 12, 2025, as National Crime Victims' Rights Week. I urge all Americans, families, law enforcement, community and faith-based organizations, and

private organizations to work together to support victims of crime and protect their rights.

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

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

Presidential Documents

Proclamation 10916 of April 9, 2025

Education and Sharing Day, U.S.A., 2025

By the President of the United States of America

A Proclamation

This Education and Sharing Day, U.S.A, we draw inspiration from the life, legacy, and blessed memory of Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe and leader of the Chabad-Lubavitch community, whose Hebrew birthday corresponds to this day. He was a transformational teacher and a spiritual force who—from the ashes of the Holocaust—established one of the most vibrant, joyous, and significant religious movements of the modern era. In the wake of unimaginable destruction, he embarked on a global campaign of spiritual outreach to bring the light of faith and Yiddishkeit to countless members of the Jewish community. All Americans can learn from his tireless devotion to teaching, good deeds, and charity.

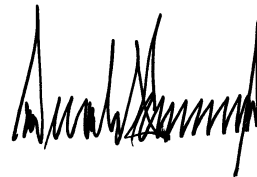
From 770 Eastern Parkway in Crown Heights, the modest home that continues to serve as Chabad headquarters, he reinvigorated the Chabad-Lubavitch movement and led a religious revival—one that would touch all four corners of the globe. Today, Chabad and its shluchim, emissaries dedicated to spreading Jewish awareness, education, and kindness in communities around the world, still serve as beacons of the Rebbe's teachings and boundless love for all humanity. Their community centers stand as living testaments to his message, legacy, and unwavering commitment to outreach and support. They are spread across the United States and around the world, within big cities, small towns, and on college campuses, more than doubling in number since his death.

On the first anniversary of the brutal October 7, 2023, attacks, I visited the Ohel of Rabbi Schneerson and drew spiritual guidance and replenishment from his voice and message. There, praying with the family members of American hostage Edan Alexander and Auschwitz survivor Jerry Wartski, I was personally reminded of the horrors of antisemitism—whether perpetrated by the Nazis or Hamas. My commitment to combating it is unwavering. My Administration has made great strides in bringing home all hostages captured during the murderous and criminal Hamas attacks of October 7, 2023, and to securing peace and stability for the Jewish people in their homeland and around the world.

The First Lady and I encourage all Americans to reflect upon the Rebbe's teachings. His inestimable dedication and unwavering example have become woven into the very fabric of our Nation and its character. His memory remains a blessing to the world.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the laws of the United States, do hereby proclaim April 9, 2025, as "Education and Sharing Day, U.S.A." I call upon all government officials, educators, volunteers, and all the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

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

A handwritten signature in black ink, appearing to be "Donald Trump", located in the lower right quadrant of the page.

Presidential Documents

Proclamation 10917 of April 9, 2025

National Former Prisoner of War Recognition Day, 2025

By the President of the United States of America

A Proclamation

On this National Former Prisoner of War Recognition Day, we remember every American service member who carries the memory of being captured in war as a consequence of defending American freedom. Since the battlefields of the Revolutionary War, millions of selfless patriots have sacrificed their lives, safety, and security to protect our homeland and preserve our inheritance of liberty. These noble men and women embody the best of our Nation's spirit. Tragically, far too many have been taken by the enemy and forced to endure captivity and sometimes torture.

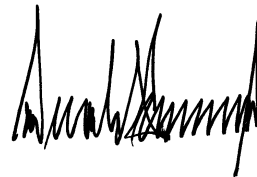
My Administration is steadfastly committed to taking care of our great veterans—especially every former American prisoner of war (POW). For 4 long years under the previous administration, illegal aliens were living in luxury hotels while our homeless veterans were shivering on the sidewalks—a disgrace of the highest order. Today, more than 30,000 veterans are homeless. To that end, I am committed to eradicating all veteran homelessness in our country. Under my leadership, if you served our Nation in uniform, your Government will never betray you—and we will never stop fighting for the brave men and women who devoted their lives to protect our sovereignty.

To protect our brave service members and uphold our Nation's interests both at home and abroad, my Administration remains committed to restoring peace through strength and ending the years of endless foreign wars. As I stated during my Inaugural Address, we will measure our success not only by the battles we win, but also by the wars we end—and my proudest legacy will be that of a peacemaker and unifier.

We are approaching the 250th anniversary of the founding of the United States Army later this year, and I pledge to every POW, POW family, and member of our Armed Forces that you have our Nation's full support and unending gratitude. Today and every day, we pay tribute to those who have lost their lives in service to our Nation. We ask Almighty God to preserve America's peace, prosperity, security, and freedom for generations to come.

NOW, THEREFORE, I, DONALD J. TRUMP, 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 April 9, 2025, as National Former Prisoner of War Recognition Day. I call upon Americans to observe this day by honoring the service and sacrifice of all former prisoners of war and to express our Nation's eternal gratitude for their sacrifice. I also call upon Federal, State, and local government officials and organizations to observe this day with appropriate ceremonies and activities.

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

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Rules and Regulations

Federal Register

Vol. 90, No. 76

Tuesday, April 22, 2025

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1703; Project Identifier MCAI-2023-01054-T; Amendment 39-23005; AD 2025-07-04]

RIN 2120-AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Canada Limited Partnership Model BD-500-1A11 airplanes. This AD was prompted by a design review of aircraft structural and stress reports that resulted in a revision of operational loads for some aircraft flight phases. This AD requires a review and disposition of all existing repairs and damage assessments for affected structure, corrective actions if necessary, and the prohibition of certain repair engineering orders (REOs), as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 27, 2025.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 27, 2025.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1703; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory

continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca; website at tc.canada.ca/en/aviation.

- For Airbus Canada material identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450-476-7676; email a220_crc@abc.airbus; website a220world.airbus.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1703.

FOR FURTHER INFORMATION CONTACT: Deep Gaurav, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-228-3731; email: Deep.Gaurav@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Canada Limited Partnership (ACLP) Model BD-500-1A11 airplanes. The NPRM published in the **Federal Register** on July 3, 2024 (89 FR 55126). The NPRM was prompted by AD CF-2023-70, dated October 5, 2023 (Transport Canada AD CF-2023-70) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states a design review of aircraft structural and stress reports for Model BD-500-1A10 and Model BD-500-1A11 airplanes has resulted in a revision of operational loads for some aircraft flight phases, affecting certain aircraft sections. As a result, repairs and damage assessments accomplished on aircraft to date may

have exceeded the available structural margins and require review to ensure they comply with the revised stress data for the affected sections. The MCAI also states that Transport Canada AD CF-2023-37, dated May 30, 2023, mandates that ASRP 136.01 or later approved versions, or ACLP source data approved at the time of the disposition, be used for any new structural assessments, repairs, and dispositions for all Model BD-500-1A10 and Model BD-500-1A11 airplanes. The MCAI mandates the review and disposition of all repairs and damage assessments for affected structure and prohibits the use of previously authorized repairs as source data to generate new repairs for affected structure for Model BD-500-1A11 airplanes.

In the NPRM, the FAA proposed to require using a certain version of the ASRP and a review and disposition of repairs based on previous versions, as specified in Transport Canada AD CF-2023-70. However, as stated in Transport Canada AD CF-2023-70, the requirement to use a certain version of the ASRP (*i.e.*, ASRP 136.01 or later) was mandated by Transport Canada AD CF-2023-37. The FAA adopted that requirement in AD 2025-05-07, Amendment 39-22979 (90 FR 11662, March 11, 2025). Therefore, the FAA has revised the preamble of this AD to remove reference to that requirement and clarify the actions required by this AD.

The FAA is issuing this AD to address in-service repairs in some structural areas that require verification and possibly further repair. The unsafe condition, if not addressed, could result in negative margins for the load envelopes.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1703.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Delta Air Lines, Inc. (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Correct Reference to Airbus Canada Source Data

Delta requested the FAA revise the exception in paragraph (h)(2) of the

proposed AD to replace the reference to “Airbus Canada source data” with “ACLP disposition.” As justification, Delta stated Transport Canada AD CF–2023–70 does not use the term Airbus Canada source data, nor is it defined in that AD.

The FAA partially agrees. The FAA agrees the term “Airbus Canada source data” is not used or defined in the MCAI. However, the FAA has removed paragraph (h)(2) of the proposed AD from this AD instead of revising the exception. Upon review, the FAA has determined an exception is not needed for Part I, paragraph B., of the MCAI because any requirement to contact ACLP for disposition is addressed under the provisions of paragraph (i)(2) of this AD.

Request To Revise Service Bulletin Reference

Delta requested the FAA revise paragraph (h)(3) of the proposed AD to require using Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 002, dated March 6, 2024, instead of Issue 001, dated September 13, 2023, for the defining the “Affected Structure.” Delta stated that using the later service bulletin will ensure that improvements incorporated into the work instructions are carried into the final rule.

The FAA partially agrees. The FAA agrees Issue 002 of the service bulletin is acceptable for defining the “Affected Structure,” but Issue 001 may also be used. Therefore, the FAA has revised this AD to allow use of either of these service bulletins. Note that paragraph (h)(3) of the proposed AD has been redesignated as paragraph (h)(2) in this AD.

Request To Allow Use of Certain Generic Repair Engineering Orders (GREOs)

Delta requested the FAA add a new paragraph (h)(5) to the proposed AD to clarify which REOs are acceptable and do not require further review. Delta noted that Airbus Canada Service Bulletin BD500–530012, Issue 002, dated March 6, 2024, specifies that Airbus Canada specific REOs with an issue date later than December 31, 2022, have already been validated and do not require additional approved disposition. Delta requested this statement be amended to also specify that GREOs with an issued date later than September 22, 2022, have already been validated and do not require an additional approved disposition. Delta

stated that Airbus Canada confirmed via correspondence that such GREOs have been validated and do not require an additional review and approved disposition.

The FAA partially agrees. The FAA disagrees that all GREOs issued later than September 22, 2022, are acceptable for compliance with the requirements of this AD but agrees certain GREOs may be acceptable for compliance. GREOs apply to a particular operator’s fleet, so it would be inappropriate to allow use of all GREOs as of a certain date for all airplanes. However, Transport Canada has provided to the FAA a list of GREOs that are limited to those that address the “Affected Structure” defined in the referenced service information, which may be used to generate a repair disposition for all airplanes. Therefore, the FAA has added a new exception to paragraph (h)(3) of this AD providing the list of acceptable GREOs that may be used to comply with the intent of this AD. The FAA may consider allowing use of other GREOs not listed in the exception as an acceptable method of compliance according to the provisions of paragraph (i)(2) of this AD.

Request To Correct an Email Address for the Airplane Manufacturer

Delta requested the FAA add new paragraph (h)(4) to the proposed AD to clarify the method for contacting Airbus Canada. Delta stated Airbus Canada notified operators that the contact email in Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 002, dated March 6, 2024, used for obtaining an approved disposition is being decommissioned and replaced with a new email address. Delta further stated permission would be required to allow use of the new email address to contact Airbus Canada regarding repairs.

The FAA disagrees that an exception is needed to specify how to contact Airbus Canada. Under the provisions of paragraph (i)(2) of this AD, where any requirement of this AD requires obtaining instructions from the manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership’s Transport Canada Design Approval Organization (DAO). Paragraph (i)(2) of this AD does not require how the manufacturer must be contacted. The FAA has not changed this AD in this regard.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2023–70 specifies procedures for accomplishing a review and disposition of all existing repairs and damage assessments for affected structure and applicable corrective actions (*i.e.*, determining if an existing repair requires further action based on revised limits and damage assessments and accomplishing applicable actions). Transport Canada AD CF–2023–70 also prohibits the use of certain REOs as source data to generate new repairs for affected structure.

Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 001, dated September 13, 2023; and Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 002, dated March 6, 2024; specify procedures for doing a check of the airplane maintenance records to identify pre-existing repairs and/or damage, and a detailed inspection of the affected structures for previous damage and/or repairs done after the airplane received its Certificate of Airworthiness. These documents are distinct because the procedures in Issue 002 have been updated.

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

Costs of Compliance

The FAA estimates that this AD affects 71 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170	\$0	\$170	\$12,070

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2025–07–04 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–23005; Docket No. FAA–2024–1703; Project Identifier MCAI–2023–01054–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 27, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A11 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard practices/structures.

(e) Unsafe Condition

This AD was prompted by a design review of aircraft structural and stress reports that resulted in a revision of operational loads for some aircraft flight phases, affecting certain aircraft sections. The FAA is issuing this AD to address in-service repairs in some structural areas that require verification and possibly further repair. The unsafe condition, if not addressed, could result in negative margins for the load envelopes.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2023–70, dated October 5, 2023 (Transport Canada AD CF–2023–70).

(h) Exception to Transport Canada AD CF–2023–70

(1) Where Transport Canada AD CF–2023–70 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the definition of "Affected Structure" in Transport Canada AD CF–2023–70 specifies "as identified in Service Bulletin (SB) BD500–530012, Issue 001, dated 13 September 2023 or later revisions approved by the Chief, Continuing Airworthiness, Transport Canada," this AD requires replacing that text with "as identified in Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 001, dated September 13, 2023; or Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 002, dated March 6, 2024."

(3) Where paragraph 1.2.1 of Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 001, dated September 13, 2023, specifies "Airbus Canada specific Repair Engineering Order (REO) with an issue date later than December 31, 2022 have already been validated and therefore do not require an additional approved disposition;" and where paragraph 1.2.1 of Airbus Canada Limited Partnership Service Bulletin BD500–530012, Issue 002, dated March 6, 2024, specifies "Airbus Canada specific Repair Engineering Orders (REO) with an issue date later than December 31, 2022 have already been validated and therefore do not require an additional approved disposition;" this AD requires replacing that text with "Airbus Canada specific Repair Engineering Orders (REOs) with an issue date later than December 31, 2022, and Generic Repair Engineering Orders (GREOs) identified in table 1 to paragraph (h)(3) of AD 2025–07–04, have already been validated and therefore do not require an additional approved disposition."

Table 1 to Paragraph (h)(3)—Acceptable GREOs

BILLING CODE 4910–13–P

GREO Number	Title	Revision	Date
500-53-00-056	GREO, BUTT JNT, EXT		September 14, 2016
500-53-00-056	GREO, BUTT JNT, EXT	A	February 16, 2021
500-53-00-060	GREO, STR SPLICE, Z PROFILE		October 17, 2016
500-53-00-060	GREO, STR SPLICE, Z PROFILE	A	June 26, 2019
500-53-00-060	GREO, STR SPLICE, Z PROFILE	B	September 17, 2019
500-53-00-060	GREO, STR SPLICE, Z PROFILE	C	February 9, 2021
500-53-00-064	GREO, FUSE SKIN, EXT		September 11, 2016
500-53-00-064	GREO, FUSE SKIN, EXT	A	May 29, 2018
500-53-00-064	GREO, FUSE SKIN, EXT	B	February 8, 2021
500-53-00-074	GREO, LAP JNT, EXT		September 11, 2016
500-53-00-074	GREO, LAP JNT, EXT	A	February 10, 2021
500-53-00-076	GREO, LAP JNT, EXT, OVERLAP		September 15, 2016
500-53-00-076	GREO, LAP JNT, EXT, OVERLAP	A	March 16, 2021
500-53-00-078	GREO, LAP JNT, EXT, OVERLAP, 2-BAY		September 13, 2016
500-53-00-078	GREO, LAP JNT, EXT, OVERLAP, 2-BAY	A	May 29, 2018
500-53-00-078	GREO, LAP JNT, EXT, OVERLAP, 2-BAY	B	March 9, 2021
500-53-00-090	GREO, FUSE FR, SPLICE, V2		November 30, 2016
500-53-00-090	GREO, FUSE FR, SPLICE, V2	A	August 5, 2018
500-53-00-090	GREO, FUSE FR, SPLICE, V2	B	March 14, 2021
500-53-00-091	GREO, FUSE I-FR, SPLICE		December 12, 2016
500-53-00-091	GREO, FUSE I-FR, SPLICE	A	March 15, 2021
500-53-00-093	GREO, FUSE FR FALSE FLNG, V1		December 15, 2016
500-53-00-093	GREO, FUSE FR FALSE FLNG, V1	A	December 21, 2016

GREO Number	Title	Revision	Date
500-53-00-093	GREO, FUSE FR FALSE FLNG, V1	B	March 16, 2021
500-53-00-095	GREO, FUSE FR FALSE FLNG, V3		December 22, 2016
500-53-00-096	GREO, FUSE FR FALSE FLNG, V4		December 12, 2016
500-53-00-096	GREO, FUSE FR FALSE FLNG, V4	A	March 15, 2021
500-53-00-101	GREO, FUSE FR, SPLICE, HIGH STRESS		November 30, 2016
500-53-00-101	GREO, FUSE FR, SPLICE, HIGH STRESS	A	February 24, 2021
500-53-00-108	TEMPORARY, DISPOSITION FOR SCRATCHES ON FUSELAGE SKIN BENEATH CENTER SCUFF PLATE		August 29, 2017
500-53-00-115	TEMPORARY DISPOSITION FOR LIGHTNING STRIKE DAMAGES TO METALLIC FUSELAGE		April 9, 2019
500-53-00-115	TEMPORARY DISPOSITION FOR LIGHTNING STRIKE DAMAGES TO METALLIC FUSELAGE	A	June 19, 2019
500-53-00-115	TEMPORARY DISPOSITION FOR LIGHTNING STRIKE DAMAGE TO METALLIC FUSELAGE	B	January 3, 2021
500-53-11-001	GREO, CKPT FRAME REPAIR 1		November 9, 2017
500-53-11-001	GREO, CKPT FRAME REPAIR 1	A	November 22, 2017
500-53-11-001	GREO, CKPT FRAME REPAIR 1	B	December 15, 2020
500-53-11-002	GREO, CKPT FRAME REPAIR 2		November 9, 2017
500-53-11-002	GREO, CKPT FRAME REPAIR 2	A	November 22, 2017

GREO Number	Title	Revision	Date
500-53-11-002	GREO, CKPT FRAME REPAIR 2	B	December 15, 2020
500-53-11-003	GREO, CKPT FRAME REPAIR 3		November 9, 2017
500-53-11-003	GREO, CKPT FRAME REPAIR 3	A	March 9, 2020
500-53-11-003	GREO, CKPT FRAME REPAIR 3	B	December 15, 2020
500-53-11-004	GREO, CKPT FRAME SPLICE		November 9, 2017
500-53-11-004	GREO, CKPT FRAME SPLICE	A	December 7, 2017
500-53-11-004	GREO, CKPT FRAME SPLICE	B	January 24, 2018
500-53-11-004	GREO, CKPT FRAME SPLICE	C	May 8, 2018
500-53-11-004	GREO, CKPT FRAME SPLICE	D	December 15, 2020
500-53-11-005	GREO, CKPT FRAME SPLICE 2		November 9, 2017
500-53-11-005	GREO, CKPT FRAME SPLICE 2	A	December 7, 2017
500-53-11-005	GREO, CKPT FRAME SPLICE 2	B	December 15, 2020
500-53-11-006	GREO, CKPT SKIN, INT, REPAIR 1		November 15, 2017
500-53-11-006	GREO, CKPT SKIN, INT, REPAIR 1	A	December 6, 2017
500-53-11-006	GREO, CKPT SKIN, INT, REPAIR 1	B	December 15, 2020
500-53-11-007	GREO, CKPT SKIN, INT, REPAIR 2		November 9, 2017
500-53-11-007	GREO, CKPT SKIN, INT, REPAIR 2	A	December 7, 2017
500-53-11-007	GREO, CKPT SKIN, INT, REPAIR 2	B	December 9, 2020
500-53-11-008	GREO, CKPT SKIN, INT, REPAIR 3		October 3, 2017
500-53-11-008	GREO, CKPT SKIN, INT, REPAIR 3	A	December 6, 2017

GREO Number	Title	Revision	Date
500-53-11-008	GREO, CKPT SKIN, INT, REPAIR 3	B	November 9, 2020
500-53-11-009	GREO, CKPT SKIN, INT, REPAIR 4		October 2, 2017
500-53-11-009	GREO, CKPT SKIN, INT, REPAIR 4	A	December 7, 2017
500-53-11-009	GREO, CKPT SKIN, INT, REPAIR 4	B	November 10, 2020
500-53-11-010	GREO, CKPT SKIN, INT, REPAIR 5		October 3, 2017
500-53-11-010	GREO, CKPT SKIN, INT, REPAIR 5	A	December 6, 2017
500-53-11-010	GREO, CKPT SKIN, INT, REPAIR 5	B	November 11, 2020
500-53-21-001	GREO, FPD SRND, SKIN, EXT, EDGE		September 22, 2019
500-53-21-001	GREO, FPD SRND, SKIN, EXT, EDGE	A	November 10, 2020
500-53-21-003	GREO, FPD SRND, SKIN, EXT, LAPJOINT 1		September 22, 2019
500-53-21-003	GREO, FPD SRND, SKIN, EXT, LAPJOINT 1	A	November 10, 2020
500-53-21-004	GREO, FPD SRND, SKIN, EXT, LAPJOINT 2		September 22, 2019
500-53-21-004	GREO, FPD SRND, SKIN, EXT, LAPJOINT 2	A	November 10, 2020
500-53-21-005	GREO, FPD SRND, SKIN, EXT, LAPJOINT 3		September 25, 2019
500-53-21-005	GREO, FPD SRND, SKIN, EXT, LAPJOINT 3	A	November 10, 2020
500-53-21-008	GREO, FSD SRND, SKIN, EXT, SIDE		March 10, 2020
500-53-21-008	GREO, FSD SRND, SKIN, EXT, SIDE	A	November 10, 2020
500-53-21-011	GREO, FSD SRND, SKIN, EXT, LAPJOINT 1		January 29, 2020

GREO Number	Title	Revision	Date
500-53-21-011	GREO, FSD SRND, SKIN, EXT, LAPJOINT 1	A	November 10, 2020
500-53-21-012	GREO, FSD SRND, SKIN, EXT, LAPJOINT 2		January 29, 2020
500-53-21-012	GREO, FSD SRND, SKIN, EXT, LAPJOINT 2	A	December 9, 2020
500-53-21-013	GREO, FSD SRND, SKIN, EXT, LAPJOINT 3		January 29, 2020
500-53-21-013	GREO, FSD SRND, SKIN, EXT, LAPJOINT 3	A	April 29, 2020
500-53-21-015	GREO, FCD SRND, SKIN, EXT, SIDE		June 20, 2019
500-53-21-015	GREO, FCD SRND, SKIN, EXT, SIDE	A	November 2, 2020
500-53-21-016	GREO, FCD SRND, SKIN, EXT, CORNER 1		July 3, 2019
500-53-21-016	GREO, FCD SRND, SKIN, EXT, CORNER 1	A	November 2, 2020
500-53-21-017	GREO, FCD SRND, SKIN, EXT, CORNER 2		July 3, 2019
500-53-21-017	GREO, FCD SRND, SKIN, EXT, CORNER 2	A	November 2, 2020
500-53-21-020	GREO, FCD SRND, SKIN, EXT, LAPJOINT 1		June 20, 2019
500-53-21-020	GREO, FCD SRND, SKIN, EXT, LAPJOINT 1	A	November 2, 2020
500-53-21-021	GREO, FCD SRND, SKIN, EXT, LAPJOINT 2		June 20, 2019
500-53-21-021	GREO, FCD SRND, SKIN, EXT, LAPJOINT 2	A	November 2, 2020
500-53-21-022	GREO, FCD SRND, SKIN, EXT, LAPJOINT 3		June 20, 2019
500-53-21-022	GREO, FCD SRND, SKIN, EXT, LAPJOINT 3	A	November 2, 2020
500-53-21-023	GREO, FCD SRND, SKIN, EXT, UPR/LWR		June 20, 2019

GREO Number	Title	Revision	Date
500-53-21-023	GREO, FCD SRND, SKIN, EXT, UPR/LWR	A	November 2, 2020
500-53-21-071	GREO, FPD SRND, SKIN, EXT, UPR/LWR		July 7, 2021
500-53-21-073	GREO, FSD SRND, SKIN, EXT, UPR/LWR		October 5, 2021
500-53-21-099	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO FORWARD FUSELAGE CARGO DOOR SILL		August 24, 2020
500-53-21-099	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO FORWARD FUSELAGE CARGO DOOR SILL	A	November 2, 2020
500-53-21-099	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO FORWARD FUSELAGE CARGO DOOR SILL	B	March 2, 2021
500-53-21-100	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON FWD FUSE BOTTOM SKIN UNDERNEATH FWD CARGO DOOR SCUFF PLATES		August 24, 2020
500-53-21-100	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON FWD FUSE BOTTOM SKIN UNDERNEATH FWD CARGO DOOR SCUFF PLATES	A	November 2, 2020
500-53-21-100	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON FWD FUSE BOTTOM SKIN UNDERNEATH FWD CARGO DOOR SCUFF PLATES	B	October 6, 2021

GREO Number	Title	Revision	Date
500-53-21-101	GREO, DISPOSITION FOR CORROSION DAMAGE ON FWD CARGO DOOR, LOWER FORWARD AND AFT CORNER STRIKERS		August 24, 2020
500-53-21-101	GREO, DISPOSITION FOR CORROSION DAMAGE ON FWD CARGO DOOR, LOWER FORWARD AND AFT CORNER STRIKERS	A	February 28, 2021
500-53-21-107	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON FWD FUSE BOTTOM SKIN AT FWD DRAIN MAST CUTOUT BETWEEN FR 24-26 AND STR 36L-36R		October 19, 2020
500-53-61-001	GREO, APD SRND, SKIN, EXT, SIDE		August 6, 2020
500-53-61-001	GREO, APD SRND, SKIN, EXT, SIDE	A	November 9, 2020
500-53-61-004	GREO, APD SRND, SKIN, EXT, LAPJOINT 1		October 31, 2019
500-53-61-004	GREO, APD SRND, SKIN, EXT, LAPJOINT 1	A	May 7, 2020
500-53-61-004	GREO, APD SRND, SKIN, EXT, LAPJOINT 1	B	November 9, 2020
500-53-61-005	GREO, APD SRND, SKIN, EXT, LAPJOINT 2		October 31, 2019
500-53-61-005	GREO, APD SRND, SKIN, EXT, LAPJOINT 2	A	November 9, 2020
500-53-61-006	GREO, APD SRND, SKIN, EXT, LAPJOINT 3		October 31, 2019
500-53-61-006	GREO, APD SRND, SKIN, EXT, LAPJOINT 3	A	April 29, 2020
500-53-61-006	GREO, APD SRND, SKIN, EXT, LAPJOINT 3	B	November 9, 2020

GREO Number	Title	Revision	Date
500-53-61-008	GREO, APD SRND, SKIN, EXT, SIDE		March 10, 2020
500-53-61-008	GREO, APD SRND, SKIN, EXT, SIDE	A	November 9, 2020
500-53-61-011	GREO, ASD SRND, SKIN, EXT, LAPJOINT 1		July 23, 2020
500-53-61-011	GREO, ASD SRND, SKIN, EXT, LAPJOINT 1	A	August 16, 2020
500-53-61-011	GREO, ASD SRND, SKIN, EXT, LAPJOINT 1	B	November 9, 2020
500-53-61-012	GREO, ASD SRND, SKIN, EXT, LAPJOINT 2		July 23, 2020
500-53-61-012	GREO, ASD SRND, SKIN, EXT, LAPJOINT 2	A	August 16, 2020
500-53-61-012	GREO, ASD SRND, SKIN, EXT, LAPJOINT 2	B	November 9, 2020
500-53-61-013	GREO, ASD SRND, SKIN, EXT, LAPJOINT 3		August 6, 2020
500-53-61-013	GREO, ASD SRND, SKIN, EXT, LAPJOINT 3	A	November 9, 2020
500-53-61-015	GREO, ACD SRND, SKIN, EXT, SIDE		April 3, 2019
500-53-61-015	GREO, ACD SRND, SKIN, EXT, SIDE	A	May 20, 2019
500-53-61-015	GREO, ACD SRND, SKIN, EXT, SIDE	B	November 9, 2020
500-53-61-016	GREO, ACD SRND, SKIN, EXT, UPR/LWR		April 2, 2019
500-53-61-016	GREO, ACD SRND, SKIN, EXT, UPR/LWR	A	May 20, 2019
500-53-61-016	GREO, ACD SRND, SKIN, EXT, UPR/LWR	B	February 28, 2021
500-53-61-017	GREO, ACD SRND, SKIN, EXT, CORNER 1		March 31, 2019
500-53-61-017	GREO, ACD SRND, SKIN, EXT, CORNER 1	A	May 20, 2019

GREO Number	Title	Revision	Date
500-53-61-017	GREO, ACD SRND, SKIN, EXT, CORNER 1	B	February 23, 2021
500-53-61-018	GREO, ACD SRND, SKIN, EXT, CORNER 2		March 31, 2019
500-53-61-018	GREO, ACD SRND, SKIN, EXT, CORNER 2	A	May 20, 2019
500-53-61-018	GREO, ACD SRND, SKIN, EXT, CORNER 2	B	November 2, 2020
500-53-61-021	GREO, ACD SRND, SKIN, EXT, LAPJOINT 1		April 2, 2019
500-53-61-021	GREO, ACD SRND, SKIN, EXT, LAPJOINT 1	A	May 20, 2019
500-53-61-021	GREO, ACD SRND, SKIN, EXT, LAPJOINT 1	B	November 2, 2020
500-53-61-022	GREO, ACD SRND, SKIN, EXT, LAPJOINT 2		April 2, 2019
500-53-61-022	GREO, ACD SRND, SKIN, EXT, LAPJOINT 2	A	May 20, 2019
500-53-61-022	GREO, ACD SRND, SKIN, EXT, LAPJOINT 2	B	November 2, 2020
500-53-61-023	GREO, ACD SRND, SKIN, EXT, LAPJOINT 3		April 2, 2019
500-53-61-023	GREO, ACD SRND, SKIN, EXT, LAPJOINT 3	A	May 20, 2019
500-53-61-023	GREO, ACD SRND, SKIN, EXT, LAPJOINT 3	B	November 2, 2020
500-53-61-039	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON WASTE DOUBLER		June 25, 2019
500-53-61-039	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON WASTE DOUBLER	A	October 29, 2020

GREO Number	Title	Revision	Date
500-53-61-039	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON WASTE DOUBLER	B	November 2, 2020
500-53-61-039	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON WASTE DOUBLER	C	December 17, 2020
500-53-61-101	GREO, APD SRND, SKIN, EXT, UPR/LWR		December 21, 2020
500-53-61-102	GREO, APD SRND, SKIN, EXT, UPR/LWR		March 4, 2021
500-53-61-121	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO AFT FUSELAGE CARGO DOOR SILL		August 24, 2020
500-53-61-121	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO AFT FUSELAGE CARGO DOOR SILL	A	November 2, 2020
500-53-61-121	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE TO AFT FUSELAGE CARGO DOOR SILL	B	October 6, 2021
500-53-61-122	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON REAR FUSE BOTTOM SKIN UNDERNEATH AFT CARGO DOOR SCUFF PLATES		August 24, 2020
500-53-61-122	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON REAR FUSE BOTTOM SKIN UNDERNEATH AFT CARGO DOOR SCUFF PLATES	A	November 2, 2020

GREO Number	Title	Revision	Date
500-53-61-122	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON REAR FUSE BOTTOM SKIN UNDERNEATH AFT CARGO DOOR SCUFF PLATES	B	October 6, 2021
500-53-61-123	GREO, DISPOSITION FOR CORROSION DAMAGE ON AFT CARGO DOOR, LOWER FORWARD AND AFT CORNER STRIKERS		August 24, 2020
500-53-61-123	GREO, DISPOSITION FOR CORROSION DAMAGE ON AFT CARGO DOOR, LOWER FORWARD AND AFT CORNER STRIKERS	A	November 2, 2020
500-53-61-132	GREO, TEMPORARY DISPOSITION FOR CORROSION DAMAGE ON REAR FUSE BOTTOM SKIN AT AFT DRAIN MAST CUTOUT BETWEEN FR67-68 AND STR 36L-36R		October 19, 2020
500-53-84-001	GREO, TAILCONE SKIN, PARTIAL BAY		June 22, 2016
500-53-84-001	GREO, TAILCONE SKIN, PARTIAL BAY	A	July 21, 2016
500-53-84-001	GREO, TAILCONE SKIN, PARTIAL BAY	B	November 15, 2017
500-53-84-001	GREO, TAILCONE SKIN, PARTIAL BAY	C	December 6, 2020
500-53-84-002	GREO, TAILCONE SKIN, FULL BAY		June 22, 2016
500-53-84-002	GREO, TAILCONE SKIN, FULL BAY	A	July 21, 2016
500-53-84-002	GREO, TAILCONE SKIN, FULL BAY	B	November 15, 2017
500-53-84-002	GREO, TAILCONE SKIN, FULL BAY	C	October 22, 2020

GREO Number	Title	Revision	Date
500-53-84-004	GREO, TAILCONE STRINGER BLADE		June 22, 2016
500-53-84-004	GREO, TAILCONE STRINGER BLADE	A	July 24, 2016
500-53-84-004	GREO, TAILCONE STRINGER BLADE	B	November 15, 2017
500-53-84-004	GREO, TAILCONE STRINGER BLADE	C	November 5, 2020
500-53-84-005	GREO, TAILCONE FIREWALL, OVER BEAD		June 22, 2016
500-53-84-005	GREO, TAILCONE FIREWALL, OVER BEAD	A	August 18, 2016
500-53-84-005	GREO, TAILCONE FIREWALL, OVER BEAD	B	November 5, 2020
500-53-84-007	GREO, TAILCONE FIREWALL, EXISTING FASTENERS		June 22, 2016
500-53-84-007	GREO, TAILCONE FIREWALL, EXISTING FASTENERS	A	August 25, 2016
500-53-84-007	GREO, TAILCONE FIREWALL, EXISTING FASTENERS	B	November 5, 2020
500-55-11-001	GREO, HSTAB SKIN, EXT, BTWN SPARS 1		June 13, 2017
500-55-11-001	GREO, HSTAB SKIN, EXT, BTWN SPARS 1	A	November 15, 2017
500-55-11-001	GREO, HSTAB SKIN, EXT, BTWN SPARS 1	B	October 25, 2020
500-55-11-002	GREO, HSTAB SKIN, EXT, BTWN SPARS 2		June 13, 2017
500-55-11-002	GREO, HSTAB SKIN, EXT, BTWN SPARS 2	A	November 15, 2017
500-55-11-002	GREO, HSTAB SKIN, EXT, BTWN SPARS 2	B	November 8, 2020
500-55-11-003	GREO, HSTAB, SKIN, INT, AT FWD SPAR		April 30, 2017

GREO Number	Title	Revision	Date
500-55-11-003	GREO, HSTAB, SKIN, INT, AT FWD SPAR	A	November 15, 2017
500-55-11-003	GREO, HSTAB, SKIN, INT, AT FWD SPAR	B	November 11, 2020
500-55-11-004	GREO, HSTAB SKIN, INT, AT MID SPAR		June 11, 2017
500-55-11-004	GREO, HSTAB SKIN, INT, AT MID SPAR	A	November 14, 2017
500-55-11-004	GREO, HSTAB SKIN, INT, AT MID SPAR	B	November 8, 2020
500-55-11-005	GREO, HSTAB SKIN, EXT, OVER SPAR		June 13, 2017
500-55-11-005	GREO, HSTAB SKIN, EXT, OVER SPAR	A	November 15, 2017
500-55-11-005	GREO, HSTAB SKIN, EXT, OVER SPAR	B	August 26, 2018
500-55-11-005	GREO, HSTAB SKIN, EXT, OVER SPAR	C	October 27, 2020
500-55-12-002	GREO, HSTAB, LE, INT, VAR 1		June 29, 2016
500-55-12-002	GREO, HSTAB, LE, INT, VAR 1	A	February 16, 2017
500-55-12-002	GREO, HSTAB, LE, INT, VAR 1	B	July 6, 2017
500-55-12-002	GREO, HSTAB, LE, INT, VAR 1	C	October 27, 2020
500-55-12-004	GREO, HSTAB, LE, INT, OTBD SPLICE		June 29, 2016
500-55-12-004	GREO, HSTAB, LE, INT, OTBD SPLICE	A	February 16, 2017
500-55-12-004	GREO, HSTAB, LE, INT, OTBD SPLICE	B	July 9, 2017
500-55-12-004	GREO, HSTAB, LE, INT, OTBD SPLICE`	C	January 6, 2021
500-55-12-006	GREO, HSTAB, LE, INT		June 29, 2016
500-55-12-006	GREO, HSTAB, LE, INT	A	February 16, 2017

GREO Number	Title	Revision	Date
500-55-12-006	GREO, HSTAB, LE, INT	B	July 6, 2017
500-55-12-006	GREO, HSTAB, INBD, LE, INT	C	January 6, 2021
500-55-12-008	GREO, HSTAB, LE, INT, INBD SPLICE		June 29, 2016
500-55-12-008	GREO, HSTAB, LE, INT, INBD SPLICE	A	February 16, 2017
500-55-12-008	GREO, HSTAB, LE, INT, INBD SPLICE	B	July 6, 2017
500-55-12-008	GREO, HSTAB, LE, INT, INBD SPLICE	C	January 6, 2021
500-55-21-045	GREO, DISPOSITION FOR LIGHTNING STRIKE DAMAGE TO LHS AND RHS HORIZONTAL STABILIZER, ELEVATOR TIP CASTING		September 19, 2021
500-55-31-003	GREO, VSTAB SKIN, INT, AT RIB		April 30, 2017
500-55-31-003	GREO, VSTAB SKIN, INT, AT RIB	A	November 15, 2017
500-55-31-003	GREO, VSTAB TORQUE BOX, FLUSH	B	January 6, 2021
500-55-31-004	GREO, VSTAB SKIN, EXT, BTWN STGR		June 13, 2017
500-55-31-004	GREO, VSTAB SKIN, EXT, BTWN STGR	A	November 15, 2017
500-55-31-004	GREO, VSTAB SKIN, EXT, BTWN STGR	B	January 6, 2021
500-55-31-005	GREO, VSTAB SKIN, EXT, FWD SPAR		June 14, 2017
500-55-31-005	GREO, VSTAB SKIN, EXT, FWD SPAR	A	November 15, 2017
500-55-31-005	GREO, VSTAB SKIN, EXT, FWD SPAR	B	January 6, 2021
500-55-31-006	GREO, VSTAB SKIN, EXT, REAR SPAR		June 14, 2017

GREO Number	Title	Revision	Date
500-55-31-006	GREO, VSTAB SKIN, EXT, REAR SPAR	A	November 15, 2017
500-55-31-006	GREO, VSTAB SKIN, EXT, REAR SPAR	B	January 6, 2021
500-55-31-007	GREO, VSTAB SKIN, INT, AT SPAR		April 30, 2017
500-55-31-007	GREO, VSTAB SKIN, INT, AT SPAR	A	November 15, 2017
500-55-31-007	GREO, VSTAB SKIN, INT, AT SPAR	B	January 6, 2021
500-55-32-001	GREO, VSTAB, LE, INT, REPAIR		June 29, 2016
500-55-32-001	GREO, VSTAB, LE, INT, REPAIR	A	February 16, 2017
500-55-32-001	GREO, VSTAB, LE, INT, REPAIR	B	January 20, 2021
500-55-32-002	GREO, VSTAB, LE, SPLICE, INT, LWR		June 29, 2016
500-55-32-002	GREO, VSTAB, LE, SPLICE, INT, LWR	A	February 16, 2017
500-55-32-002	GREO, VSTAB, LE, SPLICE, INT, LWR	B	January 6, 2021
500-55-32-003	GREO, VSTAB, LE, SPLICE, INT, UPR		June 29, 2016
500-55-32-003	GREO, VSTAB, LE, SPLICE, INT, UPR	A	February 16, 2017
500-55-32-003	GREO, VSTAB, LE, SPLICE, INT, UPR	B	January 7, 2021
500-57-31-004	GREO, WINGLET UPPER L/E SPLICE		June 22, 2016
500-57-31-004	GREO, WINGLET UPPER L/E SPLICE	A	December 12, 2017
500-57-31-004	GREO, WINGLET UPPER L/E SPLICE	B	January 7, 2021
500-57-31-005	WINGLET SKIN REPAIR, NON FLUSH		September 6, 2017

GREO Number	Title	Revision	Date
500-57-31-005	GREO, WINGLET SKIN, NON FLUSH	A	February 12, 2018
500-57-31-005	GREO, WINGLET SKIN, NON FLUSH	B	January 10, 2021
500-57-31-006	GREO, WINGLET SKIN, EXT, CORNER TIP		June 22, 2016
500-57-31-006	GREO, WINGLET SKIN, EXT, CORNER TIP	A	February 12, 2018
500-57-31-006	GREO, WINGLET SKIN, EXT, CORNER TIP	B	January 10, 2021
500-57-31-007	GREO, WINGLET SKIN, EXT, TIP SPLICE		June 22, 2016
500-57-31-007	GREO, WINGLET SKIN, EXT, TIP SPLICE	A	February 12, 2018
500-57-31-007	GREO, WINGLET SKIN, EXT, TIP SPLICE	B	January 10, 2021
500-57-31-008	GREO, WINGLET SKIN, INT, TIP SPLICE		June 22, 2016
500-57-31-008	GREO, WINGLET SKIN, INT, TIP SPLICE	A	January 28, 2018
500-57-31-008	GREO, WINGLET SKIN, INT, TIP SPLICE	B	January 10, 2021
500-57-41-001	GREO, FIXED L/E SPLICE, INT		June 22, 2016
500-57-41-001	GREO, FIXED L/E SPLICE, INT	A	November 15, 2020
500-57-41-001	GREO, FIXED L/E SPLICE, INT	B	December 2, 2020
500-57-41-028	GREO, FLE SKIN, INT, SECTION 3, TRACK 8		November 25, 2020
500-57-41-028	GREO, FLE SKIN, INT, SECTION 3, TRACK 8	A	February 4, 2021
500-57-41-029	GREO, FLE SKIN, INT SECTION 2, TRACK 6		December 15, 2020
500-57-41-029	GREO, FLE SKIN, INT SECTION 2, TRACK 6	A	February 4, 2021

GREO Number	Title	Revision	Date
500-57-52-001	GREO, UPR, LWR, TE SKIN, MID BAY		June 19, 2017
500-57-52-001	GREO, UPR, LWR, TE SKIN, MID BAY	A	December 14, 2017
500-57-52-001	GREO, UPR, LWR, TE SKIN, MID BAY	B	January 27, 2021
500-57-52-006	GREO, FLAP SKIN, TE, EXT		June 19, 2017
500-57-52-006	GREO, FLAP SKIN, TE, EXT	A	December 14, 2017
500-57-52-006	GREO, FLAP SKIN, TE, EXT	B	February 6, 2021
500-57-52-009	INBD FLAP LOWER SKIN GENERIC REPAIR – NON-FLUSH		November 20, 2017
500-57-52-009	GREO, FLAP SKIN, EXT, MID BAY	A	February 12, 2018
500-57-52-009	GREO, FLAP SKIN, EXT, MID BAY	B	May 7, 2018
500-57-52-009	GREO, FLAP SKIN, EXT, MID BAY	C	February 1, 2021
500-57-52-010	INBD FLAP LOWER SKIN GENERIC REPAIR – NON-FLUSH		November 7, 2017
500-57-52-010	GREO, FLAP SKIN, EXT, 2 STRG BAYS	A	February 12, 2018
500-57-52-010	GREO, FLAP SKIN, EXT, 2 STRG BAYS	B	February 4, 2021
500-57-52-024	GREO, DISPOSITION FOR DAMAGE TO INBD FLAP LOWER SKIN		July 25, 2019
500-57-52-024	GREO, DISPOSITION FOR DAMAGE TO INBD FLAP LOWER SKIN	A	July 30, 2019
500-57-53-002	GREO, FLAP SKIN, TE, EXT		June 19, 2017
500-57-53-002	GREO, FLAP SKIN, TE, EXT	A	March 9, 2020
500-57-53-002	GREO, FLAP SKIN, TE, EXT	B	February 6, 2021
500-57-53-003	GREO, FLAP SKIN, EXT, SMALL		November 1, 2017

GREGO Number	Title	Revision	Date
500-57-53-003	GREGO, FLAP SKIN, EXT, SMALL	A	February 12, 2018
500-57-53-003	GREGO, FLAP SKIN, EXT, SMALL	B	February 6, 2021
500-57-53-004	GREGO, FLAP SKIN, EXT, 2 STRG BAYS		November 20, 2017
500-57-53-004	GREGO, FLAP SKIN, EXT, 2 STRG BAYS	A	February 12, 2018
500-57-53-004	GREGO, FLAP SKIN, EXT, 2 STRG BAYS	B	April 24, 2018
500-57-53-004	GREGO, FLAP SKIN, EXT, 2 STRG BAYS	C	February 6, 2021
500-57-53-005	GREGO, FLAP SKIN, EXT, FULL BAY		November 1, 2017
500-57-53-005	GREGO, FLAP SKIN, EXT, FULL BAY	A	February 12, 2018
500-57-53-005	GREGO, FLAP SKIN, EXT, FULL BAY	B	April 5, 2018
500-57-53-005	GREGO, FLAP SKIN, EXT, FULL BAY	C	February 6, 2021
500-57-53-008	GREGO, FLAP SKIN, INT, OUTER AREA		June 19, 2017
500-57-53-008	GREGO, FLAP SKIN, INT, OUTER AREA	A	March 9, 2020
500-57-53-008	GREGO, FLAP SKIN, INT, OUTER AREA	B	February 6, 2021

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, AIR-520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of AIR-520, Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR-520, Continued Operational Safety Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Deep Gaurav, Aviation Safety Engineer, FAA, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-228-3731; email: Deep.Gaurav@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference

(IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Transport Canada AD CF-2023-70, dated October 5, 2023.

(ii) Airbus Canada Limited Partnership Service Bulletin BD500-530012, Issue 001, dated September 13, 2023.

(iii) Airbus Canada Limited Partnership Service Bulletin BD500-530012, Issue 002, dated March 6, 2024.

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca; website at tc.canada.ca/en/aviation.

(4) For Airbus Canada material identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450-476-7676; email a220_crc@abc.airbus; website a220world.airbus.com.

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

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

Issued on April 14, 2025.

Peter A. White,

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

[FR Doc. 2025-06841 Filed 4-21-25; 8:45 am]

BILLING CODE 4910-13-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC-35538; File No. S7-26-22]

[RIN 3235-AM98]

Form N-PORT and Form N-CEN Reporting; Guidance on Open-End Fund Liquidity Risk Management Programs; Delay of Effective and Compliance Dates

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; delay of effective and compliance dates.

SUMMARY: The Securities and Exchange Commission (“Commission”) is delaying the effective date for the amendments to Form N-PORT that were published on September 11, 2024, from November 17, 2025, to November 17, 2027. The Commission is also delaying the effective date of the amendments to the rule under the Investment Company Act of 1940 (“Investment Company Act”) associated with Form N-PORT reporting requirements. In addition, the Commission is delaying the compliance dates for these amendments related to Form N-PORT reporting requirements. The effective and compliance date for the amendments to Form N-CEN contained in the same release published on September 11, 2024, will remain November 17, 2025.

DATES:

Effective dates: As of April 22, 2025, the effective date for the amendments to Form N-PORT and amendatory

instruction 2 to 17 CFR 270.30b1-9, published at 89 FR 73764 on September 11, 2024, are delayed to November 17, 2027. As of April 22, 2025, the effective date for amendatory instruction 3 to 17 CFR 270.30b1-9, published at 89 FR 73764 on September 11, 2024, is delayed to May 18, 2028. The effective date for the amendments to Form N-CEN, published at 89 FR 73764 on September 11, 2024, will remain November 17, 2025.

Compliance dates: The compliance date for the amendments to Form N-PORT and 17 CFR 270.30b1-9, published at 89 FR 73764 on September 11, 2024, is delayed to November 17, 2027, for fund groups with net assets of \$1 billion or more as of the end of their most recent fiscal year end, and to May 18, 2028, for fund groups with less than \$1 billion in net assets as of the end of their most recent fiscal year end.

FOR FURTHER INFORMATION CONTACT:

Susan Ali, Counsel; Angela Mokodean, Senior Special Counsel; or Brian M. Johnson, Assistant Director, at (202) 551-6792, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-8549.

SUPPLEMENTARY INFORMATION: The Commission is delaying the effective and compliance dates for the Commission’s 2024 amendments to Form N-PORT [referenced in 17 CFR 274.150] and 17 CFR 270.30b1-9 (“rule 30b1-9”) under the Investment Company Act.

I. Discussion

On August 28, 2024, the Commission adopted amendments to reporting requirements on Form N-PORT to require more frequent reporting of monthly portfolio holdings and related information to the Commission and the public, and to amend certain reporting requirements relating to entity identifiers.¹ In the same release, the Commission also adopted amendments to Form N-CEN and provided guidance on liquidity risk management program requirements for open-end funds.² The Commission established a general

effective date for the final amendments of November 17, 2025.³

On January 20, 2025, President Donald J. Trump signed a Presidential Memorandum directing agencies to consider postponing for 60 days from the date of the Presidential Memorandum the effective date for any rules that had been issued but had not yet taken effect for the purpose of reviewing any questions of fact, law, and policy that the rules may raise and, as appropriate and consistent with applicable law, and where necessary to continue to review these questions of fact, law, and policy, consider further delaying, or publishing for notice and comment, proposed rules further delaying such rules beyond the 60-day period.⁴ The Memorandum further states that, for those rules that raise substantial questions of fact, law, or policy, agencies should provide notice and take further appropriate action.

Following adoption of the Form N-PORT amendments, petitioner Registered Funds Association filed a petition in the Fifth Circuit Court of Appeals seeking review of the final amendments to Form N-PORT.⁵ After the issuance of the Presidential Memorandum, the Commission filed an unopposed motion to hold the Fifth Circuit case in abeyance while the Commission reviews the final amendments in accordance with the Presidential Memorandum. On February 11, 2025, the Fifth Circuit Court of Appeals granted the Commission’s motion to stay the proceedings while the Commission reviews the final amendments.⁶ Separate from these proceedings, the Commission also has received a request to further amend Form N-PORT due to concerns about the potential negative impacts of certain of the recent amendments.⁷

In light of these developments, we are delaying the effective and compliance dates of the amendments to Form N-PORT to provide time for the Commission to complete its review in accordance with the Presidential Memorandum and take any further

³ Due to the inclusion of a longer compliance period for smaller entities, one aspect of the amendments to rule 30b1-9 had an effective date of May 18, 2026.

⁴ Regulatory Freeze Pending Review (Jan. 20, 2025) [90 FR 8249 (Jan. 28, 2025)], available at <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/> (“Presidential Memorandum”).

⁵ *Registered Funds Association v. SEC*, No. 24-60550 (5th Cir. 2024).

⁶ See ECF No. 50-2, *Registered Funds Association v. SEC*, No. 24-60550 (5th Cir. Feb. 11, 2025).

⁷ See Letter from Investment Company Institute (Feb. 26, 2025) (“ICI Letter”), available at <https://www.ici.org/system/files/2025-02/25-cl-form%20nport-amendments.pdf>.

¹ Form N-PORT and Form N-CEN Reporting; Guidance on Open-End Fund Liquidity Risk Management Programs, Investment Company Act Release No. 35308 (Aug. 28, 2024) [89 FR 73764 (Sept. 11, 2024)] (“2024 Adopting Release”), available at <https://www.sec.gov/files/rules/final/2024/ic-35308.pdf>.

² The amendments to Form N-CEN require open-end funds to report information about service providers used to comply with liquidity risk management program requirements and modify certain reporting related to entity identifiers.

appropriate actions, which may include proposed amendments to Form N-PORT.⁸ As part of this review, the Commission will consider the costs and benefits identified in the 2024 Adopting Release, including the costs and benefits of public reporting to funds, fund investors, and other users of Form N-PORT reports.⁹ As described in the 2024 Adopting Release, larger entities would have been required to comply with the Form N-PORT amendments for reports filed on or after the November 17, 2025, effective date, and smaller entities would have been required to comply with these amendments for reports filed on or after May 18, 2026, approximately six months later.¹⁰ The Commission is delaying the effective date for the amendments to Form N-PORT to November 17, 2027. The Commission is also delaying the compliance date to November 17, 2027, for larger entities and to May 18, 2028, for smaller entities.¹¹ If the Commission determines that no further amendments to Form N-PORT are needed after the completion of its review, the delayed effective and compliance dates in this release are intended to provide funds with sufficient time to comply with the amendments after being notified that the Commission's review is complete.¹² If the Commission determines to propose amendments to Form N-PORT following its review, the delayed effective and compliance dates will reduce the costs funds would incur to

comply with amendments that may change.

The Commission has completed its review of the amendments to Form N-CEN and the guidance on liquidity risk management program requirements in the 2024 Adopting Release in accordance with the Presidential Memorandum. These provisions were also not specifically challenged in the pending litigation. As a result, those aspects of the 2024 Adopting Release are unaffected, and the effective and compliance date for the amendments to Form N-CEN will remain November 17, 2025.

II. Economic Analysis

The Commission is mindful of the economic effects, including the costs and benefits, of the effective and compliance date extensions. Section 2(c) of the Investment Company Act and section 3(f) of the Securities Exchange Act of 1934 ("Exchange Act") direct the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in, or consistent with, the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. In addition, section 23(a)(2) of the Exchange Act requires the Commission, when making rules under the Exchange Act, to consider among other matters the impact that the rules would have on competition and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The baseline against which the costs, benefits, and the effects on efficiency, competition, and capital formation of the effective and compliance date extensions are measured consists of the current state of the market, the current regulatory framework which does not include amendments adopted in the 2024 Adopting Release, and Form N-PORT filers' current practices. As discussed above, pursuant to the 2024 Adopting Release, current Form N-PORT—without the amendments adopted in that Release—was to remain in effect until the November 17, 2025, effective date.¹³

The scope of funds subject to the amended Form N-PORT in the 2024 Adopting Release covers all registered funds that are currently required to file reports on Form N-PORT, including registered open-end funds, registered closed-end funds, and exchange-traded

funds organized as unit investment trusts, and excluding money market funds and small business investment companies.¹⁴

This final rule will delay the effective date for the amendments to Form N-PORT to November 17, 2027, and will delay the compliance date for larger entities to November 17, 2027, and for smaller entities to May 18, 2028. This extension will mitigate costs associated with more timely and more frequent reporting of Form N-PORT information to the Commission and more frequent public disclosure. Specifically, delaying the compliance period will reduce the direct cost of compliance because it will (1) give funds more time to adjust their processes and (2) delay the costs of providing more timely and more frequent reporting. In addition, some funds may decide to defray incurring any additional costs to adjust their processes while they wait for the Commission's review to be finalized.¹⁵ Similarly, the final rule will delay the accrual of the other, indirect costs described in the 2024 Adopting Release.

The extension will also impact the economic benefits associated with the amendments to Form N-PORT. Specifically, the Commission sought to achieve two primary goals with the reporting and public disclosure amendments in the 2024 Adopting Release, namely: (1) improve regulatory oversight of registered investment companies' activities; and (2) benefit market participants by increasing transparency of funds' portfolio data.¹⁶ The extension of the effective and compliance dates will delay the accrual of any benefits and the effects on market efficiency, competition, and capital formation described in the 2024 Adopting Release from the more timely receipt of the data, since these anticipated effects were predicated on funds coming into compliance with the amendments.¹⁷

¹⁴ See 2024 Adopting Release, *supra* note 1, at section IV.B.2.

¹⁵ Delaying the compliance date will also mitigate the potential costs associated with overlap of the compliance dates of the final Form N-PORT amendments and the compliance dates of other rules that were adopted prior to the final Form N-PORT amendments. See 2024 Adopting Release, *supra* note 1, at section IV.C.5. As explained in that Release, where overlap in compliance periods exists, the Commission acknowledges that there may be additional costs on those entities subject to one or more other rules, but spreading the compliance dates out over an extended period limits the number of implementation activities occurring simultaneously.

¹⁶ 2024 Adopting Release, *supra* note 1, at section IV.A.

¹⁷ For example, to the extent that there are significant market events in late 2025, delaying the

Continued

⁸ See Mark T. Uyeda, Remarks to the Investment Company Institute's 2025 Investment Management Conference (Mar. 17, 2025), available at <https://www.sec.gov/newsroom/speeches-statements/uyeda-ici-031725>.

⁹ See 2024 Adopting Release, *supra* note 1, at section IV.C.2.

¹⁰ For these purposes, larger entities are funds that, together with other investment companies in the same "group of related investment companies" (as such term is defined in 17 CFR 270.0–10) have net assets of \$1 billion or more as of the end of the most recent fiscal year, and smaller entities are funds that together with other investment companies in the same "group of related investment companies" have net assets of less than \$1 billion as of the end of the most recent fiscal year. See 2024 Adopting Release, *supra* note 1, at n.169.

¹¹ Consistent with the 2024 Adopting Release, during the longer compliance period for smaller entities, these entities would continue to be subject to recordkeeping requirements in rule 30b1–9 until they begin to file monthly reports on Form N-PORT. As a result, because we are delaying the compliance period for smaller entities to May 18, 2028, we are likewise delaying the effective date for amendments to rule 30b1–9 that remove the recordkeeping requirements to May 18, 2028. See 2024 Adopting Release, *supra* note 1, at n.170 and accompanying text.

¹² Depending on the length of the review, the Commission may adjust the effective and compliance dates provided in this release as needed.

¹³ See *supra* section I.

Lastly, the Commission considered alternatives to the new effective and compliance dates. A shorter delay of the effective and compliance dates would be less likely to give the Commission sufficient time to complete its review of the final amendments to Form N–PORT and take any subsequent action based on the review. A longer delay of these dates would further delay compliance costs associated with providing more timely and more frequent reporting, but the incremental cost reductions associated with adjusting processes that a further delay could achieve would be minimal, and a longer delay would further delay the accrual of the benefits associated with the amendments to Form N–PORT if, following the Commission’s review, it determines no further changes are needed. In addition, as discussed above, the Commission may adjust the effective and compliance dates provided in this release as needed, depending on the length of the review.¹⁸

III. Procedural and Other Matters

The Administrative Procedure Act (“APA”) generally requires an agency to publish notice of a rulemaking in the **Federal Register** and provide an opportunity for public comment. This requirement does not apply, however, if the agency “for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.”¹⁹

The Commission, for good cause, finds that notice and solicitation of public comment to delay the effective and compliance dates for the Form N–PORT amendments are impracticable, unnecessary, or contrary to the public interest.²⁰ This document does not impose any new substantive regulatory requirements on any person. Rather, it delays the effective and compliance dates for the Form N–PORT amendments. For the reasons discussed above, a delay of the effective date to November 17, 2027, and a delay of the compliance dates to November 17, 2027, for larger entities and to May 18, 2028, for smaller entities is designed to provide the Commission sufficient time to complete its review in accordance with the Presidential Memorandum and take any necessary and appropriate actions. Given the time constraints

associated with upcoming effective and compliance dates, a notice and comment period could not reasonably be completed prior to funds incurring burdens and other challenges associated with meeting the effective and compliance dates. Delaying the effective and compliance dates immediately should ease funds’ concerns about complying with the amendments in the short-term as industry participants raised several concerns including harm to shareholders and curbs on fund innovation.²¹ The delay therefore will avoid the possibility that, while the amendments are under review, funds incur costs to take actions to come into compliance with requirements that may change, or otherwise change their investment strategies in anticipation of those requirements. Further, the Commission recognizes the importance of providing funds sufficient notice of the delayed effective and compliance dates. Providing immediate effectiveness upon publication of this release will allow industry participants to adjust their implementation plans accordingly.

For similar reasons, although the APA generally requires publication of a rule at least 30 days before its effective date, the requirements of 5 U.S.C. 808(2) are satisfied (notwithstanding the requirement of 5 U.S.C. 801)²² and the Commission finds there is good cause for the amendments to the effective and compliance dates for the Form N–PORT amendments to take effect on April 22, 2025.²³

Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has designated these amendments as not a “major rule,” as defined by 5 U.S.C. 804(2).

By the Commission.

Dated: April 16, 2025.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2025–06861 Filed 4–21–25; 8:45 am]

BILLING CODE 8011–01–P

²¹ See ICI Letter, *supra* note 7.

²² See 5 U.S.C. 808(2) (if a Federal agency finds that notice and public comment are impracticable, unnecessary or contrary to the public interest, a rule shall take effect at such time as the Federal agency promulgating the rule determines). This rule also does not require analysis under the Regulatory Flexibility Act. See 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment). Finally, this rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 (“PRA”). 44 U.S.C. 3501 *et seq.* Accordingly, the PRA is not applicable.

²³ See 5 U.S.C. 553(d)(3).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2024–0193; FRL–12285–02–R1]

Air Plan Approval; Connecticut; State Implementation Plan Revisions Required by the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut for the 2015 ozone National Ambient Air Quality Standard (NAAQS). These revisions certify the adequacy of the SIP to satisfy the nonattainment new source review permitting requirements of the Clean Air Act (CAA) for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS, and certify the emission statement program satisfies CAA requirements for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS. This action is being taken in accordance with the CAA.

DATES: This rule is effective on May 22, 2025.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2024–0193. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: John Creilson, Air Quality Branch, U.S.

compliance date may result in forgone benefits from the Commission not receiving Form N–PORT data in a timelier manner.

¹⁸ See *supra* note 12.

¹⁹ 5 U.S.C. 553(b)(3)(B).

²⁰ See section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) (stating that an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are “impracticable, unnecessary, or contrary to the public interest”).

Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code 5–MI), Boston, MA 02109–3912, telephone number (617) 918–1688, email creilson.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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- I. Background and Purpose
 - a. NNSR Certification
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- II. Response to Comments
- III. Final Action
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I. Background and Purpose

On September 27, 2024 (89 FR 79186), the EPA published a notice of proposed rulemaking (NPRM) for the State of Connecticut proposing to approve two SIP revisions submitted by the State. Information about the proposed SIP revisions are as follows.

a. NNSR Certification

On May 22, 2023, the Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted several revisions to its SIP. The first SIP revision certified the adequacy of the SIP to satisfy the nonattainment new source review (NNSR) permitting requirements of the CAA for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone National Ambient Air Quality Standards (NAAQS). Effective November 7, 2022, the EPA reclassified the Greater Connecticut nonattainment area to moderate nonattainment for the 2015 ozone NAAQS (see 87 FR 60897). Although CT DEEP had previously submitted, and EPA had approved, an NNSR certification for the 2015 ozone NAAQS initial classifications of marginal nonattainment for the Greater Connecticut nonattainment area (see 87 FR 38284, July 28, 2022), EPA’s reclassification requires recertifying the adequacy of its NNSR program under the moderate nonattainment area requirements. The State certified that the versions of Regulations of Connecticut State Agencies (RCSA) sections 22a–174–1 and 22a–174–3a in the current SIP meet the Federal NNSR requirements for the Greater Connecticut ozone nonattainment area. In Connecticut’s certification, the State provided a side-by-side comparison demonstrating the State’s Rules are at least as stringent as EPA’s NNSR permitting program requirements.

b. Emission Statement Certification

The second SIP revision certified that the emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS. CAA section 182(a)(3)(B) applies to stationary sources that emit nitrogen oxides (NO_x) or volatile organic compounds (VOCs) in an ozone nonattainment area. The owner of each stationary source that emits NO_x or VOCs must provide a statement each year of its NO_x and VOC emissions, and the statement must be certified as to accuracy. Beginning with its initial emission statement program SIP filing on January 12, 1993 (approved on January 10, 1995; 60 FR 2524), Connecticut administered its emission statement program under the recordkeeping and reporting requirements of section 22a–174–4 of the RCSA. On November 17, 2022, Connecticut submitted a new regulation, RCSA section 22a–174–4a, “Source monitoring, record keeping and reporting,” to EPA as a SIP revision to replace the rule it had previously used to implement an emissions statement program (section 22a–174–4). This revision was approved into the SIP by final rule published July 8, 2024 (89 FR 55888), and associated correction notice published July 23, 2024 (89 FR 59620).

The rationale for EPA’s proposed actions for these revisions is explained in the NPRM and will not be restated here.

II. Response to Comments

EPA received three comments during the comment period. The first comment generally supports the EPA’s proposed action, although the commenter also discusses topics outside the scope of the action. The second comment focuses solely on irrelevant subjects. The third comment is disjointed and unclear. To the extent the commenter means to rely on any points made in the various references appearing in the comment, “EPA will generally not consider comments or comment contents located outside of the primary submission.” 89 FR 79186. In any event, none of the comments assert, or explain how, EPA approval of this action would be erroneous or otherwise be inconsistent with the CAA, applicable regulations, or other authorities. As such, the comments do not require further response to finalize the action as proposed.

III. Final Action

EPA is approving Connecticut’s SIP revisions pertaining to NNSR Certification and Emission Statement Certification.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 10, 2025.

Mark Sanborn,

Regional Administrator, EPA Region 1.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(136) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(136) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on May 22, 2023.

(i) [Reserved]

(ii) *Additional materials.* (A) Letter from the Connecticut Department of Energy and Environmental Protection, dated May 22, 2023, submitting a revision to the Connecticut State Implementation Plan.

(B) [Reserved]

■ 3. Section 52.377 is amended by adding paragraph (x) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(x) *Approval.* Revisions to the State Implementation Plan (SIP) submitted from the Connecticut Department of Energy and Environmental Protection dated May 22, 2023, to meet, in part, the requirements of the 2015 ozone NAAQS. These revisions:

(1) Certify the adequacy of the SIP to satisfy the nonattainment new source review permitting requirements of the Clean Air Act (CAA) for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS; and

(2) certify the emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS.

[FR Doc. 2025–06610 Filed 4–21–25; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2025–0059; FRL–12610–01–R5]

Air Plan Approval; Wisconsin; Revised Format for Materials Incorporated by Reference

AGENCY: Environmental Protection Agency.

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is revising the format for materials that are made part of the Wisconsin State Implementation Plan (SIP) through the process of incorporation by reference (IBR). The regulations and materials affected by this format change have all been

previously submitted by Wisconsin and approved by EPA as part of the SIP.

DATES: This action is effective on April 22, 2025.

ADDRESSES: The SIP materials for which incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following locations: Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 and www.regulations.gov. To view the materials at the Region 5 Office, EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we,” “us” or “our” is used, it is intended to refer to EPA.

I. Background

A. Description of a SIP

Each state has a SIP containing, among other things, the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies to attain and maintain the NAAQS after the public has had an opportunity to comment on them and then the state must submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA through notice and comment rulemaking, EPA uses the IBR process to make them part of the federally approved SIP. IBR is a method of incorporating material into EPA regulations in the Code of Federal Regulations (CFR) by referencing the original document(s) without publishing the full text of the material. In this case, the SIP rules are identified in part 52 (Approval and Promulgation of Implementation Plans), title 40 of the CFR (40 CFR part 52). These rules are approved by EPA with a specific

effective date, but are not reproduced in their entirety in 40 CFR part 52. This format allows both EPA and the public to identify which regulations are contained in a given SIP and to help determine whether the state is enforcing those regulations. This format also assists EPA and the public in taking enforcement action, should a state not enforce its SIP-approved regulations.

C. How the State and EPA Update the SIP

The SIP is periodically revised as necessary to address the unique air pollution problems in the state. Therefore, EPA must periodically take action on state SIP submissions containing new and/or revised regulations and other materials; if approved, they become part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the formatting procedures of 40 CFR part 52 for incorporating by reference federally approved SIP revisions. These procedures include: (1) A revised SIP document for each state that would use the IBR process under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the document that has gone through the IBR process and the CFR; and (3) a revised format of the “Identification of plan” sections for each applicable subpart in 40 CFR part 52 to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document.

D. How EPA Compiles the SIPs

The federally-approved regulations, source-specific requirements, and nonregulatory provisions (entirely or portions of) submitted by each state agency have been compiled by EPA into a “SIP compilation.” The SIP compilation contains the updated regulations, source-specific requirements, and nonregulatory provisions approved by EPA through previous rulemaking actions in the **Federal Register**.

E. How EPA Organizes the SIP Compilation

Each SIP compilation contains three parts. Part one contains the regulations, part two contains the source-specific requirements, and part three contains nonregulatory provisions. Each state’s SIP compilation contains a table for each of the three parts that identifies each SIP-approved regulation, source-specific requirement, and nonregulatory provision. In this action, EPA is

publishing the SIP compilation tables that summarize the applicable SIP requirements for Wisconsin and that will be codified at 40 CFR 52.2570. The effective dates in the table indicate the date of the most recent revision to an approved regulation. EPA Regional Offices have the primary responsibility for updating the state SIP compilations and ensuring their accuracy.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region 5 has developed and will maintain the SIP compilation for Wisconsin. A copy of the full text of Wisconsin’s regulatory and source-specific SIP compilation will also be maintained at the National Archives and Records Administration (NARA).

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the section titled “Identification of plan” at 40 CFR 52.2570 and included additional information to clarify the enforceable elements of the SIP. The revised format does not affect Federal enforceability of the SIP and is consistent with the requirements of section 110(h)(1) of the Clean Air Act (CAA) concerning comprehensive SIP publication.

The revised “Identification of plan” section contains five subsections:

1. Purpose and scope
2. Incorporation by reference
3. EPA approved regulations
4. EPA approved source specific requirements
5. EPA approved nonregulatory and quasi-regulatory provisions.

H. When a SIP Revision Becomes Federally Enforceable

All new requirements and revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraph (c), (d), or (e) of the applicable “Identification of plan” section found in each subpart of 40 CFR part 52.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA will retain the original “Identification of plan” section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. The original Identification of plan section will be moved to § 52.2594 of part 52 for Wisconsin.

II. What EPA Is Doing in This Action

We are revising the format of 40 CFR part 52 “Identification of plan” section for Wisconsin regarding incorporation by reference, by adding § 52.2570(c), (d), and (e), to be consistent with the format described above and in 62 FR 27968 (May 22, 1997). We are adding § 52.2570(b)(1) to further clarify that all SIP revisions listed in § 52.2570(c) and (d), regardless of inclusion in the most recent “update to the SIP compilation,” are federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking in which EPA approved the SIP revision. We are adding § 52.2570(b)(2) to certify that the materials provided by EPA at the addresses in paragraph (b)(3) are an exact duplicate of the official state rules/regulations. We are adding § 52.2570(b)(3) to update address and contact information.

This action constitutes a recordkeeping and organizational exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51.

EPA has determined that this action falls under the “good cause” exemption in sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and allows an agency to make a rule effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA. This action simply reformats and codifies provisions which are already in effect as a matter of law in Federal and approved state programs. Under section 553(b)(3)(B) of the APA, an agency may find good cause where notice and public procedure are “impractical, unnecessary, or contrary to the public interest.” Public comment is unnecessary for this action because EPA is merely reformatting and codifying existing law. Immediate notice in the CFR benefits the public by removing outdated citations and making the IBR format clearer and more user-friendly.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of regulations promulgated by Wisconsin, previously approved by EPA and federally effective before December 31, 2024, contained in 40 CFR 52.2570(c) (*EPA approved regulations*)

and (d) (*EPA approved source-specific requirements*), described in section II. of this preamble. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely addresses administrative requirements related to previously approved state law found to meet Federal requirements and does not impose additional requirements beyond those previously imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is an administrative action related to state program approval;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Wisconsin SIP compilations afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA believes judicial review of this action under section 307(b)(1) is not available.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon oxides, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: April 7, 2025.

Cheryl Newton,

Acting Regional Administrator, Region 5.

Part 52 of chapter I, title 40 of the Code of Federal Regulations, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—Wisconsin

§ 52.2570 [Redesignated as § 52.2594]

- 2. Section 52.2570 is redesignated as § 52.2594.

- 3. A new § 52.2570 is added to read as follows:

§ 52.2570 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for the State of Wisconsin under section 110 of the CAA, 42 U.S.C. 7401–7671q, and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 31, 2024, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and notification of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) with EPA approval dates after December 31, 2024, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 5 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 5 EPA Office at 77 West Jackson Boulevard, Chicago, IL 60604. To obtain the material, please call the EPA Region 5 Office. You may also inspect the material with an EPA approval date prior to December 31, 2024, for Wisconsin at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

(c) *EPA approved regulations.*

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 30—Forest Fire Control					
NR 30.03	Burning regulations, extensive forest fire control area.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(t).
NR 30.04	Burning regulations, intensive fire control area.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(f).
NR 400—Air Pollution Control Definitions					
NR 400.02	Definitions	8/1/2022	July 2022, No. 799.	10/29/2024, 89 FR 85857.	All except (19m), and (27m).
NR 400.03	Units and abbreviations	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.	All except (1)(a) through (cm), (dm) through (m), and (4)(js).
NR 401—Nonattainment Areas					
NR 401.04	Compliance required	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 404—Ambient Air Quality					
NR 404.02	Definitions	1/1/1989	Dec 1988, No. 396.	6/2/1993, 58 FR 34528.	Only (8).
NR 404.04	Ambient air quality standards	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(a)1. and 2. and (6).
NR 404.04	Ambient air quality standards	10/1/2009	Sep 2009, No. 645.	9/17/2018, 83 FR 46882.	Only (8) and (9).
NR 404.04	Ambient air quality standards	3/1/2022	Feb 2022, No. 794.	2/1/2023, 88 FR 6632.	Only (5)(d) and Note.
NR 404.05	Ambient air increments	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(a), (3)(a) and (4)(a).
NR 404.05	Ambient air increments	8/1/2016	Jul 2016, No. 727.	7/7/2017, 82 FR 9515.	Only (2)(intro.), (2)(am), (3)(intro.), (3)(am), (4)(intro.) and (4)(am).
NR 404.06	Measurement of ambient air quality.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1)(a) and (4)(b).
NR 405—Prevention of Significant Deterioration					
NR 405.01	Applicability; purpose	7/1/2007	June 2007, No. 618.	12/17/2008, 73 FR 76558.	
NR 405.02	Definitions	8/1/2016	July 2016, No. 727.	2/7/2017, 82 FR 9515.	Only intro, (1), (2)(intro.), (2)(a), (2m), (3), (4), (7), (8), (11), (11c), (11e), (11j), (12), (20m), (21), (21m), (22) [except (a)3.], (22m), (24), (24j), (25b), (25d), (25e), (25f), (25g)(b) and (d), (25i), (25k), (25m), (25s)(intro.) and (a), (27)(a)intro, 1. through 7. and 9. through 13., and (c), (28), and, (28m).
NR 405.025	Methods for calculation of increases in actual emissions.	7/1/2007	June 2007, No. 618.	12/17/2008, 73 FR 76558.	
NR 405.04	Exclusions from increment consumption.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1)(intro), (1)(a), (1)(e), (4)(intro.) and (4)(a).
NR 405.05	Redesignation	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1), (4)(intro.), (5) and (6).
NR 405.07	Review of major stationary sources and major modifications—source applicability and exemptions.	8/1/2008	July 2008, No. 631.	2/21/2023, 64 FR 28745.	Only (3), (4)(intro.), (4)(a)(20), (4)(a)27., (5), (8)(a)3., (8)(a)3m. and Note, (8)(a)5. Note, and (9).
NR 405.08	Control technology review	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1) and (3).
NR 405.10	Air quality models	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 405.14	Sources impacting federal Class I areas—additional requirements.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1), (2), and (4).
NR 405.15	Public participation	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(d).

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 405.16	Source obligation	7/1/2007	June 2007, No. 618.	12/17/2008, 73 FR 76558.	Only (3) and (4).
NR 405.18	Plant-wide applicability limitations (PALs).	8/1/2008	July 2008, No. 631.	2/21/2023, 88 FR 10466.	
NR 405.19	Forest County Potawatomi Class I area.	12/1/2010	Nov 2010, No. 659.	9/19/2013, 78 FR 57501.	
NR 406—Construction Permits					
NR 406.01	Applicability; purpose	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Only (1) “Associated parking area”, (1m) “Highway project”, (2) “Intersection boundary”, (4) “Modified intersection”, (5) “Modified road or highway segment”, (6) “Municipal garbage and refuse”, (7) “New road or highway segment”, (8) “Parking capacity”, (9) “Peak hour queue”, (10) “Peak hour volume”, (10m) “Permit revision”, (11) “Road or highway segment” and (12) “Traffic volume”.
NR 406.02	Definitions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 406.02	Definitions	10/1/2020	Sept 2020, No. 777.	3/3/2022, 87 FR 11957.	
NR 406.03	Permit requirements and exemptions for construction permits.	6/1/2007	May 2007, No. 617.	3/11/2008, 73 FR 12893.	Only (2)(f).
NR 406.035	Establishment or distribution of plant-wide applicability limitations.	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76558.	
NR 406.04	Direct sources exempt from construction permit requirements.	2/1/2001	Jan 2001, No. 541.	12/14/2001, 66 FR 64750.	All except (1)(zi), (2)(cs), (2)(f), and (3)(e).
NR 406.04	Direct sources exempt from construction permit requirements.	10/1/2020	Sept 2020, No. 777.	3/3/2022, 87 FR 11957.	
NR 406.06	Indirect sources exempt from construction permit requirements.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Only (1) and (4).
NR 406.07	Scope of permit exemption	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76558.	
NR 406.08	Action on permit applications	12/1/2015	Nov 2015, No. 719.	9/7/2018, 83 FR 45348.	
NR 406.09	Air quality analysis	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Only (3)(a).
NR 406.10	Violations	12/1/2015	Nov 2015, No. 719.	9/7/2018, 83 FR 45348.	
NR 406.11	Construction permit revision, suspension and revocation.	12/1/2015	Nov 2015, No. 719.	9/7/2018, 83 FR 45348.	
NR 406.12	Permit duration periods	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Only (3)(a).
NR 406.13	Duty to comply	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 406.14	Exemption from requirements for indirect sources.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 406.15	Relocation of portable sources ..	5/1/2008	Apr 2008, No. 628.	10/22/2008, 73 FR 62889.	Only (3)(a).
NR 406.16	General construction permits	12/1/2015	Nov 2015, No. 719.	9/7/2018, 83 FR 45348.	
NR 406.17	Registration construction permits.	10/1/2020	Sept 2020, No. 777.	3/3/2022, 87 FR 11957.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 406.18	Petition For issuance of general construction permits and registration construction permits.	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	
NR 407—Operation Permits					
NR 407.01	Applicability; purpose	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.02	Definitions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Except (17)(b)27 and (17)(c)intro. and 1.
NR 407.02	Definitions	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	Only (3) “Facility” and (3m) “Individual operation permit”.
NR 407.02	Definitions	5/1/2008	Apr 2008, No. 628.	10/22/2008, 73 FR 62889.	Only (3e) and (4)(b)27.
NR 407.02	Definitions	3/1/2022	Feb 2022, No. 794.	2/1/2023, 88 FR 6632.	Only (4)(c)1. and Note.
NR 407.025	Permit flexibility	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.03	Exemptions from operation permit requirements.	2/1/2001	Jan 2001, No. 541.	12/14/2001, 66 FR 64750.	Except (1)(ce) and (1)(cm).
NR 407.03	Exemptions from operation permit requirements.	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	Only (1)(ce) and (1)(cm).
NR 407.04	Application filing dates	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.05	Applications and forms	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Except (4)(c)1. and Table 2 footnote 8, and (7).
NR 407.05	Applications and forms	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (4)(c)1. and Table 2 footnote 8.
NR 407.05	Applications and forms	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	Only (7).
NR 407.06	Complete applications	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.07	Action on applications	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.08	Dates by which permits are required.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.09	Permit content	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Except (4)(a)3.c.
NR 407.09	Permit content	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (4)(a)3.c.
NR 407.10	General operation permits	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	All except (4)(a)2.
NR 407.10	General operation permits	5/1/2008	Apr 2008, No. 628.	10/22/2008, 73 FR 62889.	Only (4)(a)2. and (note).
NR 407.105	Registration operation permits ..	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	
NR 407.107	Petitions for issuance of general operation permits and registration operation permits.	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	
NR 407.11	Administrative permit revisions ..	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.12	Minor revisions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.13	Significant revisions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.14	Permit revision by the department.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Does not include (4)(c) and Note.
NR 407.14	Permit revision by the department.	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	Only (4)(c) and Note.
NR 407.15	Permit suspension, revocation and withdrawal from coverage.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	Only (1), (2), (4), (5), (6) and (7).
NR 407.15	Permit suspension, revocation and withdrawal from coverage.	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	Only intro. (3) and (8)(a).
NR 407.16	Revision procedures for non-part 70 source permits and state only requirements for part 70 sources.	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 407.17	Revisions of acid rain provisions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 408—Construction Permits for Direct Major Sources in Nonattainment Areas					
NR 408.01	Applicability; purpose	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	Only (21)(e)5.
NR 408.02	Definitions	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.02	Definitions	3/1/2022	Feb 2022, No. 794.	2/1/2023, 88 FR 6632.		Except (21)(e)5., (21)(f), (29m)(c), (29m)(d), and (32)(a)5m.
NR 408.025	Methods for calculation of increases in actual emissions.	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76560.	Except (1)(cm).
NR 408.03	Source applicability and exemptions.	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.04	Control technology review	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.05	Reasonable further progress	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.06	Emissions offsets	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76560.	
NR 408.07	Source impact analysis	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.08	Additional conditions for approval.	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.09	Permit application review; public participation.	6/1/1993	May 1993, No. 449.	1/18/1995, 60 FR 3538.	
NR 408.10	Source obligation	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76560.	
NR 408.11	Plant-wide applicability limitations (PALs).	8/1/2008	Jul 2008, No. 631.	5/7/2021, 86 FR 24499.	
NR 409—Acid Rain Portion of Operation Permits					
NR 409.02	Definitions	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (76)(intro.).
NR 409.06	Standard requirements	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (8)(d).
NR 410—Air Permit, Emission and Inspection Fees					
NR 410.01	Purpose	5/1/1984	Apr 1984, No. 340.	3/13/1985, 50 FR 10005.	Only (1)(a)(5), (1)(a)(6) and (1)(a)(7). Only intro., (1)(a)(8), (1)(a)(9), (1)(a)(10) and (1)(b). Only (1)(bm), (1)(d) and (1)(f). Only (4).
NR 410.02	Applicability	5/1/1984	Apr 1984, No. 340.	3/13/1985, 50 FR 10005.	
NR 410.03	Definitions	5/1/1984	Apr 1984, No. 340.	3/13/1985, 50 FR 10005.	
NR 410.03	Application fee	9/1/2005	Aug 2005, No. 596.	2/6/2006, 71 FR 5979.	
NR 410.03	Application fee	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76558.	
NR 410.03	Application fee	6/1/2007	May 2007, No. 617.	8/1/2013, 78 FR 46520.	
NR 410.03	Application fee	5/1/2008	Apr 2008, No. 628.	10/22/2008, 73 FR 62889.	
NR 410.04	Application fee	5/1/1984	Apr 1984, No. 340.	3/13/1985, 50 FR 10005.	
NR 410.05	Implementation and enforcement fee.	5/1/1984	Apr 1984, No. 340.	3/13/1985, 50 FR 10005.	
NR 410.06	Severe ozone nonattainment area major source fee.	2/1/2001	Jan 2001, No. 541.	6/25/2002, 67 FR 42729.	
NR 415—Control of Particulate Emissions					
NR 415.02	Definitions	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	Except (3) and (8).
NR 415.03	General Limitations	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.035	Specific geographic areas for additional particulate emission control.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.04	Fugitive dust	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 415.05	Particulate matter emission limits for processes.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	Only (2)(a)5. and (3)intro.
NR 415.06	Particulate matter emission limits for fuel burning installations.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.07	Particulate matter emission limits for incinerators.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.075	Particulate matter emission limitations for ledge rock quarries and industrial sand mines.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.08	RACT requirements for coking operations.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	
NR 415.09	Compliance schedule for sources of condensible particulate matter.	5/1/2023	April 2023, No. 808.	10/29/2024, 89 FR 85857.	Only (1) and (3)intro.
NR 417—Control of Sulfur Emissions					
NR 417.01	Applicability; purpose	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	Only (1).
NR 417.02	Definitions	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 417.06	Total reduced sulfur limitations	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 417.07	Statewide sulfur dioxide emission limitations.	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	Except (2)(e) and (f).
NR 418—Sulfur Emission Control in Specific Geographic Areas					
NR 418.01	Applicability; purpose	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1).
NR 418.025	Brokaw RACT sulfur limitations	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 418.03	Madison RACT sulfur limitations	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 418.04	Milwaukee RACT sulfur limitations.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Except (2)(b).
NR 418.05	Green Bay and DePere RACT sulfur limitations.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 418.06	Peshtigo RACT sulfur limitations	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 418.08	Rothschild RACT sulfur limitations.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 419—Control of Organic Compound Emissions					
NR 419.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	
NR 419.02	Definitions	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 419.03	General limitations	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	
NR 419.04	Disposal of VOC wastes	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	
NR 419.045	Industrial wastewater collection and treatment operations.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 419.05	Storage of any organic compound.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 419.06	Transfer of any organic compound.	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	
NR 419.08	Core and mold manufacturing for iron or steel foundries.	7/1/1994	Jun 1994, No. 462.	2/13/1996, 61 FR 5514.	
NR 420—Control of Organic Compound Emissions From Petroleum and Gasoline Sources					
NR 420.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	Only (5)(b)5., (5)(b)6., (5)(b)7., and (6)(b)9.
NR 420.02	Definitions	8/1/2016	Jul 2016, No. 727.	10/25/2018, 83 FR 53816.	
NR 420.03	Storage of petroleum liquids	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 420.03	Storage of petroleum liquids	8/1/2016	Jul 2016, No. 727.	10/25/2018, 83 FR 53816.	Except (5)(b)5., (5)(b)6., (5)(b)7., (5)(b)8., (5)(c), (5)(d), (6)(b)9., and (6)(b)10.
NR 420.035	Gasoline storage tank vent pipes.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 420.04	Transfer operations and associated equipment.	8/1/2016	Jul 2016, No. 727.	10/25/2018, 83 FR 53816.	
NR 420.05	Petroleum refinery sources	6/1/1992	May 1992, No. 437.	4/27/1995, 60 FR 20643.	
NR 421—Control of Organic Compound Emissions From Chemical, Coatings and Rubber Products Manufacturing					
NR 421.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	
NR 421.02	Definitions	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 421.03	Chemical manufacture	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 421.05	Synthetic resin manufacturing ...	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 421.06	Coatings manufacturing	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 421.07	Synthetic organic chemical manufacturing industry.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422—Control of Organic Compound Emissions From Surface Coating, Printing and Asphalt Surfacing Operations					
NR 422.01	Applicability; purpose	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	Only (title).
NR 422.02	Definitions	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.03	Exemptions	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.04	Methods of compliance	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.05	Can coating	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.06	Coil coating	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.07	Paper coating—part 1	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	
NR 422.075	Paper coating—part 2	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.08	Fabric and vinyl coating	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.083	Plastic parts coating—part 1	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.084	Plastic parts coating—part 2	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 422.085	Leather coating	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.09	Automobile and light-duty truck manufacturing.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.095	Automobile refinishing operations.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.10	Furniture metal coating—part 1	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	
NR 422.105	Furniture metal coating—part 2	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.11	Surface coating of large appliances—part 1.	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	
NR 422.115	Surface coating of large appliance—part 2.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.12	Magnet wire coaling	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	Only (1).
NR 422.125	Wood furniture coating	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	
NR 422.127	Use of adhesives—part 1	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments	
NR 422.128	Use of adhesives—part 2	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	Only (title).	
NR 422.13	Flat wood panel coating—part 1	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.		
NR 422.131	Flat wood panel coating—part 2	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.		
NR 422.132	Wood door coating	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.		
NR 422.135	Molded wood parts or products	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.		
NR 422.14	Graphic arts	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 422.141	Flexible package printing	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.		
NR 422.142	Lithographic printing—part 1	7/1/2019	June 2019, No. 762.	2/12/2021, 86 FR 9294.		
NR 422.143	Lithographic printing—part 2	7/1/2019	June 2019, No. 762.	2/12/2021, 86 FR 9294.		
NR 422.144	Letterpress printing	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.		
NR 422.145	Screen printing	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 422.15	Miscellaneous metal parts and products—part 1.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 422.151	Miscellaneous metal parts and products—part 2.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 422.155	Fire truck and emergency response vehicle manufacturing.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.		Only (1) and (5).
NR 422.16	Use of asphalt surfacing materials.	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.		
NR 422.17	Application of traffic marking materials.	8/1/1994	Jul 1994, No. 463.	4/29/1996, 61 FR 18681.		
NR 423—Control of Organic Compound Emissions From Solvent Cleaning Operations						
NR 423.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	Except (2)(i).	
NR 423.02	Definitions	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.		
NR 423.03	Solvent metal cleaning	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.		
NR 423.035	Industrial cleaning operations—part 1.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 423.037	Industrial cleaning operations—part 2.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 423.04	Perchloroethylene dry cleaning	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.		
NR 423.05	Petroleum liquid solvent dry cleaning.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.		
NR 424—Control of Organic Compound Emissions From Process Lines						
NR 424.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.	Except (1)(c).	
NR 424.02	Definitions	7/1/1994	Jun 1994, No. 462.	6/30/1995, 60 FR 34170.		
NR 424.03	Process lines emitting organic compounds.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.		
NR 424.04	Aerosol can filling	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.		
NR 424.05	Yeast manufacturing	1/1/2006	Dec 2005, No. 600.	9/22/2006, 71 FR 55287.		
NR 425—Compliance Schedules, Delays, Exceptions and Internal Offsets for Organic Compound Emission Sources in Chs. NR 419 to 424						
NR 425.01	Applicability; purpose	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.		
NR 425.02	Definitions	3/1/1990	Feb 1990, No. 410.	4/27/1995, 60 FR 20643.		

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments	
NR 425.03	Compliance schedules	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Except (1), Effective Date Table, and (6)(a).	
NR 425.04	Exceptions, registrations and non-ozone season allowances.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.		
NR 425.05	Internal offsets	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.		
NR 426—Control of Carbon Monoxide Emissions						
NR 426.04	Cupola emission limitations	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.		
NR 428—Control of Nitrogen Compound Emissions						
NR 428.01	Applicability; purpose	2/1/2001	Jan 2001, No. 541.	11/13/2001, 66 FR 56931.	Only (2)(a).	
NR 428.02	Definitions	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.04	Requirements and performance standards for new or modified sources.	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.05	Requirements and performance standards for existing sources.	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.055	Alternatives	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.06	Compliance determination	1/1/2004	Dec 2003, No. 576.	4/29/2005, 70 FR 22259.		
NR 428.07	General Requirements	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.08	Specific provisions for monitoring NO _x and heat input for the purpose of calculating NO _x emissions.	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.09	Quarterly reports	2/1/2001	Jan 2001, No. 541.	11/13/2001, 66 FR 56931.		Except (2)(a).
NR 428.09	Quarterly reports	9/1/2009	Aug 2009, No. 644.	10/19/2010, 75 FR 64155.		Only (2)(a).
NR 428.10	Petitions	2/1/2001	Jan 2001, No. 541.	11/13/2001, 66 FR 56931.		
NR 428.11	Additional requirements to provide heat input data.	2/1/2001	Jan 2001, No. 541.	11/13/2001, 66 FR 56931.		
NR 428.12	Alternative monitoring, record-keeping.	9/1/2009	Aug 2009, No. 644.	10/19/2010, 75 FR 64155.		
NR 428.20	Applicability and purpose	3/1/2022	Feb 2022, No. 794.	2/1/2023, 88 FR 6632.		
NR 428.21	Emissions unit exemptions	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.22	Emission limitation requirements	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.23	Demonstrating compliance with mission limitations.	9/1/2009	Aug 2009, No. 644.	10/19/2010, 75 FR 64155.		
NR 428.24	Recordkeeping and reporting	4/1/2024	March 2024, No. 819.	11/22/2024, 89 FR 92600.		
NR 428.25	Alternative compliance methods and approaches.	9/1/2009	Aug 2009, No. 644.	10/19/2010, 75 FR 64155.		
NR 428.26	Utility reliability waiver	8/1/2007	Jul 2007, No. 619.	10/19/2010, 75 FR 64155.		
NR 428.255	Compliance schedule	3/1/2022	Feb 2022, No. 794.	2/1/2023, 88 FR 6632.		
NR 429—Malodorous Emissions and Open Burning						
NR 429.02	Definitions	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.		
NR 431—Control of Visible Emissions						
NR 431.03	General limitations	11/1/2003	Nov 2003, No. 574.	10/29/2024, 89 FR 85857.		
NR 431.04	Emission limitations on or before April 1, 1972.	11/1/2003	Nov 2003, No. 574.	10/29/2024, 89 FR 85857.		

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 431.05	Emission limitations after April 1, 1972.	11/1/2003	Nov 2003, No. 574.	10/29/2024, 89 FR 85857.	
NR 432—Allocation of Clean Air Interstate Rule NO_x Allowances					
NR 432.01	Applicability; purpose	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 432.02	Definitions	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 432.03	CAIR NO _x allowance allocation	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 432.05	CAIR NO _x ozone season allowance allocation.	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 432.06	Timing requirements for allocations of CAIR NO _x allowances and CAIR NO _x ozone season allowances.	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 432.07	CAIR renewable units	8/1/2007	Jul 2007, No. 619.	10/16/2007, 72 FR 58542.	
NR 436—Emission Prohibition, Exceptions, Delayed Compliance Orders and Variances					
NR 436.01	Applicability; purpose	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	Except (2).
NR 436.02	Definitions	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 436.03	Emissions prohibited	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	Except (2).
NR 436.04	Delayed compliance orders	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 436.05	RACT variances	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	Except (5).
NR 436.06	Alternate fuel variances	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 436.07	Duty to comply with applicable provisions.	11/1/1999	Oct 1999, No. 526.	10/29/2024, 89 FR 85857.	
NR 438—Air Contaminant Emissions Inventory Reporting Requirements					
NR 438.01	Applicability; purpose	8/1/2022	July 2022, No. 799.	7/24/2023, 88 FR 47375.	
NR 438.02	Definitions	8/1/2022	July 2022, No. 799.	7/24/2023, 88 FR 47375.	
NR 438.03	Required emission inventory reports.	8/1/2022	July 2022, No. 799.	7/24/2023, 88 FR 47375.	Except (am)2.
NR 438.04	Content of emission inventory reports.	8/1/2022	July 2022, No. 799.	7/24/2023, 88 FR 47375.	
NR 439—Reporting, Recordkeeping, Testing, Inspection and Determination of Compliance					
NR 439.01	Applicability; purpose	6/1/1992	May 1992, No. 437.	4/27/1995, 60 FR 20643.	
NR 439.02	Definitions	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 439.03	Reporting	1/1/1996	Apr 1995, No. 472.	5/27/1999, 64 FR 28745.	
NR 439.03	Reporting	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	Except (1)(c) and (4)(a)(intro.).
NR 439.03	Reporting	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (1)(c) and (4)(a)(intro.).
NR 439.04	Recordkeeping	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	Except (4) and (5).
NR 439.04	Recordkeeping	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (6).
NR 439.04	Recordkeeping	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	Only (4) and (5).
NR 439.05	Access to records; inspections ..	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 439.055	Methods and procedures for determining compliance using instrumentation of air pollution control equipment and source processes.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 439.06	Methods and procedures for determining compliance with emission limitations (by air contaminant).	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	Except (3)(b) and (3)(i).
NR 439.06	Methods and procedures for determining compliance with emission limitations (by air contaminant).	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	Only (3)(j).
NR 439.06	Methods and procedures for determining compliance with emission limitations (by air contaminant).	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (3)(b).
NR 439.06	Methods and procedures for determining compliance with emission limitations (by air contaminant).	8/1/2016	Jul 2016, No. 727.	7/7/2017, 82 FR 9515.	(3)(i) repealed.
NR 439.07	Methods and procedures for periodic compliance emission testing.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 439.075	Periodic compliance emission testing requirements.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Except (2)(c)3.j.
NR 439.075	Periodic compliance emission testing requirements.	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	Only (2)(c)3.j.
NR 439.08	Methods and procedures for periodic fuel sampling and analysis.	6/1/1993	May 1993, No. 449.	4/27/1995, 60 FR 20643.	
NR 439.085	Periodic fuel sampling and analysis requirement.	6/1/1992	May 1992, No. 437.	4/27/1995, 60 FR 20643.	
NR 439.09	Methods and procedures for continuous emission monitoring.	7/1/1994	Jun 1994, No. 462.	6/30/1995, 60 FR 34170.	
NR 439.095	Continuous emission monitoring requirements.	7/1/1994	Jun 1994, No. 462.	6/30/1995, 60 FR 34170.	Except (2).
NR 439.095	Continuous emission monitoring requirements.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2).
NR 439.096	Methods and procedures for combustion optimization.	2/1/2001	Jan 2001, No. 541.	11/13/2001, 66 FR 56931.	
NR 439.10	Circumvention	10/1/1987	Sep 1987, No. 381.	4/27/1995, 60 FR 20643.	
NR 439.11	Malfunction prevention and abatement plans.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 445—Control of Hazardous Air Pollutants					
NR 445.16	Notice of hazardous substance air spills.	4/1/2016	March 2016, No. 723.	10/29/2024, 89 FR 85857.	
NR 447—Control of Asbestos Emissions					
NR 447.02	Definitions	7/1/2004	June 2004, No. 582.	10/29/2024, 89 FR 85857.	Only (intro.), (6), (7), (16), (18) Note and (31).
NR 447.07	Demolition and renovation; notification requirements.	7/1/2004	June 2004, No. 582.	10/29/2024, 89 FR 85857.	Only (3)(intro.), (a) and (d).
NR 447.12	Waste disposal for asbestos mills.	7/1/2004	June 2004, No. 582.	10/29/2024, 89 FR 85857.	Only (3)(b) Note.
NR 447.16	Reporting	7/1/2004	June 2004, No. 582.	10/29/2024, 89 FR 85857.	Only (2).
NR 447.18	Operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.	7/1/2004	June 2004, No. 582.	10/29/2024, 89 FR 85857.	Only (intro.) and (1) Note.
NR 448—Control of Beryllium Emissions					
NR 448.02	Definitions	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (intro.).

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 448.04	Stack emission sampling and emission limits.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2).
NR 449—Control of Vinyl Chloride Emissions					
NR 449.02	Definitions	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (intro.).
NR 449.09	Emission tests	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (6)(a)3. and 4., (d)2. and (e)1.(intro.).
NR 449.12	Semiannual report	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (3)(a) and (3)(b)5.
NR 484—Incorporation by Reference					
NR 484.01	Applicability; purpose	6/1/1992	May 1992, No. 437.	4/27/1995, 60 FR 20643.	
NR 484.02	Definitions	10/1/1986	Sep 1986, No. 369.	4/27/1995, 60 FR 20643.	
NR 484.03	Code of federal regulations and other materials in chs. NR 400 to 404.	6/1/1993	May 1993, No. 449.	4/27/1995, 60 FR 20643.	
NR 484.03	Code of federal regulations and other materials in chs. NR 400 to 404.	10/1/2009	Sep 2009, No. 645.	1/31/2011, 76 FR 5270.	Only (5).
NR 484.04	Code of federal regulations appendices.	9/1/2001	Aug 2001, No. 548.	11/13/2001, 66 FR 56931.	Only (1), (2), (4), (7), (8), (9), (10), (11), (12), (14), (15), (18), (22), (23), (24), (26), and (28).
NR 484.04	Code of federal regulations appendices.	7/1/2007	Jun 2007, No. 618.	12/17/2008, 73 FR 76560.	Only (21) and (27m).
NR 484.04	Code of federal regulations appendices.	8/1/2007	Jul 2007, No. 619.	10/19/2010, 75 FR 64155.	Only (15m), (16m), (21m), (26m)(bm), (26m)(d) and (27).
NR 484.04	Code of federal regulations appendices.	10/1/2009	Sep 2009, No. 645.	1/31/2011, 76 FR 5270.	Only (6).
NR 484.04	Code of federal regulations appendices.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (intro.).
NR 484.04	Code of federal regulations appendices.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (13), (16), (17), (19), (20), (20e), (25) and (27s).
NR 484.04	Code of federal regulations appendices.	10/1/2009	Dec 2017, No. 744.	9/17/2018, 83 FR 46882.	Only (6g) and (6r).
NR 484.04	Code of federal regulations appendices.	3/1/2022	Feb 2022, No. 794.	.....	Only (7s).
NR 484.04	Code of federal regulations appendices.	4/1/2024	Mar 2024, No. 819.	.....	Only (15m).
NR 484.05	Code of federal regulations and other materials in chs. NR 419 to 438.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	Only (1), (1m), (3), (4), (5), (6), (7), (8) and (9).
NR 484.05	Code of federal regulations and other materials in chs. NR 419 to 438.	9/1/1994	Aug 1994, No. 464.	6/30/1995, 60 FR 34170.	Only (9).
NR 484.05	Code of federal regulations and other materials in chs. NR 419 to 438.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (3).
NR 484.05	Code of federal regulations and other materials in chs. NR 419 to 438.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (1).
NR 484.06	Code of federal regulations and other materials in ch. NR 439.	1/1/1994	Dec 1993, No. 456.	4/27/1995, 60 FR 20643.	
NR 484.06	Other government organizations	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only (4)(Note), (4)(e), (4)(f) and (4)(g).
NR 484.06	Other government organizations	8/1/2022	July 2022, No. 799.	.....	Only (4)(a).
NR 484.08	Code of federal regulations in chs. NR 445 to 483.	11/1/1992	Oct 1992, No. 442.	4/27/1995, 60 FR 20643.	
NR 484.09	Other materials in chs. NR 445 to 483.	11/1/1992	Oct 1992, No. 442.	4/27/1995, 60 FR 20643.	
NR 484.10	American society for testing and materials.	2/1/2001	Jan 2001, No. 541.	12/14/2001, 66 FR 64750.	Except Table 5 rows (6), (9), (12), (14), (21), (32), (36), (39m) and (56).
NR 484.10	American society for testing and materials.	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	Only Table 5 rows (12), (14), (21), (32), (36) and (56).

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 484.10	American society for testing and materials.	2/1/2012	Jan 2012, No. 673.	8/7/2012, 77 FR 46963.	Only Table 5 rows (6), (39m), (55b), (55bg) and (55br). Only Table 5 rows (9) and (25m). Only (1)(a). Only (4), (5)(Table 6E) and (12).
NR 484.10	American society for testing and materials.	6/1/2022	May 2022, No. 797.	6/6/2023, 88 FR 36962.	
NR 484.11	Other private organizations	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	
NR 484.11	Other private organizations	8/1/2009	Jul 2009, No. 643.	8/7/2012, 77 FR 46963.	
NR 485—Control of Emissions From Motor Vehicles, Internal Combustion Engines and Mobile Sources; Tampering Prohibition					
NR 485.01	Applicability; purpose	6/1/1992	May 1992, No. 437.	9/19/2013, 78 FR 57501.	
NR 485.02	Definitions	12/1/2010	Nov 2010, No. 659.	9/19/2013, 78 FR 57501.	
NR 485.03	General limitations	2/1/2001	Jan 2001, No. 541.	8/16/2001, 66 FR 42949.	
NR 485.04	Motor vehicle emission limitations; exemptions.	12/1/2010	Nov 2010, No. 659.	9/19/2013, 78 FR 57501.	
NR 485.05	Visible emission limits for motor vehicles, internal combustion engines and mobile sources.	2/1/2001	Jan 2001, No. 541.	8/16/2001, 66 FR 42949.	
NR 485.055	Particulate emission limit for gasoline and diesel internal combustion engines.	2/1/2001	Jan 2001, No. 541.	8/16/2001, 66 FR 42949.	
NR 485.06	Tampering with air pollution control equipment.	4/1/2006	Mar 2006, No. 603.	9/19/2013, 78 FR 57501.	
NR 485.07	Inspection requirement for motor vehicle tampering.	2/1/1997	Jan 1997, No. 493.	9/19/2013, 78 FR 57501.	
NR 486—Employee Commute Options Program					
NR 486.01	Applicability; purpose	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.02	Definitions	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.03	General requirements; excep-tions.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.04	Notification; registration	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.05	Employe transportation coordi-nator.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.06	Employee trip reduction compli-ance plans and surveys.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.07	Compliance plan submittal deadline.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.08	Compliance plan review, ap-proval and disapproval proc-ess.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.09	Annual employee trip reduction compliance plan renewal.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.10	Averaging; trading	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.11	Recordkeeping and monitoring	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 486.12	Enforcement procedures and penalties.	10/1/1993	Sep 1993, No. 453.	1/31/1995, 60 FR 5867.	
NR 487—Clean Fuel Fleet Program					
NR 487.01	Applicability; purpose	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.02	Definitions	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.03	General Requirements	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.04	Exemptions	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.05	Registration	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 487.06	Clean fuel fleet annual compliance plan.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.07	Annual compliance plan submittal deadline.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.08	Annual compliance plan review, approval and disapproval process.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.09	Clean fuel fleet acquisition credit program.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.10	Transportation control measure exemptions for clean fuel fleet vehicles.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.11	Labeling of clean fuel fleet vehicles.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.12	Requirement for fuel providers ..	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.13	Recordkeeping and monitoring	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.14	Enforcement procedures and penalties.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 1	Emission Standards for Light-duty Vehicles.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 2	Emission Standards for Heavy-duty Vehicles.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 3	Acquisition Credit Generation—Vehicle Equivalent for LDVs and LDTs With Purchase or More Clean Fuel Fleet Vehicles than Required by the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 4	Acquisition Credit Generation Vehicle Equivalent for LDVs and LDTs With Purchase of a ULEV or ZEV to Meet the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 5	Vehicle Equivalent for LDVs and LDTs Credit Needed in lieu of Purchasing a LEV to meet the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 6	Acquisition Credit Generation—Vehicle Equivalent for HDVs With Purchase of More Clean Fuel Fleet Vehicles than Required by the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 7	Acquisition Credit Generation—Vehicle Equivalent for HDVs With Purchase of a ULEV or a ZEV to Meet the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	
NR 487.TABLE 8	Vehicle Equivalent for HDV Credit Needed in Lieu of Purchasing a LEV to Meet the Mandate.	6/1/1995	May 1995, No. 473.	3/11/1996, 61 FR 9639.	

NR 489—Conformity of General Federal Actions to State Implementation Plans

NR 489	CONFORMITY OF GENERAL FEDERAL ACTIONS TO STATE IMPLEMENTATION PLANS.	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.01	Purpose	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.02	Definitions	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.03	Applicability	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.04	Conformity analysis	10/1/1995	Sep 1995 No. 477.	7/29/1996, 61 FR 39329.	
NR 489.05	Reporting requirements	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.06	Public participation and consultation.	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
NR 489.07	Frequency of conformity determinations.	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.08	Criteria for determining conformity of general federal actions.	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.09	Procedures for conformity determinations of general federal actions.	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.10	Mitigation of air quality impacts	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 489.11	Savings provision	10/1/1995	Sep 1995, No. 477.	7/29/1996, 61 FR 39329.	
NR 490—Procedures for Noncontested Case Public Hearings					
NR 490.01	Applicability; purpose	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 490.02	Definitions	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 490.025	Form and service of request	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 490.03	Notice of hearing	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 490.04	Conduct of hearing	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 490.05	Written comments	1/1/1994	Dec 1993, No. 456.	1/18/1995, 60 FR 3538.	
NR 492—Department Review Times					
NR 492.03	Review Times	5/1/2013	April 2013, No. 688.	10/29/2024, 89 FR 85857.	
NR 493—Air Pollution Episode Levels and Episode Emission Control Action Programs					
NR 493.02	Definitions	12/1/1999	Nov 1999, No. 527.	10/29/2024, 89 FR 85857.	
NR 493.03	Episode levels	12/1/1999	Nov 1999, No. 527.	10/29/2024, 89 FR 85857.	
NR 493.04	Emission control action programs.	12/1/1999	Nov 1999, No. 527.	10/29/2024, 89 FR 85857.	
NR 493.05	Episode orders	12/1/1999	Nov 1999, No. 527.	10/29/2024, 89 FR 85857.	
NR 494—Enforcement and Penalties for Violation of Air Pollution Control Provisions					
NR 494.03	Procedure	2/1/1993	Jan 1993, No. 445.	8/13/1993, 58 FR 43080.	
NR 494.05	Penalties	2/1/1993	Jan 1993, No. 445.	8/13/1993, 58 FR 43080.	
NR 499—Training and Certification Requirements for Solid Waste Treatment Facility Operators					
NR 499.06	Certification levels	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(intro.), (2)(e) and (2)(g).
NR 499.07	Solid waste treatment facility operator initial training program requirements.	1/1/1996	Dec 1995, No. 480.	5/27/1999, 64 FR 28745.	Only (2)(intro.), (2)(a) and (2)(b)(intro.).
Statutes					
Chapter 15—Structure of the Executive Branch					
15.347	Same; councils	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Only (8) Small Business Environmental Council.
Chapter 110—Motor Vehicles					
110.20	Motor vehicle emission inspection and maintenance program.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
Chapter 285—Air Pollution					
285.01	Definitions	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (17m), (21), (28), (33), (35), (38), (39), (40).
285.11	Air pollution control; Department duties.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (12), (13), (15), (16), (17), (18), and (19).
285.13	Air pollution control: department powers.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (7).
285.17	Classification, reporting, monitoring and record keeping.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Only (1).
285.19	Inspections	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.21	Ambient air quality standards and increments.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (4).
285.23	Identification of nonattainment areas.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (6).
285.30	Motor vehicle emissions limitations; inspections.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.31	Gasoline vapor recovery—Termination of Requirements.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Only (5).
285.33	Employee trip reduction program.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Only (1).
285.35	Clean fuel fleet program	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.60	Air pollution control permits	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (1)(b)2., (2g), (5m), (6)(b) and (c), (8), (9), (10) and (11).
285.61	Construction permit application and review.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (5)(a) and (b), (10) and (11).
285.62	Operation permit; application, review and effect.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.63	Criteria for Permit Approval	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (11).
285.65	Permit conditions	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.66	Permit duration and renewal	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.68	Failure to adopt rule or issue permit or exemption.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.69	Fees	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (1)(c), (1d), (2)(a), (c) intro, (c)2, (d) and (e), (2e), (2m), (3), (5), (6), and (7).
285.79	Small business stationary source technical and environmental compliance assistance program.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
285.81	Hearings on certain air pollution actions.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (1m) and (4).
285.83	Violations: enforcement	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (2).
285.87	Penalties for violations relating to air pollution.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Except (2).
Chapter 299—General Environmental Provisions					
299.01	Definitions	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	Only (4) “Environmental pollution”.
299.95	Enforcement; duty of department of justice; expenses.	10/4/2023	Updated 21–22 Wis. Stats.	10/29/2024, 89 FR 85857.	
Chapter Trans 131—Motor Vehicle Inspection And Maintenance Program (MVIP)					
Trans 131.01	Purpose and scope	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.02	Definitions	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.03	Emission inspection and reinspection.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.04	Waiver of compliance	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED WISCONSIN REGULATIONS AND STATUTES—Continued

Citation	Title	WI effective date	WI register	EPA approval	Comments
Trans 131.05	Waiver emission equipment inspection.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.06	Inspection compliance	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.07	Voluntary inspections	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.08	Letter of temporary exemption from emission inspection requirements.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.09	Temporary operating permits	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.10	Reciprocity	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.11	Audits of inspection facilities	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.12	Equipment specifications and quality control.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.13	Licensing of inspectors	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.14	Remote sensing	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.15	Performance monitoring of repair facilities.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.16	Automotive emission repair technician training.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	
Trans 131.17	Notification of inspection requirements.	8/1/2023	July 2023, No. 811.	10/29/2024, 89 FR 85857.	

(d) EPA approved state source-specific requirements.

TABLE 2 TO PARAGRAPH (d)—EPA-APPROVED WISCONSIN SOURCE-SPECIFIC REQUIREMENTS

Name of source	Order/permit No.	State date	EPA approval date	Comments
A.O. Smith/Automotive Products Company.	AO 86–241012970–J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of the fuel burning equipment at the facility in Milwaukee, Milwaukee County, Wisconsin.
Ahlstrom-Munksjö Rhineland LLC.	CP 15–DMM–128–R1.	3/25/2021	10/22/2021, 86 FR 58577.	Elements of the permit including the permit cover sheet, SO ₂ emissions limitations for Ahlstrom-Munksjö (Conditions A.3.a.(1)–(3)), a compliance demonstration (Conditions A.3.b.(1)–(3)), reference test methods, record-keeping and monitoring requirements (Conditions A.3.c.(1)–(5) and A.3.c.(7)–(9)), and the effective date (Condition YYY.1.a.(1)).
American Can Company.	AO 86–241014730–J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22 at the facility in Milwaukee, Milwaukee County, Wisconsin.
American Motors Corporation, Milwaukee Manufacturing Plant.	AO 87–241007360–J01.	10/28/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, 23, and 24 at the facility in Milwaukee, Milwaukee County, Wisconsin.
Appleton Papers, Inc..	AO 86–445038550–J01.	10/27/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #22 at the facility in Appleton, Outagamie County, Wisconsin.
Berlin Foundry Company.	AO 86–424017550–J02.	3/2/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Berlin, Green Lake County, Wisconsin.
Berlin Tanning and Manufacturing Company.	AO 86–424021180–N01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Berlin, Green Lake County, Wisconsin.
Borden Chemical ...	MIA–12–DAA–83–60–208.	11/2/1983	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #20 at the facility in Sheboygan, Sheboygan County, Wisconsin.
Brunswick Corporation d.b.a. Mercury Marin.	AO AM–91–71	11/22/1991	10/8/1992, 57 FR 46309.	
Carnation Company—Pet Food and Cereal Division.	AO 86–128003700–N01.	9/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21 and 22 at the facility in Jefferson, Jefferson County, Wisconsin.

TABLE 2 TO PARAGRAPH (d)—EPA-APPROVED WISCONSIN SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Order/permit No.	State date	EPA approval date	Comments
CLM Corporation	AO NWD-89-08	12/20/1989	8/24/1994, 59 FR 43481.	
CLM Corporation	AO AM-91-816A ...	6/13/1991	8/24/1994, 59 FR 43481.	
Cook Composites and Polymers Company.	Decision AM-05-200.	2/24/2005	3/16/2007, 72 FR 12565.	Establishes VOC RACT for synthetic resin manufacturing.
Dairyland Power Cooperative.	AO 86-122003640-J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20 and 21 at the facility in Cassville, Grant County, Wisconsin.
Dairyland Power Cooperative.	Permit 87-JBG-079	3/9/1988	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #20 at the facility in Genoa, Vernon County, Wisconsin.
Del Monte Corporation.	AO 86-750011350-J01.	9/16/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #01 and 02 at the facility in Plover, Portage County, Wisconsin.
Eaton Corporation/Specific Industry Control Division.	AO 86-241016710-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, at the facility in Milwaukee, Milwaukee County, Wisconsin.
Flint Ink	Consent Order AM-00-01.	9/7/2000	11/13/2001, 66 FR 56931.	The Order establishes Reasonably Available Control Requirements for ink manufacturing operations.
Fox River Paper Company.	AO 86-445039100-J01.	12/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #21 at the facility in Appleton, Outagamie County, Wisconsin.
Frank Brothers, Incorporated.	AO 86-154008030-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Milton, Rock County, Wisconsin.
FWD Corporation ...	AO 87-469034390-J01.	1/22/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21, 22, and 23 at the facility in Clintonville, Waupaca County, Wisconsin.
G. Heileman Brewing Company.	AO 86-632028430-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 24, and 25 at the facility in La Crosse, La Crosse County, Wisconsin.
GenCorp Inc.—Green Bay facility.	Permit 95-CHB-407.	8/29/1995	8/29/1996, 61 FR 45327.	The permit condition requiring a pressure vessel storage tank with a vapor balance system for the styrene-butadiene-acrylonitrile latex manufacturing process.
General Electric Medical Systems.	Consent Order AM-96-200.	2/20/1996	7/17/1996, 61 FR 37216.	September 15, 1995 letter from Michael S. Davis, Manager—Air and Chemical Management Programs, General Electric Medical Systems to Denese Helgeland, Wisconsin Department of Natural Resources, along with the enclosed system diagram. (This letter is referenced in Consent Order AM-96-200.)
General Motors Corporation.	AO 86-154002860-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21, 22, 23, 24, and 25 at the facility in Janesville, Rock County, Wisconsin.
George Hormel and Company.	AO 86-154004290-N01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21 and 22 at the facility in Beloit, Rock County, Wisconsin.
Georgia-Pacific Consumer Products LP.	FID #405032870	6/8/2012	8/7/2012, 77 FR 46952.	
Gilbert Paper Company.	AO 86-471030560-J01.	10/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #22, 23, 24, and 25 at the facility in Menasha, Winnebago County, Wisconsin.
Golden Guernsey Dairy.	AO 86-642028860-N01.	12/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Sparta, Monroe County, Wisconsin.
Insinkerator	AO AM-20-01	1/9/2020	9/16/2020, 85 FR 57729.	Facility located in Kenosha, Wisconsin.
Iroquois Foundry Company.	AO 86-123002440-N01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Browntown, Green County, Wisconsin.
J.I. Case	EOP-10-DLJ-82-52-073.	1/18/1983	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21 and 22 at the facility in Racine, Racine County, Wisconsin.
John Deere Horicon Works.	AO 86-114003340-N01.	9/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in Horicon, Dodge County, Wisconsin.
Kieffer & Co. Inc	AO AM-20-02	2/4/2020	7/10/2020, 85 FR 41405.	Facility located in Sheboygan, Wisconsin.
Kimberly Clark-Neenah Paper and Badger Globe Division.	AO 86-471031000-J01.	11/25/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21 and 22 at the facility in Neenah, Winnebago County, Wisconsin.
Kohler Power Systems.	AO AM-20-03	2/28/2020	7/10/2020, 85 FR 41405.	Facility located in Mosel, Sheboygan County, Wisconsin.
Koppers Company	MIA-10-KJC-83-16-044.	7/7/1983	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #1 at the facility in Superior, Douglas County, Wisconsin.
Lionite Hardboard ..	AO 86-851009940-J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #20 at the facility in Phillips, Price County, Wisconsin.

TABLE 2 TO PARAGRAPH (d)—EPA-APPROVED WISCONSIN SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Order/permit No.	State date	EPA approval date	Comments
Lynn Protein	MIN-04-80-10-028	6/19/1981	5/21/1993, 58 FR 29537.	Limiting the operation of Boiler #21 at the facility in Clark County, Wisconsin.
Manitowoc Company, Inc..	MIA-10-DFS-82-36-101.	12/22/1982	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #23 at the facility in Manitowoc, Manitowoc County, Wisconsin.
Manitowoc Company, Inc..	EOP-10-DFS-82-36-102.	1/12/1983, 8/7/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22 at the facility in Manitowoc, Manitowoc County, Wisconsin.
Manitowoc Company, Inc., South Works Facility.	AO 86-436041870-J01.	11/25/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20 and 21 at the facility in Manitowoc, Manitowoc County, Wisconsin.
Milwaukee County Department of Health and Human Services.	AO 86-241027050-J01.	9/18/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, and 23, at the facility in Milwaukee, Milwaukee County, Wisconsin.
Murphy Oil USA	Permit 95-SDD-120-OP.	2/17/1999	9/13/2000, 65 FR 55196.	
Neenah Paper Company.	Permit 85-RV-013	7/17/1985	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #01 at the facility in Stevens Point, Portage County, Wisconsin.
Nekoosa Papers, Incorporated-Port Edwards Mill, Inc.	Permit 87-NEB-701.	12/23/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 24, and 25; as well as the sulfite recovery furnace at the facility in Port Edwards, Wood County, Wisconsin.
Northern Engraving Corporation (NEC).	Environmental Cooperative Agreement.	6/10/2002	1/24/2003, 68 FR 3404.	The following provisions: Section XI of the Environmental Cooperative Agreement (Operational Flexibility and Variances) and Part IA. Of Appendix C.3: Specific Permit Conditions under the Environmental Cooperative Agreement for NEC's Sparta facility.
Northern Engraving Corporation's (NEC) Galesville facility.	Permit NO. 662008930-F01.	4/26/2002	10/5/2004, 69 FR 59546.	Specific Permit Conditions under the Environmental Cooperative Agreement contained in Part I.A.
Northern Engraving Corporation's (NEC) West Salem facility.	Permit NO. 632024800-F01.	6/23/2003	10/5/2004, 69 FR 59546.	Specific Permit Conditions under the Environmental Cooperative Agreement contained in Part I.A.
Northern Wisconsin Center for Developmentally Disabled.	AO 86-609037660-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, and 23 at the facility in Chippewa Falls, Chippewa County, Wisconsin.
OMC Evinrude	AO 86-241084690-J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22, at the facility in Milwaukee, Milwaukee County, Wisconsin.
Oscar Mayer Foods Corporation.	AO	8/1/1986	5/21/1993, 58 FR 29537.	Limiting the emissions from all sources at the facility in Madison, Dane County, Wisconsin.
Owens-Illinois Tomahawk and Timber STS, Inc.	Permit 735008010-J01.	6/16/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #24, 25, 27, 28, and 29 at the facility in Tomahawk, Lincoln County, Wisconsin.
Patrick Cudahy, Incorporated.	AO 86-241009670-N01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 22, and 24, at the facility in Cudahy, Milwaukee County, Wisconsin.
Peter Cooper Corporation.	Permit 86-MJT-037	9/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, 23, and 24 at the facility in Oak Creek, Milwaukee County, Wisconsin.
S.C. Johnson and Son, Inc..	AO 86-252006370-J01.	10/13/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, and 23 at the facility in Sturtevant, Racine County, Wisconsin.
Sanger B. Powers Correctional Center.	AO 87-445009950-N01.	5/7/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #1 and 2 at the facility in Oneida, Outagamie County, Wisconsin.
Seneca Foods Corporation.	603007790-N01	6/12/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #10 and 11 at the facility in Cumberland, Barron County, Wisconsin.
Serigraph, Inc.	Decision AM-04-200.	11/24/2004	10/14/2005, 70 FR 60010.	
Southern Wisconsin Center.	AO 86-252012530-J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22 and 23 at the facility in Union Grove, Racine County, Wisconsin.
Taycheedah Correctional Institute.	AO 86-420044680-N01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #20 at the facility in Taycheedah, Fond du Lac County, Wisconsin.
Thilmany Pulp and Paper Company.	86-SJK-072	7/28/1987	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #07, 08, 09, 10, and 11 at the facility in Kaukauna, Outagamie County, Wisconsin.

TABLE 2 TO PARAGRAPH (d)—EPA-APPROVED WISCONSIN SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Order/permit No.	State date	EPA approval date	Comments
Trane Company—Main Complex.	AO 86–632028210–J01.	11/26/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, 23, and 24 at the facility in lacrosse, lacrosse County, Wisconsin.
Trane Company—Plant 6.	AO 86–632023590–J01.	11/26/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22 at the facility in lacrosse, lacrosse County, Wisconsin.
U.S. Paper Mills Corporation—Menasha Mill Division.	AO 86–471031220–J01.	10/27/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boiler #21 at the facility in Menasha, Winnebago County, Wisconsin.
Uniroyal Engineered Products.	Consent Order AM–99–900.	2/17/2000	6/8/2000, 65 FR 36351.	
Uniroyal Tire Company, Incorporated.	AO 86–618022350–J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22 at the facility in Eau Claire, Chippewa County, Wisconsin.
Universal Foods Corporation.	AO 86–114004770–N01.	9/23/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #21 and 22 at the facility in Juneau, Dodge County, Wisconsin.
University of Wisconsin at Milwaukee, Central Heating Plant.	AO 86–241099910–J01.	10/5/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20A, 20B, 20C, and 21 at the facility in Milwaukee, Milwaukee County, Wisconsin.
University of Wisconsin Eau Claire Heating Plant.	AO 86–618027080–J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20 and 21 at the facility in Eau Claire, Chippewa County, Wisconsin.
University of Wisconsin, Charter Street Heating Plant.	AO	8/6/1986	5/21/1993, 58 FR 29537.	Limiting the emissions from all sources at the facility in Madison, Dane County, Wisconsin.
University of Wisconsin—LaCrosse.	AO 86–632028100–J01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of fuel burning equipment at the facility in lacrosse, lacrosse County, Wisconsin.
University of Wisconsin—Parkside Heating Plant.	AO 86–230008570–N01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, 22, and 23 at the facility in Kenosha, Kenosha County, Wisconsin.
USG Interiors LLC	AO AM–16–01	1/31/2017	7/7/2017, 82 FR 31458.	Walworth facility.
Vilter Manufacturing Corporation.	AO 86–241025840–J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, and 21, at the facility in Milwaukee, Milwaukee County, Wisconsin.
Waste Research and Reclamation Company.	AO 86–618026530–N01.	9/29/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20 and 21 at the facility in Eau Claire, Chippewa County, Wisconsin.
Western Publishing Company.	AO 86–252005050–J01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20A, 20B, and 21 at the facility in Racine, Racine County, Wisconsin.
Weyerhaeuser Company.	Consent Order AM–01–600.	8/16/2001	5/29/2002, 67 FR 37328.	
Wisconsin Dairies Cooperative.	AO 86–649028490–N01.	9/30/1986	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #20, 21, and 22 at the facility in Clayton, Polk County, Wisconsin.
Wisconsin Electric Power Company.	Environmental Cooperative Agreement.	2/5/2001	11/8/2001, 66 FR 56447.	The following provisions: Section XII.C. Permit Streamlining concerning Construction Permit Exemption for Minor Physical or Operational Changes. These provisions establish a construction permit exemption for minor physical or operational changes at the Wisconsin Electric Power Company Pleasant Prairie Power Plant.
Wisconsin Power & Light Columbia Energy Center.	CP 11–POY–123 ...	11/11/2011	8/7/2012, 77 FR 46952.	
Wisconsin Power and Light Company.	86–LMW–406	9/18/1986	5/21/1993, 58 FR 29537.	Limiting emissions and operation of Unit 2 at facility in Portage, Columbia County, Wisconsin.
Wisconsin Power and Light Company.	Permit 86–SJK–71A	5/25/1988	5/21/1993, 58 FR 29537.	Limiting the emissions and operation of Boilers #23, and 24 at the facility in Sheboygan, Sheboygan County, Wisconsin.
Wisconsin Public Service Corporation's Weston Plant.	Consent Order AM–01–601.	8/16/2001	5/29/2002, 67 FR 37328.	

(e) *EPA approved nonregulatory and quasi-regulatory provisions.*

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Control Strategy (IPP)	Southeast Wisconsin Interstate.	3/3/1972	3/2/1976, 41 FR 8956	
Air Quality Monitoring Network.	Statewide	4/18/1980, 9/15/1980	6/9/1981, 46 FR 30496.	
PM-10 Committal SIPs.	Group II areas within the Cities of DePere, Madison, Milwaukee, Superior, and Waukesha.	4/30/1988 and 3/30/1990.	8/14/1990, 55 FR 33118.	
Photochemical assessment ambient monitoring system (PAMS).	Statewide	11/15/1993	3/18/1994, 59 FR 12851.	
Transportation Conformity.	Statewide	8/1/2013	2/27/2014, 79 FR 10995.	

Attainment Plans

Carbon Monoxide	Green Bay and Madison areas.	7/12/1979, 9/4/1979, 2/28/1980, 8/12/1980, 9/25/1980, 11/4/1980 and 4/9/1981.	8/20/1981, 46 FR 42269.	Brown and Dane Counties.
Carbon Monoxide	Milwaukee area	3/8/1983	3/9/1984, 49 FR 8920	Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties.
Lead NAAQS (1978) ..	Statewide	9/20/1983, 2/14/1984, and 3/14/1984.	11/6/1984, 49 FR 44287.	
Ozone 1-Hour	Green Bay and Madison areas.	7/12/1979, 9/4/1979, 2/28/1980, 8/12/1980, 9/25/1980, 11/4/1980 and 4/9/1981.	8/20/1981, 46 FR 42269.	Brown and Dane Counties.
Ozone 1-Hour	Milwaukee area	3/8/1983	3/9/1984, 49 FR 8920	Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties.
Ozone 1-Hour	Statewide	1/24/1985	6/28/1985, 50 FR 26735.	Test Methods for Petroleum Dry Cleaning Sources incorporated as part of State's "Air Management Operations Handbook" and element of State's VOC RACT program.
Ozone 1-Hour	Kewaunee, Manitowoc, Sheboygan and Milwaukee areas.	6/30/1994	7/28/1995, 60 FR 38722.	Facilities subject to the post-enactment CTG source categories listed in Appendix E to the General Preamble. Includes cleanup solvents, offset lithography, plastic parts coating, and wood furniture coating facilities. The Milwaukee area includes Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone 1-Hour	Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha Counties.	7/13/1994	1/26/1996, 61 FR 2428.	NO _x RACT, NSR, vehicle IM, and general conformity exemptions.
Ozone 1-Hour	Milwaukee and Manitowoc.	7/10/1996	2/3/1998, 63 FR 5460	
Ozone 1-Hour	Milwaukee-Racine	12/11/1997, 8/5/1999, 1/31/2000, 3/3/2000, and 2/21/2001.	10/10/2001, 66 FR 51572.	Post-1996 ROP plan for Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone 1-Hour	Milwaukee-Racine	12/27/2000, 5/28/2001, 6/6/2001, and 8/29/2001.	11/13/2001, 66 FR 56931.	Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Walworth County	9/8/2000	10/26/2000, 65 FR 64142.	Revised motor vehicle emissions budgets.

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Ozone NAAQS (1997)	Milwaukee-Racine, WI	1/31/2003	6/20/2003, 68 FR 36917.	Revised motor vehicle emissions budgets for Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Sheboygan County	1/31/2003	6/20/2003, 68 FR 36917.	Revised motor vehicle emissions budgets. Includes Inland and Shoreline Sheboygan Counties.
Ozone NAAQS (2008)	Sheboygan County	1/16/2015	7/6/2015, 80 FR 38400.	Early Progress Plan and motor vehicle emissions budgets. Includes Inland and Shoreline Sheboygan Counties.
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI.	1/16/2015	8/23/2016, 81 FR 57463.	Early Progress Plan and motor vehicle emissions budgets for Kenosha County (part).
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI.	8/15/2016, 4/17/2017 and 1/23/2018.	2/13/2019, 84 FR 3701.	Kenosha County (part).
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI.	12/1/2020	3/1/2022, 87 FR 11310.	Kenosha County (part) Serious Plan Elements.
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI and Sheboygan County.	7/19/2018	5/3/2019, 84 FR 18989.	NSR requirements for marginal and moderate ozone nonattainment areas.
Ozone NAAQS (2015)	Statewide	7/27/2021	1/19/2022, 87 FR 2719.	NNSR certification.
SO ₂ NAAQS (2010) ...	Rhineland, WI	1/22/2016, 7/18/2016, 11/29/2016, 3/29/2021.	10/22/2021, 86 FR 58577.	Oneida County (part)—City of Rhineland and Crescent, Newbold, Pine Lake, and Pelican Townships.
Maintenance Plans				
Ozone 1-Hour	Kewaunee, Sheboygan, and Walworth Counties.	12/15/1995 and 5/15/1996.	8/26/1996, 60 FR 43668.	Revised maintenance plan.
Ozone 1-Hour	Door and Manitowoc Counties.	1/28/2003, 2/5/2003 and 2/27/2003.	4/17/2003, 68 FR 18883.	
Ozone 1-Hour	Kewaunee County	1/28/2003, 2/5/2003 and 2/27/2003.	5/10/2004, 69 FR 25835.	
Ozone NAAQS (1997)	Kewaunee County	6/12/2007	5/21/2008, 73 FR 29436.	
Ozone NAAQS (1997)	Door and Manitowoc County areas.	9/11/2009	7/12/2010, 75 FR 39635.	Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties. 2nd Maintenance Plans.
Ozone NAAQS (1997)	Milwaukee-Racine	9/11/2009, 11/16/2011	7/31/2012, 77 FR 45252.	
Ozone NAAQS (1997)	Door County, Kewaunee County, Manitowoc County, and Milwaukee-Racine areas.	12/13/2019	6/16/2020, 85 FR 36342.	
Ozone NAAQS (2008)	Inland Sheboygan County.	10/9/2019	7/10/2020, 85 FR 41400.	
Ozone NAAQS (2008)	Shoreline Sheboygan County.	2/11/2020	7/10/2020, 85 FR 41405.	Kenosha County (part).
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI.	12/3/2021	4/11/2022, 87 FR 21027.	
Ozone NAAQS (2015)	Door County (part)	1/27/2020	6/10/2020, 85 FR 35377.	
Ozone NAAQS (2015)	Manitowoc County	10/29/2021	3/31/2022, 87 FR 18702.	
Ozone NAAQS (2015)	Door County-Revised (part).	1/5/2022	4/29/2022, 87 FR 25410.	Milwaukee, Racine and Waukesha Counties.
PM _{2.5} NAAQS (2006)	Milwaukee-Racine, WI	6/8/2012	4/22/2014, 79 FR 22415.	
PM _{2.5} NAAQS (2006)	Milwaukee-Racine, WI	12/23/2015	2/22/2016, 81 FR 8654.	
PM _{2.5} NAAQS (2006)	Milwaukee-Racine, WI	4/8/2022	7/9/2024, 89 FR 56231.	
SO ₂ NAAQS (1971) ...	Dane County	6/9/1992	5/24/1993, 58 FR 29787.	City of Madison.
SO ₂ NAAQS (1971) ...	Milwaukee County	6/12/1992	5/24/1993, 58 FR 29783.	City of Milwaukee.
SO ₂ NAAQS (1971) ...	Oneida County	11/5/1999	11/15/2000, 65 FR 68901.	City of Rhineland.
SO ₂ NAAQS (1971) ...	Marathon County	11/17/2000	5/29/2002, 67 FR 37328.	Villages of Rothschild and Weston and Township of Rib Mountain.

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
SO ₂ NAAQS (2010) ...	Rhineland, WI	7/28/2021	1/12/2022, 87 FR 1685.	Oneida County (part)—City of Rhineland and Crescent, Newbold, Pine Lake, and Pelican Townships.
Determinations of Attainment				
Ozone 1-Hour	Milwaukee-Racine	7/28/2008	4/24/2009, 74 FR 18641.	Determination of attainment of the revoked 1-hour ozone NAAQS for Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Door County .....	.....	7/12/2010, 75 FR 39635.	
Ozone NAAQS (1997)	Manitowoc County .....	.....	7/12/2010, 75 FR 39635.	
Ozone NAAQS (1997)	Milwaukee-Racine .....	.....	3/1/2011, 76 FR 11080.	Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Sheboygan County ....	.....	3/1/2011, 76 FR 11080.	
Ozone NAAQS (2008)	Inland Sheboygan County.	.....	7/15/2019, 84 FR 33699.	Includes Inland and Shoreline Sheboygan Counties
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI.	.....	4/11/2022, 87 FR 21027.	
Ozone NAAQS (2015)	Door County (part) ....	.....	6/10/2020, 85 FR 35377.	Newport State Park Boundary.
Ozone NAAQS (2015)	Door County-Revised (part).	.....	4/29/2022, 87 FR 25410.	
PM _{2.5} NAAQS (2006).	Milwaukee-Racine .....	.....	4/22/2014, 79 FR 22415.	Milwaukee, Racine and Waukesha Counties.
Infrastructure Requirements				
Lead NAAQS (2008) ..	Statewide	7/26/2012, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements.
NO ₂ NAAQS (2010) ...	Statewide	6/20/2013, 1/28/2015, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements.
Ozone NAAQS (1997)	Statewide	12/12/2007, 1/24/2011, 3/28/2011, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements except (D)(i)(I).
Ozone NAAQS (2008)	Statewide	6/20/2013, 1/28/2015, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements except prong 2 of (D)(i)(I).
Ozone NAAQS (2015)	Statewide	9/14/2018 and 8/3/2022.	8/30/2024, 89 FR 70500.	Fully approved for all CAA elements except prong 2 of (D)(i)(I).
PM _{2.5} NAAQS (1997)	Statewide	12/12/2007, 1/24/2011, 3/28/2011, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements except (D)(i)(I).
PM _{2.5} NAAQS (2006)	Statewide	1/24/2011, 3/28/2011, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements except (D)(i)(I).
PM _{2.5} NAAQS (2012)	Statewide	7/13/2015 and 8/8/2016.	7/24/2023, 88 FR 47375.	Fully approved for all CAA elements.
SO ₂ NAAQS (2010) ...	Statewide	6/20/2013, 1/28/2015, 7/2/2015 and 8/8/2016.	2/7/2017, 82 FR 9515	Fully approved for all CAA elements except (D)(i)(I).
Negative Declarations				
VOC source categories.	Statewide	9/19/1984, 11/7/1984 and 6/6/1986.	11/24/1986, 51 FR 42221.	Includes: High-density polyethylene, polypropylene, and polystyrene resin manufacturers, Natural gas/gasoline processing plants leaks, and Synthetic organic chemical manufacturing industry sources (SOCMI) leaks and oxidation.

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Pre-1990 CTG categories.	Statewide	4/17/1990 and 6/30/1994.	7/28/1995, 60 FR 38722.	Includes: Leaks from petroleum refinery equipment; Manufacture of synthesized pharmaceutical products; Manufacture of pneumatic rubber tires; Automobile and light duty truck manufacturing; Fire truck and emergency response vehicle manufacturing; Manufacture of high-density polyethylene, polypropylene, and polystyrene resins, a.k.a. polymer manufacturing; Leaks from synthetic organic chemical and polymer manufacturing equipment; Air oxidation processes at synthetic organic chemical manufacturing industries; and Equipment leaks from natural gas/gasoline processing plants.
Post-1990 CTGs not incorporated into Wisconsin Administrative Code.	Inland Sheboygan County.	10/9/2019	7/10/2020, 85 FR 41400.	Includes: shipbuilding and ship repair (1996), aerospace manufacturing (1997), fiberglass boat manufacturing (2008), miscellaneous industrial adhesives (2008), miscellaneous metal and plastic parts coatings (2008), automobile and light-duty truck assembly coatings (2008), and oil and natural gas industry (2016).
Post-1990 CTGs not incorporated into Wisconsin Administrative Code and non-CTG major sources.	Shoreline Sheboygan County.	2/11/2020	7/10/2020 85 FR 41405.	Includes: shipbuilding and ship repair (1996), aerospace manufacturing (1997), fiberglass boat manufacturing (2008), miscellaneous industrial adhesives (2008), miscellaneous metal and plastic parts coatings (2008), automobile and light-duty truck assembly coatings (2008), and oil and natural gas industry (2016). EPA also approved negative declaration for non-CTG major sources.
Post-1990 CTGs not incorporated into Wisconsin Administrative Code.	Chicago-Naperville, IL-IN-WI.	12/1/2020	3/1/2022, 87 FR 11310.	Includes: shipbuilding and ship repair (1996), aerospace manufacturing (1997), fiberglass boat manufacturing (2008), miscellaneous industrial adhesives (2008), miscellaneous metal and plastic parts coatings (2008), automobile and light-duty truck assembly coatings (2008), and oil and natural gas industry (2016).

Emission Inventories

Ozone NAAQS (1997)	Door, Kewaunee, Manitowoc, Milwaukee-Racine, Sheboygan and Walworth Areas.	1/15/1993	6/15/1994, 59 FR 30702.	1990 base year emissions inventories for Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Milwaukee-Racine	1/28/2003, 2/5/2003 and 2/27/2003.	4/17/2003, 68 FR 18883.	1999 periodic emissions inventory for Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.
Ozone NAAQS (1997)	Manitowoc and Door Counties.	6/12/2007 and 9/11/2009.	7/12/2010, 75 FR 39635.	2005 base year emissions inventories.
Ozone NAAQS (1997)	Milwaukee-Racine and Sheboygan.	9/11/2009, 11/16/2011	7/31/2012, 77 FR 45252.	2005 base year emissions inventories for Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha Counties.
Ozone NAAQS (2008)	Chicago-Naperville, IL-IN-WI and Sheboygan County.	11/14/2014	3/7/2016, 81 FR 11673.	Includes Kenosha County (part), Inland and Shoreline Sheboygan Counties.
Ozone NAAQS (2015)	Manitowoc County	10/29/2021	3/31/2022, 87 FR 18702.	2017 base year emissions inventory.
Ozone NAAQS (2015)	Door County-Revised (part).	1/5/2022	4/29/2022, 87 FR 25410.	2014 base year emissions inventory.
PM _{2.5} NAAQS (2006)	Milwaukee-Racine, WI	6/8/2012 and 5/30/2013.	4/22/2014, 79 FR 22417.	Milwaukee, Racine and Waukesha Counties.

TABLE 3 TO PARAGRAPH (e)—EPA-APPROVED WISCONSIN NONREGULATORY AND QUASI-REGULATORY PROVISIONS—
Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Site-Specific SO ₂ Emission Limits				
Jacob Leinenkugel Brewing Company.	.....	9/29/1986	5/21/1993, 58 FR 29537.	AO 86–609037440–N01 Limiting the emissions and operation of Boiler #20 at the facility in Chippewa Falls, Chippewa County, Wisconsin.
Rock Road of Wisconsin.	.....	9/29/1986	5/21/1993, 58 FR 29537.	AO 86–999019320–J01 Limiting the emissions and operation of fuel burning equipment at the facility in Janesville, Rock County, Wisconsin.
Visibility Protection				
Regional Haze Plan ...	Statewide	1/18/2012 and 6/7/2012.	8/7/2012, 77 FR 46952.	First implementation period.
Regional Haze Five-Year Progress Report.	Statewide	3/17/2017	6/15/2018, 83 FR 27912.	First implementation period.
Regional Haze Plan ...	Statewide	7/30/2021	11/19/2024, 89 FR 91269.	Second implementation period.

■ 4. Newly redesignated § 52.2594 is amended by revising the section heading and paragraph (a) to read as follows:

§ 52.2594 Original identification of plan section.
(a) This section identified the original “Air Quality Implementation Plan for the State of Wisconsin” and all revisions submitted by Wisconsin that

were federally-approved prior to December 31, 2024.
* * * * *
[FR Doc. 2025–06618 Filed 4–21–25; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 90, No. 76

Tuesday, April 22, 2025

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 RESERVE SYSTEM

12 CFR Parts 225, 238 and 252

[Regulations Y, LL, and YY; Docket No. R-1866]

RIN 7100-AG92

Modifications to the Capital Plan Rule and Stress Capital Buffer Requirement

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is inviting public comment on a notice of proposed rulemaking (the proposal) that would amend the calculation of the Board's stress capital buffer requirement applicable to certain large bank holding companies, savings and loan holding companies, U.S. intermediate holding companies of foreign banking organizations, and nonbank financial companies supervised by the Board to reduce the volatility of the stress capital buffer requirement. The proposal would use the average of the maximum common equity tier 1 capital declines projected in each of the Board's prior two annual supervisory stress tests to inform a firm's stress capital buffer requirement. The proposal would also extend the annual effective date of the stress capital buffer requirement by one quarter, to January 1, to provide additional time for firms to comply with the requirement. In addition, the proposal would make changes to the FR Y-14A/Q/M reports to collect additional net income data that would improve the accuracy of the stress capital buffer requirement calculation, as well as remove data items that are no longer needed to conduct the supervisory stress test. The changes in the proposal are not designed to materially affect overall capital requirements and would decrease regulatory reporting burden.

DATES: Comments must be received on or before June 23, 2025.

ADDRESSES: You may submit comments, identified by Docket R-1866 and RIN

7100 AG92, by any of the following methods:

Agency Website: <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*

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

Email: publiccomments@frb.gov. You must include docket number and RIN in the subject line of the message.

Fax: (202) 452-3819 or (202) 452-3102.

Mail, Courier and Hand Delivery: Ann Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

Instructions: All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/proposals/as> submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room M-4365A, 2001 C Street NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on federal weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. For users of TTY-TRS, please call 711 from any telephone, anywhere in the United States.

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I. Introduction

A. Planned Stress Test Public Comment Initiatives and Broader Policy Considerations

In December 2024, the Board announced that it would seek public comment on a proposal to make significant changes to its supervisory stress test practices and framework to improve their transparency and reduce volatility.¹

¹ See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20241223a.htm>. In February

Continued

This notice of proposed rulemaking (proposal) would help to reduce volatility of the stress capital buffer requirements. The Board also plans to issue proposals to seek public comment on the models it uses to determine the hypothetical losses and revenue of firms for the supervisory stress test and on a process to update the models at a frequency that ensures they remain dynamic while still subjecting those future changes to notice and comment. The Board also plans to seek public comment on the supervisory scenarios used in the supervisory stress test. In doing so, the Board seeks to improve the transparency of its supervisory stress test, while retaining appropriate risk sensitivity and risk capture in capital requirements, as well as effective tools for understanding and assessing risk. Maintaining the capacity to regularly update the supervisory stress test models and supervisory scenarios is integral to ensuring the stress test's ability to capture changes in the risks in the financial industry over time.

The Board is also considering broad modifications to its regulatory capital and capital planning requirements for large firms to ensure they remain cohesive and effective, maintain the resilience of the banking sector, and minimize any unnecessary burden. The Board will make any changes to its rules through the public notice and comment process.

Question 01: The Board seeks comment on all aspects of the proposal and its intended approach to seek comment on other significant changes to its supervisory stress test. What, if any, other elements of the supervisory stress test framework should the Board consider amending to improve the transparency and effectiveness of its supervisory stress test? For example, the Board could instead provide firms with their stress capital buffer requirements before firms are required to submit their annual capital plans. What would be the advantages and disadvantages of this approach? As an additional example, the Board's Stress Testing Policy Statement states that some variables, such as the unemployment rate, generally will increase by a certain amount or rise to a certain level in the severely adverse scenario.² What would be the advantages and disadvantages of the Board defining the paths of other variables in the severely adverse

scenario? On which variables should the Board consider defining paths and why?

B. Background on Stress Testing Framework and the Stress Capital Buffer Requirement

Stress testing is a core element of the Board's regulatory framework and supervisory program for large firms. The stress test enables the Board to assess whether large bank holding companies, savings and loan holding companies, U.S. intermediate holding companies of foreign banking organizations, and nonbank financial companies supervised by the Board (collectively, firms) have sufficient capital to absorb potential losses and continue lending under a set of hypothetical severely adverse conditions, although it is not designed or intended to be predictive of future economic conditions. Since its inception in 2009, supervisory stress testing³—together with stronger capital requirements implemented in the Board's capital rule—has played a critical role in helping to ensure the resilience of the U.S. banking system.⁴

Each June, the Board publishes the results of its annual supervisory stress test, including each firm's projected capital ratios, pre-tax net income, losses, revenues, and expenses, under severely adverse economic and financial conditions. The Board projects these results using a set of supervisory models that take as inputs firm-provided data on firms' financial conditions and risk characteristics, as well as the Board's supervisory scenarios.⁵ The supervisory models are developed by the Board, in accordance with the Board's Stress Testing Policy Statement.

Based on the supervisory stress test results, the Board calculates each firm's preliminary stress capital buffer requirement as the difference between the firm's starting and minimum projected common equity tier 1 capital ratio under the severely adverse scenario in the supervisory stress test (stress capital decline component), plus four quarters of planned common stock

dividends as a percentage of risk-weighted assets (dividend add-on component). The stress capital buffer requirement has a minimum value of 2.5 percent of risk-weighted assets. A firm can adjust the amount of its planned dividends after receiving its preliminary stress capital buffer requirement. A firm can also request reconsideration of the calculation of its preliminary stress capital buffer requirement. The final stress capital buffer requirement, which includes any updates to a firm's dividend add-on or stress capital decline component since the preliminary requirement, becomes part of the firm's ongoing capital requirements, generally effective October 1 of a given year.⁶

The stress capital buffer requirement is generally recalculated annually based on the latest supervisory stress test results, making the requirement sensitive to changes in a firm's risk profile and economic conditions.⁷ The Board can also recalculate a firm's stress capital buffer requirement if the firm experiences a material change to its risk profile, financial condition, or corporate structure (material change). A firm that has its stress capital buffer requirement recalculated outside of the regular timeline is also given the opportunity to adjust its planned dividends and request reconsideration of its stress capital buffer requirement.

The stress capital buffer requirement contributes to a firm's overall standardized approach capital conservation buffer requirement, along with any applicable countercyclical capital buffer requirement and GSIB

⁶ See 12 CFR 225.8(h)(4).

⁷ A firm subject to Category I–III standards must participate in the supervisory stress test every year, while a firm subject to Category IV standards is generally required to participate only every other year. See 12 CFR 217.2 and 12 CFR 252.5; see also Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 FR 59032 (Nov. 1, 2019). In 2019, the Board adopted rules establishing four categories of prudential standards for U.S. banking organizations with total consolidated assets of \$100 billion or more and foreign banking organizations with combined U.S. assets of \$100 billion or more. Category I standards apply to U.S. global systemically important bank holding companies (GSIBs) and their depository institution subsidiaries. Category II standards apply to banking organizations with at least \$700 billion in total consolidated assets or at least \$75 billion in cross-jurisdictional activity and their depository institution subsidiaries. Category III standards apply to banking organizations with total consolidated assets of at least \$250 billion or at least \$75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure and their depository institution subsidiaries. Category IV standards apply to banking organizations with total consolidated assets of at least \$100 billion that do not meet the thresholds for a higher category and their depository institution subsidiaries.

2025, the Board reiterated its previous announcement that it would begin the public comment process on changes to the supervisory stress test. See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250205a.htm>.

² See 12 CFR 252, Appendix B.

³ In 2009, the Board used the supervisory stress test to assess the capital sufficiency of large banking organizations under stress in the Supervisory Capital Assessment Program (SCAP). In 2012, the Board finalized a rule that subjects large firms to annual supervisory stress testing. See 77 FR 62378 (October 12, 2012).

⁴ The common equity capital ratios of firms subject to the supervisory stress test have more than doubled since 2009, with common equity capital at such firms increasing by over \$1 trillion, based on FR Y–9C report (Consolidated Financial Statements for Holding Companies) filings.

⁵ For more information on the scenarios, see Board of Governors of the Federal Reserve System, 2024 Stress Test Scenarios (Feb. 2024), <https://www.federalreserve.gov/publications/files/2024-stress-test-scenarios-20240215.pdf>.

surcharge requirement.⁸ The Board implemented capital buffer requirements following the 2007–2009 financial crisis, during which some firms continued to pay dividends and discretionary bonuses as their financial positions deteriorated.⁹ Capital buffers are intended to help firms maintain sufficient capital to absorb losses and support lending and other financial intermediation in periods of stress, protecting the financial system's stability.

The stress capital buffer requirement helps ensure that capital requirements include a forward-looking estimate of capital needs under hypothetical adverse economic conditions. In this sense, the supervisory stress tests can help augment minimum capital requirements, such as those based on the risk weights assigned to exposures under the standardized approach. Incorporating stress capital buffer requirements into firms' capital planning processes affects firms' decisions about capital planning, firm investments, portfolio composition, and financial intermediation. Thus, changes to the stress capital buffer framework could have important macroeconomic implications, given that the firms subject to the supervisory stress test are typically large financial institutions whose provision of credit impacts the state of the U.S. economy.

Statutory Authorities for the Board's Stress Testing and Stress Capital Buffer Framework

The International Lending Supervision Act of 1983 provides the Board with broad discretionary authority to set minimum capital levels for state member banks and certain affiliates of insured depository institutions, including holding companies, supervised by the Board.¹⁰ Under section 5(b) of the Bank Holding Company Act of 1956 (Bank Holding Company Act), the Board may issue such regulations and orders relating to capital requirements of bank holding companies as may be necessary for the Board to carry out the purposes of the

Bank Holding Company Act.¹¹ Foreign banking organizations with a U.S. branch, agency, or commercial lending company subsidiary are made subject by the International Banking Act of 1978 (International Banking Act) to the provisions of the Bank Holding Company Act in the same manner as bank holding companies;¹² therefore, the Board is also authorized under section 5(b) of the Bank Holding Company Act to impose these requirements on those foreign banking organizations, including on their U.S. operations. Similarly, with regard to savings and loan holding companies, section 10(g) of the Home Owners' Loan Act authorizes the Board to issue such regulations and orders relating to capital requirements as the Board deems necessary and appropriate to carry out the purposes of the Home Owners' Loan Act.¹³

Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹⁴ as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act,¹⁵ requires the Board to establish risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets and nonbank financial companies supervised by the Board.¹⁶ Additionally, section 165(i)(1) of the Dodd-Frank Act, as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, requires the Board to conduct an annual supervisory stress test of bank holding companies with \$250 billion or more in total consolidated assets.¹⁷ Section 401(e) of the Economic Growth, Regulatory Relief, and Consumer Protection Act requires the Board to conduct periodic stress tests for bank holding companies

with total consolidated assets between \$100 billion and \$250 billion.¹⁸

Section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act also added section 165(a)(2)(C) of the Dodd-Frank Act, which authorizes the Board to apply any prudential standard established under section 165 to any bank holding company or bank holding companies with \$100 billion or more in total consolidated assets to which the prudential standard does not otherwise apply, provided that the Board (1) determines that application of the prudential standard is appropriate to prevent or mitigate risks to the financial stability of the United States, or to promote the safety and soundness of such firm(s); and (2) takes into consideration the capital structure, riskiness, complexity, financial activities (including financial activities of subsidiaries), size, and any other risk-related factors of such firm(s) that the Board deems appropriate.¹⁹

Question 02: What other approaches, if any, should the Board consider with respect to the supervisory stress test that would continue to help ensure that large firms are operating safely and soundly?

C. Volatility in Capital Requirements

A firm's supervisory stress test results can vary, in some cases materially, from year to year based on several factors, including changes in (1) firms' balance sheet size and risk or projected income and expenses, (2) economic conditions since the previous stress test, (3) the severely adverse scenario used in the supervisory stress test, and (4) the supervisory models used in the supervisory stress test. Changes in the composition or health of a firm's balance sheet can lead to changes in the supervisory stress test results, as the stress test is sensitive to the outlook for distinct asset classes and revenue sources under adverse economic conditions.²⁰

Stress test results may vary from year to year due to changes in economic conditions since the previous stress test (the jumping off point of each year's scenario) and changes in scenario variables over the projection period, which is the forward-looking part of the scenario.²¹ The global market shock and

⁸ See 12 CFR 217.11.

⁹ See 8 FR 62018 (Oct. 11, 2013). See also Hirtle, Bank Holding Company Dividends and Repurchases during the Financial Crisis, *Federal Reserve Bank of New York Staff Report*, No. 666, Abstract (March 2014), https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr666.pdf ("Many large U.S. bank holding companies (BHCs) continued to pay dividends during the 2007–09 financial crisis, even as financial market conditions deteriorated, large losses accumulated, and emergency capital and liquidity were being provided by the official sector.").

¹⁰ See 12 U.S.C. 3902(1); 3907(a); 3909(a)(2).

¹¹ 12 U.S.C. 1844(b).

¹² See 12 U.S.C. 3106.

¹³ See 12 U.S.C. 1467a(g)(1).

¹⁴ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

¹⁵ Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, 132 Stat. 1296 (2018).

¹⁶ See 12 U.S.C. 5365(b)(1)(A)(i). The term bank holding company as used in section 165 of the Dodd-Frank Act includes a foreign bank or company treated as a bank holding company for purposes of the Bank Holding Company Act, pursuant to section 8(a) of the International Banking Act. See 12 U.S.C. 3106(a); 12 U.S.C. 5311(a)(1). See also section 401(g) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (regarding the Board's authority to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of \$100 billion or more).

¹⁷ See 12 U.S.C. 5365(i)(1).

¹⁸ 12 U.S.C. 5365 note.

¹⁹ 12 U.S.C. 5365(a)(2)(C).

²⁰ For data on estimated stress capital buffer requirements under various policy scenarios, see Section III.D.1, table 1 in the economic impact assessment.

²¹ The conditions during the projection period include both adjustments of the scenario determined, in part, by changes in current

large counterparty default components of the supervisory severely adverse scenario can also play a significant role in determining year-over-year changes in stress capital buffer requirements, particularly for large firms with substantial trading operations and counterparty exposures.

Improvements to the supervisory models used to project a firm's capital ratio can also lead to changes in results. The Board has a policy of phasing in material model changes over a two-year period to promote stability of the requirements. This policy reduces, but does not eliminate, variability in stress test results driven by model changes.

Significant year-over-year variation in capital requirements may impact the provision of banking services.²² Such variation could influence decision-making regarding investment and expansion, create challenges in long-term capital planning, and impact the supply of credit to households and businesses.

Standard economic theory holds that abrupt changes in capital requirements can be costly.²³ When faced with a sudden increase in the stress capital buffer requirement, a firm has various options to meet the requirement, including using its retained earnings, shrinking its management buffer (the amount of capital a firm holds above its minimum requirements), reducing its risk-weighted assets, or issuing equity externally.²⁴

economic conditions—for example, the unemployment rate guide in the scenario design framework ties the increase in the unemployment rate in a given scenario to the level of the unemployment rate at the time the scenario is designed—and discretionary changes to the salient risks featured in the scenario.

²² See Fraisse, H., Lé, M. and Thesmar, D., 2020. The real effects of bank capital requirements. *Management Science*, 66(1), pp.5–23; Jiménez, G., Ongena, S., Peydró, J.L. and Saurina, J., 2017. Macropprudential policy, countercyclical bank capital buffers, and credit supply: Evidence from the Spanish dynamic provisioning experiments. *Journal of Political Economy*, 125(6), pp.2126–2177; Gropp, R., Mosk, T., Ongena, S. and Wix, C., 2019. Banks response to higher capital requirements: Evidence from a quasi-natural experiment. *The Review of Financial Studies*, 32(1), pp.266–299; Berger, A.N. and Udell, G.F., 1994. Did risk-based capital allocate bank credit and cause a “credit crunch” in the United States?. *Journal of Money, credit and Banking*, 26(3), pp.585–628; Kashyap, A.K., Stein, J.C. and Hanson, S., 2010. An analysis of the impact of ‘substantially heightened’ capital requirements on large financial institutions. *Booth School of Business, University of Chicago, mimeo*, 2, pp.1–47; Peek, J. and Rosengren, E.S., 1997. The international transmission of financial shocks: The case of Japan. *The American Economic Review*, pp.495–505.

²³ Id.

²⁴ Economic literature shows that banking organizations maintaining robust capital buffers above required minimum ratios are better equipped to absorb shocks and sustain lending during periods

When a firm's new stress capital buffer requirement is substantially higher than expected and its management buffer is insufficient to meet the requirement, the firm might choose to raise equity quickly, which can be complex and potentially more costly than simply retaining earnings.²⁵ Alternatively, or in conjunction with raising equity, the firm might opt to make changes to its risk-weighted assets, which could involve reducing lending and shrinking its balance sheet. Sudden changes in stress capital buffer requirements might lead a firm to sell off riskier assets or restructure its portfolio in ways that could impact its long-term profitability and strategic positioning.

Some firms have favored larger management buffers as an efficient approach to addressing uncertainty in capital requirements.²⁶ This preference

of economic stress and uncertainty. See, e.g., Berger, A.N. and Udell, G.F., 2013. How does capital affect bank performance during financial crises?. *Journal of financial economics*, 109(1), pp.146–176; Gale, D., 2010. The effects of bank capital on lending: What do we know, and what does it mean?. *International Journal of Central Banking*, 6(34), pp.187–204; Carlson, M., Shan, H. and Warusawitharana, M., 2013. Capital ratios and bank lending: A matched bank approach. *Journal of Financial Intermediation*, 22(4), pp.663–687; Ramcharan R, Verani S, Van den Heuvel SJ. From Wall Street to main street: the impact of the financial crisis on consumer credit supply. *The Journal of finance*, June 2016. 71(3):1323–56; Berrospide, J.M. and Edge, R.M., 2024. Bank capital buffers and lending, firm financing and spending: What can we learn from five years of stress test results?. *Journal of Financial Intermediation*, 57, p.101061.

²⁵ There are several reasons why an untimely capital raise could be costly for banks. First, the market timing hypothesis suggests that the relative cost of equity varies over time, with managers preferring to raise equity when market conditions are favorable. Second, information asymmetries play a role. Corporate finance literature posits that market participants believe firm managers have superior information about the company's performance, prospects, and risks. This asymmetry leads external financiers to demand higher returns to compensate for increased risk. As a result, firms often must sell shares at a discount to their intrinsic value when raising capital, diluting existing shareholders' wealth. The urgency of the situation can exacerbate these effects, potentially forcing even steeper discounts. See Graham, J.R. and Harvey, C.R., 2001. The theory and practice of corporate finance: Evidence from the field. *Journal of financial economics*, 60(2–3), pp.187–243; Huang, R. and Ritter, J.R., 2005. Testing the market timing theory of capital structure. *Journal of Financial and Quantitative Analysis*, 1(2), pp.221–246.; Myers, S.C. and Majluf, N.S., 1984. Corporate financing and investment decisions when firms have information that investors do not have. *Journal of financial economics*, 13(2), pp.187–221; Frank, M.Z. and Goyal, V.K., 2008. Trade-off and pecking order theories of debt. *Handbook of empirical corporate finance*, pp.135–202.

²⁶ See Abad, J. and Pascual, A.G., 2022. Usability of Bank Capital Buffers: The Role of Market Expectations (IMF WP/22/21) (arguing that large U.S. banks in general hold lower management buffers relative to non-U.S. banks due to the stress

may stem from the flexibility and relative ease of maintaining higher internal capital reserves compared to the challenges associated with rapid business restructuring or raising capital in potentially unfavorable market conditions. The proposal's approach to reducing stress capital buffer requirement volatility might encourage firms to decrease their management buffers, allowing them to deploy capital more efficiently across business lines. Consequently, firms might allocate more capital to lending and other financial intermediation activities, potentially fostering economic growth.

While the advantages of reducing stress capital buffer requirement volatility are discussed above, there are certain trade-offs to changing the current approach to stress capital buffer requirements. For example, the current approach ensures that capital requirements promptly adjust to reflect the most recent stress test results, capturing the latest changes in a firms' risk exposures and overall financial conditions.

D. Summary of the Proposed Rule

As discussed, volatility in stress capital buffer requirements can potentially impact the provision of banking services. To address this issue, the Board is issuing the proposal to (1) average the maximum common equity tier 1 capital declines projected in each of the Board's prior two annual supervisory stress tests to inform a firm's stress capital buffer requirement, and (2) extend the annual effective date of the stress capital buffer requirement by one quarter, from October 1 to January 1. With the proposed revisions, the capital buffer requirements would continue to be forward-looking and risk-sensitive, while reducing the volatility of capital requirements and thereby allowing for improved ability for firms to plan their capital positions and financial intermediation activity.

The proposal also would modify elements of the FR Y–14A/Q/M (Capital Assessments and Stress Testing) reporting forms to collect data that would provide greater insight into the net income composition of reporting firms and to eliminate data that are no longer needed to conduct the supervisory stress test.²⁷ This

capital buffer requirement but showing that all banks must have a sufficiently large management buffer so that any potential changes in their conditions in the future do not trigger the distribution restrictions associated with capital buffer requirements).

²⁷ Firms with over \$100 billion in total consolidated assets are required to submit the FR Y–14A/Q/M reports (Capital Assessments and

information would lead to more precise projections of capital in the supervisory stress test, which would better align the stress capital buffer requirements to firms' risk profiles.

II. Changes to the Calculation of the Stress Capital Decline Component of the Stress Capital Buffer Requirement

Currently, a firm's stress capital buffer requirement is informed by the stress capital decline component of a single year's supervisory stress test results. The proposal would modify the calculation of the stress capital decline component of the stress capital buffer requirement by averaging the maximum common equity tier 1 capital decline from the current and prior year's supervisory stress test results (results averaging).²⁸ The revised calculation would be applicable for firms beginning with the stress capital buffer requirement following the 2025 supervisory stress test (that is, the stress capital decline components from the 2024 and 2025 supervisory stress tests would be averaged as part of the calculation).²⁹ The calculation of the dividend add-on component would continue to be updated annually and be

Stress Testing). The data within the FR Y-14A/Q/M reports are used in the supervisory stress tests that inform firms' stress capital buffer requirements. The data are also used to support other Board supervisory efforts aimed at promoting the safety and soundness of large firms.

²⁸ The proposal would add a new definition of "stress capital decline," which is identical to the calculation for the stress capital decline component in the current framework. This new definition is a technical change intended to simplify the description of the averaging calculation and would not itself result in any substantive changes to the rule.

²⁹ For example, if the stress capital decline component of a firm's 2024 supervisory stress test results showed a maximum common equity tier 1 capital ratio decline of 3.5 percentage points and this year's results showed a maximum common equity tier 1 capital decline of 5.5 percentage points, then that firm's stress capital decline component for purposes of the stress capital buffer requirement calculation would be 4.5 percent. Assuming the firm had a dividend add-on of 1.5 percentage points in the 2025 supervisory stress test, then the firm's new stress capital buffer requirement would be 6.0 percent. The averaging calculation for the stress capital decline component would use the actual, maximum common equity tier 1 capital ratio decline in the supervisory stress test, even if that amount is below 2.5 percent (*i.e.*, if the actual, maximum common equity tier 1 capital ratio decline is 1.5 percent, then 1.5 percent, and not the 2.5 percent stress capital buffer requirement floor amount, would be used in the averaging calculation). For example, if the stress capital decline component of firm's 2024 supervisory stress test results showed a maximum common equity tier 1 capital ratio decline of 2.0 percentage points and this year's results showed a maximum common equity tier 1 capital decline of 4.0 percentage points, then that firm's stress capital decline component for purposes of the stress capital buffer requirement calculation would be 3.0 percentage points.

added to the averaged stress capital decline component to generate a firm's stress capital buffer requirement. The stress capital buffer requirement would remain floored at 2.5 percent of risk-weighted assets.

A. Results Averaging

1. Reducing Volatility and Improving Predictability

Results averaging under the proposal would reduce volatility in the stress capital buffer requirement by using an average of two results as opposed to using a single year's results.³⁰ Based on supervisory stress test data from 2019 to 2024, the proposal would reduce volatility in stress capital buffer requirements by approximately 17 percent compared to the current framework.³¹ For GSIBs, the analysis shows a reduction in volatility in stress capital buffer requirements of approximately 44 percent. This feature would preserve the ability of the supervisory stress test to vary with changing risks, while effectively phasing in any year-over-year changes to a firm's stress capital buffer requirement. Additionally, by using the prior year's results, firms would be better able to predict their upcoming capital requirements. Results averaging would mitigate large and sudden changes in capital requirements, thereby facilitating more robust capital planning and supporting the provision of banking services.

2. Risk Sensitivity of Stress Capital Buffer Requirement

A firm's stress capital buffer requirement should be aligned with the firm's risk profile. The stress capital buffer requirement is currently informed by the results of a single supervisory stress test, which, through supervisory models, considers the business profile of each firm under the severely adverse scenario. While results averaging would reduce the extent to which the stress capital buffer requirement reflects the current business profile of a firm and may lengthen the lag in recognition of changes in a firm's risk profile, results averaging would continue to measure how a firm's salient risks would behave under stressful conditions. Further, results averaging would smooth changes in requirements caused by short-term, temporary changes in risk profile.

³⁰ Chopin, N., 2004. Central limit theorem for sequential Monte Carlo methods and its application to Bayesian inference (pp. 501–506).

³¹ The volatility of the stress capital buffer requirement is measured as the mean of the absolute value of the year-on-year change in the requirement. For more information on the overall impact of the proposal, *see* Section III.

3. Components of Averaging Calculation

Under the proposal, the stress capital buffer requirement would continue to include a firm's stress capital decline component and the dividend add-on component. While the stress capital decline component would be averaged over the prior two annual supervisory stress tests, the averaging calculation would not include the dividend add-on component. Unlike the stress capital decline component, the size of a firm's dividend add-on component is at the firm's discretion. While a firm must provide the amount of its dividend add-on component prior to knowing its stress capital decline component, the firm can revise its dividend add-on component after receiving its preliminary stress capital decline component informed by a given supervisory stress test. Due to these features, the Board is not proposing to include the dividend add-on component in its results averaging calculation.

A firm may also request reconsideration of its preliminary stress capital buffer requirement within fifteen calendar days of receipt of notice of a preliminary stress capital buffer requirement. The proposal would preserve a firm's ability to request reconsideration of its preliminary stress capital buffer requirement, with modifications to account for the incorporation of averaging into the stress capital buffer requirement calculation. In particular, the proposal would allow a firm to request reconsideration of the stress capital decline of the current capital plan cycle, which would be averaged with the stress capital decline of the previous capital plan cycle to form the stress capital decline component of the firm's stress capital buffer requirement, as applicable. As is the case under the current framework, the proposal would not allow firms to request reconsideration of a stress capital decline based on a previous year's supervisory stress test.

As previously mentioned, the Board currently phases in the effects of highly material supervisory model changes over a two-year period to mitigate sudden and unexpected changes to the supervisory stress test results.³² This policy reduces volatility of stress test results as it relates to supervisory model changes but does not reduce volatility associated with the other elements that determine a firm's stress test results (such as changes due to the paths of variables in the supervisory scenario or changes in a firm's balance sheet). Since

³² *See* 12 CFR part 252 Appendix B, section 2.3.

the proposal would generally average changes to a firm's stress capital decline component, material supervisory model changes would in most cases mechanically be phased-in to the proposed calculation of the stress capital decline component in the same manner as under the current policy.³³ Therefore, the Board proposes to revise its Stress Testing Policy Statement to no longer specify that material supervisory model changes would be phased in over a two-year period.

4. Averaging Period

The proposal would average the stress capital decline component over two annual supervisory stress tests (current and previous year) to inform the stress capital buffer requirement, effective in the following year. Averaging over a longer period (for example, three consecutive annual supervisory stress tests) may further reduce volatility in stress capital buffer requirements. Based on supervisory stress test data from 2019 to 2024, averaging over three consecutive annual supervisory stress tests would reduce volatility in stress capital buffer requirements by roughly 40 percent relative to the current framework.³⁴ However, extending the averaging period would also reduce risk sensitivity because there is greater potential that a firm's stress capital buffer would incorporate economic or financial risks that are no longer pertinent to the firm and may include stale information on the condition of a firm's business and the exposures on its balance sheet. For example, if a firm sold a corporate loan portfolio two years ago, the inclusion of that portfolio in the firm's stress capital buffer requirement may no longer be reflective of the firm's risk profile. Similarly, if a firm expanded rapidly in a high-risk business or acquired riskier assets, a longer averaging period would be slower to reflect that increase in risk. Therefore, the proposal to average over two consecutive supervisory stress tests strikes a better balance to reduce volatility and retain risk sensitivity

compared to averaging over a longer period.

5. Symmetric Averaging

The proposal would apply results averaging symmetrically with respect to increases and decreases in a firm's stress capital buffer requirement to reduce volatility in stress capital buffer requirements, as described in Section II.A.1 of this **SUPPLEMENTARY INFORMATION**. Relative to the current framework, under symmetrical results averaging a firm would be able to better project its stress capital buffer requirement for any given year and, therefore, could better prepare to maintain an appropriate level of capital, which would enable the firm to implement its capital actions and business decisions as needed. Further, results averaging for both increases and decreases would help ensure that all changes in stress capital buffer requirements caused by short-term, temporary changes due to any factor, such as changes in a firm's risk profile, would be incorporated in smaller increments, leading to a capital requirement better reflective of more sustained changes in business profile and risks.

Applying results averaging only to increases, but not to decreases, in a firm's stress capital decline component would be expected to result in a smaller reduction in volatility in the long run compared to symmetric averaging, because decreases in stress capital buffer requirements also contribute to volatility.³⁵ In addition, results averaging only for increases would result in a somewhat lower average level of the stress capital buffer requirement, which could modestly reduce firms' average resilience to economic shocks.³⁶

³⁵ See Section III.D.1, Table 1.

³⁶ According to several studies, banking organizations with robust capital buffers are better positioned to absorb shocks and continue lending during periods of economic stress. See, e.g., Berger, A.N. and Bouwman, C.H., 2013. How does capital affect bank performance during financial crises?. *Journal of Financial Economics*, 109(1), pp.146–176; Admati, A.R. and Hellwig, M.F., 2024. The Parade of the Bankers' New Clothes Continues: 44 Flawed Claims Debunked. *European Corporate Governance Institute–Finance Working Paper*, (951); Gale, D., 2010. The effects of bank capital on lending: What do we know, and what does it mean?. *International Journal of Central Banking*, 6(34), pp.187–204; Berrospide, J.M. and Edge, R.M., 2024. Bank capital buffers and lending, firm financing and spending: What can we learn from five years of stress test results?. *Journal of Financial Intermediation*, 57, p.101061; Carlson, M., Shan, H. and Warusawitharana, M., 2013. Capital ratios and bank lending: A matched bank approach. *Journal of Financial Intermediation*, 22(4), pp.663–687; Aiyar, S., Calomiris, C.W. and Wieladek, T., 2014. Does macro-prudential regulation leak? Evidence from a UK policy experiment. *Journal of Money, Credit and Banking*, 46(s1), pp.181–214; Ramcharan, R.,

For these reasons, the Board proposes to average results symmetrically to calculate a firm's stress capital buffer requirement.

6. Applicability

For firms subject to Category I–III standards, both the stress capital decline component and the dividend add-on component of the stress capital buffer requirement are updated every year. Because a firm subject to Category I–III standards is generally subject to the supervisory stress test every year, the proposed results averaging would generally apply for such firms.

Reflecting their lower risk profile, firms subject to Category IV standards are subject to the supervisory stress test on a biennial basis.³⁷ However, a firm subject to Category IV standards may elect to participate in the supervisory stress test in a year in which it is not otherwise subject to such test.³⁸ The Board may also require such a firm to participate in the supervisory stress test in a year in which it is not otherwise subject to such test if the firm experiences a material change to its risk profile, financial condition, or corporate structure.³⁹ In years in which these firms do not participate in the supervisory stress test, the Board generally provides these firms with a stress capital buffer requirement that is updated only to reflect changes to the dividend add-on component.

Consistent with current requirements, the stress capital buffer requirement for a firm that does not participate in two consecutive annual supervisory stress tests would continue to be informed solely by the most recent supervisory stress test in which the firm participated.⁴⁰ If a firm subject to Category IV standards participates in two consecutive supervisory stress tests for any reason, then results averaging would apply under the proposal.

As discussed, the Board can recalculate a firm's stress capital buffer

Verani, S. and Van den Heuvel, S.J., 2016. From Wall Street to main street: the impact of the financial crisis on consumer credit supply. *The Journal of Finance*, 71(3), pp.1323–1356; Cohen, B.H. and Scatigna, M., 2016. Banks and capital requirements: channels of adjustment. *Journal of Banking & Finance*, 69, pp.S56–S69.

³⁷ See Capital Planning and Stress Testing Requirement for Large Bank Holding Companies, Intermediate Holding Companies and Savings and Loan Holding Companies, 86 FR 7927 (February 3, 2021).

³⁸ See 12 CFR 252.44(d)(2)(ii).

³⁹ See 12 CFR 252.44(d)(2)(i). For example, in the 2023 supervisory stress test, the Board required three firms subject to Category IV standards to participate.

⁴⁰ For example, a firm's 2026 stress capital buffer requirement would be solely based on the results of the 2026 supervisory stress test if the firm did not participate in the 2025 supervisory stress test.

³³ Under the proposal, the effects of a material model change would be fully incorporated into a firm's stress capital buffer requirement if the firm receives a new stress capital buffer requirement that is not calculated using results averaging in a year when a material model change is implemented (that is, a stress capital buffer requirement that is not calculated using results averaging would incorporate the full effects of the model change because those effects would not be phased in over two supervisory stress testing cycles as they are under the current rule.)

³⁴ For more information on the alternatives for results averaging, see Section III.C.

requirement if that firm experiences a material change.⁴¹ In situations where a firm undergoes a material change, such as a merger or acquisition, results averaging as proposed may not be reflective of the significant changes to the firm's business and balance sheet, as the risk profiles of the firm could differ before and after the material change. Therefore, to maintain risk sensitivity, the Board proposes not to use results averaging when recalculating a firm's stress capital buffer requirement because of a material change.⁴² However, the Board generally would resume results averaging for the subsequent stress capital buffer requirement calculation if the stress capital decline components from that and the previous calculation both contemplate the material change. To align with the proposal to only average results over a two-year period, the Board would use averaging for a firm subject to Category IV standards when subject to a recalculated stress capital buffer requirement only if the recalculation and an annual supervisory stress test in which the firm participates occur within the same calendar year or in consecutive years.⁴³

Question 03: What are the advantages and disadvantages of the proposed results averaging calculation, including the proposal to base the stress capital buffer requirement on the stress capital decline components from the prior two

⁴¹ For purposes of this discussion, the term "material change" includes circumstances in which the Board, or the appropriate Reserve Bank with the concurrence of the Board, has directed a firm to resubmit its capital plan because its internal stress scenario(s) are not appropriate for the firm's business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a firm's risk profile and financial condition require the use of updated scenarios. 12 CFR 225.8(e)(4)(i)(B)(3); 12 CFR 238.170(e)(4)(i)(B)(3).

⁴² In addition to a material change, the Board, or the appropriate Reserve Bank with the concurrence of the Board, may direct a firm to resubmit its capital plan where the capital plan is incomplete or contains material weaknesses. 12 CFR 225.8(e)(4)(i)(B)(1); 12 CFR 238.170(e)(4)(i)(B)(1). In circumstances where the Board recalculates a firm's stress capital buffer requirement following such a resubmission, the Board would use results averaging, because the risk profile of the firm is less likely to have changed materially over the period being averaged.

⁴³ For example, if a firm subject to Category IV standards had its stress capital buffer recalculated due to a material change in 2024 and did not participate in the 2025 supervisory stress test, then the calculation of the stress capital buffer requirement for that firm following the 2026 supervisory stress test would not be calculated by averaging the stress capital decline components from the 2024 recalculation and the 2026 supervisory stress test. Rather, the firm's stress capital buffer requirement would be informed solely by the stress capital decline component from the 2026 stress test.

consecutive, annual supervisory stress tests?

Question 04: For firms subject to two consecutive, annual supervisory stress tests, the proposal would calculate the stress capital buffer requirement in three steps: (1) average the stress capital decline components from the two most recent annual stress tests; then (2) add the current dividend add-on component; and finally (3) apply, as applicable, the 2.5 percent floor, in that order. What are the advantages and disadvantages of this approach? What alternative approaches should the Board consider for the calculation of the stress capital buffer requirements?

Question 05: What alternative approaches should the Board consider to reduce volatility in the stress capital decline component resulting from material supervisory model changes, particularly for a firm that is not subject to the supervisory stress test every year?

Question 06: What alternative approaches should the Board consider as it relates to results averaging if a firm undergoes a material change? What would be the advantages and disadvantages of these alternatives?

Question 07: What alternative approaches to requiring a firm to resubmit its capital plan should the Board consider in order to assess a firm's capital adequacy after it experiences a material change? What would be the advantages and disadvantages of these alternatives? What other options should the Board consider to address material changes, if any, and what would be their advantages and disadvantages?

Question 08: What would be the advantages and disadvantages of the Board no longer retaining authority to direct a firm to resubmit its capital plan in response to changes in financial markets or the macroeconomic outlook that could have a material impact on the firm's risk profile and financial condition? Under what circumstances, if any, should the Board be able to direct a firm to resubmit its capital plan? What would be the advantages and disadvantages of such approach?

Question 09: Under the current rule, a firm is subject to certain automatic consequences, such as seeking prior approval for capital distributions, resubmitting its capital plan, and having the Board determine whether to recalculate the firm's stress capital buffer requirement, if it undergoes or expects to undergo a material change. The determination that a firm has undergone or expects to undergo a material change can be made by the firm or by the Board. What would be the advantages and disadvantages of

removing some or all these automatic consequences? What other consequences (automatic or otherwise), if any, should the Board consider if a firm undergoes or expects to undergo a material change?

Question 10: Under what circumstances, if any, should the Board consider not using results averaging as proposed? What are the advantages and disadvantages of not using results averaging? What criteria should the Board consider in making a determination that results averaging should not be used?

Questions 11: What other approaches should the Board consider for mitigating volatility in the stress capital buffer requirements for firms subject to the results averaging proposal?

Question 12: What would be the advantages and disadvantages to averaging only the supervisory stress test results that would result in an increase in stress capital buffer requirements while immediately applying a decrease without averaging?

Question 13: Under what circumstances would firms not subject to two consecutive annual supervisory stress tests be more or less likely to opt-in to the supervisory stress test in an off-year as a result of the proposal? What other options should the Board consider to reduce volatility in the stress capital buffer requirements for such firms and why? For example, what are the advantages and disadvantages of averaging the two most recent stress capital declines for a firm that is not subject to two consecutive annual supervisory stress tests?

Question 14: For purposes of calculating a firm's stress capital buffer requirement using results averaging, what would be the advantages and disadvantages of giving more weight to the most recent stress capital decline than to the less recent (and therefore potentially staler) stress capital decline? If the Board decided to implement results averaging over a longer period to include firms that are not subject to two consecutive annual supervisory stress tests, what would be the advantages and disadvantages of differential weightings of the stress capital declines for these firms? If differential weighting were adopted, which would be the appropriate weights and why?

Question 15: What would be the advantages and disadvantages of first applying results averaging beginning with the stress capital buffer requirement following the 2026 supervisory stress test, instead of the 2025 stress test, as proposed?

Question 16: If results averaging is, as a general matter, first applied beginning

with the stress capital buffer requirement following the 2026 supervisory stress test, what would be the advantages and disadvantages of allowing a firm to opt in to results averaging with respect to the stress capital buffer requirement that would become effective following the 2025 supervisory stress test?

B. Changes to the Effective Date of the Stress Capital Buffer Requirement and Dividend Add-On Component Calculation

1. Change Stress Capital Buffer Requirement Annual Effective Date to January

The Board is proposing to extend the annual effective date of the stress capital buffer requirement by one quarter for all firms subject to the requirement. As proposed, the effective date of a firm's updated stress capital buffer requirement would be moved to January 1 of the year immediately following the calendar year in which its capital plan was submitted, which represents an extension of one quarter from the current effective date of October 1. This revision would help alleviate the impact of large changes in capital requirements by providing firms with additional time to comply with their updated stress capital buffer requirements. Providing an additional three months to meet a new stress capital buffer requirement would increase the firm's ability to make any adjustments in its capital planning and to further retain earnings to comply with the new requirement.

The Board considered alternative approaches to allow firms to comply with changes in their capital requirements, such as phasing in changes to the stress capital buffer requirement over two quarters or extending the effective date of the stress capital buffer requirement further past January 1. The Board did not propose these options as they would add complexity to the buffer framework and reduce the risk-sensitivity benefits of the stress capital buffer requirement, respectively.

Question 17: What are the advantages and disadvantages of moving the effective date of the stress capital buffer requirement from October 1 to January 1? What other alternative dates or approaches to modifying the effective date of the stress capital buffer requirement should the Board consider, and why? Please provide any rationale or data that may be helpful for the Board to consider.

Question 18: What would be the advantages and disadvantages of extending further (for example, to April

1) the effective date of the stress capital buffer requirement of firms subject to Category IV standards that do not opt in to the off-cycle stress test in order to provide additional time to address an unexpected result of the stress test?

2. Amendment to Dividend Add-On Component Calculation

The dividend add-on component of the stress capital buffer requirement comprises planned dividends in the fourth through seventh quarters of the planning horizon of the supervisory stress test.⁴⁴ A firm subject to Category I–IV standards generally receives each year a new stress capital buffer requirement, which generally becomes effective on October 1.⁴⁵ Under the current framework, the planned dividends that are incorporated in the stress capital buffer requirement align with the effective date of the stress capital buffer requirement (that is, October 1 is the first day of the fourth quarter of the planning horizon). The proposal would change the definition of the dividend add-on component to cover dividends issued in quarters five through eight, instead of four through seven, of the planning horizon of the supervisory stress test. This revision would maintain the alignment between the dividend add-on component and the one-year period during which the stress capital buffer requirement is effective. This proposed change is not intended to impact the overall size of the stress capital buffer requirement.

Question 19: What are the advantages and disadvantages of the proposed change to the dividend add-on component of the stress capital buffer requirement?

Question 20: Under the Board's capital rule, a firm is required to maintain risk-based capital ratios above its capital conservation buffer requirement, which includes its stress capital buffer requirement, in order to avoid restrictions on its capital distributions and certain discretionary bonus payments. What would be the advantages and disadvantages of modifying the capital rule such that a firm could pay quarterly common stock dividends up to the amount included in the dividend add-on component even if a firm's capital level is within its capital conservation buffer requirement? How should the Board consider such a policy in cases where the firm, after subtracting the dividend add-on component, has a stress capital buffer requirement below

the 2.5 percent stress capital buffer floor?

Question 21: What would be the advantages and disadvantages of removing the dividend add-on component from the calculation of a firm's stress capital buffer requirement?

Question 22: The Board seeks comment on all aspects of the dividend add-on component of the stress capital buffer requirement. Please provide any rationale or data that may be helpful for the Board to consider.

Question 23: What other changes should the Board consider to the supervisory stress test cycle that would improve the effectiveness and efficiency of the capital plan rule?

C. Regulatory Reports

1. FR Y–14 Reports

In addition to the changes discussed above, which do not directly impact any information collections, the Board proposes to revise the FR Y–14A/Q/M reports by refining the collection of information used to assess a firm's net income under stress, as described in the Paperwork Reduction Act section below. The proposed revisions would strengthen the Board's ability to evaluate components of a firm's net income in the supervisory stress test, which would allow for a more accurate calculation of a firm's stress capital buffer requirement. The proposed revisions would also remove several items that are no longer needed to conduct the supervisory stress test.

Question 24: What, if any, modifications should the Board consider to the FR Y–14A/Q/M reports to reduce regulatory burden while maintaining the ability to effectively perform the supervisory stress test? For example, are there specific items on the FR Y–14A/Q/M reports that the Board should consider discontinuing? What would be the advantages and disadvantages of these changes to the FR Y–14A/Q/M reports?

III. Economic Analysis

The proposed changes to the Board's supervisory stress testing framework aim to reduce the volatility of capital requirements and provide more time for firms to adjust their capital plans in response to updated stress capital buffer requirements. These measures would allow firms to streamline their capital planning while maintaining adequate capital to withstand economic shocks. The Board evaluated the potential impacts of these changes on the affected firms and the broader economy.

The economic analysis is structured into four parts. The first part, an

⁴⁴ See 12 CFR 252.42. The planning horizon for the supervisory stress test is nine consecutive quarters starting on the as of date of the supervisory stress test.

⁴⁵ See 12 CFR 225.8(h)(4)(iii)(A).

overview of the baseline, describes the current state of supervisory stress testing practices. The second part presents a discussion of the proposal. The third part presents a discussion of alternatives to the current approach. The fourth part presents estimated changes in the level and volatility of capital requirements resulting from the revised stress capital buffer calculation under the proposal and under reasonable alternatives and provides a detailed discussion of potential costs and benefits of the proposed changes.⁴⁶

A. Baseline Analysis

The current framework (discussed in detail in Section I of this **SUPPLEMENTARY INFORMATION**) serves as the baseline for the economic analysis. The Board assessed the costs and benefits of the proposal (discussed in detail in Section II of this **SUPPLEMENTARY INFORMATION**) and other policy alternatives (discussed below in Section III.C of this **SUPPLEMENTARY INFORMATION**) relative to this baseline.

Under the current framework, a firm's stress capital buffer requirement is determined based on the most recent supervisory stress test results and the dividend add-on component, and is floored at 2.5 percent of risk-weighted assets. Firms subject to Category I–III standards are subject to the supervisory stress test annually. Firms subject to Category IV standards are subject to the supervisory stress test on a two-year cycle, unless they choose, or are otherwise required, to be subject to the annual stress test. A firm's preliminary stress capital buffer requirement is set in June and its final stress capital buffer requirement generally becomes part of the firm's ongoing capital requirement on October 1. As a result, firms have approximately one quarter to comply with the updated requirement.

As discussed in Section I.C of this **SUPPLEMENTARY INFORMATION**, a firm's stress capital buffer requirement can change from year to year based on several factors. These factors include changes in the composition of a firm's risk profile, economic conditions since the previous stress test, the severely adverse scenario used in the supervisory stress test, and the supervisory models used in the supervisory stress test.

B. Proposal Relative to Baseline

As discussed in detail in Section II of this **SUPPLEMENTARY INFORMATION**, under

the proposal, all the elements of the current framework would be maintained except that (1) a firm's final stress capital buffer requirement would be informed by both the current and prior year's supervisory stress test results; and (2) a firm would have until January 1, instead of October 1, to meet its stress capital buffer requirement.

A firm's stress capital buffer requirement would be set using the average of the maximum common equity tier 1 capital decline in the current year's stress test and the maximum common equity tier 1 capital decline in the prior year's stress test. Under the proposal, the stress capital buffer requirement would continue to be based on the most recent stress test results for most firms subject to Category IV standards, which are required to participate in the supervisory stress tests every other year. Moreover, regardless of a firm's category, a firm would have two quarters to comply with changes in the stress capital buffer requirement, compared to one quarter under the current framework.

C. Reasonable Alternatives

The Board has identified several alternatives to the proposal that could help firms better manage stress capital buffer requirement volatility while maintaining the benefits of the stress capital buffer requirement. These alternatives differ in (1) their approach to smoothing stress capital buffer requirement levels and (2) in their timelines for compliance. The following section discusses alternatives and explains how they differ from the baseline and the proposal.

1. Alternative 1: Current Framework With One-Quarter Delay

This alternative deviates from the baseline in that firms would have until January 1, instead of October 1, to comply with their stress capital buffer requirements. It does not include results averaging. The calculation of stress capital buffer requirements and the rest of the supervisory stress testing process otherwise remain the same as in the current approach.

2. Alternative 2: Current Framework With Two-Year Averaging

Under this alternative, all the elements of the current framework are maintained except the alternative applies results averaging over the previous two years. For firms that participate in the supervisory stress tests every other year, the stress capital buffer requirement is based on the most recent stress test results. This alternative

differs from the proposal in that the time to comply with a new stress capital buffer requirement is not extended by one quarter.

3. Alternative 3: Current Framework With Three-Year Averaging

Under this alternative, all elements of the current framework are maintained except the alternative applies results averaging over the previous three years. For firms subject to annual supervisory stress tests, this means that the stress capital buffer requirement in the current year is based on the average of aggregate common equity tier 1 declines from their three most recent stress tests. For firms subject to Category IV standards that undergo supervisory stress tests every other year, this means that in the year that the firm is subject to the stress test, stress capital buffer requirements are based on the average of aggregate common equity tier 1 capital declines in the most recent stress test and the stress test that took place two years prior. In the year that the firm is not subject to the supervisory stress test, stress capital buffer requirements are, in effect, solely based on the results from the last year's test since the calculation considers the average of only one number. Under this alternative, if a firm does not participate in the stress test, the common equity tier 1 capital decline for that year is treated as a missing observation for the purposes of computing the firm's stress capital buffer. This alternative deviates from results averaging under the proposal, which applies over a two-year period.

4. Alternative 4: Current Framework With Asymmetric Two-Year Averaging With One-Quarter Delay

Under this alternative, all the elements of the current framework remain the same with two exceptions: (1) a firm would have until January 1, instead of October 1, to comply with their stress capital buffer requirements, and (2) a firm's final stress capital buffer requirement is informed by the current year's as well as last year's supervisory stress test results. If a firm's maximum common equity tier 1 capital decline projected in the current year's stress test is larger than the projected decline in the prior year's stress test, then its stress capital buffer requirement would be based on the average of these two results. However, if the maximum common equity tier 1 capital decline projected in the current year's stress test is smaller than the decline in the prior year's stress test, the firm's stress capital buffer requirement would be based on only the current year's supervisory stress test results. This alternative

⁴⁶ For more information on the models and bank-provided data, see Board of Governors of the Federal Reserve System, *2024 Supervisory Stress Test Methodology* (March 2024), <https://www.federalreserve.gov/publications/files/2024-march-supervisory-stress-test-methodology.pdf>.

deviates from the proposal, which would apply stress capital decline averaging on a symmetrical basis.

5. Alternative 5: Current Framework With Tailored Stress Test Averaging With One-Quarter Delay

Under this alternative, all elements of the current framework are maintained except that (1) a firm would have until January 1, instead of October 1, to comply with its stress capital buffer requirement, and (2) results averaging would be applied (a) over the previous two years for firms that go through annual supervisory stress tests; and (b) up to three years for firms that go through supervisory stress tests once every two years. For firms subject to annual supervisory stress tests, this means that the stress capital buffer requirement in the current year is based on the average of aggregate common equity tier 1 capital declines from their two most recent stress tests. For firms subject to Category IV standards that undergo supervisory stress tests every other year, this means that in the year that a firm is subject to the stress test, its stress capital buffer requirement is based on the average of aggregate common equity tier 1 capital declines in the most recent stress test and the stress test that took place two years prior. In the year that the firm is not subject to the supervisory stress test, its stress capital buffer requirements is solely based on the results from the last year's test.⁴⁷ This alternative deviates from results averaging under the proposal and Alternative 2, which applies over a two-year period for all firms. It also deviates from results averaging under Alternative 3, which applies over a three-year period for all firms.

Question 25: Are there are other reasonable alternatives that the Board should consider in the Economic Analysis? What would the key benefits and costs of such alternatives be?

D. Analysis of Benefits and Costs

This section provides an assessment of the benefits and costs of the proposal and alternatives relative to the current framework. The proposal and alternatives presented in the previous sections have different costs and benefits that arise from their

heterogenous implications for the volatility of the stress capital buffer requirement, its average level, its sensitivity to current risks, and the timeliness of stress capital buffer requirement revisions.

1. Estimated Changes in Stress Capital Buffer Requirement Outcomes Under the Proposal and the Alternatives

The Board recalculated stress capital buffer requirements using historical data to quantitatively describe what the stress capital buffer requirement results would have been under the proposal and each alternative. This analysis provides an understanding of how the proposed changes would have affected capital requirements in recent years. The results are presented in Table 1.

The analysis in Table 1 uses supervisory stress test results from 2018 to 2024.⁴⁸ This data is used to project stress capital buffer requirements under the proposal from 2020 to 2024 and compares them to the actual stress capital buffer requirements over this period. The sample includes all firms that received a stress capital buffer requirement in any given year, even if that firm was not subject to the supervisory stress test in that year. Results are presented as averages for each firm category and for the entire sample. The table reports average stress capital buffer requirements in percentage points, average year-over-year absolute changes in firm-specific stress capital buffer requirement levels in basis points, time in quarters to comply under each alternative, and average data-to-implementation gap in months.

Under the current framework and under alternatives that do not require averaging, a firm's stress capital buffer requirement in a given year is calculated as the common equity tier 1 ratio decline in the supervisory stress test plus the dividend-add-on for that particular year,⁴⁹ and is floored at 2.5 percent. The dividend add-on is calculated by summing four quarters of projected common dividends and dividing that total by risk-weighted assets.

Under an averaging approach, a firm's stress capital buffer requirement for a given year is calculated as the average

of the common equity tier 1 capital ratio declines observed in the supervisory stress tests of the current and previous years plus the dividend add-on for that particular year, with the result floored at 2.5 percent. Volatility is measured as the absolute value of the year-on-year change in the stress capital buffer requirement.

The average data-to-implementation gap is defined as the average time elapsed between the financial statements used for stress capital buffer requirement calculations and the effective date of those requirements. The stress test results published in June primarily use financial data from the previous December, with the resulting capital buffer becoming effective in October of the same year. This process results in a time lag of 9 months. In contrast, a two-year averaging regime would incorporate financial statements from both the previous December and the December prior. This approach yields an average time lag of 15 months, calculated as the mean of 9 months (for the most recent data) and 21 months (for the older data). Further, extending the effective date by one quarter would add 3 months to the data-to-implementation gap calculation. In other words, the proposal, which involves two-year averaging and a one-quarter delay, would yield an average data-to-implementation gap of 18 months, calculated as the mean of 12 months for most recent data and 24 months for the older data.

As expected, options with averaging tend to feature less stress capital buffer requirement volatility, while options with delayed effective dates provide firms more time to comply. Another observation from this analysis is that the interaction of results averaging with the 2.5 percent floor can lead to a small reduction in the overall level of stress capital buffer requirements. Such a reduction can occur when the requirement for a specific firm is at the 2.5 percent floor one year and above the floor in another. This nonlinear effect affects firms whose stress capital buffer requirements fluctuate around the 2.5 percent floor rather than those that are consistently above or equal to the floor.⁵⁰

⁴⁷ If such a firm were to opt-in to the stress test in a year it was not required to do so, its stress capital buffer would be based on the stress test declines in the year it opts in and the previous year's stress test; in the subsequent year, its stress capital buffer would be based on the stress test from that year and the test it opted in.

⁴⁸ Available on Board of Governors of the Federal Reserve System's website at <https://www.federalreserve.gov/publications/dodd-frank-act-stress-test-publications.htm>. The 2018–2019 stress test results have been adjusted to reflect the stress test assumption changes finalized in the rule that established the stress capital buffer.

⁴⁹ Firms' dividend plans impact the estimates of volatility of the stress capital buffer. If changes in firms planned dividends move in opposite direction of the changes in stress test results, reliance on

historical observations of the dividend add-on could overstate volatility under an averaging approach.

⁵⁰ The nonlinear effect reflects a mathematical result known as Jensen's inequality, which states that for a convex function, the function evaluated at the average of two or more values is less than or equal to the average of the function evaluated at those same values.

TABLE 1—ESTIMATED STRESS CAPITAL BUFFER REQUIREMENT OUTCOMES UNDER BASELINE, PROPOSAL, AND ALTERNATIVES

	Average stress capital buffer requirement (percent)	Average absolute stress capital buffer requirement year-over-year change (bps)	Time to comply (quarters)	Average data-to-implementation gap (months)
Baseline: Current Framework:				
Category I	3.72	37	1	9
Category II–III	4.52	102		9
Category IV	3.40	48		15
Average	3.88	65		11
Proposal: One-quarter Delay and Two-year Averaging:				
Category I	3.70	21	2	18
Category II–III	4.36	89		18
Category IV	3.41	44		18
Average	3.82	54		18
Alternative 1: One-quarter Delay, No Results Averaging:				
Category I	3.72	37	2	12
Category II–III	4.52	102		12
Category IV	3.40	48		18
Average	3.88	65		14
Alternative 2: Two-year Averaging, No Delayed Effective Date:				
Category I	3.70	21	1	15
Category II–III	4.36	89		15
Category IV	3.41	44		15
Average	3.82	54		15
Alternative 3: Three-year Averaging, No Delayed Effective Date:				
Category I	3.74	21	1	21
Category II–III	4.22	53		21
Category IV	3.32	37		21
Average	3.74	39		21
Alternative 4: Asymmetric Two-year Averaging, One-quarter Delay:				
Category I	3.61	25	2	18
Category II–III	4.21	85		18
Category IV	3.36	44		18
Average	3.73	54		18
Alternative 5: Tailored Stress Test Averaging with One-quarter Delay:				
Category I	3.70	21	2	18
Category II–III	4.35	88		18
Category IV	3.32	38		22
Average	3.78	52		20

2. Cost and Benefit Analysis of Proposal Relative to Baseline

As shown in Table 1, the proposal reduces year-over-year changes in a firm's stress capital buffer requirement from an average of 65 basis points under the current framework to 54 basis points (or about 17 percent). The proposal would generally maintain the current average level of the stress capital buffer requirement. Under the proposal, the average stress capital buffer requirement would be 3.82 percentage points versus 3.88 percentage points under the current framework. Moreover, firms' estimated time to comply is one quarter more than under the current framework and the average data-to-implementation gap increases by seven months.

Costs:

The primary concern with this approach is the slower responsiveness of stress capital buffer requirements to changes in firm risk profiles and economic conditions. Averaging results over two years and incorporating a longer gap between the estimation of stress capital buffer requirement and their effective dates can result in a less timely requirement.

The proposed results averaging has an uneven impact across firm categories. While results averaging meaningfully reduces the volatility of the stress capital buffer requirements for firms subject to annual supervisory stress tests (as shown in Table 1), it offers minimal reduction in volatility to firms subject to

biennial supervisory stress tests. These firms face less volatility than others in the current framework as they are only subject to stress tests every other year. However, this does not mean firms subject to Category IV standards do not benefit from the proposed rule, as these firms could choose to be subject to results averaging by participating in consecutive annual supervisory stress tests. In addition, the one quarter delay feature of the proposed rule applies to firms of all categories.

Benefits:

The proposed rule provides more stable capital requirements for firms. By smoothing the impact of annual fluctuations in supervisory stress test results, firms may be able to develop

more consistent long-term capital strategies. This stability could potentially lead to more sustainable lending and other financial intermediation practices and reduce the procyclical effects that sudden changes in capital requirements could have on firms and the U.S. economy. As discussed in Section 1.C of this Supplementary Information, the proposed rule would also reduce the likelihood of firms needing to take actions to meet a sharp increase in capital requirements.

Reduced volatility in capital requirements would mitigate the likelihood of firms needing to raise external capital, reduce dividends, and/or shrink balance sheets and the provision of banking services in response to an unexpected and material increase in the stress capital buffer requirement.

In addition, the extended timeline would further enable better planning and decision-making by firms. With an additional three months, firms can more thoroughly assess options for meeting their new stress capital buffer requirements, lessening the risk of a curtailment in credit provisioning or other services. Moreover, firms would have additional time to retain earnings and better prepare to manage large increases in stress capital buffer requirements before turning to raising external financing or changing their business activities. In the long run, this extended compliance period could potentially lead to lower management buffers as well. As firms have more time to adjust and plan, they may feel less pressure to maintain large discretionary buffers to deal with stress capital buffer requirement uncertainty. The increased predictability and reduced time pressure could allow firms to operate with capital levels that more closely align with activities and risk exposures, improving capital efficiency without meaningfully affecting safety and soundness.

Question: What additional benefits or costs could be relevant for assessing the proposal? What additional data could be relevant for assessing such costs and benefits?

3. Cost and Benefit Analysis of Other Policy Alternatives

Alternative 1: Baseline With One-Quarter Delay, No Results Averaging

Alternative 1 maintains the benefits and costs associated with the additional three months to meet changes in the stress capital buffer requirement, as discussed above. Reducing year-over-year fluctuations in capital requirements

enhances predictability and stability for firms. However, merely postponing the implementation date does not alter the volatility of the stress capital buffer requirement. An advantage of this alternative relative to the proposed rule is, however, its simplicity. While maintaining the current risk sensitivity of the stress capital buffer requirement, this extension would benefit all firms subject to Category I–IV standards without significantly altering the current regulatory framework.

Overall, while this alternative is expected to provide positive net benefits compared to the baseline, it offers smaller net benefits than the proposal.

Alternative 2: Baseline With Two-Year Averaging, No Delayed Effective Date

Alternative 2 maintains the benefits and costs associated with reduced volatility, as discussed above. However, it does not include the benefits and costs related to the added time to come into compliance with changes to the stress capital requirement. Particularly, this alternative offers minimal advantage to firms subject to biennial supervisory stress tests. The proposal, on the other hand, applies the same averaging method while granting an additional quarter to firms of all categories. The benefit of this approach over the proposal is more timeliness in the stress capital buffer requirement. Overall, while this alternative is expected to provide positive net benefits compared to the baseline, it offers smaller net benefits than the proposal.

Alternative 3: Three-Year Averaging, No Delayed Effective Date

As shown in Table 1, this alternative reduces year-over-year changes in a firm's stress capital buffer requirement from an average of 65 basis points under the baseline to 39 basis points (or about 40 percent), while yielding a modest decline in the aggregate level of the stress capital buffer requirement, from an average of 3.88 percentage points under the baseline to 3.74 percentage points. The time firms have to comply with the new stress capital buffer requirement does not change under this alternative relative to the baseline.

Similar to the proposal and Alternative 2, the main drawback of Alternative 3 is reduced timeliness and sensitivity to current economic conditions and firm risk profiles. This alternative leads to an even higher time gap due to averaging over a longer time horizon, as shown by an average data-to-implementation gap of 21 months. This difference may lead to a more pronounced disconnect between regulatory requirements and the risks on

firms' balance sheets, potentially lowering the effectiveness of the capital adequacy framework for firms.

This approach shares similar benefits as in the proposal and Alternative 2 in that by smoothing out the impact of annual fluctuations in stress test results, firms can develop more consistent, long-term capital strategies that potentially lead to more sustainable lending practices and reduce the effects that sudden changes in capital requirements might have on the broader economy. An additional benefit relative to the proposal and Alternative 2 is that the treatment of firms subject to Category IV standards would be more consistent with the approach for firms subject to Category I–III standards. These firms would benefit from an additional reduction in the volatility of their stress capital buffer requirements due to results averaging.

Alternative 4: Asymmetric Two-Year Averaging With One-Quarter Delay

Table 1 in this section D shows that the average year-over-year volatility decreases from 65 basis points under the baseline to 54 basis points under this alternative (a reduction of about 17 percent). This alternative modestly lowers the average stress capital buffer requirement levels relative to historical values (a reduction from 3.88 percent under the baseline to 3.73 percent under this alternative). The latter result indicates that, relative to the baseline, averaging only when common equity tier 1 capital declines in the stress tests are larger would lead to a lower overall level of stress capital buffer requirements.

Further, the results in Table 1 demonstrate that this alternative is similar in terms of reducing stress capital buffer volatility. This similarity can be attributed to two offsetting factors. First, asymmetric averaging does not smooth out decreases, which contribute to volatility. Thus, this factor increases volatility relative to the proposal. Second, the 2.5 percent floor becomes binding more frequently under this alternative, which reduces volatility relative to the proposal. The floor becomes binding more frequently because this alternative lowers the average level of the stress capital buffer, as explained above, making the floor more relevant.

Similar to the proposal, a cost of this alternative is slower responsiveness of stress capital buffer requirements to changes in firm risk profiles and economic conditions. Another cost of this alternative is that applying averaging only when stress losses are steeper would lead to modestly lower

stress capital buffer requirements, on average. This could slightly lower the safety and soundness of covered firms.

An advantage of this method is its alignment with the asymmetric costs firms face when adjusting their capital in response to changing minimum requirements. While responding to increases in capital requirements can be costly and challenging for firms, especially over short periods, firms typically find it easier to adjust capital levels downward. This alternative acknowledges this asymmetry, allowing for more rapid capital reductions when risk decreases, while providing more time for firms to prepare against sudden, potentially disruptive increases in capital requirements when risks increase. As a result, this alternative may offer a less expensive framework for firms to manage their capital levels.

Alternative 5: Tailored Stress Test Averaging, No Delayed Effective Date

As shown in Table 1, this alternative reduces year-over-year changes in a firm's stress capital buffer requirement from an average of 65 basis points under the baseline to 52 basis points (or about 20 percent), while yielding a modest decline in the aggregate level of the stress capital buffer requirement, from an average of 3.88 percentage points under the baseline to 3.78 percentage points. The time firms have to comply with the new stress capital buffer requirement is extended by one quarter under this alternative relative to the baseline.

Alternative 5 shares the general costs and benefits of alternatives involving averaging. An additional benefit relative to the proposal is that firms subject to Category IV standards, which face less volatility in the current framework as they are only subject to stress tests every other year, would benefit from a further reduction in stress capital buffer requirement volatility. Moreover, an advantage over the three-year averaging for all firms (Alternative 3) is that this method extends averaging results up to three years only to those firms subject to biennial supervisory stress tests. Consequently, it has a significantly smaller overall average gap between data collection and implementation.

The downside of this alternative relative to the proposal and alternatives that are based on two-year averaging is that for most firms subject to Category IV standards, this alternative would reduce the ability for a timely adjustment of stress capital buffer requirements in response to new risks or rapid shifts in the economic landscape.

IV. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the information collections related to the proposed rule under the authority delegated to the Board by OMB.

The proposed rule would not create any information collections subject to the PRA; however, the Board proposes to revise the FR Y–14 reports to improve supervisory stress test modeling and the calculation of stress capital buffer requirements by enhancing the collection of information used to assess a firm's risk profile. Specifically, the revisions would implement various changes that would isolate non-recurring expenses and increase the granularity of data on compensation expenses.

The Board invites public comment on the following information collection:

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

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

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

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

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

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Capital Assessments and Stress Testing Reports.

Collection identifier: FR Y–14A/Q/M.

OMB control number: 7100–0341.

General description of collection: This family of information collections is composed of the following three reports:

- The annual FR Y–14A collects quantitative projections of balance

sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios.⁵¹

- The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, trading assets, and pre-provision net revenue (PPNR) for the reporting period.

- The monthly FR Y–14M is comprised of three retail portfolio- and loan-level schedules, and one detailed address-matching schedule to supplement two of the portfolio- and loan-level schedules.

The data collected through the FR Y–14A/Q/M reports (FR Y–14 reports) provide the Board with the information needed to help ensure that large firms have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient, given their business focus, activities, and resulting risk exposures. The data within the reports are used in connection with setting firms' stress capital buffer requirements. The data are also used to support other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms' planning and management of liquidity and funding resources, as well as regular assessments of credit risk, market risk, and operational risk, and associated risk management practices. Information gathered in this collection is also used in the supervision and regulation of respondent financial institutions. Respondent firms are currently required to complete and submit up to 17 filings each year: one annual FR Y–14A filing, four quarterly FR Y–14Q filings, and 12 monthly FR Y–14M filings.⁵² Compliance with the information collection is mandatory.

Current Actions: The proposal would modify the FR Y–14A/Q/M reports in order to collect additional information on a firm's pre-provision net revenue, which would improve the calculation of the firm's stress capital buffer requirement. Specifically, the proposed revisions would collect: (1) more granular data on compensation expenses, and (2) information on non-

⁵¹ In certain circumstances, a firm may be required to re-submit its capital plan. See 12 CFR 225.8(e)(4); 12 CFR 238.170(e)(4). Firms that must re-submit their capital plan generally also must provide a revised FR Y–14A in connection with their resubmission.

⁵² Holding companies that do not meet the materiality thresholds described in the instructions for the FR Y–14M are not required to file that report. This results in some holding companies submitting less than 17 filings each year.

recurring expenses. The proposed revisions would also remove items that are no longer needed to conduct the supervisory stress test. All proposed revisions would be effective for the December 31, 2025, report date.

Compensation Expenses

Total compensation expense is composed of salaries, variable pay, and employee benefits. The compensation structure for certain business lines, including financial advisors in a firm's wealth management business, is generally determined as a ratio of compensable revenue, which is a portion of total revenue attributable to the financial advisor. As a result, the key driver of compensation change is the amount of compensable revenue generated. During a period of economic stress, this form of variable pay may decline quickly. This differs from fixed compensation expenses, such as salaries, which tend to be more stable during periods of stress because a firm may take time to assess the severity of the downturn before determining if reductions are appropriate.

FR Y-14Q, Schedule G (PPNR) does not currently segment the portion of total compensation that is variable in a firm's business. Therefore, the supervisory stress test may not adequately consider the role of variable compensation or the correlation between compensation and compensable revenue. To ensure that the supervisory stress test results reflect this compensation structure, the Board proposes to add two new items to Schedule G (items 28.F (Compensable Revenues) and 28.G (Commissions from WM or FA activities)) to capture data on compensable revenues and commissions on the compensable revenues. For consistency between the FR Y-14Q and the FR Y-14A, the Board also proposes corresponding revisions to FR Y-14A, Schedule A.7.a (PPNR Projections).

Non-Recurring Expenses

Non-recurring expenses are extraordinary or one-time expenses that are not expected to occur in the future. These expenses are distinct from recurring expenses which occur on a regular basis. The FR Y-14 reports do not currently adequately isolate expenses that are known to be due to one-time events.

As non-recurring expenses are not expected to repeat in the future, it may be appropriate to mitigate the influence of these expenses when calculating a firm's stress capital buffer requirement. To systematically identify non-recurring expenses related to business divestitures and the write-down of consolidated

investment entities, the Board proposes to revise the instructions for FR Y-14Q, Schedule G.3 (PPNR Metrics), item 47 (Non-recurring PPNR items) to better capture these expenses. Capturing data on these non-recurring expenses would strengthen the risk sensitivity of the supervisory stress test since the Board would have a more comprehensive picture of a firm's expenses and net income.

Non-Interest Income From Servicing Activities

The Board is also proposing to remove several items that capture information related to non-interest income from servicing activities. These items are no longer needed to conduct the supervisory stress test. Specifically, the Board proposes to remove the following items from FR Y-14A, Schedule A.7.a (PPNR Projections Sub-schedule) and FR Y-14Q, Schedule G.1 (PPNR Submission Worksheet):

- Item 14.J (Servicing & Ancillary Fees);
- Item 14.K (MSR Amortization);
- Item 14.L (MSR Value Changes due to Changes in Assumptions/Model Inputs/Other Net of Hedge Performance); and
- Item 14.M (Other).

In conjunction with these revisions, the Board proposes to revise the instructions for item 14.I (Servicing), on Schedule A.7.a and Schedule G, so that the instructions clearly indicate that all non-interest income related to servicing activities should be reported in item 14.I.

Frequency: Annually, quarterly, and monthly.

Respondents: Holding companies with \$100 billion or more in total consolidated assets, as based on (1) the average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's Consolidated Financial Statements for Holding Companies (FR Y-9C; OMB No. 7100-0128) or (2) the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y-9Cs, if the firm has not filed an FR Y-9C for each of the most recent four quarters.

Total estimated number of respondents: 35.

Total estimated change in burden: – 35.

Total estimated annual burden hours: 761,804.

B. Regulatory Flexibility Act Analysis

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The

Regulatory Flexibility Act (RFA)⁵³ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.⁵⁴ In connection with a proposed rule, the RFA requires an agency to prepare and invite public comment on an initial regulatory flexibility analysis describing the impact of the rule on small entities, unless the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis. In connection with this proposal, the Board also proposes to make changes to the Board's reporting forms.

⁵³ 5 U.S.C. 601 *et seq.*

⁵⁴ Under regulations issued by the U.S. Small Business Administration (SBA), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$850 million or less. See 13 CFR 121.201. Consistent with the SBA's General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the applicable size threshold when determining whether to classify a particular entity as a small entity. See 13 CFR 121.103. As of December 31, 2024, there were approximately 2,364 small bank holding companies, approximately 85 small savings and loan holding companies, and approximately 451 small state member banks.

As discussed in detail above, the proposed rule would amend the Board's capital plan rule. Specifically, the proposal would amend the calculation of the Board's stress capital buffer requirement applicable to certain bank holding companies, savings and loan holding companies, U.S. intermediate holding companies of foreign banking organizations, and nonbank financial companies supervised by the Board to reduce the volatility of the stress capital buffer requirement. The proposal would use the average of the maximum common equity tier 1 capital declines projected in each of the Board's prior two annual supervisory stress tests to inform a firm's stress capital buffer requirement. The proposal would also extend the effective date of the stress capital buffer requirement by one quarter, to January 1, to provide additional time for firms to comply with the requirement. In addition, the proposal would make changes to the FR Y-14A/Q/M (Capital Assessments and Stress Testing) reports to collect additional net income data that would improve the accuracy of the stress capital buffer requirement calculation. The changes in the proposal are not expected to materially affect overall capital requirements and would reduce regulatory reporting burden.

As discussed in detail above, several statutory authorities, including the International Lending Supervision Act of 1983,⁵⁵ section 5(b) of the Bank Holding Company Act,⁵⁶ the International Banking Act,⁵⁷ section 10(g) of the Home Owners' Loan Act,⁵⁸ and section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)⁵⁹ (as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act⁶⁰), provide authority for the Board's stress testing and stress capital buffer framework, including this proposed rule.

The International Lending Supervision Act of 1983 provides the Board with broad discretionary authority to set minimum capital levels for state member banks and certain affiliates of insured depository institutions, including holding companies, supervised by the Board.⁶¹

Under section 5(b) of the Bank Holding Company Act, the Board may issue such regulations and orders relating to capital requirements of bank holding companies as may be necessary for the Board to carry out the purposes of the Bank Holding Company Act.⁶² Foreign banking organizations with a U.S. subsidiary bank, branch, or agency are made subject by the International Banking Act to the provisions of the Bank Holding Company Act in the same manner as bank holding companies;⁶³ therefore, the Board is also authorized under section 5(b) of the Bank Holding Company Act to impose these requirements on those foreign banking organizations. Similarly, with regard to savings and loan holding companies, section 10(g) of the Home Owners' Loan Act authorizes the Board to issue such regulations and orders relating to capital requirements as the Board deems necessary and appropriate to carry out the purposes of the Home Owners' Loan Act.⁶⁴ Moreover, section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, requires the Board to establish risk-based capital requirements for large bank holding companies and nonbank financial companies supervised by the Board.⁶⁵ Additionally, section 165(i)(1) of the Dodd-Frank Act, as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, requires the Board to conduct an annual supervisory stress test of these large firms.⁶⁶

The proposed rule would apply to bank holding companies, U.S. intermediate holding companies of foreign banking organizations, and savings and loan holding companies, each with at least \$100 billion in total consolidated assets, as well as certain nonbank financial companies supervised by the Board and any other bank holding company or covered savings and loan holding company domiciled in the United States that is made subject to the capital plan rule by order of the Board.⁶⁷ The proposed rule would not apply to any small entities. Further, although the Board does not project there to be a direct impact to reporting, recordkeeping, or other compliance requirements as a result of

the proposed rule, the Board also is proposing to revise the FR Y-14A/Q/M (Capital Assessments and Stress Testing) reports to refine the information collected to assess a firm's net income under stress. These reports are submitted by firms subject to the Board's capital plan rule requirements to which the proposed rule would apply; thus, the changes would not impact small entities. In addition, the Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed changes to the capital rule. Accordingly, the Board believes that the proposed rule will not have a significant economic impact on a substantial number of small banking organizations supervised by the Board and, therefore, believes that there are no significant alternatives to the proposed rule that would reduce the economic impact on small banking organizations supervised by the Board.

The Board welcomes comment on all aspects of its analysis.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the notice of proposed rulemaking in a simple and straightforward manner and invites comment on the use of plain language. For example:

- *Is the material organized to suit your needs? If not, how could the Board present the proposed rule more clearly?*
- *Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?*
- *Does the proposal contain technical language or jargon that is not clear? If so, which language requires clarification?*
- *Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes would achieve that?*
- *Is this section format adequate? If not, which of the sections should be changed and how?*
- *What other changes can the Board incorporate to make the proposed rule easier to understand?*

D. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (12 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not

⁵⁵ See 12 U.S.C. 3902(1); 3907(a); 3909(a)(2).

⁵⁶ 12 U.S.C. 1844(b).

⁵⁷ See 12 U.S.C. 3106.

⁵⁸ See 12 U.S.C. 1467a(g)(1).

⁵⁹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

⁶⁰ Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, 132 Stat. 1296 (2018).

⁶¹ See 12 U.S.C. 3902(1); 3907(a); 3909(a)(2).

⁶² 12 U.S.C. 1844(b).

⁶³ See 12 U.S.C. 3106.

⁶⁴ See 12 U.S.C. 1467a(g)(1).

⁶⁵ See 12 U.S.C. 5365(b)(1)(A)(i).

⁶⁶ See 12 U.S.C. 5365(i)(1).

⁶⁷ There currently are no entities with less than \$100 billion in total consolidated assets subject to the capital plan rule.

more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

The proposal and such a summary can be found at <https://www.regulations.gov> and <https://www.federalreserve.gov/supervisionreg/reglist.htm>.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 238

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital planning, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

Authority and Issuance

For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR chapter II as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801, and 6805.

Subpart A—General Provisions

■ 2. In § 225.8:

- a. Redesignate paragraphs (d)(20) through (21) as (d)(21) through (22), respectively;
- b. Add a new paragraph (d)(20);
- c. Revise paragraphs (f)(1), (2), and (4);
- d. In paragraphs (h)(2)(ii)(A) and (B), remove the text “fourth through seventh”, wherever it appears and add, in its place the text “fifth through eighth”;
- e. Revise paragraph (h)(4)(ii)(A);
- f. Revise paragraph (i)(1) and (i)(3)(i); and

■ g. Remove the text “fourth”, and add, in its place the text “fifth” in paragraph (k)(2).

The revisions and addition read as follows:

§ 225.8 Capital planning and stress capital buffer requirement.

* * * * *

(d) * * *

(20) *Stress capital decline* means the ratio of a bank holding company's common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, as of the final quarter of the previous capital plan cycle, unless otherwise determined by the Board, minus the lowest projected ratio of the bank holding company's common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test.

* * * * *

(f) * * *

(1) *General.* (i) The Board will determine the stress capital buffer requirement that applies under 12 CFR 217.11 pursuant to this paragraph (f). For each bank holding company that is not a Category IV bank holding company, the Board will calculate the bank holding company's stress capital buffer requirement annually. For each Category IV bank holding company, the Board will calculate the bank holding company's stress capital buffer requirement biennially, occurring in each calendar year ending in an even number, and will adjust the bank holding company's stress capital buffer requirement biennially, occurring in each calendar year ending in an odd number. Notwithstanding the previous sentence, the Board will calculate the stress capital buffer requirement of a Category IV bank holding company in a year ending in an odd number with respect to which that company makes an election pursuant to 12 CFR 252.44(d)(2)(ii). The stress capital buffer requirement calculations described in this paragraph will be conducted using paragraphs (f)(2)(i) or (f)(2)(ii) of this section, as appropriate. The stress capital buffer requirement adjustment described in this paragraph will be conducted using paragraph (f)(4) of this section.

(ii) Unless otherwise determined by the Board, a stress capital buffer requirement that is recalculated pursuant to paragraph (f)(3) of this section will be calculated pursuant to the methodology in paragraph (f)(2)(ii) of this section, except that a stress capital buffer requirement that is recalculated following the resubmission

of a capital plan pursuant to paragraph (e)(4)(i)(B)(1) of this section will be calculated pursuant to the methodology in paragraph (f)(2)(i) of this section.

(2) *Stress capital buffer requirement calculation.* (i) For a bank holding company that was subject to the annual supervisory stress test in the previous calendar year, a bank holding company's stress capital buffer requirement is equal to the greater of:

(A) The following calculation:

(1) The average of the stress capital decline of the current capital plan cycle and either the stress capital decline of the capital plan cycle for the previous calendar year or, if the bank holding company's currently effective stress capital buffer requirement was provided pursuant to paragraph (f)(3) of this section, the stress capital decline associated with that stress capital buffer requirement; plus

(2) The ratio of:

(i) The sum of the bank holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the current planning horizon; to

(ii) The risk-weighted assets of the bank holding company in the quarter in which the bank holding company had its lowest projected ratio of common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test conducted in the current capital plan cycle; and

(B) 2.5 percent.

(ii) For a bank holding company that was not subject to the annual supervisory stress test in the previous calendar year, a bank holding company's stress capital buffer requirement is equal to the greater of:

(A) The following calculation:

(1) The stress capital decline of the current capital plan cycle; plus

(2) The ratio of:

(i) The sum of the bank holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the current planning horizon; to

(ii) The risk-weighted assets of the bank holding company in the quarter in which the bank holding company had its lowest projected ratio of common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test conducted in the current capital plan cycle; and

(B) 2.5 percent.

* * * * *

(4) *Adjustment of stress capital buffer requirement.* In each calendar year in which the Board does not calculate a Category IV bank holding company's stress capital buffer requirement pursuant to paragraph (f)(1) of this section, the Board will adjust the Category IV bank holding company's stress capital buffer requirement to be equal to the result of the calculation set forth in paragraph (f)(2) of this section, using the same values that were used to calculate the stress capital buffer requirement most recently provided to the bank holding company, except that the value used in paragraph (f)(2)(i)(A)(2)(i) or paragraph (f)(2)(ii)(A)(2)(i) of this section, as applicable, will be equal to the bank holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the planning horizon as set forth in the capital plan submitted by the bank holding company in the calendar year in which the Board adjusts the bank holding company's stress capital buffer requirement.

* * * * *

- (h) * * *
(4) * * *
(ii) * * *

(A) Be effective on January 1 of the year immediately following the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section; and

* * * * *

- (i) * * *

(1) *General.* To request reconsideration of a stress capital buffer requirement, provided under paragraph (h) of this section, (specifically, the stress capital decline of the current capital plan cycle) a bank holding company must submit a written request for reconsideration.

* * * * *

- (3) * * *

(i) A request for reconsideration must include a detailed explanation of why reconsideration should be granted (that is, why the stress capital decline of the current capital plan cycle should be reconsidered). With respect to any information that was not previously provided to the Federal Reserve in the bank holding company's capital plan, the request should include an explanation of why the information should be considered.

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 3. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 5365; 1813, 1817, 1829e, 1831i, and 1972; 15 U.S.C. 78l.

Subpart S—Capital Planning and Stress Capital Buffer Requirement

■ 4. In § 238.170:

- a. Redesignate paragraph (d)(18) as (d)(19);
- b. Add a new paragraph (d)(18);
- c. Revise paragraphs (f)(1), (2), and (4);
- d. In paragraphs (h)(2)(ii)(A) and (B), remove the text “fourth through seventh”, wherever it appears and add, in its place the text “fifth through eighth”;
- e. Revise paragraph (h)(4)(ii)(A);
- f. Revise paragraph (i)(1) and (i)(3)(i); and
- g. Remove the text “fourth”, and add, in its place the text “fifth”, in paragraph (k)(2).

The revisions and addition read as follows:

§ 238.170 Capital planning and stress capital buffer requirement.

* * * * *

- (d) * * *

(18) *Stress capital decline* means the ratio of a covered savings and loan holding company's common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, as of the final quarter of the previous capital plan cycle, unless otherwise determined by the Board, minus the lowest projected ratio of the covered savings and loan holding company's common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test.

* * * * *

- (f) * * *

(1) *General.* (i) The Board will determine the stress capital buffer requirement that applies under 12 CFR 217.11 pursuant to paragraph (f) of this section. For each covered savings and loan holding company that is not a Category IV savings and loan holding company, the Board will calculate the covered savings and loan holding company's stress capital buffer requirement annually. For each Category IV savings and loan holding company, the Board will calculate the covered savings and loan holding company's stress capital buffer requirement biennially, occurring in each calendar year ending in an even number, and will adjust the covered savings and loan holding company's stress capital buffer requirement biennially, occurring in each calendar year ending in an odd number.

Notwithstanding the previous sentence, the Board will calculate the stress capital buffer requirement of a Category IV savings and loan holding company in a year ending in an odd number with respect to which that company makes an election pursuant to § 238.132(c)(2)(ii). The stress capital buffer requirement calculations described in this paragraph will be conducted using paragraphs (f)(2)(i) or (f)(2)(ii) of this section, as appropriate. The stress capital buffer requirement adjustment described in this paragraph will be conducted using paragraph (f)(4) of this section.

(ii) Unless otherwise determined by the Board, a stress capital buffer requirement that is recalculated pursuant to paragraph (f)(3) of this section will be calculated pursuant to the methodology in paragraph (f)(2)(ii) of this section, except that a stress capital buffer requirement that is recalculated following the resubmission of a capital plan pursuant to paragraph (e)(4)(i)(B)(1) of this section will be calculated pursuant to the methodology in paragraph (f)(2)(i) of this section.

(2) *Stress capital buffer requirement calculation.* (i) For a covered savings and loan holding company that was subject to the annual supervisory stress test in the previous calendar year, a covered savings and loan holding company's stress capital buffer requirement is equal to the greater of:

(A) The following calculation:

(1) The average of the stress capital decline of the current capital plan cycle and either the stress capital decline of the capital plan cycle for the previous calendar year or, if the savings and loan holding company's currently effective stress capital buffer requirement was provided pursuant to paragraph (f)(3) of this section, the stress capital decline associated with that stress capital buffer requirement; plus

(2) The ratio of:

(i) The sum of the covered savings and loan holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the current planning horizon; to

(ii) The risk-weighted assets of the covered savings and loan holding company in the quarter in which the covered savings and loan holding company had its lowest projected ratio of common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test conducted in the current capital plan cycle; and

(B) 2.5 percent.

(ii) For a covered savings and loan holding company that was not subject to the annual supervisory stress tests in the previous calendar year, a covered savings and loan holding company's stress capital buffer requirement is equal to the greater of:

(A) The following calculation:

(1) The stress capital decline of the current capital plan cycle; plus

(2) The ratio of:

(i) The sum of the covered savings and loan holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the current planning horizon; to

(ii) The risk-weighted assets of the covered savings and loan holding company in the quarter in which the covered savings and loan holding company had its lowest projected ratio of common equity tier 1 capital to risk-weighted assets, as calculated under 12 CFR part 217, subpart D, in any quarter of the planning horizon under a supervisory stress test conducted in the current capital plan cycle; and

(B) 2.5 percent.

* * * * *

(4) *Adjustment of stress capital buffer requirement.* In each calendar year in which the Board does not calculate a Category IV savings and loan holding company's stress capital buffer requirement pursuant to paragraph (f)(1) of this section, the Board will adjust the Category IV savings and loan holding company's stress capital buffer requirement to be equal to the result of the calculation set forth in paragraph (f)(2) of this section, using the same values that were used to calculate the stress capital buffer requirement most recently provided to the covered savings and loan holding company, except that the value used in paragraph (f)(2)(i)(A)(2)(i) or paragraph (f)(2)(ii)(A)(2)(i) of this section, as applicable, will be equal to the covered savings and loan holding company's planned common stock dividends (expressed as a dollar amount) for each of the fifth through eighth quarters of the planning horizon as set forth in the capital plan submitted by the covered savings and loan holding company in the calendar year in which the Board adjusts the covered savings and loan holding company's stress capital buffer requirement.

* * * * *

(h) * * *

(4) * * *

(ii) * * *

(A) Be effective on January 1 of the year immediately following the calendar year in which a capital plan was

submitted pursuant to paragraph (e)(1)(ii) of this section; and

* * * * *

(i) * * *

(1) *General.* To request reconsideration of a stress capital buffer requirement, provided under paragraph (h) of this section, (specifically, the stress capital decline of the current capital plan cycle) a covered savings and loan holding company must submit a written request for reconsideration.

* * * * *

(3) * * *

(i) A request for reconsideration must include a detailed explanation of why reconsideration should be granted (that is, why the stress capital decline of the current capital plan cycle should be reconsidered). With respect to any information that was not previously provided to the Federal Reserve in the covered savings and loan holding company's capital plan, the request should include an explanation of why the information should be considered.

* * * * *

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 5. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.*, 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

Appendix B to Part 252—Stress Testing Policy Statement

6. Amend appendix B to part 252 by removing and reserving section 2.3.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2025–06863 Filed 4–18–25; 11:15 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–0466; **Airspace**
Docket No. 25–AWP–138]

RIN 2120–AA66

Withdrawal of NPRM: Establishment of Class E Airspace; Wickenburg, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the NPRM published in the **Federal Register** on March 20, 2025, proposing to establish Class E airspace at Wickenburg, AZ. The FAA has determined that withdrawal of that NPRM is warranted as new airspace data has been received which significantly changes the proposed airspace. The FAA anticipates that a new NPRM will be issued separately to establish the Class E airspace at Wickenburg, AZ.

DATES: Effective as of 0901 UTC, April 22, 2025, the proposed rule published March 20, 2025 (90 FR 13111), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

History

An NPRM was published in the **Federal Register** on March 20, 2025 (90 FR 13111) under Docket No. FAA–2025–0466, which proposed to amend 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Wickenburg Municipal Airport, Wickenburg, AZ. Subsequent to publication, new airspace data was received changing the airspace requirements and therefore necessitating a substantial change to the proposed airspace modifications. Therefore, the FAA is withdrawing the NPRM. The FAA anticipates separately issuing a new NPRM to establish the Class E airspace extending upward from 700 feet above the surface at Wickenburg Municipal Airport to support the new instrument procedures being developed.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the NPRM published in the **Federal Register** on March 20, 2025 (90 FR 13111), FR Doc. 2025–04396, is hereby withdrawn.

Issued in Fort Worth, TX, on April 15, 2025.

Wayne L. Eckenrode,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2025–06690 Filed 4–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket No. USCG–2024–1102]****RIN 1625–AA11****Regulated Navigation Area; Ludington Harbor Channel and Pere Marquette Lake, Ludington, MI****AGENCY:** Coast Guard, Department of Homeland Security.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a regulated navigation area to control vessel movement for certain waters of Lake Michigan, the Ludington Harbor Channel, and Pere Marquette Lake in Ludington, MI. This action is necessary to provide for the safety of life, environment, and property on these navigable waters due to hazardous conditions resulting from increased vessel traffic congestion. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 23, 2025.

ADDRESSES: You may submit comments identified by docket number USCG–2024–1102 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Lieutenant Commander Jessica Anderson, Sector Lake Michigan Waterways Management Division, U.S. Coast Guard; telephone 414–216–8428, email d09-smb-seclakemichigan-wwm@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

Beginning in August 2022, the Coast Guard was notified that sporadic high

concentrations of vessels operating in the vicinity of the narrow waters of the Ludington Harbor Channel and Pere Marquette Lake in Ludington, MI, were creating safety and navigation concerns for larger vessels transiting these same waters. Of particular concern, large commercial vessels were forced to take emergent action on several occasions to avoid imminent collision with these highly concentrated vessels. These hazardous conditions were not always present, but arose sporadically, primarily in connection with popular local fishing seasons. Similar concerns were brought to the Coast Guard in the summer and fall of 2023 and 2024.

The purpose of this Regulated Navigation Area is to address safety concerns due to the above hazardous levels of vessel traffic congestion in the Ludington Harbor Channel and Pere Marquette Lake in Ludington, MI. The goal is to prevent loss of life, vessel collisions and groundings, environmental damage, and loss of property resulting from conflicts between varied users of these navigable waterways. These proposed regulations are intended to encompass fishing vessels, pleasure craft, ferries, tow boats, deep draft vessels, and other commercial vessel traffic. This proposed regulation is necessary due to a significant increase in risks to safety and hazardous conditions due to high volumes of traffic, combined with a unique layout of the navigable waters and relatively narrow channel, requiring additional means to protect waterways users as normal navigation rules are not sufficient. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The Ninth District Commander is proposing to establish a regulated navigation area which would be enforced only when hazardous levels of vessel traffic congestion (“Congestion”) exist. Operations potentially creating Congestion include, but are not limited to, vessels engaged in fishing, recreational fishing derbies, regattas, or permitted marine events. The Captain of the Port, Sector Lake Michigan (“COTP”) will determine when Congestion exists and will notify the public via Broadcast Notice to Mariners and other comparable public notice and will coordinate and inform the harbor master of Ludington before enforcement of the Regulated Navigation Area. When Congestion exists, vessels and all waterways users, with the exception of Federal or State entities operating in official capacity, would be required to maintain a

distance of 440 yards from the bow, 100 yards from the stern, and 35 yards from the port and starboard side of any commercial or recreational vessels greater than 100 feet in length transiting into or out of the Ludington Harbor Channel, starting at 1,000 yards outside the Ludington Harbor entrance and encompassing all navigable waterways within the Ludington Harbor Channel and Pere Marquette Lake.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the characteristics of the regulated navigation area. The proposed rule is expected to place minimal restrictions on vessel movement and is designed to minimize impact on navigable waters. Vessels may still transit through the regulated navigation area and the impact will be short in duration.

B. Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated navigation area may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have Tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. If you believe this proposed rule has implications for federalism or Indian Tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. This proposed rule involves the establishment of a regulated navigation area which would be enforced only when Congestion exists. During this period of enforcement, vessels would be permitted to operate, albeit it with limited navigation restrictions when large commercial vessels are transiting the regulated waters. Accordingly, it is categorically excluded from further review under paragraph L60(a) of appendix A, table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–1102 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit

your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public meeting. The Coast Guard previously held a public meeting regarding this issue on November 13, 2024, at the Ludington, Michigan City Hall. We do not plan to hold an additional public meeting, but will consider doing so in conjunction with county and local government leadership based on our analysis from public comment. If such a meeting is held, we will issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.972 to read as follows:

§ 165.972 Regulated Navigation Area; Ludington Harbor Channel and Pere Marquette Lake, Ludington, MI.

(a) *Location.* The following area is a regulated navigation area: All navigable waters of the Ludington Harbor Channel and Pere Marquette Lake, from surface to bottom, as well as navigable waters of Lake Michigan within 1,000 yards of the Ludington, Michigan harbor entrance.

(b) *Definitions.* As used in this section:

Designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his or her behalf.

Hazardous levels of vessel traffic congestion are as defined at the time by the Captain of the Port or a designated representative. Operations potentially creating hazardous levels of vessel traffic congestion include, but are not limited to, vessels engaged in commercial or recreational fishing, pleasure craft, tow boats, other commercial vessel traffic, recreational fishing derbies, regattas, permitted marine events, or any other condition creating a high concentration of vessels in the regulated navigation area.

Ludington Harbor entrance is defined as the waters between the westernmost point of the Ludington Harbor break walls as marked by the Ludington North

Breakwater Light (LLNR 18530) and Ludington Harbor South Breakwater Light (LLNR 18555).

Vessels engaged in fishing are as identified in the definition found in Rule 3 of the International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS), see part 81 of this chapter.

(c) *Navigation Rules.* Nothing in this section shall be construed as relieving any party from their responsibility to comply with applicable rules set forth in the 72 COLREGS.

(d) *Regulations.* The provisions under this paragraph (d) apply only when imposed in specific locations by the Captain of the Port or a designated representative. They are intended to enhance vessel traffic safety during periods and in locations where hazardous levels of vessel traffic congestion are deemed to exist by the Captain of the Port or a designated representative. When hazardous levels of vessel traffic congestion are determined to exist by the Captain of the Port or a designated representative per paragraph (b) of this section, the Captain of the Port or designated representative will issue a Broadcast Notice to Mariners and other comparable public notice and will coordinate and inform the harbormaster of Ludington, notifying the public of the period and location of enforcement

prior to enforcing the provisions under this paragraph (d).

(1) Vessels and all waterways users must maintain a distance of 440 yards from the bow, 100 yards from the stern, and 35 yards from the port and starboard side of any vessel greater than 100 feet in length transiting through the regulated navigation area as described in paragraph (a) of this section.

(2) Federal, State, or local entities operating in official capacity are excepted from this paragraph (d).

(3) In an emergency, the master, pilot, or person directing the movement of the vessel may deviate from this section to the extent necessary to avoid endangering persons, property, or the environment, and shall report the deviation to the United States Coast Guard via VHF channel 16 as soon as possible.

(4) Violations of this section should be reported to the Captain of the Port Sector Lake Michigan at (414) 747-7182 or on VHF-Channel 16. Vessels or persons in violation of this section may be subject to the civil and/or criminal penalties set forth in 46 U.S.C. 70036.

Dated: April 14, 2025.

J.P. Hickey,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2025-06868 Filed 4-21-25; 8:45 am]

BILLING CODE 9110-04-P

Notices

Federal Register

Vol. 90, No. 76

Tuesday, April 22, 2025

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Sabine Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sabine Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Sabine National Forest within Sabine and Shelby County, consistent with the Federal Lands Recreation Enhancement Act.

DATES: An in-person meeting will be held on May 6, 2025, 4 p.m. to 6:30 p.m. Central Daylight Time.

Written and Oral Comments: Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. Central Daylight Time on April 28, 2025. Written public comments will be accepted by 11:59 p.m. Central Daylight Time on April 28, 2025. Comments submitted after this date will be provided by the Forest Service to the committee, but the committee may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held in-person at the Sabine National Forest

District Office, located at 5050 State Highway 21 East, Hemphill, Texas 75948. Committee information and meeting details can be found by contacting the persons listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments: Written comments must be sent by email to gina.gwin@usda.gov or via mail (postmarked) to Gina Gwin, Sabine RAC, 5050 State Highway 21 East, Hemphill, TX 75948. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. Central Daylight Time, April 28, 2025, and speakers can only register for one speaking slot. Oral comments must be sent by email to gina.gwin@usda.gov or via mail (postmarked) to Gina Gwin, Sabine RAC, 5050 State Highway 21 East, Hemphill, TX 75948.

FOR FURTHER INFORMATION CONTACT: Jimmy Tyree, Designated Federal Officer, by phone at (935) 707-2286 or email at jimmy.tyree@usda.gov; or Gina Gwin, RAC Coordinator, by phone at (936) 639-8606 or email at gina.gwin@usda.gov.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to cover the following:

1. Project status update;
2. Hear from Title II project proponents and discuss Title II project proposals;
3. Make funding recommendations on Title II projects;
4. Approve meeting minutes; and
5. Schedule the next meeting.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 14 days after the meeting date listed under **DATES**.

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

Meeting Accommodations: The meeting location is compliant with the

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

Equal opportunity practices, in accordance with USDA policies, will be followed in all membership appointments to the committee.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Dated: April 16, 2025.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2025-06852 Filed 4-21-25; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-903]

Raw Honey From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2021-2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that

sales of raw honey from India were made at less than normal value (NV) during the period of review (POR) November 23, 2021, through May 31, 2023. We are also rescinding this review with respect to 14 companies that had no entries of the subject merchandise during the POR.

DATES: Applicable April 22, 2025.

FOR FURTHER INFORMATION CONTACT:

Brittany Bauer or Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3860 or (202) 482-2243, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2024, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ On September 19, 2024, the petitioners² and Indocan Honey Private Limited (Indocan) submitted case briefs,³ and, on October 3, 2024, Allied Natural Product (Allied) and Indocan submitted a joint rebuttal brief.⁴ On November 12, 2024, we extended the deadline for these final results until January 10, 2025.⁵ On December 9, 2024, Commerce tolled the deadline for these final results until April 10, 2025,⁶ and, on April 10, 2025, we extended the deadline for the final results by an additional two days, to April 14, 2025.⁷ For a complete

description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁸

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order⁹

The product covered by this *Order* is raw honey from India. For a full description of the scope, see the Issues and Decision Memorandum.

Partial Rescission of Administrative Review

In the *Preliminary Results*, we stated that we intended to rescind this review pursuant to 19 CFR 351.213(d)(3) with respect to 14 companies¹⁰ for which U.S. Customs and Border Protection (CBP) data showed no suspended entries of the subject merchandise during the POR.¹¹ No party filed comments with respect to this preliminary finding and we received no information to contradict it. Therefore, we are rescinding this administrative review with respect to these 14 companies.

Analysis of Comments Received

We addressed the issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and

2025. Commerce's practice dictates that, where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day, which, in this case, is Monday, April 14, 2025. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁸ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Raw Shrimp from India; 2021–2023," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁹ See *Raw Honey from Argentina, Brazil, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 87 FR 35501 (June 10, 2022) (*Order*).

¹⁰ See Appendix II for a list of these companies.

¹¹ See *Preliminary Results*, 89 FR at 56306–07.

Decision Memorandum is included in Appendix I to this notice.

Changes Since the Preliminary Results

Based on our review of the record, including comments received from interested parties, we have made changes to the *Preliminary Results* margin calculations for Allied and Indocan.¹²

Rates for Non-Selected Respondents

The Tariff Act of 1930, as amended (the Act), and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely {on the basis of facts available}."

For these final results, we have calculated a weighted-average dumping margin for Allied and Indocan that is not zero, *de minimis*, or determined entirely on the basis of facts available. Therefore, Commerce assigned a margin to the all-others rate companies based on the simple average of the two mandatory respondents' rates, as listed below.¹³

Final Results of Administrative Review

Commerce determines that the following weighted-average dumping margins exist for the period November 23, 2021, through May 31, 2023:

¹² See Issues and Decision Memorandum at Comments 3–5, 7–8, and 10.

¹³ We calculated a simple average margin because the record does not contain usable publicly ranged data for both respondents and computing a weighted-average margin using actual data would disclose business proprietary information.

¹ See *Raw Honey from India: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2021–2023*, 89 FR 56306 (July 9, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² The petitioners in this case are the American Honey Producers Association and the Sioux Honey Association.

³ See Petitioners' Letter, "Petitioners' Case Brief Concerning Allied Natural Product and Indocan Honey Private Limited," dated September 19, 2024; and Indocan's Letter, "Case Brief," dated September 19, 2024.

⁴ See Allied and Indocan's Letter, "Rebuttal Case Brief," dated October 3, 2024.

⁵ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated November 12, 2024.

⁶ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁷ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2021–2023," dated April 10, 2025. Two days after April 10, 2025, is Saturday, April 12,

Exporter/producer	Weighted average dumping margin (percent)
Allied Natural Product	3.96
Indocan Honey Private Limited; Queenbee Foods Private Limited; and Pearlcof Enterprises ¹⁴	0.66
Companies Not Selected for Individual Review	2.31

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to interested parties within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.

Because the weighted-average dumping margins for Allied and Indocan are not zero or *de minimis* (*i.e.*, less than 0.5 percent), we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. Where an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Allied or Indocan for which they did not know their merchandise was destined for the United States, 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.¹⁵

For the companies listed in Appendix II, we will instruct CBP to assess antidumping duties on any suspended entries that entered under the CBP case numbers of those companies (*i.e.*, at those exporters' rates) at a rate equal to the cash deposit of estimated

antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR.

For the companies that were not selected for individual examination (*see* Appendix III), we will assign an assessment rate based on the review-specific average rate, calculated as noted in the "Rate for Non-Examined Respondents" section above.

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 for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) the cash deposit rates for Allied and Indocan will be the weighted-average dumping margins established in the final results of this administrative review; (2) for previously reviewed or investigated 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; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer has been covered in a prior completed segment of this proceeding, the cash deposit rate will be the company-specific rate established 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 5.87 percent, as established in the original LTFV investigation.¹⁶ These cash deposit requirements, when imposed,

shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: April 14, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Cost Methodology for Allied
 - Comment 2: Reporting Consistency With Normal Books and Records

¹⁴ Commerce has treated Indocan as a single entity with Queenbee Foods Private Limited and Pearlcof Enterprises. *See* Issues and Decision Memorandum at Comment 9. We refer to the companies, collectively, as Indocan.

¹⁵ For a full discussion of this practice, *see* *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁶ *See* *Order*, 87 FR at 35503.

Comment 3: Application of Transactions Disregarded Rule
 Comment 4: Adjustments to Production Quantities
 Comment 5: Profit and Selling Expenses for Constructed Value (CV)
 Comment 6: Whether To Apply Total Adverse Facts Available (AFA) to Indocan
 Comment 7: Correction of Ministerial Error
 Comment 8: Revision to Home Market Indirect Selling Expense Ratio
 Comment 9: Collapsing
 Comment 10: Use of Importer Field in Calculations

VI. Recommendation

Appendix II

Companies for Which We Are Rescinding the Administrative Review

1. AA Food Factory
2. Alpro
3. Aone Enterprises
4. Apl Logistics
5. Bee Hive Farms
6. Dabur India Limited
7. Ess Pee Quality Products
8. Infinitor Pvt., Ltd.
9. Natural Agro Foods
10. NYSA Agro Foods
11. Shan Organics
12. Sunlite Organic
13. UTMT
14. Vedic Systems

Appendix III

Companies Not Selected for Individual Examination

1. Ambrosia Natural Products (India) Private Limited/Ambrosia Enterprise/Sunlite India Agro Producer Co., Ltd.
2. Apis India Limited
3. Brij Honey Pvt., Ltd.
4. Ganpati Natural Products
5. GMC Natural Product
6. Hi Tech Natural Products India Ltd.
7. Kejriwal Bee Care India Private Limited
8. KK Natural Food Industries LLP
9. Salt Range Foods Pvt. Ltd.
10. Shakti Api Foods Private Limited
11. Shiv Apiaries
12. Yieppie Internationals

[FR Doc. 2025–06864 Filed 4–21–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration [C–533–878]

Stainless Steel Flanges from India: Rescission of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on stainless steel flanges from India

covering the period of review (POR) January 1, 2023, through December 31, 2023, because, as explained below, there are no reviewable suspended entries for the three companies subject to this review.

DATES: Applicable April 22, 2025.

FOR FURTHER INFORMATION CONTACT: Sun Cho, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6458.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on stainless steel flanges from India, covering the period January 1, 2023, through December 31, 2023.¹ Commerce received a timely request for review of the *Order* from CD Industries (Prop. Kisaan Engineering Works Pvt. Ltd.)(CD Industries), Jai Auto Pvt. Ltd. (Jai Auto), and R. N. Gupta & Company Limited (RNG).²

On November 14, 2024, Commerce published in the **Federal Register** a notice of initiation of an administrative review with respect to these three companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).³ On November 21, 2024, Commerce released a memorandum indicating that there were no reviewable entries of subject merchandise during the POR based on a U.S. Customs and Border Protection (CBP) entry data query and notified all interested parties of its intent to rescind the review in full.⁴ Commerce provided parties an opportunity to submit comments on the data query results.⁵ No

party submitted comments to Commerce. On February 11, 2025, Jai Auto withdrew its request for an administrative review.⁶

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties who requested a review withdraw their requests within 90 days of the date that the notice of initiation of the requested review was published in the **Federal Register**. Because Jai Auto timely withdrew its request for review of itself and no other parties requested a review of Jai Auto, Commerce is rescinding this administrative review with respect to Jai Auto.

Moreover, pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a CVD order where Commerce concludes that there were no reviewable entries of subject merchandise during the POR.⁷ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate for the review period.⁸ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated CVD assessment rate for the review period.⁹ As noted above, CBP data showed that there were no entries of subject merchandise from India during the POR for the remaining companies under review, *i.e.*, CD Industries and RNG. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

⁶ See Jai Auto's Letter, "Withdrawal of Request for Countervailing Duty Administrative Review for the period of 1st January, 2023 to 31st December, 2023," dated February 11, 2025.

⁷ See, e.g., *Certain Softwood Lumber Products from Canada: Final Results and Final Rescission, in Part, of the Countervailing Duty Administrative Review, 2020*, 87 FR 48455 (August 9, 2022); see also *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2020–2021*, 87 FR 64008 (October 21, 2022).

⁸ See 19 CFR 351.212(b)(2).

⁹ See 19 CFR 351.213(d)(3).

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Joint Annual Inquiry Service List*, 89 FR 79894 (October 1, 2024); see also *Stainless Steel Flanges from India: Countervailing Duty Order*, 83 FR 50336 (October 5, 2018) (*Order*).

² See CD Industries' Letter, "Request for Administrative Review," dated October 31, 2024; Jai Auto's Letter, "Request for Countervailing Duty Administrative Review of Jai Auto Pvt. Ltd for the period of January 01, 2023 to December 31, 2023," dated October 29, 2024; and RNG's Letter, "Request for Countervailing Duty Administrative Review of R. N. Gupta & Company Limited for the period of January 01, 2023 to December 31, 2023," dated October 29, 2024.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 89955 (November 14, 2024).

⁴ See Memorandum, "U.S. Customs and Border Protect Data Query Release and Notice of Intent to Rescind Review," dated November 21, 2024.

⁵ *Id.*

Assessment Rates

Commerce will instruct CBP to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required to the time of entry, or withdrawal from warehouse, for consumption, in accordance with 18 CFR 351.21(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: April 9, 2025.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2025-06844 Filed 4-21-25; 8:45 am]

BILLING CODE 3510-DS-P

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 open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) Visiting Committee on Advanced Technology (VCAT or Committee) will hold an open in-person meeting on Tuesday, June 10, 2025, from 9 a.m. to 5 p.m. Eastern Time, and Wednesday, June 11, 2025, from 9 a.m. to 1 p.m. Eastern Time with a virtual option for

VCAT members only to ensure the ability to meet quorum.

DATES: The VCAT will meet on Tuesday, June 10, 2025, from 9 a.m. to 5 p.m. Eastern Time, and Wednesday, June 11, 2025, from 9 a.m. to 1 p.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 for VCAT members only. 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 open to the public. The VCAT is composed of not fewer than nine members appointed by the NIST Director and selected to provide representation of a cross-section of the traditional and emerging United States industries. 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 will include an update on major programs at NIST. It will also include a session on the changes within the organization, budget considerations, as well as alignment of NIST programs with Administration priorities. The agenda is subject to change if needed to accommodate Committee business. The final agenda will be posted on the NIST website at <https://www.nist.gov/director/vcat/agenda-minutes>.

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, Tuesday, May 27, 2025, 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 <https://www.nist.gov/director/vcat/agenda-minutes>. 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 are invited to submit written statements to Stephanie Shaw at stephanie.shaw@nist.gov.

All meeting attendees, including NIST staff, are required to pre-register to be admitted. Limited space is available on a first-come, first-served basis for anyone who wishes to attend in person. 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, Tuesday, May 27, 2025. 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 (Pub. 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. 2025-06853 Filed 4-21-25; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE864]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is

scheduling a public hybrid meeting of its Climate and Ecosystem Steering Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person with a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This hybrid meeting will be held on Tuesday, May 6, 2025, at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at Doubletree by Hilton, 11 Beaver Street, Milford, MA 01757; phone: (508) 478-7010.

Webinar registration URL information: <https://nefmc-org.zoom.us/j/9FNM6J8QfOqCy3goYOknA>.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Ph.D., Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Climate and Ecosystem Steering Committee will meet to begin work on any Council tasking related to the New England State of the Ecosystem Report. They will receive updates from the Risk Policy Working Group. The committee will also develop a work plan for its two sub-committees (communication and process mapping). They will also continue to coordinate with NOAA's Climate, Ecosystem, and Fisheries Initiative. 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, Ph.D., Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 2025.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025-06890 Filed 4-21-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE834]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

Correction

In notice document 2025-06588, appearing on pages 16111-16112, in the issue of Thursday, April 17, 2025, make the following correction:

On page 16111, in the third column, in the **DATES** section, in the second line, "August 1, 2025." should read "May 2, 2025."

[FR Doc. C1-2025-06588 Filed 4-21-25; 8:45 am]

BILLING CODE 0099-10-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP25-204-000]

Northwest Pipeline LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on April 10, 2025, Northwest Pipeline LLC (Northwest), Post Office Box 1396, Houston, Texas 77251, filed an application under section 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization for its Kemmerer Horsepower Replacement Project (Project) in Lincoln County, Wyoming. Specifically, the Project would include the abandonment in place of four existing reciprocating compressor units and one legacy gas turbine compressor unit (total of 13,200 ISO-rated horsepower (HP) (9,637 site-rated)) to be replaced with one new Solar Mars 90 turbine-driven unit (13,220 ISO-rated HP (8,936 site-rated HP)) and additional ancillary facilities and piping at the Kemmerer Compressor Station. The Project is part of Northwest's

Modernization and Emissions Reduction (MER) Program¹ which involves the replacement of twenty-two vintage natural gas reciprocating compressors and turbine engines with gas turbine-driven compressors with low emissions technology over a period of six years. The MER Program is expected to reduce Northwest's nitrogen oxide emissions by 93% and potential methane emissions by 89%. The reduction in site-rated horsepower at the Kemmerer Compressor Station will not affect the design delivery capacity or customer service obligations. Northwest estimates that the total cost of the Project to be \$73,018,593, 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 Jasmine Turner, Regulatory Analyst, Northwest Pipeline LLC, Post Office Box 1396, Houston, Texas 77251, by phone at (281) 455-7922 or by email at outreach@williams.com.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,² 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

¹ Northwest's MER Program was agreed to a supported by its customers in *Northwest Pipeline LLC*, Docket No. RP22-1155, Settlement Art. XIII, Section 13.1.

² 18 CFR 157.9.

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 May 7, 2025. 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, community organizations, 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) ³ and 385.211 ⁴ of the Commission's regulations under the NGA, any person ⁵ may file a protest to the application. Protests must comply with the requirements specified in section

385.2001 ⁶ 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 May 7, 2025.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP25-204-000 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 CP25-204-000. 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, ⁷ 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 Procedure ⁸ and the regulations under the NGA ⁹ by the intervention deadline for the project, which is May 7, 2025. 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 CP25-204-000 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

³ 18 CFR 157.10(a)(4).

⁴ 18 CFR 385.211.

⁵ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁶ 18 CFR 385.2001.

⁷ 18 CFR 385.102(d).

⁸ 18 CFR 385.214.

⁹ 18 CFR 157.10.

intervene must reference the Project docket number CP25–204–000.

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 applicant either by mail or email at: Jasmine Turner, Regulatory Analyst, Northwest Pipeline LLC, Post Office Box 1396, Houston, Texas 77251, or by email at outreach@williams.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed¹⁰ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹¹ 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.¹² 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 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 p.m. Eastern Time on May 7, 2025.

Dated: April 16, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025–06897 Filed 4–21–25; 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: RP25–826–000.

Applicants: Great Basin Gas

Transmission Company.

Description: § 4(d) Rate Filing: System Map Tariff Record Correction to be effective 4/1/2025.

Filed Date: 4/15/25.

Accession Number: 20250415–5185.

Comment Date: 5 p.m. ET 4/28/25.

Docket Numbers: RP25–827–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Update to Request for Service Procedures to be effective 5/16/2025.

Filed Date: 4/15/25.

Accession Number: 20250415–5220.

Comment Date: 5 p.m. ET 4/28/25.

Docket Numbers: RP25–828–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Compliance filing: MEP Enable Abandonment Compliance Filing Associated With Docket No. CP25–20–000 to be effective 6/1/2025.

Filed Date: 4/15/25.

Accession Number: 20250415–5240.

Comment Date: 5 p.m. ET 4/28/25.

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: <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, community organizations, 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: April 16, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025–06867 Filed 4–21–25; 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 exempt wholesale generator filings:

Docket Numbers: EG25–288–000.

Applicants: Clinton Solar LLC.

Description: Clinton Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/16/25.

Accession Number: 20250416–5121.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: EG25–289–000.

Applicants: BDPU Solar Tormes LLC.

Description: BDPU Solar Tormes LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/16/25.

Accession Number: 20250416–5160.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: EG25–290–000.

Applicants: Stillhouse Solar LLC.

Description: Stillhouse Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/16/25.

¹⁰ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹¹ 18 CFR 385.214(c)(1).

¹² 18 CFR 385.214(b)(3) and (d).

Accession Number: 20250416–5162.
Comment Date: 5 p.m. ET 5/7/25.

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

Docket Numbers: ER24–113–001; ER24–114–001.

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

Description: Notice of Non-Material Change in Status of Salt Creek Township Solar, LLC, et al.

Filed Date: 4/15/25.

Accession Number: 20250415–5293.

Comment Date: 5 p.m. ET 5/6/25.

Docket Numbers: ER24–2184–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Comp Filing—Sub. of Tariff to Expand RTO into the Western Interconnection to be effective 12/31/9998.

Filed Date: 4/16/25.

Accession Number: 20250416–5089.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1103–002.

Applicants: Indianapolis Power & Light Company.

Description: Tariff Amendment: 2025–04–16 2nd Amendment IPL dba AES Transition to Forward Looking Formula Rate to be effective 4/1/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5161.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1355–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment of CSA SA No. 7532; Project Identifier No. AG1–239 to be effective 1/23/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5132.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1543–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amended Filing of Original GIA, SA No. 7593; Project Identifier No. AF2–298 to be effective 4/4/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5138.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1825–000.

Applicants: Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc.

Description: Formal Challenge of the Council of the City of New Orleans' MSS–4 Replacement Tariff Annual Update for the 2023 Test Year by Entergy Arkansas, LLC, et al.

Filed Date: 4/15/25.

Accession Number: 20250415–5079.

Comment Date: 5 p.m. ET 5/6/25.

Docket Numbers: ER25–1969–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2025–04–16 SA 3873 ITC Midwest-Elk Creek 1st Rev GIA (J1164) to be effective 4/8/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5050.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1970–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2025–04–16 SA 2650 Termination of METC-New Covert E&P (T94) to be effective 4/17/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5052.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1972–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Surplus Large Gen Interconnection Agrmt Rev 1 (SA No. 1106) to be effective 4/17/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5065.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1973–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Surplus Large Gen Interconnection Agrmt Rev 1 (SA No. 1109) to be effective 4/17/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5068.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1974–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Dothan Solar (Dothan Solar & Storage) LGIA Termination Filing to be effective 4/16/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5071.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1975–000.

Applicants: ConocoPhillips Company.

Description: § 205(d) Rate Filing: Change in Category Status to be effective 6/1/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5123.

Comment Date: 5 p.m. ET 5/7/25.

Docket Numbers: ER25–1976–000.

Applicants: Badger Wind, LLC.

Description: Initial Rate Filing: Application for MBR Authorization with Waivers—Badger Wind, LLC to be effective 6/14/2025.

Filed Date: 4/16/25.

Accession Number: 20250416–5169.

Comment Date: 5 p.m. ET 5/7/25.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF25–691–000.

Applicants: BE Development, Inc.

Description: Form 556 of BE Development, Inc. [meter 2].

Filed Date: 4/16/25.

Accession Number: 20250416–5100.

Comment Date: 5 p.m. ET 5/7/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <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.

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Dated: April 16, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–06866 Filed 4–21–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 77–323]

**Pacific Gas & Electric Company;
Notice of Application for Temporary
Flow Modification Accepted for Filing,
Soliciting Comments, Motions To
Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Application for Temporary Variance of Flow Requirements.

b. *Project No*: 77–323.

c. *Date Filed*: February 14, 2025

d. *Applicant*: Pacific Gas & Electric Company.

e. *Name of Project*: Potter Valley Hydroelectric Project.

f. *Location*: The project is located on the Eel River and East Fork of the Russian River in Lake and Mendocino counties, California. The project occupies federal lands managed by the U.S. Forest Service.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact*: Chadwick McCready, Pacific Gas and Electric Company, 300 Lakeside Drive, Oakland, CA 94612, (530) 685–5710.

i. *FERC Contact*: Katherine Schmidt, katherine.schmidt@ferc.gov, (415) 369–3348.

j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests*: May 16, 2025.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/>

[ecomment.asp](http://www.ferc.gov/docs-filing/ecomment.asp). For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, 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, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–77–323. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request*: The licensee requests a temporary variance of its minimum flow requirements at two project locations. Due to seismic risk at Scott Dam, the licensee has elected to leave the spillway gates at Scott Dam open indefinitely, thereby reducing the storage capacity in Lake Pillsbury by approximately 20,000 acre-feet to 56,000 acre-feet water storage. The licensee also states that there is a high potential for bank sloughing and ensuing dam safety and operational constraints should the reservoir recede to a pool level of between 5,000 and 12,000 acre-feet, with 12,000 acre-feet becoming the planning minimum for water management.

To preserve water storage in Lake Pillsbury and conserve cold water for downstream aquatic resources, the licensee proposes to release flows below Scott Dam (as measured at gage E–2) to be consistent with a critical water year type minimum flow of 20 cubic feet per second (cfs). However, actual releases would be closer to the minimum facility limitation of 35 cfs from the low-level outlet. In addition, the licensee would reduce minimum flows in the East Branch Russian River (as measured at gage E–16) to match the dry water year minimum flow requirement of 25 cfs with the flexibility to further reduce flows to the critical water year

requirement of 5 cfs, depending on water availability, safety concerns, and water temperature conditions in the Eel River. After September 30, 2025, the licensee would resume the dry water year flow release of 25 cfs. In addition, the licensee requests that compliance with the minimum flow requirement in the Eel River below Cape Horn Dam (as measured at gage E–11) be modified to a 24-hour average instead of an instantaneous requirement to allow for a tighter compliance buffer.

The licensee's request also includes provisions for water temperature and biological monitoring, environmental mitigation, and monthly consultation throughout implementation of the proposed variance. The licensee requests that the variance begin immediately upon Commission approval and conclude when Lake Pillsbury storage exceeds 36,000 acre-feet following October 1, 2025, or is superseded by another variance or license amendment.

m. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth

in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. 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, 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: April 16, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-06898 Filed 4-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14787-004]

Black Canyon Hydro, LLC; Notice of Reasonable Period of Time for Water Quality Certification Application

On April 14, 2025, the Wyoming Department of Environmental Quality (Wyoming DEQ) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Black Canyon Hydro, LLC, in conjunction with the above captioned project on March 7, 2025.¹ Pursuant to the Commission's regulations,² we hereby notify Wyoming DEQ of the following.

Date of Receipt of the Certification Request: March 7, 2025.

Reasonable Period of Time to Act on the Certification Request: One year, March 7, 2026.

If Wyoming DEQ fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: April 16, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-06895 Filed 4-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7186-054]

Missisquoi, LLC; Notice of Reasonable Period of Time for Water Quality Certification Application

On April 9, 2025, Missisquoi, LLC submitted to the Federal Energy Regulatory Commission (Commission) documentation from the Vermont Department of Environmental Conservation (Vermont DEC) that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Missisquoi, LLC, in conjunction with the above captioned project on April 2, 2025. Pursuant to the Commission's regulations,¹ we hereby notify Vermont DEC of the following.

Date of Receipt of the Certification Request: April 2, 2025.

Reasonable Period of Time to Act on the Certification Request: One year, April 2, 2026.

If Vermont DEC fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: April 16, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-06896 Filed 4-21-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15000-003]

Erie Boulevard Hydropower, L.P.; Notice of Reasonable Period of Time for Water Quality Certification Application

On April 10, 2025, the New York State Department of Environmental Conservation (New York DEC) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Erie Boulevard Hydropower, L.P., in conjunction with the above captioned project on April 9, 2025. Pursuant to the Commission's regulations,¹ we hereby notify New York DEC of the following:

Date of Receipt of the Certification Request: April 9, 2025.

Reasonable Period of Time to Act on the Certification Request: One year, April 9, 2026.

If New York DEC fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: April 16, 2025.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2025-06894 Filed 4-21-25; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9542-08-OAR]

Final Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2024 Control Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has completed final calculations for the allocations of allowances from the new unit set-asides (NUSAs) for the 2024 control periods and has posted

¹ See memorandum issued April 16, 2025, showing that Wyoming DEQ notified Commission staff via email on April 14, 2025, that it had received the application on March 7, 2025.

² 18 CFR 4.34(b)(5)(iii).

¹ 18 CFR 4.34(b)(5)(iii).

¹ 18 CFR 4.34(b)(5)(iii).

spreadsheets containing the calculations on EPA's website. EPA has also completed calculations for allocations of the remaining 2024 NUSA allowances to existing units and has posted spreadsheets containing those calculations on EPA's website as well.

DATES: April 22, 2025.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this action should be addressed to Morgan Riedel at (202) 564-1144 or riedel.morgan@epa.gov.

SUPPLEMENTARY INFORMATION:

Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and, under most of the trading programs, in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO_x Annual), 97.511(b) and 97.512 (NO_x Ozone Season Group 1), 97.611(b) and 97.612 (SO₂ Group 1), 97.711(b) and 97.712 (SO₂ Group 2), and 97.811(b) and 97.812 (NO_x Ozone Season Group 2, including units using Original Group 2 allowances and units using Expanded Group 2 allowances).¹ Each NUSA allowance allocation process involves allocations to eligible units, termed "new" units, followed by the allocation to "existing" units of any allowances not allocated to new units.

In a notice of data availability (NODA) published in the **Federal Register** on February 28, 2025 (90 FR 10899), EPA provided notice of the preliminary calculations of NUSA allowance allocations for the 2024 control periods and described the process for submitting any objections. EPA received no objections in response to the February 28, 2025 NODA. This NODA concerns the final NUSA allowance allocations.

The detailed unit-by-unit data and final allowance allocation calculations

are set forth in Excel spreadsheets titled "CSAPR NUSA 2024 NO_x Annual Final Data New Units," "CSAPR NUSA 2024 NO_x OS Final Data New Units," "CSAPR NUSA 2024 SO₂ Final Data New Units," "CSAPR NUSA 2024 NO_x Annual Final Data Existing Units," "CSAPR NUSA 2024 NO_x OS Final Data Existing Units," and "CSAPR NUSA 2024 SO₂ Final Data Existing Units", available on EPA's website at www.epa.gov/Cross-State-Air-Pollution/csapr-compliance-year-2024-nusa-nodas.

EPA notes that an allocation or lack of allocation of allowances to a given unit under a given CSAPR trading program does not constitute a determination that the trading program does or does not apply to the unit. EPA also notes that, under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

Rona Birnbaum,

Director, Clean Air and Power Division, Office of Atmospheric Protection, Office of Air and Radiation.

[FR Doc. 2025-06871 Filed 4-21-25; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1060; FR ID 290758]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 23, 2025. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-1060.
Title: Wireless E911 Coordination Initiative Letter to State 911 Coordinators.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, Local or Tribal Government.

Number of Respondents and Responses: 56 respondents; 56 responses.

Estimated Time per Response: 0.75 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this collection is contained in sections 1 and 4(i) of the Communications Act.

Total Annual Burden: 42 hours.

Total Annual Cost: No cost.

Needs and Uses: This collection will be submitted as an extension after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

This voluntary collection was implemented in a letter that was sent, following the FCC's Second E911 Coordination Initiative, to pertinent state officials who had been appointed

¹ EPA has no current plans to determine NUSA allowance allocations for the 2024 control period under the CSAPR NO_x Ozone Season Group 3 Trading Program regulations at 40 CFR 97.1012. In response to judicial stay orders, implementation of that program has been administratively stayed for all sources for the 2024 control period and will remain stayed for future control periods unless and until provided otherwise in a future rulemaking. See 88 FR 49295 (July 31, 2023); 88 FR 67102 (September 29, 2023); 89 FR 87960 (November 6, 2024).

to oversee their states' programs to implement Enhanced 911 (E911) Phase II service. This collection is necessary so that the Commission can correct inaccuracies and have up-to-date information to ensure the integrity of the Commission's database of Public Safety Answering Points (PSAPs) throughout the nation. The accurate compiling and maintaining of this database is an inherent part of the Commission's effort to achieve the expeditious implementation of E911 service across the nation and to ensure homeland security.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2025-06883 Filed 4-21-25; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

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 question whether the proposal complies with the standards of section 4 of the BHC 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.

Unless otherwise noted, comments regarding the 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 May 7, 2025.

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. *Cypress Capital Group, Inc., Palm Beach, Florida*; to engage de novo in extending credit and servicing loans pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2025-06876 Filed 4-21-25; 8:45 am]

BILLING CODE 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 May 7, 2025.

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. *Harry Phillips Smith 2020 Trust, Raines Smith Bettis and John L. Leach, III, as co-trustees, Robert L. Leach, and Adelaide S. Satterfield, all of Albany, Georgia*; to join the Smith Family Group, a group acting in concert, to retain voting shares of Dawson Bancshares, Inc., and thereby indirectly retain voting shares of Bank of Dawson, both of Dawson, Georgia.

Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2025-06874 Filed 4-21-25; 8:45 am]

BILLING CODE P

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 May 22, 2025.

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. *Fleur Capital Corporation, Simmesport, Louisiana*; to become a bank holding company by acquiring Simmesport State Bank, Simmesport, Louisiana.

Board of Governors of the Federal Reserve System.

Ann E. Misback,
Secretary of the Board.

[FR Doc. 2025-06875 Filed 4-21-25; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0014; Docket No. 2025-0001; Sequence No. 2]

Submission for OMB Review; Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123

AGENCY: Federal Acquisition Service, General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123.

DATES: Submit comments on or before: May 22, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Willett, Property Disposal Specialist, GSA Office of Personal Property Management, at telephone 703-605-2873 or via email to christopher.willett@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Transfer Order-Surplus Personal Property and Continuation Sheet, Standard form (SF) 123, is used by a State Agency for Surplus Property (SASP) to donate Federal surplus personal property to public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Electronic

Responses: 23,211.

Burden Hours (at .017 Hours per Response): 394.59.

Manual

Responses: 153.

Burden Hours (at .13 Hours per Response): 19.89.

Total Annual Responses: 23,364.

Total Burden Hours: 414.48.

C. Public Comments

A 60-day notice published in the **Federal Register** at 90 FR 4743 on January 16, 2025. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 3090-0014, Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123, in all correspondence.

Lois Mandell,

Director, Regulatory Secretariat Division,
General Services Administration.

[FR Doc. 2025-06872 Filed 4-21-25; 8:45 am]

BILLING CODE 6820-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel TRND3 Ramp On: Chemistry, Manufacturing and Controls and Related Services for Development of Drug Products.

Date: May 14-15, 2025.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Meeting Format: Video Assisted Meeting.

Address: National Center for Advancing Translational Sciences, National Institutes of Health, 9609 Medical Center Drive, Rockville, MD 20850.

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 9609 Medical Center Drive, Bethesda, MD 20892, (301) 594-7319, email: khanr2@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 17, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-06879 Filed 4-21-25; 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; Nucleic Acid Therapeutic Delivery (NATD).

Date: June 10–11, 2025.

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.

Meeting Format: Virtual Meeting.

Contact Person: Jingwu Xie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8625, email: jingwu.xie@nih.gov.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Therapeutic Immune Regulation Study Section.

Date: June 12–13, 2025.

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.

Meeting Format: Virtual Meeting.

Contact Person: Yue Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 803C, Bethesda, MD 20892, (301) 867–5309, email: wuy25@csr.nih.gov.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: June 17–18, 2025.

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.

Meeting Format: Virtual Meeting.

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, email: sahaia@csr.nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.

Date: June 17–18, 2025.

Time: 9:30 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.

Meeting Format: Virtual Meeting.

Contact Person: Zarana Patel, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9295, zarana.patel@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 16, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–06854 Filed 4–21–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform

AGENCY: National Institutes of Health, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the patents applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Sangam Lifesciences, Inc. (Sangam), a company located in Denver, Colorado.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before April 22, 2025 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated

an Exclusive Patent License should be directed to: Whitney Hastings, Ph.D., Senior Technology Transfer Manager, NCI Technology Transfer Center, Telephone: (301)–624–1286; Email: whitney.hastings2@nih.gov.

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. US Provisional Patent Application No. 63/037,058 filed June 10, 2020, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–US–01];

2. US Patent Cooperation Treaty Application No. PCT/US2021/036548 filed June 9, 2021, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–PCT–02];

3. U.S. National Stage Application No. 18/009,710 filed December 9, 2022, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–US–06];

4. Australia National Stage Application No. 2021289443 filed January 3, 2023, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–AU–03];

5. Canada National Stage Application No. 3186654 filed June 9, 2021, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–CA–04]; and

6. European Patent National Stage Application No. 21822452.5 filed January 5, 2023, and entitled “Size-Dependent Brain and Lymphatic Distribution of Macromolecular Drug Delivery Platform” [HHS Reference No. E–078–2020–0–EP–05].

The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the following:

“Use of the Patent Rights to develop, manufacture and commercialize a poly (L-lysine succinylated) (PLS) alpha-galactosylceramide prodrug for human and veterinary uses in the treatment of cancer.”

This technology describes a drug delivery platform comprising a negatively charged, synthetic polymer, PLS, which specifically targets scavenger receptor A1 (SR–A1). The

PLS polymer contains side chains with pendant carboxylic acids that facilitate conjugation of therapeutically active ingredients through hydrolysable ester bonds, allowing for the delivery and controlled release of drugs to SR-A1 expressing cells and tissues. Depending on the nature of the therapeutic agent conjugated to the PLS, this drug delivery platform has the potential to be widely applicable across a range of psychiatric, oncology, infections, inflammatory and neurological disorders. To date, this drug platform technology has been tested with several therapeutic agents including alpha-galactosylceramide, brefflate, LD10, and HCQ.

The scope of exclusivity for this license will be limited to the PLS-alpha-galactosylceramide prodrug for the treatment of cancers. Other fields of use will still be available if this license is granted, including use of the PLS-alpha-galactosylceramide prodrug for non-oncology indications and the PLS platform conjugated to other therapeutic agents.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 14, 2025.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2025-06878 Filed 4-21-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2024-0028; OMB No. 1660-0105]

Agency Information Collection Activities: Submission for OMB Review, Comment Request; National Household Survey on Disaster Preparedness

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-day notice of reinstatement and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on a reinstatement, without change, of a previously approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Household Survey on Disaster Preparedness, which identifies progress and gaps in individual and community preparedness, and to better understand the motivational factors and barriers to preparedness that people face.

DATES: Comments must be submitted on or before May 22, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Andrew Burrows, Preparedness Behavior Branch Chief, Individual and Community Preparedness Division, Partnership and Engagement Branch, at (202) 716-0527, and andrew.burrows@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and

Emergency Assistance Act (Stafford Act) (Pub. L. 93-288, as amended) (42 U.S.C. 5195-5195(a)) identifies the purpose of emergency preparedness "for the protection of life and property in the United States from hazards." It directs that the Federal Government "provide necessary direction, coordination, and guidance" as authorized for a comprehensive emergency preparedness system for all hazards. Emergency preparedness is defined as all "activities and measures designed or undertaken to prepare or minimize the effects of a hazard upon the civilian population . . ." The "conduct of research" is among the measures to be undertaken in preparation for hazards.

The Department of Homeland Security (DHS) Strategic Plan 2020-2024 includes Goal 5 to "strengthen preparedness and resiliency." The first objective (5.1) of this goal is to "build a national culture of preparedness" with a sub-objective to "improve awareness initiatives to encourage public action to increase preparedness." Similarly, in FEMA's 2022-2026 Strategic Plan, Goal 3 is to "promote and sustain a ready FEMA and prepared nation."

Presidential Policy Directive-8 (PPD-8) directs the Secretary of Homeland Security to "coordinate a comprehensive campaign to build and sustain national preparedness, including public outreach and community-based and private sector programs to enhance national resilience, the provision of Federal financial assistance, preparedness efforts by the Federal Government, and national research and development efforts."

The Post Katrina Emergency Management Reform Act (PKEMRA) (Pub. L. 109-295) (6 U.S.C. 749(a)) requires the FEMA Administrator, in coordination with the National Council on Disability and the National Advisory Council, to establish a comprehensive system to assess, on an ongoing basis, the Nation's prevention capabilities and overall preparedness, including operational readiness.

In response to the charge to FEMA, and to the DHS and FEMA strategic priorities, FEMA manages programs to improve the public's knowledge and actions for preparedness and resilience. Information from this collection will be used to changes in knowledge, attitudes, and behaviors related to preparedness in the general public. This information collection will be in the form of a public opinion survey administered to a sample of American adults across the nation. The nature of the information collected will focus on people's attitudes, behaviors, and motivations

related to disaster preparedness and disaster risk.

This proposed information collection previously published in the **Federal Register** on October 4, 2024, at 89 FR 80910 with a 60-day public comment period. FEMA received zero comments. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title National Household Survey on Disaster Preparedness.

Type of Information Collection: Reinstatement, without change, of a previously approved information collection.

OMB Number: 1660–0105.

FEMA Forms FEMA Form FF–008–FY–21–103 (formerly 008–0–15), National Household Survey on Disaster Preparedness (Telephone); FEMA Form FF–008–FY–21–104, National Household Survey on Disaster Preparedness (Web).

Abstract: The Individual and Community Preparedness Division (ICPD) analyzes and uses data collected in the two versions of the National Household Survey on Disaster Preparedness to identify progress and gaps in individual and community preparedness and to better understand the motivational factors and barriers to preparedness that people face. The survey measures the public's knowledge, attitudes, and behaviors relative to preparing for disasters. This information is used by ICPD and FEMA components to tailor messaging and public information efforts, community outreach, and strategic planning initiatives to more effectively improve the state of individual preparedness and participation across the country. The findings are compiled in a report that is circulated internally to DHS and FEMA officials as well as made available to the public on the FEMA website, OpenFEMA (<https://www.fema.gov/about/openfema/data-sets/national-household-survey>).

Affected Public: Individuals and Households.

Estimated Number of Respondents: 3,751.

Estimated Number of Responses: 3,751.

Estimated Total Annual Burden Hours: 1,282.

Estimated Total Annual Respondent Cost: \$58,524.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$323,932.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Maile Rasco-Arthur,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2025–06862 Filed 4–21–25; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Revision of an Agency Information Collection Activity Under OMB Review: Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0068, abstracted below to OMB for review and approval of a revision of the currently approved collection under the Paperwork Reduction Act (PRA). The collection involves gathering information from individuals who plan to visit all TSA facilities in the National Capital Region (NCR).

DATES: Send your comments by May 22, 2025. A comment to OMB is most

effective 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 <https://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:

Christina A. Walsh, TSA PRA Officer, Information Technology, TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email TSAPRA@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on October 25, 2024, 89 FR 85228. TSA did not receive any comments on the notice.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <https://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 1652–0068.

Form(s): TSA Forms 2802 and 2816B.

Affected Public: Visitors to TSA facilities in the NCR.

Abstract: The Secretary of the Department of Homeland Security (DHS) is authorized to protect property owned, occupied, or secured by the Federal Government. *See* 40 U.S.C. 1315. *See also* 41 CFR 102–81.15 (requires Executive agencies to be responsible for maintaining security at their own or leased facilities). To implement this requirement, DHS policy requires all visitors to DHS facilities in the NCR¹ to have a criminal history records check through the National Crime Information Center system before accessing the facility. In reviewing the National Crime Information Center results, TSA will consider whether an individual could potentially pose a threat to the safety of TSA employees, contractors, visitors, or the facility. TSA is revising the collection to remove TSA Form 2816A and transition TSA Form 2816B to a web form using SharePoint.

TSA is submitting TSA Forms 2802 and 2816B as Common Forms to permit Federal agency users beyond the agency that created the form (e.g., DHS or U.S. Office of Personnel Management) to streamline the information collection process in coordination with OMB.

Estimated Annual Number of Respondents: 39,213.

Estimated Annual Burden Hours: 300.

Dated: April 16, 2025.

Christina A. Walsh,

*TSA Paperwork Reduction Act Officer,
Information Technology, Transportation
Security Administration.*

[FR Doc. 2025–06855 Filed 4–21–25; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Screening Partnership Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0064,

abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. The collection involves an application completed by airport operators interested in using a qualified private screening company to perform security screening functions under a contract entered into with TSA instead of Federal employees.

DATES: Send your comments by May 22, 2025. A comment to OMB is most effective 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 <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” and by using the find function.

FOR FURTHER INFORMATION CONTACT:

Christina A. Walsh, TSA PRA Officer, Information Technology, TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email TSAPRA@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on October 24, 2024. *See* 89 FR 84926. TSA did not receive any comments on the notice.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. This ICR documentation will be available at <https://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

- (1) Evaluate whether the proposed information requirement 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;
- (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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Screening Partnership Program Application.

Type of Request: Extension.

OMB Control Number: 1652–0064.

Form(s): TSA Form 424 Screening Partnership Program Application.

Affected Public: Airport Operators.

Abstract: Under 49 U.S.C. 44920, an airport operator may submit an application to TSA to have the screening of passengers and property required by 49 U.S.C. 44901 conducted by personnel of a qualified private screening company pursuant to a contract entered into with TSA. TSA must approve the application if the approval “would not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport.” TSA implements this requirement through the Screening Partnership Program. Participation in the Screening Partnership Program is initiated with the application covered by this information collection.

Estimated Annual Number of Respondents: 2.

Estimated Annual Burden Hours: 0.50.

Dated: April 16, 2025.

Christina A. Walsh,

*TSA Paperwork Reduction Act Officer,
Information Technology, Transportation
Security Administration.*

[FR Doc. 2025–06860 Filed 4–21–25; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 24–32]

Svetlana Burtman, N.P.; Decision and Order

I. Introduction

On December 28, 2023, the then-Administrator issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Svetlana Burtman, N.P., of Tucson, Arizona (Respondent). OSC/ISO, at 1. The OSC/ISO informs Respondent of the immediate suspension of her Drug Enforcement Administration (DEA or Government) Certificate of Registration, No. MB2645767, pursuant to 21 U.S.C.

¹ TSA facilities in the NCR include TSA Headquarters, the Freedom Center, the Transportation Security Integration Facility, the Metro Park office complex, and the Annapolis Junction facility.

824(d), alleging that Respondent's continued registration constitutes "an imminent danger to the public health or safety." *Id.* (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposes the revocation of Respondent's registration, No. MB2645767, as well as the denial of Respondent's application for a new registration for her Green Valley clinic (GVC), No. W23106194M, alleging that Respondent's registration is inconsistent with the public interest. *Id.* at 1–2.

More specifically, the OSC/ISO alleges that Respondent (1) dispensed controlled substances from an unregistered location, in violation of 21 CFR 1301.12(a) (a separate registration is required for each principal place of business or professional practice where controlled substances are dispensed), (2) failed to maintain, readily retrievable from her ordinary business records, a complete and accurate record of each controlled substance received, in violation of 21 U.S.C. 827(a)(3) and 827(b) and 21 CFR 1304.04(a) and 1304.21(a), and (3) failed to maintain the requisite dispensing logs, in violation of 21 CFR 1304.22(c).¹ OSC/ISO, at 2–4.

Respondent requested a hearing.² The hearing was held before Chief Administrative Law Judge, John J. Mulrooney, II, (Chief ALJ) who, on June 20, 2024, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD). The RD recommends that Respondent's Tucson registration be revoked and that her application for a GVC registration be denied. RD, at 35–36. On July 10, 2024, Respondent timely filed "Exceptions to ALJ Recommendations" (Exceptions). Eleven exceptions challenge the RD's Conclusions of Fact, and four challenge the RD's Conclusions of Law.³

¹ The OSC/ISO also alleges violations of Arizona law, none of which the Agency is adjudicating due to the seriousness of the alleged federal violations. Each of the alleged federal violations alone, if proven, is a sufficient basis to revoke Respondent's registration and deny her registration application.

² The Agency agrees with the final rulings contained in the Order Regarding the Government's Motions *In Limine* and for Partial Summary Disposition (May 9, 2024).

³ The Agency carefully considered each of Respondent's Exceptions. *Infra.*

Respondent's first factual Exception concerns "Conclusions Regarding the 2021 Investigation" and states, in essence, that the Chief ALJ wrongly denied Respondent the opportunity to present one of the several attorneys who represented her during the "2021 Investigation" as a rebuttal witness. Exceptions, at 4. That rebuttal witness, according to the first factual Exception, would testify that the United States Attorney's Office "never informed [him] of any purported regulatory violations arising from the 2021 visit." *Id.* at 5. Accordingly, the first factual Exception continues, Respondent "had a reasonable belief that her storage and record-

Keeping carefully reviewed the entire record, the Agency agrees with the RD's recommended sanction of (1) revocation of Respondent's registration and (2) denial of Respondent's GVC registration application.

II. The Alleged Violations

As already discussed, the OSC/ISO alleges that Respondent violated multiple provisions of the Controlled Substances Act (CSA) and its implementing regulations.⁴ As the

keeping practices were compliant following the 2021 visit." *Id.*

The Agency rejects Respondent's first factual Exception. The violations alleged in the OSC/ISO do not date back to 2021, and matters dating back to 2021 are not factually relevant to the Agency's adjudication of the allegations. Further, the Agency rejects Respondent's theory that, if a registrant's "storage and record-keeping practices" are compliant in one year, the registrant may maintain a "reasonable belief" that she will remain compliant going forward regardless of changes in the registrant's practices or without the registrant continuously monitoring for required changes.

The content of Respondent's first factual Exception, however, indicates a pattern of Respondent's failure to follow up with DEA staff about their encounters. *Infra.* section V.

Respondent's fourth factual Exception states that the Government's case wrongly claims that Respondent had "6 mg Testosterone pellets at the GVC," because "no such formulation exists in the record." *Id.* at 8–9. As the Agency's Decision and Order does not mention, let alone rely on, the Exception's alleged factual inaccuracy, the Agency rejects Respondent's fourth factual Exception.

Respondent's second, fifth, sixth, seventh, and eleventh factual Exceptions concern the credibility of record evidence. The second factual Exception challenges the credibility of a DEA Investigator's testimony about whether Respondent said that she "did not plan on conducting regulated activities" at GVC. *Id.* at 6. The fifth factual Exception attacks the credibility of "aspects" of the DEA Investigator's testimony that the Exception admits have "limited significance to the Chief ALJ's recommendations." *Id.* at 9–10. The sixth factual Exception concerns the Chief ALJ's "characterization" of Respondent's testimony about the "storage of controlled substances at GVC" as "inconsistent and fatal to her credibility." *Id.* at 10–12. The seventh factual Exception concerns the Chief ALJ's "[r]eference to [a] [n]on-[e]xistent August 9, 2023 [v]isit [f]rom the [D]EA Audit Team." *Id.* at 12–13. And the eleventh factual Exception, like the sixth factual Exception, concerns the Chief ALJ's recommendation that, when there is a conflict, the DEA Investigator's testimony should be credited, not Respondent's testimony. *Id.* at 16–17.

The Agency carefully evaluated each of these five factual Exceptions. As discussed in this Decision and Order, the Agency's found facts are based on Respondent's own testimony, on Respondent's own evidence, and/or on evidence that Respondent does not contest. Accordingly, Respondent's second, fifth, sixth, seventh, and eleventh factual Exceptions play no role in the Agency's adjudication of the OSC/ISO's allegations and, therefore, the Agency rejects them.

⁴ The OSC/ISO also mentions 21 U.S.C. 1301.71 and 1301.75. OSC/ISO, at 3. The Government's Proposed Findings of Fact, Conclusions of Law, and Argument (Closing Brief), however, does not mention either of these provisions, apparently abandoning them. Accordingly, the Agency is not adjudicating them and they are not sustained.

The OSC/ISO also mentions 21 U.S.C. 1301.72(b)(8)(ii) ("Non-controlled drugs, substances

Supreme Court stated in *Gonzales v. Raich*, the "main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. Congress was particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels." 545 U.S. 1, at 12–13 (2005). The Supreme Court further explained that, to accomplish its objectives, "Congress devised a closed regulatory system making it unlawful to . . . dispense[] or possess any controlled substance except in a manner authorized by the CSA." *Id.* at 13. Accordingly, the Supreme Court stated, the "CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping." *Id.* at 14; see also *Gonzales v. Oregon*, 546 U.S. 243, 266 (2006) ("Law enforcement decisions respecting the security of stocks of narcotic drugs and the maintenance of records on such drugs are to be made by the Attorney General.").

The OSC/ISO's allegations concern the CSA's "strict requirements regarding registration . . . and recordkeeping" and, therefore, go to the heart of the CSA's "closed regulatory system" specifically designed "to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances," and "to prevent the diversion of drugs from legitimate to illicit channels." 545 U.S. at 12–14.

A. Dispensing Controlled Substances From an Unregistered Location (21 CFR 1301.12(a))

First, the OSC/ISO alleges that Respondent dispensed controlled substances from GVC, an unregistered location. OSC/ISO, at 2–4. According to the applicable CSA regulation, "[a] separate registration is required for each principal place of business or professional practice at one general physical location where controlled substances are . . . dispensed by a

and other materials may be stored with Schedule III through V controlled substances in any of the secure storage areas required by 21 CFR 1301.72(b), provided that permission for such storage of non-controlled items is obtained in advance, in writing, from the Special Agent in Charge of DEA for the area in which such storage area is situated." OSC/ISO at 3. The Government's Closing Brief addresses this provision. It does so, however, in only one sentence, followed by a cite to four lines of the transcript about Respondent's registered Tucson location. The Agency finds that the Government did not submit substantial evidence that Respondent violated 21 U.S.C. 1301.72(b)(8)(ii) and, therefore, the Agency does not sustain the 21 U.S.C. 1301.72(b)(8)(ii) allegation.

person.” 21 CFR 1301.12(a).⁵ Further, “dispense” means “to deliver a controlled substance to an ultimate user . . . including the prescribing and administering of a controlled substance.” 21 U.S.C. 802(10).

The Agency finds no merit to Respondent’s argument that the separate registration requirement is confusing, and that its application to her practice is “unclear.” Her argument relies on guidance documents and other materials applicable to registrants who travel to patients’ locations to provide medical treatment (such as patients’ homes and, for animals, stables). Those materials do not apply to registrants, such as herself, who transport controlled substances from a practice location that is registered to another practice location that is not registered. For a practitioner such as Respondent, whose business model is to practice at brick and mortar locations to which patients come for medical treatment, the meaning and application of these provisions are clear.⁶ *Jeffery J. Becker, D.D.S. v. Drug*

⁵ See also 21 U.S.C. 822(e)(1). The OSC/ISO does not allege a violation of the statutory provision, so the statutory provision plays no role in the Agency’s adjudication.

⁶ It is Respondent’s first Exception to the ALJ’s Conclusions of Law that argues that there is confusion about the “separate registration” requirement. Exceptions, at 18–20. To support her claim of confusion, she cites a Diversion Control Division “Guidance Document” titled “Practice of Medicine” whose “Question” asks “Can a physician transport controlled substances and administer at the patient’s home residence (the so-called ‘black bag exception’)?” EO-DEA212, DEA-DC-047, October 8, 2020. Respondent does not explain how this Guidance Document clearly addressing the administering of controlled substances “at the patient’s home” pertains to and, therefore, confuses her about her transporting to, and administering of controlled substances at, her GVC location, which is not a residence, let alone a “patient’s home.” The Agency finds unpersuasive Respondent’s confusion defense based on this Guidance Document and rejects this aspect of her first legal Exception.

Respondent’s first legal Exception, to support her argument that the separate registration requirement is unclear, also cites a proposed rulemaking titled “Principal Place of Business or Professional Practice,” RIN: 1117-AB52, DEA Docket number 474, Fall 2023.” Exceptions, at 18–19. To date, this proposed rulemaking remains in the most incipient stages and explicitly states, similar to the purpose of the so-called “Black Bag” exception, that it concerns “allow[ing] a broader range of practice for practitioners traveling to administer controlled substances.” *Id.* As Respondent, herself, testified, however, she intends the GVC to be a brick and mortar clinic like her Tucson clinic. Tr. 303 (Respondent testifying that she “wanted to have[] pellets that designated to Green Valley office so when . . . [she] get[s] her license, . . . [she] would be able to order specifically to Green Valley location and keep the logs at Green Valley office pertaining to that office only, and separate . . . [her] inventory. And in terms of business, . . . [she] wanted to see what location does what and how it is going.”). In other words, Respondent plans for her patients to travel to GVC for treatment; she does not plan to travel to patients’ homes. Tr. 282–84

Enft Admin., 541 F. App’x 587, 590 (6th Cir. 2013) (“We have no occasion to disturb . . . [the Deputy Administrator’s] determination that Becker’s claim of reasonable confusion or mistake was not credible.”); *United States v. Clinical Leasing Service, Inc.*, 925 F.2d 120, 121–23 (5th Cir. 1991) (concluding that “each principal place of business” is not unconstitutionally vague).⁷

B. Failing To Maintain, Readily Retrievable From Her Ordinary Business Records, at Respondent’s Tucson Clinic a Complete and Accurate Record of Each Controlled Substance Received (21 U.S.C. 827(a)(3) and 827(b) and 21 CFR 1304.04(a) and 1304.21(a))

Second, the OSC/ISO alleges that Respondent failed to maintain, readily retrievable from her ordinary business records, a complete and accurate record of each controlled substance she received. OSC/ISO, at 3; see 21 U.S.C. 827(a)(3) and 827(b) and 21 CFR 1304.04(a) and 1304.21(a). According to the CSA and its implementing regulations, “every” registrant who dispenses a controlled substance “shall maintain, on a current basis, a complete and accurate record of each such

(Respondent testifying that she first decided to open a clinic in Green Valley in 2021, and that “[t]here is nothing similar or like it in Green Valley, and there is a high demand for that type of medicine People would drive to Tucson from Green Valley, asking to bring something like that into Green Valley.”). Accordingly, the Agency disagrees with Respondent’s argument in her first legal Exception that a DEA proposed rulemaking supports her claim that the separate registration requirement, as applied to her medical practice, is unclear. The Agency rejects Respondent’s first legal Exception in its entirety.

⁷ *Jeffery J. Becker, D.D.S. and Jeffery J. Becker, D.D.S. Affordable Care*, 77 FR 72,387, 72,387–88 (2012) (“[T]he statute provides clear notice that it is the activity of dispensing, which includes the administration of controlled substances, itself, which triggers the requirement, in the case of a practitioner, of obtaining a separate registration for a principal place of professional practice To the extent Respondent suggests that the Expert’s testimony establishes that there is widespread confusion among practitioners as to the scope of the registration requirements, the argument is unavailing. The clarity of the Act and the Agency’s regulations is not determined by whether there are even a substantial number of members of the dental profession in Ohio who are confused as to the scope of the registration requirements. Rather, it is determined by assessing whether the text of the Act and regulations provide fair notice such that a person of ordinary intelligence can understand when a separate registration is required. See *FCC v. Fox Television Stations, Inc.*, . . . [267 U.S. 239] (2012) (quoting *United States v. Williams*, 553 U.S. 285, 304 (2008)). The Act and regulations pass this test with flying colors While the record establishes that the Government’s Expert travels to numerous offices of other dentists to provide anesthesia services for their patients, he does so on an apparently as-needed and random basis, and there is no evidence that he maintains a place of professional practice, let alone a principal one, at any of these locations.”).

substance . . . received . . . or otherwise disposed of by him . . . except that this paragraph shall not require the maintenance of a perpetual inventory.” 21 U.S.C. 827(a)(3); see also 21 CFR 1304.21(a) (“Every registrant required to keep records pursuant to § 1304.03 shall maintain, on a current basis, a complete and accurate record of each substance . . . received . . . or otherwise disposed of by him/her, and each inner liner, sealed inner liner, and unused and returned mail-back package, except that no registrant shall be required to maintain a perpetual inventory.”).

C. Failing To Maintain the Required Dispensing Logs for Respondent’s Tucson Clinic (21 CFR 1304.22(c))

Third, the OSC/ISO alleges that Respondent failed to maintain the required controlled substance dispensing logs for her Tucson location. OSC/ISO, at 3. According to the CSA’s implementing regulations, a dispenser is to maintain records of, among other things, the “number of units or volume of such finished form dispensed, including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed, and the written or typewritten name or initials of the individual who dispensed or administered the substance on behalf of the dispenser.”⁸ 21 CFR 1304.22(c).

III. Findings of Fact

A. Dispensing Controlled Substances From an Unregistered Location (21 CFR 1301.12(a))

The Agency finds substantial, uncontroverted record evidence that Respondent’s GVC is not, and never has been, a registered location. GX 9 (Respondent’s Form 224 GVC registration application showing the submission date as July 19, 2023); Tr. 300 (Respondent testifying that she thought DEA would approve her GVC registration application “quickly,” but “[i]t didn’t happen at all”). The Agency finds substantial record evidence that Respondent admitted that she transported controlled substances to GVC, an unregistered location, and that she dispensed controlled substances there by administering them directly to individuals. *E.g.*, Stipulation Order, at 3 (Stipulation No. 18: “The logs and patient records indicated that Respondent dispensed testosterone

⁸ A dispenser is also required to “maintain records with the same information required of manufacturers” pursuant to paragraph (a)(2)(i), (ii), (iv), (vii), and (ix) of this section.” 21 U.S.C. 1304.22(c).

pellets/injections between July 1, 2021, and September 18, 2023, to at least eight patients at the unregistered Green Valley Clinic location.”); Tr. 285 (Respondent testifying that she transported controlled substances from her Tucson location to GVC), Tr. 292, 297 (Respondent testifying that she administered controlled substances to individuals at GVC); *see also* GX 13 and GX 14 (GVC dispensing logs).⁹

The Agency also finds substantial record evidence that Respondent admitted that she told DEA Investigators that she did not “dispense” controlled substances from GVC. *E.g.*, Tr. 291 (Respondent testifying that the DEA Investigators asked her if she “dispensed” controlled substances from GVC and that her answer was “no”).¹⁰ The Agency finds substantial record evidence that Respondent’s denial that she “dispensed” controlled substances

from GVC was premised on her use of an incorrect meaning of the word “dispense.”¹¹ Tr. 292 (Respondent testifying that “dispense,” “in . . . [her] mind,” is “something that occurs with shipping to you and . . . you account for the drug at that location. That only was happening at Tucson.”), *see also* Tr. 342–43 (Respondent testifying that she understands “dispensing” to mean “receiving and dispensing drugs out of that location” and that giving testosterone to a patient to take home “could be one of the instances”); *cf.* *supra* section II.A. (CSA definition of “dispense”); *see* GX 13 and GX 14 (GVC liquid testosterone and testosterone pellet, respectively, “dispensing” logs from July 2021 through September 18, 2023).

Further, the Agency finds substantial, uncontroverted record evidence that DEA Investigators told Respondent and Respondent knew that she needs a registration to dispense or administer controlled substances at GVC. Stipulation Order, at 2 (Stipulation No. 11: “On or about July 19, 2023, DEA investigators informed the Respondent that in order to handle, dispense, and/or administer controlled substances at the Green Valley Clinic location she would have to apply for a separate DEA C[ertificate] O[f] R[egistration] for that address.”); Tr. 294–95 (Respondent testifying that, on July 19, 2023, the DEA Investigators told her that she needed a registration to administer controlled substances at GVC); Stipulation Order, at 2 (Stipulation No. 14); GX 9 (Respondent’s GVC registration application showing the submission date of July 31, 2023).

Despite her admission that, on July 19, 2023, she knew that she needed a registration to dispense or administer controlled substances from GVC, Respondent took about 12 days, or

almost two weeks, to submit an electronic application for a GVC registration. *Supra*. Further, although she knew that it was unlawful to “handle, dispense, and/or administer” controlled substances from an unregistered location, the Agency finds uncontroverted, substantial record evidence that Respondent continued to do so into September of 2023. *Supra* Stipulation Order, at 2 (Stipulation No. 11); GX 13 and GX 14. Indeed, according to her own records, Respondent dispensed controlled substances from GVC at least seventy-one times on and after July 19, 2023.¹² GX 13, at 7–9 (showing 43 liquid testosterone dispensings at GVC from July 19, 2023 to September 18, 2023), GX 14, at 9–10 (showing 28 testosterone pellet dispensings at GVC from July 19, 2023 to September 19, 2023). Further, Respondent testified that she continued to handle controlled substances at GVC, in essence, for her convenience. Tr. 309 (Respondent testifying that she “learned that it’s absolutely not okay” to “draw up” “halfway empty, at least most empty,” controlled substance vials at GVC because she had “more time [on September 20, 2023] at Green Valley than at Tucson to do that”).

Accordingly, the Agency finds substantial record evidence that Respondent dispensed controlled substances from GVC, an unregistered location, for over two years. Tr. 306 (Respondent testifying and admitting that GVC never had, and still does not have, a registration).

Thus, having read and analyzed all of the record evidence, the Agency finds substantial record evidence, in the forms of stipulations and Respondent’s hearing testimony and documentary admissions, of each element of the allegation that Respondent dispensed controlled substances from her GVC unregistered location. *Supra*.

B. Failing To Maintain, Readily Retrievable From her Ordinary Business Records at Respondent’s Tucson Clinic, a Complete and Accurate Record of Each Controlled Substance Received (21 U.S.C. 827(a)(3) and 827(b) and 21 CFR 1304.04(a) and 1304.21(a))

The Agency finds substantial record evidence that, on July 19, 2023, Respondent signed a Notice of

⁹ Respondent’s ninth factual Exception concerns the “ALJ’s conclusion that . . . [Respondent] administered controlled substances at the GVC after the . . . [DEA Investigators] left on July 19, 2023.” Exceptions, at 14. This factual Exception further states that the “ALJ rejected . . . [Respondent’s] correction to the hearing transcript, which refutes the conclusion on page 13 [of the RD] that she “administered controlled substances [at GVC] shortly after the . . . [DEA Investigators] departed.” *Id.*

The Agency carefully considered Respondent’s ninth factual Exception. The Agency rejects it because the precise timing of Respondent’s July 19, 2023 GVC dispensing of controlled substances plays no role in this adjudication.

¹⁰ *But see* Stipulation Order, at 3 (Stipulation No. 23: “On November 6, 2023, under oath, the Respondent was asked the following question and provided the following answer (Tr. 51:8–18):

Q: So when I asked you specifically why you had controlled substances at a non-registered location you stated to me that you were prepping the office. Does that sound accurate to you?

A: I have patients that travel from Tucson to Green Valley location and from Green Valley location to Tucson based on where I’m working, which kind of defeats the purpose of having my two clinics. So, say a patient that comes to Green Valley is from Tucson that was allowed to be dispensed, so this was my train of thought that I was carrying the controlled substances with me.”);

Stipulation Order, at 4 (Stipulation No. 24: “On November 6, 2023, under oath, the Respondent was asked the following question and provided the following answer (Tr. 53:9–15):

Q: Okay. So upon reviewing your controlled substance dispensing logs for the Green Valley location when we did the administrative inspection warrant on September 20, 2023, you had, you were administering controlled substances at an unregistered location since prior to DEA’s visit on July 19th; is that true?

A: Yes.”); and

Stipulation Order, at 4 (Stipulation No. 25: “On November 6, 2023, under oath, the Respondent was asked the following question and provided the following answer (Tr. 54:14–19):

Q: Okay. So my question to you: Were you just administering controlled substances at the Green Valley location that was not a DEA registered location?

A: I was, but they were also patients in Tucson. They would come to Tucson just like they come to Green Valley.”).

¹¹ Respondent’s eighth factual Exception states that Respondent’s “testimony regarding the distinction she held in her mind between administering and dispensing was not offered as a defense to the allegations here, but rather as an explanation for her state of mind at the time of the July 19, 2023 conversation with investigators She felt that she was not dispensing.” Exceptions, at 13–14. The exception also states that Respondent’s response was “deemed by the . . . [DEA Investigators] and ALJ to have been a lie.” *Id.* at 14.

The Agency carefully considered Respondent’s eighth factual Exception and notes the reference to Respondent’s “state of mind” on July 19, 2023. This Decision and Order does not conclude that Respondent’s “distinction between administering and dispensing” was, or was not, a lie. Instead, Respondent’s clear failure to understand and adopt the statutory definitions of “dispense” and “administer” is relevant to whether the Agency can re-entrust Respondent with her Tucson registration and issue her a registration for GVC. 21 U.S.C. 802(2) and 802(10); *infra* section V.

¹² During the approximately nine weeks between July 19 and about September 19, Respondent worked at GVC “at least once a week,” although “[o]ccasionally, it was not even once a week, it was once every two weeks.” Tr. 284. This means that, based on her own testimony, Respondent administered controlled substances at GVC to an average minimum of about eight people per day for each of those nine weeks.

Inspection of Controlled Premises consenting to the inspection of her Tucson facility on that same day. GX 5; Stipulation Order, at 2 (Stipulation No. 12”); Tr. 295. The Agency finds substantial record evidence that Respondent suggested that the DEA Investigators “work with her [Tucson] office lead,” CO. Tr. 43–44 (DEA Investigator testifying). The Agency finds substantial record evidence that CO represented to be “willing and able to provide . . . [the DEA Investigators] whatever records . . . [they] requested.” *Id.* at 45 (DEA Investigator testifying).

The Agency finds substantial record evidence that the DEA Investigators asked CO for, but did not receive, a complete and accurate record of each controlled substance that Respondent received at her Tucson clinic. Tr. 47, 61–62 (DEA Investigator testifying).¹³ The Agency finds substantial record evidence that CO told DEA Investigators that she was “unable to retrieve the records on the spot” because Respondent changed her “computer systems twice in . . . [the] past year.”¹⁴ *Id.* at 61 (DEA Investigator testifying). Accordingly, the Agency finds substantial record evidence that the DEA Inspection Team never received Respondent’s Tucson purchase invoice records.¹⁵ *Id.* at 234–35. Further, the Agency finds no record evidence that Respondent contests that the DEA Inspection Team never received her Tucson purchase invoice records.¹⁶

¹³ CO did, however, provide dispensing logs. *Infra.*

¹⁴ CO stated, though, that she could obtain “purchase invoice records” for the DEA Inspection Team “from the supplier” even though she did not have “any on hand to provide” to the investigators. *Id.* at 62 (DEA Investigator testifying). The Agency finds no record evidence, however, that CO obtained the Tucson clinic purchase invoice records from the supplier and gave them to the DEA Inspection Team. *See also* Tr. 227–28 (DEA Investigator testifying and explaining that suppliers’ records about registrants’ controlled substance purchases are insufficient to show that the registrant actually received the controlled substances).

¹⁵ The Agency finds substantial record evidence that the DEA Investigator explained to CO that “in order to do a complete audit we required all the documents that we were requesting, and because we were unable to get the full scope of documents, we weren’t able to complete a full audit.” Tr. 62–63.

¹⁶ Respondent’s third factual Exception challenges the credibility of the DEA Investigator’s testimony that Respondent was given the opportunity to supplement missing records following the inspection of the Tucson clinic. The Agency carefully considered this exception. It rejects the exception because this adjudication does not require a finding of whether the DEA Inspection Team asked Respondent for the missing records. Instead, the germane finding, which Respondent does not contest, is that Respondent’s Tucson clinic’s controlled substance purchase invoice records were not readily available to the DEA

Finally, the Agency finds no record evidence that Respondent proffered at the hearing any of the Tucson controlled substance-received records that the DEA Inspection Team requested, but did not receive. *E.g., Int’l Union, United Auto., Aerospace & Agric. Implement Workers of Am. (UAW) v. Nat’l Labor Relations Bd.*, 459 F.2d 1329, 1336 (D.C. Cir. 1972) (“Simply stated, the rule provides that when a party has relevant evidence within his control which he fails to produce, that failure gives rise to an inference that the evidence is unfavorable to him.”); *see also Huthnance v. District of Columbia*, 722 F.3d 371, 378 (D.C. Cir. 2013) (same).

Having read and analyzed all of the record evidence, the Agency finds substantial record evidence, uncontested by Respondent, of each element of the allegation that Respondent failed to maintain, readily retrievable from her ordinary business records at her Tucson clinic, a complete and accurate record of each controlled substance received. *Supra.*

C. Failing To Maintain the Required Dispensing Logs for the Tucson Clinic (21 CFR 1304.22(c))

The Agency finds substantial record evidence that Respondent maintained insufficient records of controlled substances that she dispensed at her Tucson clinic.¹⁷ GX 6, for example, shows Respondent’s dispensing of testosterone at her Tucson clinic from June 28, 2023 to July 19, 2023. *Id.* GX 6, however, only shows the “dispense date,” the “patient name,” the “DOB,” the “dose,” and the “MA Initial’s” [sic]. It does not show the size or number of milligrams in the containers “opened” and dispensed, the form of the controlled substance, the patient address, or more than a month of

Inspection Team. Indeed, the DEA Inspection Team never received those records.

Further, and of relevance to this adjudication, Respondent’s testimony does not evidence an interest in, or concern about, the inspection of her Tucson clinic. For example, immediately after testifying that CO was present for the Tucson inspection, Respondent declined to provide a substantive answer to the question her counsel asked: “And what did you learn of what happened at the inspection at the Tucson clinic on July 19?” Tr. 297. Instead of answering, Respondent stated: “Ask me another question. So much happened.” *Id.* In other words, while the substantial record evidence is that Respondent voluntarily, on the day of the inspection, provided her in-person agreement to the DEA inspection of her Tucson facility, the Agency finds no record evidence that Respondent took the initiative to contact any member of the DEA Inspection Team or her own staff, whose identities she knew, to take any follow-up steps after DEA’s inspection of her Tucson clinic. *See id.*

¹⁷ The data that must be included in a controlled substance dispensing log are discussed in section II.C., *supra*.

dispensing. Tr. 338 (Respondent testifying), *id.* at 67 (DEA Investigator testifying that GX 6 is “missing the drug strength, form, patient address, and it only encompasses less than a month of dispensing”); *see also* GX 7 (same for the record of Phentermine dispensed at Respondent’s Tucson clinic); RX D (records of testosterone dispensed at Respondent’s Tucson clinic with the more recent pages improved to show the patient’s address).

The Agency further finds substantial record evidence that parts of Respondent’s hearing testimony admit that both liquid testosterone and testosterone pellets come in various strengths. Thus, Respondent knows that there are different strengths of those controlled substances, but did not include that information in her records of Tucson controlled substance dispensings.¹⁸

The Agency acknowledges that Respondent added at least the patient addresses to her dispensing logs starting on November 10, 2023, “after . . . [her] deposition in November.”¹⁹ RX D, at 23; Tr. 320. While the inclusion of the required patient address is an improvement, Respondent’s dispensing logs still do not contain all of the required elements, such as the strength of the dispensed controlled substance. *Supra.* For the above reasons, the Agency finds substantial record evidence that Respondent’s “updated” dispensing logs continue not to comply with the regulations.

According to Respondent’s tenth factual Exception, the RD incorrectly characterizes Respondent’s testimony as a concession that her dispensing logs continue not to comply with the regulations. Exceptions, at 15. She further argues that “[t]o conclude that . . . [Respondent’s] updated logs are inadequate places form well over substance,” and that any failure on her

¹⁸ For example, Respondent’s testimony admits that testosterone pellets come in dosages ranging from 25 mg to 200 mg. Tr. 309, 312. Her testimony also admits that liquid testosterone “absolutely” comes in different “dosage bottles.” *Id.* at 336. In addition, some of Respondent’s testimony admits that her records of Tucson clinic testosterone and Phentermine dispensings do not include the strength of the testosterone and Phentermine dispensed. *Id.* at 320, 338. Elsewhere, however, Respondent’s testimony states that there is only one strength of testosterone pellets. *Id.* at 321–22. Then, shortly after so testifying, Respondent again testifies that testosterone pellets come in a range of strengths, and that liquid testosterone “absolutely” comes in different “dosage bottles.” *Id.* at 322, 336.

¹⁹ The Agency notes other differences between Respondent’s dispensing logs prior to and on November 10, 2023, but does not see discussion of those differences in the hearing transcript. RX D, at 22–23. Regardless, the Agency finds substantial record evidence that drug strength still is not noted on Respondent’s RX D dispensing logs. *Id.*; Tr. 321.

part is “inconsequential.” *Id.* at 16. As already discussed, the Agency acknowledges that Respondent added the patient address to her dispensing logs as of November 10, 2023. RX D, at 23. While the inclusion of the required patient address is an improvement, Respondent’s dispensing logs still do not include all of the required elements, such as the strength and the form of the dispensed controlled substance. *Id.*; Tr. 321. For the above reasons, the Agency finds substantial record evidence that Respondent’s “updated” dispensing logs in RX D continue not to comply with the regulations. The Agency rejects Respondent’s tenth factual Exception, and specifically disagrees that Respondent’s failures are “inconsequential.”

Having read and analyzed all of the record evidence, the Agency finds substantial record evidence that Respondent’s Tucson clinic’s controlled substance dispensing logs, for the period germane to the OSC/ISO, do not include the requisite data points. *Supra*.

IV. Discussion

A. The Controlled Substances Act and Implementing Regulations

Pursuant to the CSA, “[t]he Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1). The section further provides that an application for a practitioner’s registration may be denied upon a determination that “the issuance of such registration . . . would be inconsistent with the public interest.” *Id.* Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A–E).²⁰ Congress directed the Attorney General to consider the same five factors when determining whether to suspend or revoke a practitioner’s registration due to the practitioner’s commission of “such acts as would render his registration under . . . [21

U.S.C. 823] inconsistent with the public interest.” 21 U.S.C. 824(a)(4).

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292–93 (Scalia, J., dissenting) (“It is well established that these factors are to be considered in the disjunctive,” citing *In re Arora*, 60 FR 4447, 4448 (1995)); Robert A. Leslie, M.D., 68 FR 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *Penick Corp. v. Drug Enf’t Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007); *Morall*, 412 F.3d at 185 n.2; *David H. Gillis, M.D.*, 58 FR 37,507, 37,508 (1993).

The Agency “may rely on any one or a combination of factors and may give each factor the weight [it] deems appropriate. *Morall*, 412 F.3d at 185 n.2; see also *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi v. Drug Enf’t Admin.*, 841 F.3d 707, 711 (6th Cir. 2016)); *Drug Enf’t Admin.*, 664 F.3d 808, 816 (10th Cir. 2011); *Volkman U. S. Drug Enf’t Admin.*, 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie v. Drug Enf’t Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while the Agency is required to consider each of the factors, it “need not make explicit findings as to each one.” *MacKay*, 664 F.3d at 816 (quoting *Volkman*, 567 F.3d at 222); see also *Hoxie*, 419 F.3d at 482. “In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant’s misconduct.” *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

While the Agency considered all of the 21 U.S.C. 823(g)(1) factors in this matter, the Agency finds that the Government’s evidence in support of its *prima facie* cases is confined to factors B and D. Government’s Closing Brief, at 12; OSC/ISO, at 2; see also RD, at 21.²¹ According to DEA regulations, the Government has the burden of proof in this proceeding. 21 CFR 1301.44(d) (granting or denying an application), 21

CFR 1301.44(e) (revoking or suspending a registration). Both parties submitted documentary evidence. The Agency agrees with the Chief ALJ’s rulings on the admissibility of the offered evidence.

B. Allegations That Respondent’s Tucson Registration and Proposed GVC Registration Are Inconsistent With the Public Interest

Factors B and/or D—Respondent’s Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

The OSC/ISO alleges that Respondent violated multiple provisions of the CSA and its implementing regulations concerning controlled substance registration and recordkeeping requirements. These registration and recordkeeping requirements go to the heart of federal controlled substance law and this Agency’s law enforcement mission.

Having thoroughly analyzed the record evidence and applicable law, the Agency finds substantial record evidence that Respondent administered controlled substances from an unregistered location, in violation of 21 CFR 1301.12(a). *Supra* section III.A. Accordingly, the Agency concludes that the Government presented a *prima facie* case that Respondent dispensed controlled substances from GVC, an unregistered location, and that Respondent tried, but failed, to rebut that *prima facie* case. *Id.* Next, the Agency finds substantial record evidence that Respondent failed to maintain, readily retrievable from her ordinary business records, a complete and accurate record of each controlled substance received at her Tucson clinic, in violation of 21 U.S.C. 827(a)(3) and 827(b) and 21 CFR 1304.04(a) and 1304.21(a). *Supra* section III.B. Accordingly, the Agency concludes that the Government presented a *prima facie* case that Respondent did not maintain, readily retrievable from her ordinary business records at her Tucson clinic, a complete and accurate record of each controlled substance received at that clinic, and that Respondent tried, but failed, to rebut that *prima facie* case. *Id.* Finally, the Agency finds substantial record evidence that Respondent did not maintain the requisite controlled substance dispensing logs, in violation of 21 CFR 1304.22(c). *Supra* section III.C. Accordingly, the Agency concludes that the Government presented a *prima facie* case that Respondent failed to maintain the requisite controlled substance

²⁰ The five factors of 21 U.S.C. 823(g)(1)(A–E) are:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The [registrant’s] experience in dispensing, or conducting research with respect to controlled substances.

(C) The [registrant’s] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

²¹ The Government argues that Factor E includes a respondent’s candor and forthrightness with DEA investigators. Government’s Closing Brief, at 11; see also RD, at n.55. The Agency declines to adopt the Government’s Factor E arguments in this matter.

dispensing logs, and that Respondent tried, but failed, to rebut that *prima facie* case.

Accordingly, the Agency finds that Factors B and D weigh in favor of revocation of Respondent's Tucson registration and denial of her GVC application because her continued registration is inconsistent with the public interest. 21 U.S.C. 824(a)(4) and 823(g)(1).

V. Sanction

Where, as here, the Government has met its *prima facie* burden of showing that Respondent's continued Tucson registration and her being granted a registration for GVC are inconsistent with the public interest, the burden shifts to Respondent to show why she can be entrusted with a registration. *Morall*, 412 F.3d at 174; *Jones Total Health Care Pharmacy*, 881 F.3d at 830; *Garrett Howard Smith, M.D.*, 83 FR 18,882 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent. *Jeffrey Stein, M.D.*, 84 FR 46,968, 46,972 (2019); see also *Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must unequivocally accept responsibility for those acts and demonstrate that she will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 831–33 (citing, among other authority, *Alra Labs., Inc. v. Drug Enf't Admin.*, 54 F.3d 450, 452 (7th Cir. 1995) (“An agency rationally may conclude that past performance is the best predictor of future performance.”)). “[T]hat consideration is vital to whether continued registration is in the public interest,” and the acceptance of responsibility must be unequivocal. *MacKay v. Drug Enf't Admin.*, 664 F.3d at 820, 830–31. Further, DEA Administrators have found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 and n.4. DEA Administrators have also considered the need to deter similar acts by the respondent and by the community of registrants. *Jeffrey Stein, M.D.*, 84 FR 46,972–73.

Regarding these matters, while Respondent stated, during her hearing testimony, that she does not want to give the “implication that . . . [she is] not accepting responsibilities [sic],” the Agency finds substantial record

evidence that she minimizes her unlawfulness. For example, Respondent testified that she “know[s] that . . . [she] should have known . . . [the] regulations and had . . . [her] paperwork in order.” Tr. 354. She immediately affirms that she “know[s] that and it will happen.” *Id.* She then immediately continues, apparently even attempting to minimize her unlawfulness, stating that she “was not dealing with any other substance than testosterone and Phentermine.”²² *Id.*

In addition, the Agency finds substantial record evidence that Respondent blames DEA staff for her unlawfulness. Even after having the opportunity to improve by, for example, making her dispensing logs legally compliant, she never fully complies with the requirements incumbent on her as a registrant. Tr. 354. Instead, she shifts the blame for her failure to comply with legal requirements. For example, regarding her dispensing logs, she blames the DEA Investigators for not giving her an exemplar. She testified that “anytime . . . [she] had interactions with diversion investigators, . . . [she] was never really given a [dispensing] log. . . . [I]t would be really easy and simple to say, Svetlana, this is what needs to happen, and it would have happened like in a matter of hours.” *Id.* at 353.

Further, Respondent is unwilling, or unable, to understand the responsibilities of a registrant, a matter with troubling ramifications. For example, she does not know the meanings of “administer” and “dispense,” two terms defined in the CSA. 21 U.S.C. 802(2), 802(10). *Supra* sections II.A. and III.A. Instead of citing the statutory meaning of those terms, she testified that “[i]n . . . [her] mind, dispensing is something that occurs with shipping to you and you—you account for the drug in that location.” Tr. 292 (emphasis added). Based on her incorrect definition of those terms, she told the DEA Investigators that she was not “dispensing” from GVC, an unregistered location. *Id.* at 291. Yet, her multiple testimonial and documentary admissions belie her denial of dispensing controlled substances at GVC. *E.g., id.* at 285, 297, 308; GX 13, GX 14. Thus, in addition to her not being willing or able to understand the responsibilities of a registrant, any DEA Investigator in the future, based on the experience of the DEA Investigators who interacted with Respondent in this matter, would not be

able to trust the accuracy of Respondent's statements.

Respondent's record testimony indicates that she did not understand the reasons why the CSA and its implementing regulations require that controlled substances only be dispensed from registered locations. For example, Respondent “didn't think that it would be a big deal at all” to have controlled substances at GVC as she “was under the impression . . . [that her] license [was] coming any day, really.” Tr. 305. The Agency cannot entrust a registration to an individual who does not think that it is a “big deal” to violate one of the foundational principles of the CSA.

Accordingly, the Agency finds substantial record evidence that Respondent did not unequivocally accept responsibility for her unlawfulness.²³ As such, Respondent has not convinced the Agency that she can be entrusted with a registration.

The interests of specific and general deterrence weigh in favor of the revocation of Respondent's Tucson registration and the denial of her Green Valley registration application. The Agency finds substantial record evidence that Respondent's testimony and controlled substance records establish that she failed to comply, over an extended time period, with registration and recordkeeping requirements that go to the heart of federal controlled substance law. *E.g.*, Tr. 354 (“I know that I should have known my regulations and had my paperwork in order. I know that, and it will happen.”); Tr. 291–92; *supra* n.11 (Respondent's confusion about the meaning of “dispense” and her eighth factual Exception). The principle of specific deterrence requires the Agency to take action to deter Respondent who, despite over a decade of experience as a registrant and multiple, recent interactions with, and specific instructions from, DEA Investigators, continued to dispense controlled substances from an unregistered location, among other things. Tr. 260. Further, Respondent seemed not to take the DEA inspection seriously as she testified that she is unaware of the inspection's findings and whether the DEA Inspection Team received all of the documents it requested. *Supra* section III.B. Respondent's willing unawareness of the results of the inspection of her

²³ For all of the above reasons, the Agency does not agree with Respondent's second legal Exception. Exceptions, at 20–24.

As the Agency does not consider remedial measures in the absence of unequivocal acceptance of responsibility, the Agency does not accept Respondent's third legal Exception. Exceptions, at 24.

²² The Agency takes seriously the mishandling, abuse, and the potential for abuse of testosterone and Phentermine.

Tucson clinic does not indicate Respondent's future compliance with the CSA and the CSA's implementing regulations.

For all of the above reasons, it is not reasonable to rely on Respondent's promise of her future compliance with the requirements incumbent on a registrant. Given the foundational nature of Respondent's violations, a sanction less than revocation would send a message to her, and to the existing and prospective registrant community, that compliance with the law is not a condition precedent to maintaining a registration. *E.g., Jones Total Health Care Pharmacy*, 881 F.3d at 834 and n.4; *Garrett Howard Smith, M.D.*, 83 FR 18,910 (collecting cases).

Accordingly, the Agency shall order the revocation of Respondent's Tucson registration and the denial of her GVC application as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a)(4) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. MB2645767 issued to Svetlana Burtman, N.P. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application, Control No. W231061194M, of Svetlana Burtman, N.P., for registration in Green Valley, Arizona.

In addition, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending application to renew or modify DEA Certificate of Registration No. MB2645767, as well as any other pending application of Svetlana Burtman, N.P., for registration in Arizona. This Order is effective May 22, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 16, 2025, by Acting Administrator Derek Maltz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters

the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-06882 Filed 4-21-25; 8:45 am]

BILLING CODE 4410-09-P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. to 2:45 p.m. (MST-AZ), Tuesday, May 6, 2025.

PLACE: Morris K. Udall and Stewart L. Udall Foundation, 434 E University Blvd., Suite 300, Tucson, AZ 85705.

STATUS: Parts of this regular meeting of the Board of Trustees will be open to the public. The rest of the meeting will be closed to the public. Members of the public who would like to observe the public session of this meeting may request remote access by contacting Sara Moeller at moeller@udall.gov prior to May 6, 2025, to obtain the teleconference connection information.

MATTERS TO BE CONSIDERED: (1) Call to Order and Chair's Remarks; (2) Trustees' Remarks; (3) Executive Director's Remarks; (4) Consent Agenda Approval (Minutes of the October 30, 2024, Board of Trustees Meeting; Board Reports submitted for Data and Information Technology, Education Programs, Finance and Internal Controls, John S. McCain III National Center for Environmental Conflict Resolution, and Udall Center for Studies in Public Policy, including the Native Nations Institute for Leadership, Management, and Policy and Special Collections at the University of Arizona Libraries; and Board takes notice of any new and updated personnel policies and internal control methodologies); (5) Vote on Proposed Executive Session (discuss internal personnel rules and practices of the agency, and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy); (6) Board Operating Procedures Revisions (including a vote on a resolution regarding Amendment of Operating Procedures of the Board of Trustees of the Morris K. Udall and Stewart L. Udall Foundation; (7) Program Eligibility (including a vote on a resolution regarding Eligibility Criteria for Udall Foundation Program Delivery); (8) Annual Trustee Ethics Training; and (9) Executive Session.

PORTIONS OPEN TO THE PUBLIC: All agenda items except as noted below.

PORTIONS CLOSED TO THE PUBLIC: Executive Session.

CONTACT PERSON FOR MORE INFORMATION:

Sara Moeller, Chief Operating Officer, 434 E University Blvd., Suite 300, Tucson, AZ 85705, (520) 345-3562.

Dated: April 17, 2025.

David P. Brown,

Executive Director, Morris K. Udall and Stewart L. Udall Foundation.

[FR Doc. 2025-06918 Filed 4-18-25; 11:15 am]

BILLING CODE 6820-FN-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 25-010]

Agency Information Collection: Remotely Administered Psychoacoustic Test for Advanced Air Mobility Noise Human Response

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 May 22, 2025.

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 stayce.d.hoult@nasa.gov or hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is for conducting a sound response laboratory test, which is called a psychoacoustic test, to better understand human noise response to passenger and equivalent cargo carrying Advanced Air Mobility

(AAM) aircraft. These AAM aircraft are expected to takeoff and land in closer proximity to communities than conventional aircraft. The aircraft are being designed to use multiple electrically driven rotors. Different AAM aircraft are unique in their design and geometric placement of rotors around the aircraft. The unique propulsion systems of AAM aircraft means that the sounds they produce will also be unique compared to conventional aircraft. Yet, insufficient data exists on how humans will respond to AAM aircraft noise. The National Aeronautics and Space Administration (NASA) seeks to gather data on the human noise response to AAM aircraft through the Varied AAM Noise and Geographic Area Response Difference (VANGARD) laboratory test. The VANGARD test will play recorded and electroacoustically reproduced sounds of different single AAM aircraft flyovers to test participants and ask for their annoyance response to each sound. The VANGARD test is one of many initial psychoacoustic tests being planned to gather data for research purposes on AAM vehicle noise response.

VANGARD test objectives are not designed to affect existing or proposed aircraft operations, and its objectives are not designed to affect noise policy. One aspect of the VANGARD test that is different from many other psychoacoustic tests on AAM vehicle noise is that it will be conducted using an online test application and gather human response data from geographically diverse participants. By addressing insufficient data on AAM aircraft noise response, VANGARD test results will allow subsequent studies on human noise response to AAM aircraft to be more informed in their design and test objectives. The VANGARD test seeks to answer the following research questions that will serve as a foundation for further investigations with laboratory and community testing of AAM/UAM noise human response:

1. Do annoyance responses differ between respondents who reside in low versus high ambient noise environments? Here, “low” and “high” ambient environments are determined from the A-weighted L50 data produced by the National Park Service for different United States Postal ZIP Codes.
2. Do annoyance responses differ as a function of the phase of flight? Here, the phases of flight are the landing, takeoff, and cruise phases.
3. Do annoyance responses differ as a function of distance from take-off and landing operations?
4. Is there a correlation between annoyance ratings and objective

parameter analyses of the data? Examples of objective parameters include, but are not limited to, sound quality metrics, spectra, sound exposure level, and amplitude envelope shaping.

5. Is there a correlation between annoyance ratings and noise sensitivity, measured from subject questionnaire data?

Authority: The National Aeronautics and Space Administration (NASA) is committed to effectively performing the Agency’s communication function in accordance with the Space Act section 203 (a)(3) to “provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,” and to enhance public understanding of, and participation in, the nation’s aeronautical and space program in accordance with the NASA Strategic Plan.

Through Public Law 93–579 (Privacy Act of 1974), the authority to collect the information requested from test participants through informed consent associated with the study is derived from one or more of the following: title 14, Code of Federal Regulations, §§ 1212 and 1230; title 51, United States Code, section 20113, as amended.

The VANGARD test was approved by the NASA Institutional Review Board with Study eIRB Number STUDY00000862 and FWA Number 00019876.

II. Methods of Collection

Test subjects will electronically indicate their annoyance rating to test AAM/UAM aircraft noise stimuli into an interface displayed on their own computers.

III. Data

Title: Varied Advanced air mobility Noise and Geographic Area Response Difference Test.

OMB Number: 2700–new.

Type of Review: New collection.

Affected Public: Individuals and households.

Estimated Annual Number of Activities: 400.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 400.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 400 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. 2025–06869 Filed 4–21–25; 8:45 am]

BILLING CODE 7510–13–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–1313 and K2025–1313; MC2025–1314 and K2025–1314; MC2025–1315 and K2025–1315; MC2025–1316 and K2025–1316]

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:* April 24, 2025.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary 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 Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<https://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

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such 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 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. 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 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. See 39 CFR 3041.110(n); 39 CFR 3041.205(a).

Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s)*: MC2025–1313 and K2025–1313; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 705 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 16, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: April 24, 2025.

2. *Docket No(s)*: MC2025–1314 and K2025–1314; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 706 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 16, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Evan Wise; *Comments Due*: April 24, 2025.

3. *Docket No(s)*: MC2025–1315 and K2025–1315; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 707 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 16, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Evan Wise; *Comments Due*: April 24, 2025.

4. *Docket No(s)*: MC2025–1316 and K2025–1316; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 708 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 16, 2025; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: April 24, 2025.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2025–06892 Filed 4–21–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Thursday, April 17, 2025, at 3:00 p.m. EST.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: Closed.

MATTERS CONSIDERED: On April 17, 2025, the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC The Board determined that no earlier public notice was practicable. The Board considered the below matters.

1. Administrative Matters.
2. Executive Session.
3. Personnel Matters.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Lucy C. Trout, Acting Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Lucy C. Trout,
Acting Secretary.

[FR Doc. 2025–06950 Filed 4–18–25; 11:15 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Thursday, April 17, 2025, at 2:15 p.m. EST.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW.

STATUS: Closed.

MATTERS CONSIDERED: On April 17, 2025, the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC The Board determined that no earlier public notice was practicable. The Board considered the below matters.

1. Administrative Matters.
2. Executive Session.
3. Personnel Matters.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Lucy C. Trout, Acting Secretary of the

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).

Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Lucy C. Trout,
Acting Secretary.

[FR Doc. 2025–06949 Filed 4–18–25; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102871; File No. SR–ICC–2025–002]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Procedures for Identification of Contract Reference Obligations

April 16, 2025.

I. Introduction

On February 13, 2025, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) ¹ and Rule 19b–4 thereunder,² a proposed rule change to revise the ICE Clear Credit Rules (the “Rules”) and adopt new Procedures for Identification of Contract Reference Obligations (the “Procedures”).³ The proposed rule change was published for comment in the **Federal Register** on March 5, 2025.⁴ The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

ICC is registered with the Commission as a clearing agency for the purpose of clearing Credit Default Swap (“CDS”) contracts. ICC is proposing to revise the Rules and adopt the new Procedures to codify and specify in further detail its processes used for selecting Contract Reference Obligations, including selecting a new Contract Reference Obligation to replace an existing one. Under its current Rules, ICC generally

selects the Contract Reference Obligation for each cleared single-name CDS Contract and selects a replacement obligation when required. The Contract Reference Obligation is the obligation of a Reference Entity that is the subject of a CDS contract, like debt issued by a private company or bonds issued by a sovereign entity.⁵ As such, the Contract Reference Obligation is relevant for determining if a Credit Event has occurred pursuant to the Applicable Credit Derivatives Definitions⁶ of a CDS contract and the obligations of a Reference Entity that can be delivered pursuant to the CDS contract when a Credit Event has occurred.⁷

B. Rule 20–601

ICC is proposing to adopt Rule 20–601, titled “Determination of Substitute Reference Obligations.” Rule 20–601 clarifies ICC’s responsibilities when selecting a substitute Contract Reference Obligation. Under the proposed rule, ICC’s role as a Calculation Agent pursuant to the Applicable Credit Derivatives Definitions⁸ with respect to identifying a Substitute Reference Obligation to replace a Contract Reference Obligation for which a Substitute Event has occurred will be limited to performing the functions set out in the new Procedures. Rule 20–601 will also define “Contract Reference Obligation” for this purpose to be the applicable Contract Reference Obligation for the relevant single-name transaction type under the Rules.

⁵ In the Rules, ICC defines a reference obligation for each particular CDS contract it clears, as specified under the applicable subchapter of the Rules for a particular single-name transaction type (such as a SNAC Contract Reference Obligation).

⁶ The term “Applicable Credit Derivatives Definitions” is a defined term in ICC Rule 20–102. It means the particular set of contract definitions that apply to a CDS contract. The contract definitions that apply to a CDS contract are the 2014 definitions or 2003 definitions, both as published by the International Swaps and Derivatives Association, Inc., and as supplemented from time to time.

⁷ Specifically, pursuant to the Applicable Credit Derivatives Definitions, it is generally the case that (i) the Contract Reference Obligation will be a Deliverable Obligation, regardless of whether it meets the otherwise applicable Deliverable Obligation criteria, and (ii) in order to be eligible as such, other Deliverable Obligations must not be subordinated in right of payment to the Contract Reference Obligation.

⁸ Under the Applicable Credit Derivatives Definitions, the Calculation Agent is the person responsible for making certain determinations required by a CDS contract, such as finding that an entity is the successor to the original Reference Entity of a CDS contract or finding a new Reference Obligation to replace an existing Reference Obligation. ICC serves as the Calculation Agent for the CDS contracts it clears.

C. Reference Obligation Procedures

The new Procedures contain the methodology and process for the identification of Contract Reference Obligations with respect to each Single-Name CDS Contract accepted for clearing by ICC (both as an initial matter and following a Substitution Event). The Procedures codify ICC’s current practices for the selection of Contract Reference Obligations, while also establishing a new process for public consultation regarding such selections, including a process for resolving any objections raised during the public consultation process.

Pursuant to the Procedures, ICC will first identify a Contract Reference Obligation for the Reference Entity for a single name CDS Contract when ICC begins clearing the contract. The Procedures refer to this reference obligation as the Original Reference Obligation.

ICC will identify a Substitute Reference Obligation to replace this Original Reference Obligation in accordance with new Rule 20–601 and the Procedures. ICC chooses a Substitute Reference Obligation to replace the Original Reference Obligation when the Original Reference Obligation is no longer an obligation of the entity referenced in the CDS contract. This can occur, for example, when a company redeems the debt that is the subject of the CDS contract.

As provided in the Procedures, ICC will not select an Original Reference Obligation, or a Substitute Reference Obligation, where either “Standard Reference Obligation” or “No Reference Obligation” is indicated on the List of Eligible Reference Entities for the relevant transaction type maintained by ICC, as published on its website.

The Procedures also state ICC’s overall objective in selecting Contract Reference Obligations. ICC’s objective in doing so is to reflect CDS market participants’ consensus as to the most appropriately representative obligation of the relevant seniority of the Reference Entity. The Procedures include factors that market participants may consider relevant for this purpose, including outstanding principal amount, remaining maturity, liquidity, and availability of public information concerning the obligation.

ICC will begin the selection process by using commercially available reference data from a data vendor to identify the most liquid reference obligation used in connection with the trading of CDS on the applicable Reference Entity. This is ICC’s starting point when selecting either an Original

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Capitalized terms used but not defined herein have the meanings specified in the Procedures for Identification of Contract Reference Obligations or in the Rule for the Determination of Substitute Reference Obligation as applicable.

⁴ Securities Exchange Act Release No. 102504 (Feb. 27, 2025), 90 FR 11348 (Mar. 5, 2025) (File No. SR–ICC–2025–002) (“Notice”).

Reference Obligation or a Substitute Reference Obligation. The Procedures refer to the most liquid reference obligation used in connection with the trading of CDS on the applicable Reference Entity as the “Preferred” reference obligation. ICC will identify a proposed Original Reference Obligation based on the current Preferred, if available, or a proposed Substitute Reference Obligation based on a change in the Preferred.

The Procedures specify how ICC will consult with Clearing Participants and the public when selecting an Original or Substitute Reference Obligation. After identifying an Original or Substitute Reference Obligation, ICC will take the following steps:

- submit the proposal to the ICC Operations Working Group (“OWG”) for review;
- submit the proposal to the ICC Trading Advisory Group (“TAG”) for review; and
- publish the proposal on its website for review by other market participants and members of the public.

ICC’s OWG consists of operations personnel from ICC’s Clearing Participants. The role of the OWG is to review and provide feedback regarding various operational matters, including consultation regarding the selection and substitution of Contract Reference Obligations. The OWG typically meets weekly, and OWG meeting materials are distributed by ICC’s Client Services Department to all OWG members in advance of the meeting date. There is no limit to the number of Clearing Participant operational personnel that can participate in OWG meetings, no quorum requirements, and no mandatory attendees. OWG Members may object to any proposed Original or Substitute Reference Obligation, either at an OWG meeting or by email to ICC any time before the deadline set by ICC (the “Objection Date”).

ICC’s TAG consists of trading personnel from ICC’s Clearing Participants. The role of the TAG is to provide market insight into a variety of trading topics, including consultation regarding the selection and substitution of Contract Reference Obligations. The TAG typically meets weekly, and proposed new or substitute Contract Reference Obligations are sent to the members of the TAG in advance of meetings via email. There is no limit to the number of Clearing Participant trading personnel that can participate in TAG meetings, no quorum requirements, and no mandatory attendees. TAG members may object to any proposed Original or Substitute Reference Obligation, either at a TAG

meeting or by email to ICC prior to the Objection Date. The Procedures set out the process for OWG or TAG members to make objections.

The process for public consultation, noted above, takes place in conjunction with, and is in addition to, consultations with the OWG and TAG. During the time of consultation with the OWG and TAG, ICC publishes any proposed Original or Substitute Reference Obligation on its website and invites market participants and the public to submit any objections by the Objection Date. A person may object by emailing the reasons for objection to ICC prior to the Objection Date.

The Procedures also explain how ICC will resolve any objections raised through these consultations. First, ICC will postpone adopting the proposed Original or Substitute Reference Obligation until ICC has addressed the objections to its satisfaction. The Procedures describe a series of non-exhaustive steps that ICC may take to resolve the objections as it determines appropriate, recognizing that different steps may be appropriate for different situations or objections. Potential steps include the following:

- obtaining additional information from the objector;
- contacting (or asking the objector to contact) the relevant market data vendor that has identified a reference obligation as Preferred;
- conducting a legal review of the available documentation for the proposed Original or Substitute Reference Obligation;
- consulting OWG or TAG members and other market participants with relevant views or information, such as the person that objected;
- consulting ICC’s CDS Risk Committee; and
- submitting (directly or indirectly) a question to the relevant Credit Derivatives Determinations Committee whether a proposed Substitute Reference Obligation is an appropriate choice.

If the consultation noted above leads to the data vendor identifying a different Preferred reference obligation, ICC will consider such obligation as an alternative proposed Contract Reference Obligation. ICC will then take this alternative through the consultation process, including the process for resolving any objections raised to this alternative, pursuant to the same processes described above.

Finally, the Procedures specify that they do not apply to the determination of a Contract Reference Obligation for a new trade resulting from a Restructuring Credit Event (which would be

determined in accordance with the Rules). The Procedures also permit ICC to deviate from the public consultation process in certain limited circumstances. Specifically, with respect to a Succession Event that requires the identification of a new Contract Reference Obligation, or when a Contract Reference Obligation is changed in connection with the re-naming of a Reference Entity, the Procedures require ICC to follow the industry-agreed timelines for implementing the Succession Event or re-naming. In such instances, the industry-agreed timeline may not allow sufficient time for ICC to go through the normal consultation process or would require an abbreviated one. ICC would, however, follow as much of the normal consultation process as possible given the applicable timeline.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.⁹ Under the Commission’s Rules of Practice, the “burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization [‘SRO’] that proposed the rule change.”¹⁰

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,¹¹ and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.¹² Moreover, “unquestioning reliance” on an SRO’s representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.¹³

After carefully considering the proposed rule change, the Commission

⁹ 15 U.S.C. 78s(b)(2)(C).

¹⁰ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

¹¹ *Id.*

¹² *Id.*

¹³ *Susquehanna Int’l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).

finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC. More specifically, for the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,¹⁴ Rule 17Ad-22(e)(1),¹⁵ and Rule 17Ad-22(e)(23)(ii).¹⁶

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions.¹⁷ The proposed new Procedures clarify ICC's process for selecting Original and Substitute Reference Obligations, while also establishing a new process for public consultation and addressing any objections that are raised during such consultation. Pursuant to the Procedures, when ICC selects an Original or Substitute Reference Obligation, ICC will review and consult with its OWG, TAG, external market participants, and members of the public, and take appropriate steps, as described in the Procedures, to resolve any objections raised during these consultations. These processes will help ensure any Original Reference Obligation, or changes thereto, are accurate, representative of the Reference Entity, and reflect market expectations. In doing so, the proposed rule change helps promote the consistent clearance and settlement of single-name CDS transactions at ICC. Accordingly, the proposed rule change promotes the prompt and accurate clearance and settlement of transactions at ICC, consistent with Section 17A(b)(3)(F) of the Act.¹⁸

B. Consistency With Rule 17Ad-22(e)(1)

Rule 17Ad-22(e)(1) requires that ICC establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.¹⁹ By explaining how ICC selects an Original or Substitute Reference Obligation and by requiring ICC to consult with market participants regarding such selection, the Procedures help establish a clear and transparent

basis for ICC's selection of an Original or Substitute Reference Obligation. Similarly, by allowing members of the OWG and the TAG, market participants, and the public an opportunity to raise objections, and by requiring ICC to take steps to resolve any such objections, the Procedures help establish a clear and enforceable basis for ICC's selection of an Original or Substitute Reference Obligation. If any OWG or TAG members, market participants, or the public raise any objections, ICC would postpone the adoption of the proposed Original or Substitute Contract Reference Obligation until any objections have been sufficiently addressed. Finally, new Rule 20-601 establishes that, in acting as Calculation Agent pursuant to the Applicable Credit Derivatives Definitions, with respect to identifying a Substitute Reference Obligation to replace a Contract Reference Obligation for which a Substitution Event has occurred, ICC's role is limited to following the process set out in the Procedures. This ensures that the process set out in the Procedures is enforceable against ICC. By establishing enforceable procedures that establish the process ICC must follow in consulting both internally and externally when selecting a new Contract Reference Obligation for CDS, ICC is increasing the clarity, transparency, and enforceability of the legal basis for its activities in connection with selecting Original and Substitute Contract Reference Obligations. Accordingly, the proposed rule change is consistent with Rule 17Ad-22(e)(1).²⁰

C. Consistency With Rule 17Ad-22(e)(23)(ii)

Rule 17Ad-22(e)(23)(ii) requires that ICC establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.²¹ The proposed rule change enables market participants to better understand the risks associated with participating with ICC. The Procedures explain how ICC selects an Original or Substitute Reference Obligation, and how ICC consults with market participants regarding its selection. The Procedures are publicly available. Thus, in adopting the Procedures, the proposed rule change enables market participants to understand how ICC determines

Original and Substitute Reference Obligations, therefore allowing market participants to better understand the risks associated with clearing CDS at ICC. Accordingly, the proposed rule change is consistent with Rule 17Ad-22(e)(23)(ii).²²

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act,²³ Rule 17Ad-22(e)(1),²⁴ and Rule 17Ad-22(e)(23)(ii).²⁵ thereunder.

It is therefore ordered pursuant to Section 19(b)(2) of the Act²⁶ that the proposed rule change (SR-ICC-2025-002) be, and hereby is, approved.²⁷

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06859 Filed 4-21-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35541; File No. 812-15749]

Aether Infrastructure & Natural Resources Fund, et al.

April 17, 2025.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies ("BDCs") and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities. The requested order includes

²² 17 CFR 240.17Ad-22(e)(23)(ii).

²³ 15 U.S.C. 78q-1(b)(3)(F).

²⁴ 17 CFR 240.17Ad-22(e)(1).

²⁵ 17 CFR 240.17Ad-22(e)(23)(ii).

²⁶ 15 U.S.C. 78s(b)(2).

²⁷ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁸ 17 CFR 200.30-3(a)(12).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ 17 CFR 240.17Ad-22(e)(1).

¹⁶ 17 CFR 240.17Ad-22(e)(23)(ii).

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(e)(1).

²⁰ 17 CFR 240.17Ad-22(e)(1).

²¹ 17 CFR 240.17Ad-22(e)(23)(ii).

streamlined terms and conditions as compared to past comparable orders.

APPLICANTS: Aether Infrastructure & Natural Resources Fund, Aether Investment Partners, LLC, Aether Real Assets II, L.P., Aether Real Assets III, L.P., Aether Real Assets III Surplus, L.P., Aether Real Assets IV, L.P., Aether Real Assets V, L.P., Aether Real Assets Co-Investment I, L.P., Aether Real Assets Seed Partners I, L.P., and Aether Real Assets SONJ Fund, L.P.

FILING DATES: The application was filed on April 9, 2025.

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 May 12, 2025, 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 at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Joshua B. Deringer, Esq., Faegre Drinker Biddle & Reath LLP, *Joshua.deringer@faegredrinker.com*; Kellilyn Greco, Esq., Faegre Drinker Biddle & Reath LLP, *kellilyn.greco@faegredrinker.com*; and Sean Goodrich, Aether Investment Partners, LLC, 1900 Sixteenth Street, Suite 825, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Kieran G. Brown, Senior Counsel, or Daniele Marchesani, Assistant Chief 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 April 9, 2025, 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/companysearch.html>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–06888 Filed 4–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102870; File No. SR–CBOE–2025–004]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Add P.M.-Settled Options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index With Third Friday Expirations, Nonstandard Expirations, and Quarterly Index Expirations

April 16, 2025.

On February 14, 2025, Cboe Exchange, Inc. 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 list P.M.-settled options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index with third Friday expirations, nonstandard expirations, and quarterly index expirations. The proposed rule change was published for comment in the **Federal Register** on March 5, 2025. ³ The Commission has not received any comments regarding the proposed rule change.

Section 19(b)(2) of the Act ⁴ 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 April 19, 2025. 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. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, ⁵ designates June 3, 2025, 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–CBOE–2025–004).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. ⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–06857 Filed 4–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35539; File No. 812–15739]

New Mountain Capital, L.L.C., et al.

April 16, 2025.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities. The requested order includes streamlined terms and conditions as compared to past comparable orders.

APPLICANTS: New Mountain Capital, L.L.C.; New Mountain Credit CLO Advisers, L.L.C.; New Mountain Finance Advisers, L.L.C.; New Mountain Finance Corporation; New Mountain Guardian IV BDC, L.L.C.;

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 102502 (Feb. 27, 2025), 90 FR 11343.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30–3(a)(31).

NMF SLF I, Inc.; New Mountain Private Credit Fund; New Mountain Guardian IV Income Fund, L.L.C.; certain of their wholly-owned subsidiaries as described in Schedule A to the Application; and certain of their affiliated entities as described in Schedule B to the Application.

FILING DATES: The application was filed on April 1, 2025, and amended on April 7, 2025, and April 15, 2025.

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 May 12, 2025, 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 at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: John R. Kline, New Mountain Finance Corporation, *jkline@newmountaincapital.com* and Anne G. Oberndorf, Esq., Eversheds Sutherland (US) LLP, *anneoberndorf@eversheds-sutherland.com*.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Stephan N. Packs, Senior Counsel, or Daniele Marchesani, Assistant Chief 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' Second Amended and Restated Application, dated April 16, 2025, 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 www.sec.gov/edgar/

searchedgar.companysearch. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–06842 Filed 4–21–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35540; File No. 812–15725]

MidCap Financial Investment Corporation, et al.

April 16, 2025.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities. The requested order includes streamlined terms and conditions as compared to past comparable orders.

APPLICANTS: MidCap Financial Investment Corporation, Apollo Debt Solutions BDC, Apollo Diversified Credit Fund, Apollo S3 Private Markets Fund, MidCap Apollo Institutional Private Lending, Lord Abbett Flexible Income Fund, Apollo Diversified Real Estate Fund, Apollo Origination II (Levered) Capital Trust, Apollo Origination II (UL) Capital Trust, Merx Aviation Finance, LLC, Apollo Investment Management, L.P., Apollo Credit Management, LLC, Apollo Capital Credit Adviser, LLC, Apollo S3 RIC Management, L.P., Apollo Real Estate Fund Adviser, LLC, and certain of their affiliated entities as described in Appendix A to the application.

FILING DATES: The application was filed on March 14, 2025, and amended on April 4, 2025, and April 11, 2025.

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 May 12, 2025, 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 at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Tanner Powell, Chief Executive Officer, MidCap Financial Investment Corporation, 9 West 57th Street, New York, NY 10019; Kristin Hester, Chief Legal Officer, MidCap Financial Investment Corporation, 9 West 57th Street, New York, NY 10019; David Blass, Simpson Thacher & Bartlett LLP, 900 G Street NW, Washington, DC 20001; and Steven Grigoriou, Simpson Thacher & Bartlett LLP, 900 G Street NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, Kieran Brown, Senior Counsel, or Daniele Marchesani, Assistant Chief 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' second amended application, dated April 11, 2025, 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/companysearch.html>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06843 Filed 4-21-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35542; File No. 812-15750]

HPS Corporate Lending Fund, et al.

April 17, 2025.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under Section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from Sections 18(a)(2), 18(c), 18(i), and 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies that have elected to be regulated as business development companies to issue multiple classes of shares with varying sales loads and asset-based distribution and/or service fees.

APPLICANTS: HPS Advisors, LLC, HPS Corporate Lending Fund, HPS Corporate Capital Solutions Fund, and HPS Corporate Capital Solutions BDC.

FILING DATES: April 10, 2025.

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 *Secretaries-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 May 12, 2025, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretaries-Office@sec.gov*.

ADDRESSES: The Commission: *Secretaries-Office@sec.gov*. Applicants: Yoo Hyun K. Choi, HPS Advisors, LLC, *kathy.choi@hpspartners.com*, Richard Horowitz, Esq., Dechert LLP, *richard.horowitz@dechert.com*.

FOR FURTHER INFORMATION CONTACT:

Toyin Momoh, Senior Counsel, or Thomas Ahmadifar, Branch Chief, 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 April 10, 2025, 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/companysearch>. You may also call the SEC’s Office of Investor Education and Advocacy at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06889 Filed 4-21-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102874; File No. SR-NYSETEX-2025-05]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1.1, Reinstate Article 16, Rules 1 Through 4 and Relocate Them

April 16, 2025.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act”) ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on April 14, 2025, the NYSE Texas, Inc. (“NYSE Texas” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule 1.1 to adopt new definitions relating to Market Makers and (2) reinstate Article 16, Rules 1 through 4 relating to the registration and obligations of Market Makers and relocate them under Rule 7, Section 2. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2019, the Exchange transitioned to trading on the NYSE Pillar trading platform (“Pillar”).⁴ Because the Exchange did not contemplate supporting a Market Maker function at that time, Article 16 (Market Makers), which sets forth Rules 1 through 6 relating to Market Makers, was designated as inapplicable to trading on Pillar. In connection with the Exchange’s recent proposed change to adopt rules to permit the listing and trading of certain Exchange Traded Products,⁵ the Exchange proposes to reinstate the rules relating to the registration and obligation of Market Makers in Article 16, Rules 1 through 4⁶

⁴ See Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR-NYSECHX-2019-08) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Add Rules To Support the Transition of Trading to the Pillar Trading Platform).

⁵ See Securities Exchange Act Release No. 102617 (March 12, 2025), 90 FR 12578 (March 18, 2025) (SR-NYSECHX-2025-04) (Notice of Filing of Proposed Rule Change for Amendments to Rules 1.1, 5, 7.18, 8 and Article 22, Rules 24-27).

⁶ The Exchange does not propose to reinstate Article 16, Rules 5 and 6 to promote consistency

and to relocate them under Rule 7, Section 2 as Rules 7.20 through 7.23, with changes to harmonize them with rules governing Market Makers on its affiliated exchanges, New York Stock Exchange LLC (“NYSE”), NYSE American LLC (“NYSE American”), and NYSE Arca, Inc. (“NYSE Arca”) (collectively, the “Affiliated Exchanges”). The Exchange also proposes to amend Rule 1.1 to include new defined terms related to the operation of Market Makers on the Exchange, consistent with the rules of its Affiliated Exchanges, and to adopt new Rule 7.24 based on NYSE Arca Rule 7.24–E. The proposed changes would provide for the operation of Market Makers on the Exchange pursuant to rules consistent with those of its Affiliated Exchanges and would promote displayed liquidity and market quality on the Exchange.

The Exchange proposes the following new rules to govern the registration and obligations of Market Makers on the Exchange:

- Proposed Rule 1.1(m) (definition of Lead Market Maker);
- Proposed Rule 1.1(o) (definition of Market Maker);
- Proposed Rule 1.1(p) (definition of Market Maker Authorized Trader);
- Proposed Rule 7.20 (Registration of Market Makers);
- Proposed Rule 7.21 (Obligations of Market Maker Authorized Traders (“MMATs”));
- Proposed Rule 7.22 (Registration of Market Makers in a Security);
- Proposed Rule 7.23 (Obligations of Market Makers);
- Proposed Rule 7.24 (Designated Market Maker Performance Standards);

Rule 1.1

Rule 1.1 sets forth definitions of terms that are used throughout the Exchange rules. The Exchange proposes to add the following definitions to the rule:

- The Exchange proposes to amend current Rule 1.1(m) to set forth the definition of “Lead Market Maker.” A “Lead Market Maker” would be defined as a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market. This proposed rule is based on NYSE Arca Rule 1.1 (definition of “Lead Market Maker”).

- The Exchange proposes to amend current Rule 1.1(o) to set forth the definition of “Market Maker.” A “Market Maker” would be defined as a Participant that acts as a Market Maker pursuant to Rule 7. This proposed rule

is based on NYSE Rule 1.1(t) (which uses the term “Non-DMM Market Maker”), NYSE American Rule 1.1E(v), and NYSE Arca Rule 1.1 (definition of Market Maker).

- The Exchange proposes to amend current Rule 1.1(p) to set forth the definition of “Market Maker Authorized Trader” or “MMAT.” A “Market Maker Authorized Trade” or “MMAT” would be defined as an Authorized Trader (as defined in Rule 1.1(a)) who performs market making activities pursuant to Rule 7 on behalf of a Market Maker. This proposed rule is based on NYSE Rule 1.1(p), NYSE American Rule 1.1E(w), and NYSE Arca Rule 1.1 (definition of Market Maker Authorized Trader).

To accommodate the addition of these definitions, the Exchange also proposes to adjust the lettering in Rule 1.1. Specifically, current Rule 1.1(m) defining the term “Marketable” would become Rule 1.1(n), current Rule 1.1(n) defining “NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBBO)” would become Rule 1.1(q), and so forth, with no changes to the substance of the definitions.

Rule 7, Section 2

The Exchange proposes to amend Rule 7, Section 2, which is currently designated as “Reserved,” and rename it “Market Makers.” As discussed below, the Exchange proposes new Rules 7.20 through 7.24 to reinstate Article 16, Rules 1 through 4 as Rules 7.20 through 7.23, and to add new Rule 7.24 under Section 2 of Rule 7, which would locate the Exchange’s proposed rules concerning Market Makers in the same section as the rules of its Affiliated Exchanges. In addition to changes as noted below, the Exchange proposes to use “will” rather than “shall” in reinstating the text of Article 16, Rules 1 through 4.

Rule 7.20

The Exchange proposes to add Rule 7.20, “Registration of Market Makers,” to set forth the requirements for Participants to apply for registration as Market Makers. Proposed Rule 7.20 is based on Article 16, Rule 1, except as noted below to harmonize the format and language of the rule with NYSE Rule 7.20, NYSE American Rule 7.20E, and NYSE Arca Rule 7.20–E, which set forth substantially similar requirements for the registration of Market Makers. Proposed Rule 7.20 would require Participants interested in acting as Market Makers to submit an application to the Exchange, as well as set forth the criteria the Exchange may consider in determining whether to approve or

disapprove a prospective Market Maker’s application and specify how a Market Maker’s registration may be suspended, terminated, or withdrawn. Proposed Rule 7.20 would also provide that Market Makers are designated as dealers on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder.

In proposed Rule 7.20(a), the Exchange proposes to adopt the language of NYSE Rule 7.20(a), NYSE American Rule 7.20E(a), and NYSE Arca Rule 7.20–E(a) rather than the substantially similar language of Article 16, Rule 1(a) in providing that Participants may not act as Market Makers in securities on the Exchange unless they are registered as a Market Maker in such securities and the Exchange has not suspended or canceled their registration. Proposed Rule 7.20(a) would also provide that registered Market Makers are designated as dealers on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder, reflecting language from Article 16, Rule 1(f). This proposed change would promote consistency with the rules of the same number on the Affiliated Exchanges.

The Exchange next proposes to locate part of the text of Article 16, Rule 1(a) in proposed Rule 7.20(b), with non-substantive changes to conform with NYSE Rule 7.20(b), NYSE American Rule 7.20E(b), and NYSE Arca Rule 7.20–E(b). Specifically, the Exchange proposes that Rule 7.20(b) would provide that an applicant for registration as a Market Maker will file an application in writing on such form as the Exchange may prescribe and that such applications will be reviewed by the Exchange, considering factors including, but not limited to, a Participant’s capital, operations, personnel, technical resources, and disciplinary history. Proposed Rule 7.20(b) would also provide that, after reviewing a Participant’s application, the Exchange will either approve or disapprove the Participant’s registration as a Market Maker, consistent with NYSE Rule 7.20(b), NYSE American Rule 7.20E(b), and NYSE Arca Rule 7.20–E(b).

In proposed Rule 7.20(c), the Exchange proposes to reflect text from Article 16, Rules 1(b)⁷ and 1(c), with

⁷ The Exchange does not propose to retain the last sentence of Article 16, Rule 1(b), which provides that a Market Maker may only make markets in securities to which it has been assigned, to promote consistency with the rules of the Affiliated Exchanges.

between the Exchange’s rules governing Market Makers and those of its Affiliated Exchanges.

non-substantive conforming changes to harmonize the text with NYSE Rule 7.20(c), NYSE American Rule 7.20E(c), and NYSE Arca Rule 7.20–E(c) and to update the reference to Article 15. Proposed Rule 7.20(c) would provide that an applicant’s registration as a Market Maker will become effective upon receipt by the Participant of notice of an approval of registration by the Exchange and that if an application is disapproved by the Exchange, the applicant will have an opportunity to be heard upon the specific grounds for the denial, in accordance with the provisions of the Rule 10.9500 Series.

In proposed Rule 7.20(d), the Exchange proposes to reflect the first sentence of Article 16, Rule 1(d), with non-substantive conforming changes to harmonize the text with NYSE Rule 7.20(d), NYSE American Rule 7.20E(d), and NYSE Arca Rule 7.20–E(d) and update the reference to Rule 4. Proposed Rule 7.20(d) would provide that the registration of a Market Maker may be suspended or terminated by the Exchange upon a determination of any substantial or continued failure by such Market Maker to engage in dealings in accordance with Rule 7.23.

The Exchange proposes to base Rule 7.20(e) on NYSE Rule 7.20(e), NYSE American Rule 7.20E(e), and NYSE Arca Rule 7.20–E(e). Proposed Rule 7.20(e) would provide that a Market Maker may withdraw its registration by written notice to the Exchange, with such withdrawal becoming effective on the tenth business day following the Exchange’s receipt of the notice, and that a Market Maker that fails to provide such notice may be subject to formal disciplinary action pursuant to the Rule 10.9200 Series. In addition, subsequent to withdrawal, the Participant will not be permitted to re-register as a Market Maker for a period of six months. Proposed Rule 7.20(e) is similar to Article 16, Rule 1(d),⁸ with changes to add clarity and specificity in the Exchange’s rules with respect to the notice requirement for a Market Maker to withdraw its resignation and to

promote consistency with the rules of the Affiliated Exchanges.

The Exchange does not propose to reinstate Article 16, Rule 1(e), as it does not believe such emergency procedures are necessary, and to harmonize proposed Rule 7.20 with the Affiliated Exchanges’ rules. The Exchange also does not propose to reinstate Article 16, Rule 1(f) (except for the portion noted above in proposed Rule 7.20(a)), in conformity with the rules of the Affiliated Exchanges.

Rule 7.21

The Exchange proposes to add Rule 7.21 and title it “Obligations of Market Maker Authorized Traders (“MMATs”).” Proposed Rule 7.21 reflects the text of Article 16, Rule 3, with certain changes discussed below to harmonize the format and language of the rule with NYSE Rule 7.21, NYSE American Rule 7.21E, and NYSE Arca Rule 7.21–E, which set forth substantially similar requirements. Proposed Rule 7.21 would provide that Market Maker Authorized Traders (“MMATs”) are permitted to enter orders only for the account of the Market Maker for which they are registered. In addition, the proposed rule would specify the registration requirements for MMATs and the procedures for suspension and withdrawal of registration of MMATs. Specifically, the proposed rule would provide that a Market Maker must submit an application to the Exchange to register an associated person as an MMAT. An MMAT must meet certain requirements, and a Market Maker must ensure that its MMATs are qualified to perform market making activities. Proposed Rule 7.21 also provides that the Exchange may suspend or withdraw an MMAT’s registration.

To promote consistency between proposed Rule 7.21 and rules of the same number on the Affiliated Exchanges, the Exchange proposes the following changes.

In proposed Rule 7.21(b)(2), to align the original text of Article 16, Rule 3(b)(2) with NYSE Rule 7.21(b)(2), NYSE American Rule 7.21E(b)(2), and NYSE Arca Rule 7.21–E(b)(2), the Exchange proposes to replace the requirement that an MMAT complete the Securities Trader Examination (“Series 57”), Securities Industry Essentials qualification examination, and any other training and/or certification program as may be required by the Exchange with the requirement that an MMAT complete the Series 57 and a training and certification program sponsored by the Exchange. The Exchange further proposes that the

requirement to complete the Series 57 may be waived by the Exchange if the applicant MMAT has served as a dealer-specialist or market maker on a registered national securities exchange or association for at least two consecutive years within three years of the date of application. This proposed change would harmonize proposed Rule 7.21(b)(2) with the Affiliated Exchanges’ rules of the same number, while maintaining requirements substantially similar to those outlined in Article 16, Rule 3(b)(2) for individuals to qualify as MMATs on the Exchange.

In proposed Rule 7.21(b)(3), the Exchange proposes stylistic changes to the text of Article 16, Rule 3(b)(3) that would not alter the requirement set forth therein but would harmonize the text of the rule with NYSE Rule 7.21(b)(3), NYSE American Rule 7.21E(b)(3), and NYSE Arca Rule 7.21–E(b)(3). Specifically, the Exchange proposes that the rule would provide that the Exchange may require a Market Maker to provide additional information the Exchange considers necessary to establish whether registration should be granted, rather than that the Exchange may require a Market Maker to provide any and all additional information the Exchange deems necessary to establish whether registration should be granted.

To align the original text of Article 16, Rule 3(c)(1)(D) with NYSE Rule 7.21(c)(1)(D), NYSE American Rule 7.21E(c)(1)(D), and NYSE Arca Rule 7.21–E(c)(1)(D), the Exchange proposes that Rule 7.21(c)(1)(D) provide that the Exchange may suspend or withdraw the registration of an MMAT if the Exchange believes doing so is in the interest of maintaining fair and orderly markets. This proposed change does not reflect any substantive differences from Article 16, Rule 3(c)(1)(D) and would harmonize proposed Rule 7.21(c)(1)(D) with the Affiliated Exchanges’ rules of the same number.

Finally, the Exchange proposes the following non-substantive conforming changes. In proposed Rule 7.21(b), to conform with the text of NYSE Rule 7.21(b), NYSE American Rule 7.21E(b), and NYSE Arca Rule 7.21–E(b), the Exchange proposes to omit the phrase “consistent with the following minimum requirements.” To eliminate outdated rule references and conform proposed Rule 7.21 with the rules of the Affiliated Exchanges, the Exchange proposes to omit the reference to Rule 1 in proposed Rule 7.21(b)(1) and the reference to Article 13, Rule 2 in proposed Rule 7.21(c)(1). In proposed Rule 7.21(c) and the paragraphs thereunder, the Exchange proposes to use the term “withdraw” rather than

⁸ The Exchange does not propose to reinstate the portions of Article 16, Rule 1(d) providing (1) that the rule is not intended to limit any other power of the Exchange to discipline a Participant pursuant to Exchange rules, (2) that a Participant whose Market Maker registration has been involuntarily suspended, terminated or otherwise limited may seek review under the provisions of Article 15, or (3) that the Exchange may involuntarily withdraw a Participant from one or more assigned securities without suspending or terminating the Participant’s registration as a Market Maker, to promote consistency with the rules of the Affiliated Exchanges.

“terminate” when referring to the discontinuation of an MMAT’s registration. In proposed Rule 7.21(c)(1)(A), the Exchange proposes to add the words “and regulations” to harmonize the text of this Rule with the text of the Affiliated Exchanges’ rules of the same number. In proposed Rule 7.21(c)(2), the Exchange proposes to replace the outdated reference to the “Matching System” with a reference to the “Exchange.”

Rule 7.22

The Exchange proposes to add Rule 7.22 and title it “Registration of Market Makers in a Security.” Proposed Rule 7.22 reflects the text of Article 16, Rule 2, with certain changes and additions discussed below to harmonize the format and language of the rule with NYSE Rule 7.22, NYSE American Rule 7.22E, and NYSE Arca Rule 7.22–E, which set forth substantially similar requirements. The Exchange proposes to title Rule 7.22 “Registration of Market Makers in a Security,” rather than keeping the title of Article 16, Rule 2 (“Assignment of Securities to Market Makers”), which is a non-substantive change that would promote consistency with the rules of the Affiliated Exchanges. Proposed Rule 7.22 would set forth the process for Market Makers to become registered in a security and the factors the Exchange may consider in approving such registration. Specifically, Market Makers may submit a request to the Exchange to be registered in a security, and the Exchange will evaluate whether to approve such registration, taking into consideration factors including the Market Maker’s financial resources, experience in making markets, operational capability, and the character of the market for the security. The proposed rule would also describe both termination of a Market Maker’s registration in a security by the Exchange and voluntary termination by a Market Maker.

To promote consistency between proposed Rule 7.22 and rules of the same number on the Affiliated Exchanges, the Exchange proposes the following changes.

First, in proposed Rule 7.22(a), the Exchange proposes to update the description set forth in Article 16, Rule 2(a) of the process by which Market Makers may seek assignment in securities to conform with the description set forth in NYSE Rule 7.22(a), NYSE American Rule 7.22E(a), and NYSE Arca Rule 7.22–E(a). In addition, to promote consistency with the subparagraph numbering under NYSE Rule 7.22, NYSE American Rule

7.22E, and NYSE Arca Rule 7.22–E, the Exchange proposes to include the text of Article 16, Rule 2(b) and the subparagraphs thereunder in proposed Rule 7.22(a), with non-substantive stylistic changes to harmonize the rule text with the rules of the Affiliated Exchanges.

Next, the Exchange proposes new Rules 7.22(b) through (d), which do not have analogues in Article 16, Rule 2, but would serve to conform proposed Rule 7.22 with rules of the same number on the Affiliated Exchanges.

Proposed Rule 7.22(b) provides that a Market Maker’s registration in a security may be terminated by the Exchange if the Market Maker fails to enter quotations in the security within five business days after the Market Maker’s registration in the security becomes effective. This proposed rule is based on NYSE Rule 7.22(b), NYSE American Rule 7.22E(b), and NYSE Arca Rule 7.22–E(b), without any changes.

Proposed Rule 7.22(c) is based on NYSE Arca Rule 7.22–E(c), with a non-substantive change to reference “Participants” instead of “ETP Holders.” Proposed Rule 7.22(c) provides that the Exchange may limit the number of Designated Market Makers in a security upon prior written notice to Participants. Proposed Rule 7.22(c) also incorporates rule text from Interpretations and Policies .01 under Article 16, Rule 2, which similarly provides that the Exchange may limit the number of Market Makers assigned to any security at its discretion.⁹

Proposed Rule 7.22(d) is based on NYSE Arca Rule 7.22–E(d), without any changes. Proposed Rule 7.22(d) would provide that Designated Market Makers and Lead Market Makers shall be selected by the Exchange, with such selection based on factors including experience with making markets in equities; adequacy of capital; willingness to promote the Exchange as a marketplace; issuer preference; operational capacity; support personnel; and history of adherence to Exchange rules and securities laws.

Proposed Rule 7.22(e) reflects the text of Article 16, Rule 2(c), with non-substantive changes to conform with NYSE Rule 7.22(e), NYSE American Rule 7.22E(e), and NYSE Arca Rule 7.22–E(e). Proposed Rule 7.22(e) would be subtitled “Voluntary Termination of Security Registration,” consistent with the rules of the Affiliated Exchanges. In

the first paragraph of proposed Rule 7.22(e), the Exchange proposes to specify that a Market Maker may voluntarily terminate its registration in a security by providing the Exchange with a one-day written notice of such termination. This proposed change would reflect the use of “terminate” instead of “withdraw” (similar to changes proposed in Rule 7.21) and provide clarity in proposed Rule 7.22(e) with respect to the timing of a Market Maker’s voluntary termination notice, in both cases aligning this rule with the Affiliated Exchanges’ rule of the same number. The Exchange further proposes to include a reference to the Rule 10.9200 Series for added clarity with respect to the formal disciplinary action that may apply to a Market Maker that fails to give advanced written notice of termination. Finally, to promote consistency with NYSE Rule 7.22(e), NYSE American Rule 7.22E(e), and NYSE Arca Rule 7.22–E(e), the Exchange does not propose to retain the second, third, or fifth sentences of Article 16, Rule 2(c) in proposed Rule 7.22(e).

In proposed Rule 7.22(f), which corresponds to Article 16, Rule 2(e), the Exchange similarly proposes non-substantive, stylistic changes to conform with NYSE Rule 7.22(f), NYSE American Rule 7.22E(f), and NYSE Arca Rule 7.22–E(f). The Exchange proposes to omit the subtitle of Article 16, Rule 2(e) and subparagraph (1) under Article 16, Rule 2(e), collapse the text of subparagraph (2) under Article 16, Rule 2(e) into proposed Rule 7.22(f), and update the language of Article 16, Rule 2(e) to harmonize it with the language of NYSE Rule 7.22(f), NYSE American Rule 7.22E(f), and NYSE Arca Rule 7.22–E(f). Proposed Rule 7.22(f) would thus provide that the Exchange may suspend or terminate any registration of a Market Maker in a security or securities under this Rule whenever, in the Exchange’s judgment, the interests of a fair and orderly market are best served by such action.

Finally, the Exchange proposes that the last sentence of Article 16, Rule 2(e), which provides that a Participant whose assignment to one or more securities has been suspended or terminated may seek review under Article 15, be reflected in proposed Rule 7.22(g), with a non-substantive change to update an outdated rule reference. Proposed Rule 7.22(g) would thus provide that a Participant may seek review of any action taken by the Exchange pursuant to this Rule, including the denial of the application for, or the termination or suspension of, a Market Maker’s registration in a security or securities, in

⁹ The Exchange does not propose to incorporate the first sentence of Interpretations and Policies .01 under Article 16, Rule 2 (which provides that there may be more than one Market Maker assigned to a security traded on the Exchange) in proposed Rule 7.22.

accordance with the Rule 10.9500 Series.

The Exchange does not propose to reinstate the text of Article 16, Rule 2(d), which provides for the temporary withdrawal of a Market Maker in assigned securities, in Rule 7.22 and instead proposes to include rule text relating to the temporary withdrawal of Market Makers in assigned securities in proposed Rule 7.23, as discussed below.

Rule 7.23

The Exchange proposes to add Rule 7.23 and title it “Obligations of Market Makers.” Proposed Rule 7.23 reflects the text of Article 16, Rule 4, with certain changes as noted below to harmonize the format and language of the rule with NYSE Rule 7.23, NYSE American Rule 7.23E, and NYSE Arca Rule 7.23–E, which provide for substantially similar Market Maker obligations. Proposed Rule 7.23 would set forth the obligation of Market Makers to engage in a course of dealings for their own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets on the Exchange. The proposed rule would delineate the specific responsibilities and duties of Market Makers, including the Two-Sided Obligation applicable to securities in which the Market Maker is registered and the requirement that the interest satisfying the Two-Sided Obligation be not more than the Designated Percentage (as defined in Proposed Rule 7.23) away from the National Best Bid or Offer (“NBBO”). Proposed Rule 7.23 also provides that Market Makers will be subject to certain minimum capital requirements and sets forth the circumstances under which a Market Maker could be subject to disciplinary action or suspension or revocation of registration by the Exchange for failure to comply with the course of dealings obligations set forth in this proposed rule.

In adapting Article 16, Rule 4 into proposed Rule 7.23, the Exchange proposes the following non-substantive changes to the original text of Article 16, Rule 4 to conform with the format and language used in NYSE Rule 7.23, NYSE American Rule 7.23E, and NYSE Arca Rule 7.23–E.

First, in proposed Rule 7.23(a)(1), the Exchange proposes to update the text of Article 16, Rule 4(a)(1) to conform with the language in NYSE Rule 7.23(a)(1), NYSE American Rule 7.23E(a)(1), and NYSE Arca Rule 7.23–E(a)(1) providing that a Market Maker will maintain a Two-Sided Obligation in securities in which the Market Maker is registered to trade and, for consistency with the format of the Affiliated Exchanges’

rules, to relocate the rule text under Article 16, Rule 4(d) below proposed Rule 7.23(a)(1). In proposed Rules 7.23(a)(1)(A) and (B) (corresponding to Article 16, Rules 4(d)(1) and (2), respectively), the Exchange proposes to replace references to “Open Trading State” with “Core Trading Hours” to reflect the current terminology used by the Exchange. The Exchange similarly proposes to delete an obsolete reference to “SNAP Cycle” in proposed Rule 7.23(a)(1)(A) (corresponding to Article 16, Rule 4(d)). The Exchange next proposes to collapse the text of Article 16, Rules 4(d)(2)(A) and (B), which set forth requirements relating to Bid Quotations and Offer Quotations, into proposed Rule 7.23(a)(1)(B)(i) relating to Bid (Offer) Quotations, which would streamline the rule text and promote consistency with NYSE Rule 7.23(a)(1)(B)(i), NYSE American Rule 7.23E(a)(1)(B)(i), and NYSE Arca Rule 7.23–E(a)(1)(B)(i).

The Exchange proposes that Rule 7.23(a)(1)(B)(ii) would reflect the text of Article 16, Rule 4(d)(2)(C).

Next, in proposed Rules 7.23(a)(1)(B)(iii) and (iv), which correspond to Article 16, Rules 4(d)(2)(D) and (E), respectively, the Exchange proposes to update the rule text to replace outdated references to Article 20 and otherwise conform the text of the rules with NYSE Rules 7.23(a)(1)(B)(iii) and (iv), NYSE American Rules 7.23E(a)(1)(B)(iii) and (iv), and NYSE Arca Rules 7.23–E(a)(1)(B)(iii) and (iv).

In proposed Rule 7.23(a)(1)(C), which corresponds to Article 16, Rule 4(d)(2)(F), the Exchange proposes a non-substantive conforming change to update the rule text to replace “quoting” with “entering trading interest” to harmonize the text of the rule with NYSE Rule 7.23(a)(1)(C), NYSE American Rule 7.23E(a)(1)(C), and NYSE Arca Rule 7.23–E(a)(1)(C).

The Exchange does not propose to include the text of Article 16, Rule 4(d)(2)(G) in proposed Rule 7.23, as the terms “System Securities” and “System” are no longer applicable to trading on the Exchange.

In proposed Rule 7.23(a)(2), which corresponds to Article 16, Rule 4(e), the Exchange proposes non-substantive conforming changes to harmonize the text of Article 16, Rule 4(e) with NYSE Rule 7.23(a)(2), NYSE American Rule 7.23E(a)(2), and NYSE Arca Rule 7.23–E(a)(2). The Exchange proposes to omit the “Adequate capital” subtitle and further proposes that Rule 7.23(a)(2) would provide that “A Market Maker will maintain adequate minimum net capital” rather than “Each Market

Maker must have and maintain minimum net capital.” The Exchange proposes to locate the requirement set forth in Article 16, Rule 4(e) as subparagraph (a)(2) of Rule 7.23 to conform with the formatting of NYSE Rule 7.23, NYSE American Rule 7.23E, and NYSE Arca Rule 7.23–E, thereby promoting consistency among the rules of Affiliated Exchanges.

To account for proposed Rule 7.23(a)(2) as described above, the Exchange proposes that Article 16, Rules 4(a)(2), (3), and (5) correspond to proposed Rules 7.23(a)(3) through (5). In adapting Article 16, Rules 4(a)(2), (3), and (5) to be Rules 7.23(a)(3) through (5), the Exchange proposes a non-substantive change to begin each rule with the phrase “A Market Maker will” to conform with the format of NYSE Rule 7.23(a)(3) through (5), NYSE American Rule 7.23E(a)(3) through (5), and NYSE Arca Rule 7.23–E(a)(3) through (5). The Exchange does not propose to reinstate Article 16, Rules 4(a)(4) or (a)(6) in proposed Rule 7.23 to promote consistency with NYSE Rule 7.23, NYSE American Rule 7.23E, and NYSE Arca Rule 7.23–E.

The Exchange proposes Rule 7.23(b), which is based on NYSE Rule 7.23(b), NYSE American Rule 7.23E(b), and NYSE Arca Rule 7.23–E(b). Proposed Rule 7.23(b) would provide that a Market Maker must satisfy the responsibilities and duties as set forth in paragraph (a) of this Rule during the Core Trading Hours on all days in which the Exchange is open for business.

The Exchange does not propose to reinstate the text of Article 16, Rule 4(b) in proposed Rule 7.23 to promote consistency with NYSE Rule 7.23, NYSE American Rule 7.23E, and NYSE Arca Rule 7.23–E.

The Exchange proposes Rule 7.23(c), which reflects the text of Article 16, Rule 4(c), with certain changes to conform with NYSE Rule 7.23(c), NYSE American Rule 7.23E(c), and NYSE Arca Rule 7.23–E(c). In proposed Rule 7.23(c), the Exchange proposes to add a reference to paragraph (a) of this Rule, to omit the references to Rule 1(d) and Rule 2(e), and to provide that Market Makers may be subject to disciplinary action, suspension, or revocation of registration by the Exchange, consistent with NYSE Rule 7.23(c), NYSE American Rule 7.23E(c), and NYSE Arca Rule 7.23–E(c). The Exchange further proposes to replace references to “this Rule 4” with “this Rule.” The Exchange also proposes to include in proposed Rule 7.23(c) that a Participant may seek review of actions taken by the Exchange taken pursuant to this Rule in

accordance with the Rule 10.9200 Series, in conformity with NYSE Rule 7.23(c), NYSE American Rule 7.23E(c), and NYSE Arca Rule 7.23–E(c).

Finally, the Exchange proposes Rule 7.23(d), which is based on NYSE Rule 7.23(d), NYSE American Rule 7.23E(d), and NYSE Arca Rule 7.23–E(d). Proposed Rule 7.23(d) would provide that a Market Maker may apply to the Exchange to withdraw temporarily from its Market Maker status in the securities in which it is registered, based on demonstrated legal or regulatory requirements that necessitate its temporary withdrawal, or provide the Exchange an opinion of counsel certifying that such legal or regulatory basis exists. In such event, the Exchange will act promptly on a Market Maker's request and, if the request is granted, the Exchange may temporarily reassign the securities to another Market Maker. The Exchange proposes to adopt this rule text in lieu of the substantially similar text of Article 16, Rule 2(d) and to locate it under Rule 7.23, to promote consistency with the rules of its Affiliated Exchanges.

The Exchange does not propose to reinstate Article 16, Rule 4(f), which describes the LEAD Market Maker Program. The LEAD Market Maker Program related to the Liquidity Enhancing Access Delay as described in Article 20, Rule 8(h), which rule is no longer effective.

Rule 7.24

Proposed Rule 7.24 would set forth minimum performance standards for Designated Market Makers, to be determined by the Exchange from time to time, including (i) percent of time at the NBBO; (ii) percent of executions better than the NBBO; (iii) average displayed size; (iv) average quoted spread; and (v) in the event the security is a derivative security, the ability of the Designated Market Maker to transact in underlying markets. Proposed Rule 7.24 would also provide that Lead Market Makers (as defined in proposed Rule 1.1(m)) would be held to higher performance standards in the securities in which they are registered as Lead Market Maker than Designated Market Makers that are not Lead Market Makers. Proposed Rule 7.24 is based on NYSE Arca Rule 7.24–E, without any changes.

Article 16

The Exchange proposes to designate Article 16 as “Reserved” and to delete the preamble in Article 16 designating the Article as inapplicable to trading on Pillar. Further to the proposed changes described above to relocate the content

of Article 16 under Rule 7, Section 2, the Exchange also proposes to delete Article 16, Rules 1 through 6.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,¹⁰ in general, and furthers the objectives of Section 6(b)(5),¹¹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rules would remove impediments to and perfect the mechanism of a free and open market because they propose rules governing Market Makers that are based on existing rules in the Exchange's rulebook and/or on rules governing Market Makers on the Exchange's affiliated markets, NYSE, NYSE American, and NYSE Arca, all of which have been previously approved by the Commission. The proposed rule change would therefore remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting consistency across the rules of affiliated exchanges, as well as continuity that would enable market makers on the Exchange's affiliated markets to also become Market Makers on the Exchange by meeting the same registration requirements and by agreeing to be subject to the same obligations. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and a national market system by providing for Market Makers to support trading in Exchange Traded Products that could be listed on the Exchange, further to the Exchange's recent filing. The Exchange also believes that providing for a Market Maker role on the Exchange would allow Participants that are market makers on other exchanges to leverage their existing market-making strategies on the Exchange. The proposed rules are also intended to serve investor protection and public interest goals by providing for a Market Maker function on the Exchange. The restoration of the Market Maker role would providing for a new category of market participant on the Exchange that will contribute to

displayed liquidity and price discovery, thereby promoting competition and market quality on the Exchange to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change sets forth rules governing Market Makers on the Exchange, which rules are based on rules previously approved on the Exchange for Market Makers, as well as on the approved rules of its Affiliated Exchanges pertaining to Market Makers. The Exchange believes that the proposed rules would promote competition because they would provide for obligations relating to Market Makers that are based on established rules, thereby reducing any potential barriers to entry for market makers registered on other exchanges to be approved as a Market Maker on the Exchange. The Exchange also believes that the proposed rule change would promote competition by providing Participants that are registered as market makers on other exchanges with the opportunity to similarly register as a Market Maker on the Exchange. The Exchange therefore believes that the proposed rule change would promote competition by providing for market making activity on the Exchange, encouraging additional displayed liquidity, and facilitating price discovery for all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

Act¹² and Rule 19b-4(f)(6)¹³ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSETEX-2025-05 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-NYSETEX-2025-05. 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-NYSETEX-2025-05 and should be submitted on or before May 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-06858 Filed 4-21-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102882; File No. 4-698]

Joint Industry Plan; Notice of Designation of a Longer Period for Commission Action on a Proposed Amendment to the National Market System Plan Governing the Consolidated Audit Trail

April 17, 2025.

On August 2, 2024, the Operating Committee for Consolidated Audit Trail, LLC ("CAT LLC"), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"): ¹ BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors

Exchange LLC, Long-Term Stock Exchange, Inc., MEMX, LLC, Miami International Securities Exchange LLC, MIAAX Emerald, LLC, MIAAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc., filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act"),² and Rule 608 thereunder,³ a proposed amendment ("Proposed Amendment") to the CAT NMS Plan to amend existing requirements for the consolidated audit trail ("CAT") regarding the reporting of certain verbal activity, floor, and upstairs activity. The Proposed Amendment was published for comment in the **Federal Register** on August 20, 2024 (the "Notice").⁴

On November 18, 2024, the Commission instituted proceedings to determine whether to approve or disapprove the Proposed Amendment.⁵ On February 12, 2025, pursuant to Rule 608(b)(2)(i) of Regulation NMS,⁶ the Commission extended the period within which to conclude proceedings regarding the Proposed Amendment to 240 days from the date of publication of the Notice.⁷ The 240th day after publication of the Notice is April 17, 2025.

Rule 608(b)(2)(ii) of Regulation NMS provides that the time for conclusion of proceedings to determine whether a national market system plan or proposed amendment should be disapproved may be extended for an additional period up to 60 days (up to 300 days from the date of notice publication) if the Commission determines that a longer period is appropriate and publishes the reasons for such determination or the plan participants consent to the longer period.⁸ The Commission is extending this 240-day period.

The Commission finds that it is appropriate to designate a longer period

² 15 U.S.C. 78k-1(a)(3).

³ 17 CFR 242.608.

⁴ See Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail, Release No. 100727 (Aug. 14, 2024), 89 FR 67499 ("Notice"). Comments received in response to the Notice can be found on the Commission's website at <https://www.sec.gov/comments/4-698/4-698-e.htm>.

⁵ See Exchange Act Release No. 101648, 89 FR 92726 (Nov. 22, 2024).

⁶ See 17 CFR 242.608(b)(2)(i).

⁷ See Securities Exchange Act Release No. 102404, 90 FR 9941 (Feb. 19, 2025).

⁸ See 17 CFR 242.608(b)(2)(ii).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 200.30-3(a)(12), (59).

¹ The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016).

within which to conclude proceedings regarding the Proposed Amendment so that it has sufficient time to consider the important policy issues raised by the Proposed Amendment and the comments received. Accordingly, pursuant to Rule 608(b)(2)(ii) of Regulation NMS,⁹ the Commission designates June 16, 2025 as the date by which the Commission shall conclude the proceedings to determine whether to approve or disapprove the Proposed Amendment (File No. 4–698).

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–06885 Filed 4–21–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, April 24, 2025.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings;
- Resolution of litigation claims; and
- Other matters relating to adjudications, examinations, and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION:

For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: April 17, 2025.

Stephanie Fouse,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–102875; File No. SR–LCH SA–2025–003]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Revisions to its Liquidity Risk Modelling Framework

April 16, 2025.

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 April 14, 2025, Banque Centrale de Compensation, which conducts business under the name LCH SA (“LCH SA”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change (“Proposed Rule Change”) described in Items I, II and III below, which Items have been primarily prepared by LCH SA. The Commission is publishing this notice to solicit comments on the Proposed Rule Change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to amend its Liquidity Risk Modelling Framework (the “Framework”), which describes the Liquidity Stress Testing framework by which the Collateral and Liquidity Risk Management department (“CaLM”) of LCH SA assures that LCH SA has enough cash available to meet any financial obligations, both expected and unexpected, that may arise over the liquidation period for each of the clearing services that LCH SA offers (the “Proposed Rule Change”).³ The text of

the Proposed Rule Change is provided in Exhibit 5 [SIC].⁴ The implementation of the Proposed Rule Change will be contingent on LCH SA's receipt of all necessary regulatory approvals.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Proposed Rule Change is being adopted to (1) enhance details about how LCH SA models for the liquidity needs arising from the daily settlement process in its RepoClear service related to the auto-collateralization feature in its Framework, (2) amend how LCH SA accounts for non-defaulting members' excess collateral in the calculation of the Standalone Operational Target and Liquidity Coverage Ratio (“LCR”) in its Framework, (3) quantify LCH SA's liquidity needs arising from clearing members replacing liquid resources with non-liquid resources for liquidity needs modelling, (4) clarify how LCH SA accounts for clearing members switching their respective pledging arrangement for collateral included in LCH SA's Standalone Operational Target and (5) enhance the Framework to simulate a sovereign country rating downgrade when computing liquidity reverse stress tests. LCH SA is proposing to make other non-substantive changes to correct errors and for purposes of conformity.

pursuant to, among other policies and procedures, the Group Liquidity Risk Policy and the Group Liquidity Plan applicable to each entity within LCH Group. In addition to its CDSClear service, LCH SA provides clearing services in connection with cash equities and derivatives listed for trading on Euronext (EquityClear), commodity derivatives listed for trading on Euronext (CommodityClear), and tri-party Repo transactions (RepoClear). LCH SA also maintains an interoperability link with Euronext Clearing, formerly Cassa di Compensazione e Garanzia, in Milan, Italy.

⁴ All capitalized terms not defined herein have the same definition as in the Framework, unless otherwise stated.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ LCH SA, a subsidiary of LCH Group and an indirect subsidiary of the London Stock Exchange Group plc (“LSEG”), manages its liquidity risk

⁹ *Id.*

Section 1.6.1—Liquidity Sources

LCH SA is amending Section 1.6.1 by removing reference to cross-currency bilateral repo that involved a bilateral repo and an FX transaction (whereby LCH SA may pledge collateral denominated in one currency for cash denominated in a different currency as a liquidity resource to meet its liquidity resource requirement). LCH SA is making this change because it currently only uses triparty repo to perform cross-currency transactions under which the FX conversion is managed by the triparty agent. This amendment will also align the Framework with the LCH SA Liquidity Plan (the “Liquidity Plan”). The same change will be reflected in Appendix 6.5: “Liquidity risk monitoring reports” for consistency as well as to conform with Section 1.6.1.3.

LCH SA is also replacing reference to “FX spot market transaction” with “FX operation”, which LCH SA believes more accurately reflects the process. Finally, LCH SA is clarifying that there is no multicurrency committed lines anymore given the removal of the reference to the Norges bank secured committed facility. Therefore, only an uncommitted overdraft facility with an international bank remains in place.

Section 1.6.1.1—Collateral Transfer to 3G Pool

LCH SA is proposing an amendment to remove reference to “successfully tested in 2016” to clarify that the operational effectiveness of the transfer of collateral to the 3G pool is tested on an annual basis as part of the war games exercises (*i.e.*, instead of having a singular reference to 2016).

Section 1.6.1.3—Synthesis

LCH SA is proposing to amend the summary table in Section 1.6.1.3 to align with the changes made to the preceding paragraphs. Specifically, reference to cross-currency bilateral repo transactions will be removed because LCH SA no longer utilizes these transactions to raise liquidity sources, and instead leverages cross currency triparty repo transactions. Moreover, the reference to FX transactions will be removed because the triparty cross currency repo transactions do not entail FX transactions, and instead, the FX conversion is managed by the triparty agent. LCH SA is also proposing to clarify that CaLM will demonstrate to the Board these prearranged funding arrangements used to raise euro liquidity are highly reliable even in extreme but plausible market conditions, as part of the annual review

of the Liquidity Plan. In making this change, LCH SA is removing the historical reference to liquidity resources raised to meet its requirements in 2021 and 2022, as this reference is outdated and no longer applicable. For securities received from triparty reverse repo transactions where the agent is Clearstream as a Central Securities Depository, LCH SA is specifying that such securities are not considered Liquid Resources because LCH SA does not have the right to rehypothecate these securities for purposes of raising liquidity. This updated text will substitute the previous historical reference to the Clearstream triparty repo facility and its exclusion from liquid resources, as LCH SA has not completed the technical setup needed to rehypothecate such securities. LCH SA also proposes to clarify that collateral ineligible to be pledged to the ECB to raise liquidity via triparty repo transaction refers to USD- (U.S. Treasuries) and GBP-denominated securities (UK Gilts) only. LCH SA is also removing reference to a secured committed credit line with Norges Bank as an available liquidity resource, as this facility is no longer in place. Since LCH SA has access to an uncommitted credit line with an international bank to cover overdrafts up to €10mm, LCH SA is clarifying that this resource is uncommitted, given removal of the reference to the Norges bank secured committed facility. LCH SA will also amend Section 6.3: Appendix 3 and Section 6.5: Appendix 5 to reflect the removal of the Norges Bank facility for purposes of conforming throughout the Framework.

Section 1.6.2.3: Operational Liquidity Requirements

In Section 1.6.2, LCH SA describes the three main sources of liquidity needs for the clearing agency as those arising from member defaults, liquidity needs arising from interoperating CCP defaults and needs related to operational liquidity requirements. With respect to operational liquidity needs, LCH SA is proposing to clarify in Section 1.6.2.3 that a need may arise from the substitution of liquid resources to non-liquid resources upon member request. The previous reference to substitution of cash collateral by members was incomplete as all liquid resources could be considered as a need if switched to non-liquid resources. As part of this revision, LCH SA is removing reference to the need arising from an increase in Central Bank Guarantee (“CBG”) payments because there is no dual payment solution for members using the CBG solution and

therefore no possibility to switch to another available regime of collateral if the CBG solution is used by a counterparty. Finally, LCH SA is adding the liquidity need arising from clearing members switching to a pledge regime (*i.e.*, from FTT to pledge) for collateral posted as margin. Collateral posted under the pledge regime is not considered a component of liquid resources, but rather an operational liquidity need, given that LCH SA does not have rehypothecation rights to such collateral unless the member posting it is in default.

Section 1.6.2.4: Zoom on the Settlement, its Benefits and Issues (Auto-Collateralization Feature)

As part of its daily settlement process, LCH SA has the ability to leverage the auto-collateralization feature for certain ECB-eligible securities as part of the ECB’s T2S service for securities settlement. The ECB’s T2S auto-collateralization service enables LCH SA to facilitate timely settlement of a RepoClear transaction in the event of a timing mismatch between the security delivery and the cash delivery in the settlement platform. Specifically, should a seller deliver ECB-eligible securities before delivery of cash by the buyer, the T2S auto-collateralization service will allow LCH SA to pledge these securities for cash at the applicable central security depository (“CSD”). LCH SA is therefore able to settle the seller instructions against the pledge of these securities as collateral for the liquidity borrowed from the T2S service.

If LCH SA is not able to find a legitimate buyer for delivering the securities within the end of day and to avoid any fees chargeable to LCH SA for securities pledged overnight, LCH SA must inject the full cash equivalent amount to release the securities from the auto-collateralization account and subsequently transfer these securities from the CSD to the BdF 3G Pool. In doing so, LCH SA can obtain liquidity from the BdF after adjusting for any applicable haircuts. LCH SA quantifies the liquidity need arising from this transaction by multiplying a pre-defined auto-collateralization limit set by the CCP for each Dedicated Cash Account (“DCA”), corresponding to a pool of securities in the settlement platform, by an applicable ECB haircut for each sovereign debt type. For the case in which multiple issuers are assigned to the same DCA, the auto-collateralization limit is set pro rata for each issuer based on the average daily settlement percentage from the previous year. LCH SA takes the sum of the results of

potential liquidity impact for each sovereign debt issuer and reduces by this total the assets in the numerator of the LCR, as well as the resources to be compared against the Operational Target. All else being equal, an increase in any one of these parameters will result in a decrease in the LCR and Operational Target Key Risk Indicator (“KRI”) and vice versa.

The current Framework therefore computes the auto-collateralization liquidity need by leveraging the specific limits set up in production and approved by LCH SA’s Second Line Risk function and LCH SA management, in addition to utilizing the current ECB haircut schedule. The ECB assigns haircuts based on several parameters, including the type and issuer of the debt instrument, the residual maturity and overall credit quality. For example, the ECB as of August 2024 applies a larger haircut to sovereign debt issued by Italy compared with France for the same residual maturity due to the overall credit quality difference, among other factors. For Italy, Germany, Spain and Belgium, the current Framework applies 100% haircut for conservative reasons because the operational effectiveness of the “bulk” transfer from T2S to the 3G Pool was only recently demonstrated via a conclusive test in June 2024.

LCH SA is proposing to amend Section 1.6.2.4 of the Framework to provide additional clarification on the auto-collateralization feature that was not explicit in the current version of the Framework. Currently, the Framework lacks detail with respect to the auto-collateralization feature, including the operational steps by which LCH SA would utilize the feature. As such, LCH SA is proposing to add a paragraph describing the auto-collateralization feature, including how LCH SA will use it in the event a buyer does not deliver cash for delivered securities. This Section will also be amended to specify the three core steps involved should LCH SA utilize the auto-collateralization feature. The first step includes injecting the full amount of liquidity to unlock the pledged securities. Step two includes transferring the securities from the CSD to the 3G Pool and step three includes obtaining liquidity through the 3G Pool, after applying applicable ECB haircuts. LCH SA is also clarifying that because of the aforementioned steps, the maximum potential liquidity drain will be equal to the ECB haircut for each debt type applied by the BdF when the securities withdrawn from the settlement system are then pledged to the 3G Pool to source liquidity.

LCH SA is proposing to remove the following sentence because of the inclusion of the detailed steps describing the auto-collateralization functionality:

that enables to obtain the liquidity necessary to the finalisation of transactions by pledging the security underlying the transaction at the BdF to get cash.

LCH SA is also clarifying that the maximum potential liquidity drain is modeled based on three elements: (1) the operational effectiveness and readiness of the transfer of securities from T2S to the 3G Pool for each issuer, as demonstrated on an annual basis through LCH SA’s War Games exercises that are validated in governance; (2) actual limits for each debt type as defined in production and appropriately validated by all relevant stakeholders and Second Line Risk prior to any update as defined in a dedicated internal procedure; and (3) the current most conservative ECB haircut of the relevant debt category and step actually in force at the moment of the monitoring. With respect to the first element, LCH SA is clarifying that, in the event LCH SA is unable to effectively demonstrate the effective transfer of securities to the 3G Pool to source central bank liquidity as part of its War Games exercises, the haircut applied to the impacted issuer will be set at 100% and the corresponding liquidity need modelled will be equal to the full amount to be injected to reimburse the auto-collateral credit at end of day. LCH SA is also amending Section 6.5 (Appendix 5: Liquidity Risk Monitoring Reports) to provide an example intraday liquidity report that will be used to monitor for purposes of the second element referenced above. The previous report is therefore deleted as not accurate anymore. In addition, LCH SA is specifying that any changes to the ECB haircuts considered by the model or the auto-collateralization limits will be automatically reflected in the Framework modelling. LCH SA is also specifying that in the case of a distinct ECB category and haircut step and/or different operational readiness to transfer securities in bulk from T2S to the 3G Pool between different issuers assigned to the same DCA, the allocated portion of the limit to each issuer will be defined based on the average daily settlement obligation per security over the last year for purposes of computing the liquidity impact.

LCH SA is also proposing to delete the table reflecting the limits by settlement platform and activity as of March 30, 2022, and the associated footnotes. This table and related

footnotes are primarily being removed because LCH SA will instead apply a more dynamic approach to determining the maximum liquidity drain that could occur by following the steps referenced above. An example of liquidity reporting is provided in Appendix 6.5 for informational purposes only and specifying that the model may utilize updated figures (to be defined in accordance with the specifications outlined in Section 1.6.2.4). The reference to applying an 11% haircut to ECB securities is being removed, as LCH SA will instead apply the current most conservative ECB haircut of the relevant category and step. LCH SA is also proposing to delete reference to the specific previous War Games exercises performed to demonstrate operational effectiveness for purposes of pledging securities to the 3G Pool in 2019 and 2021. This reference is now covered by the first element specified above regarding how LCH SA will determine operational effectiveness and readiness for issuers moving forward (*i.e.*, through its War Games exercises performed each year).

Collectively, these changes to the auto-collateralization feature described in the Framework do not directly impact the Framework methodology for calculating the LCR or the Operational Target. The respective formulas will remain the same, but instead when incorporating the liquidity need deriving from the auto-collateral functionality, the formulas will utilize dynamic input data (rather than static values defined in the LRMF), such as the most recent ECB haircuts and the actual auto-collateralization limits set up in production at the time of monitoring and according with the specific methodology described above. The purpose of the revisions to Section 1.6.2.4 is to enhance the clarity of the Framework by describing more explicitly the general steps considered by the CCP when modelling the potential liquidity need arising from the auto-collateralization functionality in the settlement platforms.

Section 4.1.2: Model Inputs and Variable Selection

As part of determining its overall liquidity needs on an ongoing basis, LCH SA models for its operational liquidity needs as part of the Framework. The operational liquidity requirement is valued through the Operational Target in the daily liquidity stress tests. The requirement represents the amount of liquidity required to satisfy the liquidity needs borne from the ongoing operational management of LCH SA in a stressed environment. This

requirement is therefore not related to a clearing member default. LCH SA specifies this liquidity requirement drivers it models in the Framework in Section 4.1.2. LCH SA is proposing to amend certain provisions of this Section by revising the statement related to the repayment of excess cash and excess ECB-eligible securities posted by members as a liquidity need to state the “partial” repayment of excess. As part of the Proposed Rule Change, LCH SA is adjusting how it models for the treatment of excess collateral and this change is being made to align for the revised treatment of excess collateral throughout the Framework (*see* Section 4.1.5 below). The clarification of liquid resources-eligible securities is being made to reflect that a liquidity need arises from the withdrawal of liquidity resources and thus the reduction in available liquidity. An amendment to note 16 is also being made to clarify that non-euro cash and CBGs are excluded as liquidity resources because LCH SA does not consider USD and GBP cash posted by members as liquid resources for conservative reasons, and for CBG, LCH SA does not have the ability to use such assets for liquidity purposes unless such member is in default. To align with the clarification made regarding liquidity needs that may arise from clearing member substitution of liquid resources to non-liquid resources (*see* the proposed changes to Section 4.1.5.(e) below), LCH SA is amending Section 4.1.2(e) to clarify that the substitution refers to liquid resources (not just cash or ECB-eligible collateral) to non-liquid resources.

Moreover, a new liquidity need in Section 4.1.2(j) is being added to specify that in the calculation of the Operational Target there will be a provision to model the switch from collateral posted under FTT, and therefore included in liquid resources, to collateral posted under the pledge regime, and therefore considered as non-liquid resources if the member posting the collateral is not in default. This conforms with the change made to Section 1.6.2.3.

Section 4.1.4: Mathematical Formula, Derivation and Algorithm, and Numerical Approximation

Finally, to conform with the changes made to Section 1.6.2.3, LCH SA will add as a liquidity requirement captured in the Framework (as Section 4.1.2(j)), the switch from collateral posted under FTT to the pledge regime. Because of the addition of the needs arising from the switch from FTT to pledge, LCH SA will add to Section 4.1.4 the needs arising from the switch as an input to

the Operational Liquidity Requirements. Specifically, LCH SA's Operational Liquidity Requirements now comprise all items referenced in Section 4.1.2 (including Section 4.1.2(j)).

Section 4.1.5: Model Assumptions (Treatment of Excess Collateral)

LCH SA is also proposing to amend how it models for the treatment of excess collateral of non-defaulting clearing members in its Operational Target calculation of the Framework. Currently under LCH SA's cover 2 Framework, LCH SA considers that in a default, non-defaulting members will withdraw all their excess collateral following a stress event. In contrast, excess collateral is considered a liquidity resource for defaulting members.

LCH SA is proposing to modify the assumption that all excess collateral is withdrawn immediately following a stress event in its Framework. Specifically, LCH SA would like to revise the assumption that all excess collateral will be withdrawn following the declaration of default in the LCR or during the non-default market stress scenario of the Operational Target standalone calculation. This proposed change would refine the Framework by more closely aligning it with current clearing member behaviors and with the appropriate liquidity horizon period (currently modeled at seven days), while at the same time maintaining a conservative assumption. To facilitate this change, LCH SA is proposing to model for a partial withdrawal of excess collateral based on an indicator calibrated with empirical clearing member data. The partial withdrawal will be based on the second worst observed relative variation experienced over seven days, capped at the biggest historical reduction in excess collateral over the liquidity horizon, utilizing up to ten years of historical data, initiating in 2018.

The rationale for considering the second highest observed historical relative excess decrease is that it represents a confidence level of 99.9% related to a stress event compared to the standard 99.7% used for margin computation in LCH SA. Moreover, as the value will be automatically integrated in the daily Operation Target as part of a dedicated monitoring, it allows ample time for LCH SA's Second Line Risk team to investigate any data issues or any data outliers without an immediate direct impact on production.

LCH SA is proposing to calibrate this indicator daily, thereby incorporating each new daily data point. In order to be consistent with the Framework, LCH

SA is also proposing to align the withdrawal over a seven-day period (*i.e.*, the liquidity horizon), rather than the current three-day period. Finally, LCH SA is proposing to implement an enhancement of the daily back testing, specific to this change, to ensure any changes in the partial withdrawal scenario are flagged to senior management. Any new extreme (*i.e.*, second biggest seven days relative margin reduction or seven days biggest absolute cap amount) will automatically be integrated in the Framework the following day and will be shared with the Head of Market Risk and the Chief Risk Officer. In addition, a deep analysis will be performed to assess the level of excess reduction modelled each intermediary day of the liquidity horizon considering the drivers of the new peak. Results of this exercise may lead to a review of the split of excess collateral reduction modelled in the intermediary days within the liquidity horizon and any change to the Framework would therefore require review and approval by the ERC.

To reflect this methodological change in the Framework, LCH SA is proposing to amend Section 4.1.5(d) by clarifying the description of how the withdrawal of excess collateral is modelled. Specifically, LCH SA is proposing to state that a portion of excess collateral is withdrawn over the seven-day liquidity horizon period, with the target estimated excess collateral amount assessed based on historical data dating back to 2018. LCH SA is also proposing to specify that the calibration of this amount will be updated daily as new data becomes available and up to a ten-year lookback period. As part of this change, Section 4.1.5 will also be amended to add that the relative reduction in excess collateral will correspond to the second worst observed relative decrease of excess collateral over a seven-day period, with a cap of the highest absolute reduction amount observed over seven days. LCH SA will provide additional details in Section 4.1.5 in the form of a specific formula as well as the list of assumptions made to clarify how the reduction in excess collateral will be applied. Previous references to the assumptions of excess collateral withdrawal on day T, day T+1 and day T+2 will be removed and replaced with the following clarifications:

- The overall compounded excess reduction over the liquidity horizon will correspond to the second worst relative rate observed over seven days excess reduction, over the calibration period capped at the highest absolute reduction amount observed;

- The biggest reduction relative rate observed on a single day will be applied the first day;

- In each intermediary day, the compounded excess reduction is above the 99.7% percentile confidence interval within the historical window observed;

- LCH SA assumes that it will not observe any increase of excess from members over the liquidity horizon; and

- The assumptions will be monitored daily, such that if a new second worst relative rate is observed, it will automatically be reflected in the computation of the metric.

LCH SA is also proposing to amend note 18 to add that, in addition to DKK, NOK, SEK, AUD, CAD, CHF and JPY securities, collateral belonging to FCM/BD clients and Portuguese and Finnish securities deposited through a triparty arrangement are excluded from liquidity assets in excess collateral. LCH SA will also exclude non-euro cash and CBGs. This last change is being made for purposes of accuracy and does not represent a change in the methodology of the Framework or procedures of LCH SA.

Also, a new note 19 will be added to reference the member behavioral analysis documented in Section 6.2 “Appendix 2”. Section 6.2 will be revised to clarify and provide additional evidence about the methodology detailed in Section 4.1.5. Specifically, in the bullet points summarizing the risk drivers, the phrase “Excess withdrawn” will be replaced by the phrase “Partial excess withdrawal” for purposes of clarity and to conform with similar changes made to the Framework.

Moreover, LCH SA is proposing to state it will assume that a portion of the amount of excess collateral will be withdrawn over seven days and this will substitute the current wording that states that the full amount is assumed to be withdrawn over three days. Moreover, the excess reduction will be based on the second worst relative downward reduction of excess, capped to an absolute amount corresponding to the highest absolute reduction amount observed in the lookback period. To support the change, LCH SA is proposing to add an example of how the intermediary daily excess reductions are modelled by the proposed methodology and included in a table reflecting the margin reduction rate, the cumulative reduction and the absolute value of the capped amount over each day of the seven-day period. LCH SA will also clarify that the figures presented in the example table are for informational purposes only and that the current

model will utilize the most recent figures in accordance with Section 4.1.5.

LCH SA is also proposing to make a small amendment to Section 6.3 “Appendix 3: Reminder of SA’s sources of liquidity and related risk drivers” with respect to excess collateral. That is, LCH SA is proposing to create a new category “Excess Collateral” and to state that the source of liquidity considered is the excess posted by member and add the text “Partial withdrawal of excess.” LCH SA is further removing the specific reference to excess cash collateral, as the proposed wording is more aligned to the methodology presented in Section 4.1.5(d). LCH SA is also proposing to amend Section 6.4 “6.4 Appendix 4: Liquidity risk drivers synthesis by reports”. Specifically, the column labelled “Excess” under “BAU” will be amended to reflect that instead of 100 percent of excess collateral being withdrawn, LCH SA will utilize the second worst relative withdraw of excess collateral capped at the highest reduction amount observed, for each Operational Target, LCR Cover 2 for non-defaulting members and LCR Euronext Clearing. Changes to Sections 6.3 and 6.4 will be made to align with the changes made to Section 4.1.5.

To accurately account for the switch of liquid resources to non-liquid resources in the assumptions of the Framework, LCH SA is proposing to amend Section 4.1.5(e) to include details on the new proposed calculation and underlying assumptions. To align with changes performed in 4.1.2, LCH SA clarifies that the substitution refers to liquid resources (and not only cash or ECB-eligible collateral as reported in the header of the section 4.1.5(e) in the previous version of the Framework) to non-liquid resources. The result of the calculation represents the target estimated switch over a liquidity horizon of seven days and is based on historical data calibrated daily. LCH SA is proposing to build the time series of data utilized in the calculation until it reaches a maximum lookback period of 10 years (beginning in 2022). This revision also corresponds to the extension of the offering of securities in DKK, NOK, SEK, CAD, AUD, JPY, and CHF as eligible collateral. LCH SA is proposing a conservative assumption to this calculation by assuming clearing members will not switch non-liquid collateral with liquid collateral over the liquidity horizon and by applying the largest absolute net substitution amount historically observed on a single day over the lookback period, on the first day of the liquidity horizon. For each subsequent day, the compounded net

substitution amount will be set above the 99.7% percentile confidence interval within the historical window observed. LCH SA will choose the overall compounded switch value over the liquidity horizon that corresponds to the second worst absolute observed seven-day substitution over the period (the “net substitution amount”). The net substitution amount is calculated for each date and collateral account and is based on a multi-step process that includes the calculation of two metrics: a negative substitution amount, or an amount that reflects a clearing member switching liquid resources with non-liquid resources, and a positive substitution amount, or an amount that reflects a clearing member switching from non-liquid to liquid resources. The net substitution amount represents the difference between the negative substitution amount and the positive substitution amount. LCH SA chooses the aggregate cumulative sum over each day of the liquidity horizon. Consequently, all the references to the former methodology and the related assumptions are proposed to be removed as the substitution is not performed anymore on the maximum historical substitution observed over the last 7 days. To complement this proposed change, LCH SA is adding in Appendix 6.2 (“Members Behaviour Analysis”) an illustrative example of the cumulative switch amounts from liquid resources to non-liquid resources over the seven-day liquidity horizon and reference in a new note 20. LCH SA will also clarify that the figures presented in the example table are for informational purposes only and that the current model will utilize the most recent figures in accordance with Section 4.1.5. The updated text replaces the previous paragraph in the previous version of the Framework that described the substitution methodology and gave an overall description of LCH SA’s collateral composition and in particular the split between the ECB eligible EUR non cash collateral and non EUR collateral, which is now outdated as the collateral composition is a function of members’ activity and the proposed new methodology adequately captures it more dynamically. In addition, the reference to reverse stress test results and concentration limits applied on non-cash collateral is being removed as this reference is no longer relevant for the description of the new methodology, as it calibrates substitution amount on the basis of actual data observed over the lookback period. For the purpose of providing accuracy, the first bullet point in Appendix 6.2, where the risks driven

are summarized as “Substitution cash to non cash (Banks keeping their cash)” will be replaced by “Substitution from Liquid Resources to non-Liquid Resources”.

For the avoidance of doubt, LCH SA is also clarifying in Section 4.1.5(e) that the assumptions underlying the calculation of the switch amount will be monitored daily and compared against the parameters set up in production according to the described methodology with new extrema automatically reflected in metric calculations (amounts presented in Appendix 2 represent minimum values and may therefore fluctuate daily). Moreover, LCH SA is specifying that the net substitution amount is determined using allocated collateral. To enhance the clarity of the Framework, note 21 will be added to specify which collateral type is excluded from the computation of the substitution quantity, either because it is already considered in different provisions of the Framework, or because the substitution from Liquid Resources to non-Liquid Resources is not possible for the specific collateral type.

LCH SA is also proposing to amend Section 6.4 “6.4 Appendix 4: Liquidity risk drivers synthesis by reports”. Specifically, the column labelled “Substitution” under “BAU” will be amended to align with Section 4.1.5(e) by reflecting that the Operational Target, the LCR Cover 2 and the LCR Euronext Clearing will all consider partial substitution to non-Liquid resources equal to the second worst substitution historically observed.

In addition, in Section 4.1.5(e), LCH SA is proposing to clarify that ECB eligible securities can be pledged to the central bank within the same day and the readiness must be tested and validated annually as part of the Liquidity Plan. That is, LCH SA will demonstrate its ability to perform the necessary activities for purposes of meeting its regulatory obligations related to ensuring access to liquidity. Furthermore, the new language replaces the current reference to War Games Q3 2022 results, given these results are outdated.

Finally, the previously applied methodology for tracking asset switches from cash or ECB eligible securities to non-euro securities, equity lodging, and the use of central bank guarantees are no longer relevant and have been removed. These methodologies, which relied on observed maximum daily switches over a seven-day period, conservative equity lodging and the specific assumption about CBG usage are outdated and not relevant anymore. Instead, a more

comprehensive and holistic methodology has been introduced as described above to ensure a more accurate and dynamic approach to liquidity management.

Section 4.1.5(g) is being modified to specify that in alignment with Sections 4.1.5(d) and 4.1.5(e) the assumptions used to estimate the margin reduction in the Operational Target are monitored daily and in case of new extreme, this will be automatically reflected in the computation of the metric. Moreover, note 24 is being modified to state that the lookback used to calibrate the assumption of margin reduction does not end in 2022 because it is instead updated daily. The same amendment will be reflected in Appendix 6.2 (“Members Behaviour Analysis”), with the addition of the sentence specifying that the numbers reported in the example (which reflect the split on each day of the margin reduction) are provided for informational purposes only and that the model may utilize updated figures, which will be defined in accordance with the specifications outlined in Section 4.1.5(g). A new Section 4.1.5(j) is being added to provide details on how LCH SA models for the scenario where clearing members switch the regime of how collateral is posted to the clearing agency (*i.e.*, FTT to pledge). The Framework will model this behavior by comparing the second biggest historical pledged amount observed over a 10-year lookback period with the actual observed pledge collateral amount starting in 2022. The difference between these two components will correspond to the amount LCH SA will include in its daily liquidity requirements and is above the 99.7% percentile. Like the calculation for the switch from liquid to non-liquid resources, LCH SA will implement additional daily monitoring and recalibrate the calculation of this metric as necessary if a new maximum is observed.

In Appendix 6.2 (“Members Behaviour Analysis”), LCH SA will add the bullet “Substitution to pledge regime” among the list of the risk drivers and will conform with Section 4.1.5(j), such that the provision will be equivalent to the difference between the second biggest historical amount of pledge observed and the actual observed pledge collateral amount.

LCH SA will also amend the risk mitigation measure referenced in Section 6.3: Appendix 3 as it pertains to pledged securities as collateral. Specifically, LCH SA will clarify that the risk related to clearing members moving away from FTT in favor of the pledge regime is accounted for in the

modelling of the LCR and the Standalone Operational Target. This element is not a change in the current practice with respect to the LCR computation but an alignment with the introduction of the modelling of the switch from FTT to the Pledge regime in 4.1.5(j).

LCH SA is also proposing to amend Section 6.4 “6.4 Appendix 4: Liquidity risk drivers synthesis by reports”. Specifically, the column labelled “Substitution” under “BAU” will be amended to reflect that for the Operational Target, a provision to model the switch to the pledge regime according to Section 4.1.5(j) will be included, while for the LCR Cover 2 and LCR Euronext Clearing calculations, the pledge collateral will be set to the maximum limit allowed as described in Section 4.2.5.2.4 of the Framework. Language indicating the substitution would be the historical max including an increase of CBG payments would be deleted from each of these rows to reflect the different changes performed in section 4.1.5.(e) and (j) and the methodology described in Section 4.2.5.2.4 of the Framework. The reference to Central Bank Guarantee is outdated and not relevant anymore and it is replaced by the updated methodology described herein. For clarify, LCH SA notes that contrary to the LCR, the Standalone Operational Target assumptions do not imply clearing member defaults, thus justifying the difference of modelling the pledge regime.

Section 4.2.5.2.1: Operational Target (Considered in LCR Cover 2)

The LCR assumes the default of the biggest 2 groups in term of liquidity while the Standalone Operational Target assumes a market stress event not leading to a default. Therefore, when integrating the Standalone Operational Target into the computation of the LCR, it is adjusted to be more conservative and align with different assumptions taken in the LCR. LCH SA is proposing to make certain clarifying changes with respect to how the Standalone Operational Target is calculated for its LCR under a cover 2 approach. LCH SA will substitute the text “Repayment of Excess cash posted by members” with “Repayment of Excess posted by members” to align with what is described in section 4.1.5(d). Moreover, LCH SA is clarifying that it will utilize a more conservative assumption regarding how it models for the switch from FTT to pledge, whereby the pledged collateral will be set to the maximum limit allowed as described in Section 4.2.5.2.4 of the Framework.

LCH SA will make a conforming change in Section 4.3.5.4 related to the Standalone Operational Target in the LCR calculation for a Euronext Clearing default to align with this change of Section 4.2.5.2.1, as the described change applies to both LCR cover 2 and LCR Euronext Clearing.

In addition, the sentence: “The margin outflows calculated in the operational target and related to the cover 2 is removed for LCR since the CCP will fully use the collateral of the defaulters” will be reworded to “The margin outflows calculated in the operational target and related to the cover 2 is removed from LCR liabilities since the CCP will fully use the collateral of the defaulters”. This change is being made to add more clarity regarding how LCH SA calculates LCR liabilities.

In Section 4.3.2: “Model inputs and Variable selection” (related to LCR Euronext Clearing), LCH SA will correct a typo and revise the previous name of the interoperable CCP, “CC&G” to the current name, “Euronext Clearing”.

Section 5.3.1: Independent Stress of Various Risk Factors

As part of its ongoing monitoring of the Framework, LCH SA performs independent reverse stress tests for certain risk factors that could result in a liquidity shortfall. One of these independent reverse stress tests involves a Eurozone downgrade of peripheral and core countries that triggers an increase in ECB haircuts, whereby the value of liquidity resources decreases by an amount resulting in a liquidity deficit. LCH SA is proposing to review the assumptions underpinning the stress scenario by noting that the simulated downgrade will be based on the maximum simultaneous downgrade notches that occurred over seven days for each of the four rating agencies acknowledged by the ECB, aggregated per type of debt (*i.e.*, Core/Peripheral). After computing the downgraded rating, LCH SA will use the rules defined by the central bank to assign each issuer a haircut category and a haircut step in order to apply the parameter aligned with the updated rating with a cap to step 3 (which is considered the most conservative haircut category applied by the ECB before collateral becomes ineligible for pledge). LCH SA notes that because of the historical measures taken by ECB during stressed periods (*e.g.*, Eurozone crisis) and the high quality of non-cash collateral, the ineligibility of issuers to pledge to the ECB is not considered a plausible scenario. LCH SA is also proposing additional conforming edits to align with the

clarifications made in Section 5.3.1 (*e.g.*, Section 5.3.2.3 “Macroeconomic Scenario” will be amended to align the assumptions made in Section 5.3.1) with the removal of the former assumptions that simulated a fixed effect on core and peripheral countries independently of a historical downgrade. LCH SA is making these changes to sovereign downgrade assumptions to address a Model Validation recommendation.

In addition, LCH SA will clarify in Section 5.3.2.3 that the table presented is an example of the aggregation of exposure for a member group during the combined reverse stress test that includes multiple defaults and is presented for illustrative purposes only.

Finally, LCH SA will also revise Appendix 6.2: “Members behaviour analysis”, by removing the two charts and the global wording related to discussion around increase of margins and the specific case of Brexit. This reference is being removed as it is outdated and these elements are no longer part of the Framework methodology.

Appendix 6.7—Stress Scenarios List

LCH SA will clarify that the scenario list disclosed is for informational purposes only and represents the list of scenarios at the time of drafting the current version of the Framework. The actual computation of liquidity metrics is dependent on the actual scenarios used to calibrate the default fund for LCH SA’s different services and thus may differ. Moreover, only the scenario labels will be left in the Framework, as this is more applicable for scenario identification than scenario numbers.

Appendix 7—Operating Model and Main Data Source Used To Run Liquidity Metrics

To address an independent Model Validation recommendation, a new section will be integrated to disclose a high-level functional workflow regarding the computation of liquidity metrics. The chart will be disclosed for informational purposes only, such that any revision will be made if LCH SA amends the methodology or the Framework.

New Procedure: LCR Metric Compliant With SEC Rules and Established Practices

To complement the changes to the Framework, LCH SA is also proposing to create a new procedure for the purposes of describing the Liquidity Resources including in its LCR calculation for the purposes of complying with the SEC’s cover 1

liquidity requirements. The procedure will detail the specific LCR methodology, the escalation process for any potential breaches in the specific cover 1 metric, the frequency of LCH SA’s review of the LCR methodology and the controls in place regarding the calculation and ongoing review of the LCR metric compliant with the SEC’s cover 1 liquidity requirements and established practices.

2. Statutory Basis

LCH SA believes the Proposed Rule Change is consistent with the requirements of Section 17A of the Act⁵ and regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act requires, *inter alia*, that the rules of a clearing agency should be designed to “promote the prompt and accurate clearance and settlement of securities transactions and, . . . to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible[.]”⁶

The Framework is being amended primarily to enhance details about how LCH SA models for the liquidity needs arising from the daily settlement process in its RepoClear service related to the auto-collateralization feature in its Framework and amend how LCH SA accounts for non-defaulting members’ excess collateral in the calculation of the Standalone Operational Target as well as the LCR in its Framework. The proposed changes to the Framework regarding the auto-collateralization feature will allow LCH SA to utilize dynamic input data, including the most recent ECB haircuts and the actual auto-collateralization limits set up in production at the time of monitoring. In addition, the Framework will be amended to provide a more targeted auto-collateralization limit, such that the allocated portion of the limit for each issuer, in the case where there is a distinct ECB category and haircut step and/or different operational readiness to transfer securities in bulk from T2S to the 3G Pool between different issuers assigned to the same DCA, will be defined based on the average daily settlement obligation per security over the last year for purposes of computing the liquidity impact. The proposed changes to the treatment of excess collateral in the Framework will allow LCH SA to modify the previous assumption that 100 percent of excess collateral is withdrawn immediately following a stress event in its Framework, to more closely align it with

⁵ 15 U.S.C. 78q–1.

⁶ 15 U.S.C. 78q–1(b)(3)(F).

current empirical clearing member behaviors and with the appropriate liquidity horizon period. Collectively, these change would strengthen LCH SA's ability to comprehensively manage its liquidity risks by ensuring it maintains sufficient liquid resources to facilitate the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in its control, consistent with Section 17A(b)(3)(F) of the Act.⁷

Regulation 17Ad-22(e)(7)(i)⁸ requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, . . . [m]aintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.⁹

LCH SA is proposing to provide additional specificity in its Framework to more accurately reflect how it models liquidity needs arising from the daily settlement process in its RepoClear service related to the auto-collateralization feature. Specifically, LCH SA is proposing to detail the operational steps by which LCH SA would utilize the auto-collateralization feature, as this information is not currently in the Framework. LCH SA is also proposing to amend the Framework to more accurately reflect real-time information, including the current ECB haircut schedule for sovereign debt securities and the limits determined through real-time monitoring for each debt type. In addition to the proposed changes related to the auto-collateralization feature, the proposed changes to the treatment of excess collateral would modify how LCH SA quantifies the liquidity drain related to Clearing Member withdrawal behaviors in a stress event. Under the Proposed

Rule Change, the withdrawal of excess collateral would be modeled based on Clearing Member historical behavior and aligned with the seven-day liquidity horizon. That is, LCH SA will model for the partial withdrawal of excess collateral that is based on the second worst observed relative variation experienced over seven days, capped at the biggest historical reduction in excess collateral over the liquidity horizon. This process would utilize up to ten years of historical data and the result will be automatically integrated in the Operation Target on a daily basis and form the basis of a dedicated monitoring process. The Proposed Rule Change will also clarify that LCH SA will monitor how excess collateral is modelled in the intermediary days within the liquidity horizon and that any change to the assumptions in the Framework will require approval by the ERC.

LCH SA is also proposing to create a new procedure to describe its process for calculating the Liquidity Resources included in its LCR calculation to comply with the SEC's cover 1 liquidity requirements, detail the specific LCR cover 1 methodology, how it will escalate breaches in the daily review of the specific cover 1 metric, the frequency of LCH SA's review of the LCR methodology more broadly and the controls in place for how LCH SA will calculate and monitor the LCR metric to ensure ongoing compliance with the SEC's cover 1 liquidity requirements and established practices.

Based on the foregoing, LCH SA believes the Proposed Rule Change will allow it to more effectively measure, monitor, and manage its liquidity risk, including by maintaining sufficient liquid resources in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations consistent with Regulation 17Ad-22(e)(7)(i).¹⁰

Regulation 17Ad-22(e)(7)(ii)¹¹ requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, . . . [h]olding qualifying liquid resources sufficient to meet the minimum liquidity resource

requirement under paragraph (e)(7)(i)¹² of [the SEC's liquidity rules] in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.¹³ In addition, regulation 17Ad-22(e)(7)(vi)(A)¹⁴ requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, . . . [d]etermining the amount and regularly testing the sufficiency of the liquid resources held for purposes of meeting the minimum liquid resource requirement under [the SEC's liquidity rules] by . . . [c]onducting stress testing of its liquidity resources at least once each day using standard and predetermined parameters and assumptions.¹⁵

To address a regulatory examination observation and for purposes of simplifying how this information is presented in the Framework, LCH SA is making clarifying changes to how it calculates liquidity resources for purposes of meeting the minimum liquid resource requirements under Exchange Act rule 17Ad-22(e)(7).¹⁶ In addition to adding detail on the composition of liquid resources and to address an independent Model Validation observation and a regulatory examination finding, LCH SA is proposing to amend how it models for the substitution of liquid resources to non-liquid resources in its Framework. In doing so, LCH SA will quantify this substitution via a proxy by calibrating over the seven-day liquidity horizon using historical observations. To ensure this value remains accurate in the calculation of liquid resources, LCH SA will perform daily monitoring and calibrate the value should results reflect different assumptions and document this process in a procedure. In the case of any liquidity shortfalls, LCH SA will escalate to senior management to take any necessary actions.

In addition, LCH SA is also proposing to amend how it models excess collateral withdrawal by leveraging the historical behavior of its membership and using a lookback period that

⁷ *Id.*

⁸ 17 CFR 240.17Ad-22(e)(7)(i).

⁹ *Id.*

¹⁰ *Id.*

¹¹ 17 CFR 240.17Ad-22(e)(7)(ii).

¹² 17 CFR 240.17Ad-22(e)(7)(i).

¹³ 17 CFR 240.17Ad-22(e)(7)(ii).

¹⁴ 17 CFR 240.17Ad-22(e)(7)(vi)(A).

¹⁵ *Id.*

¹⁶ 17 CFR 240.17Ad-22(e)(7).

includes times of stress. LCH SA s also proposing to include in the calculation of the Operation Target standalone a provision to model the potential switch of collateral from the full title transfer regime to the pledge regime calibrated on the historical behavior of its membership. This change will to be applied to the LCR, whereby this currently assumes more conservatively that all members that can pledge, will do so up to the maximum capacity possible.

Finally, LCH SA proposes to update its Framework for independent reverse stress tests by revising the assumptions underlying its simulated Eurozone downgrade scenario, including the use of maximum downgrade notches from recognized rating agencies and recalibration of haircut categories per central bank rules. LCH SA is making these changes to the sovereign downgrade assumptions to address a Model Validation recommendation.

LCH SA is also clarifying that it will only include non-cash resources in its liquidity resources under a cover 1 scenario after performing a comprehensive analysis and presenting to the Board not less than annually to ensure such prearranged funding arrangements are deemed highly reliable even in extreme but plausible market conditions.¹⁷ This clarification will align with LCH SA's Liquidity Plan and Liquidity Risk Management Policy and LCH SA therefore believes that the Proposed Rule Change is consistent with Regulation 17Ad–22(e)(7)(ii)¹⁸ for purposes of holding sufficient liquid resources and Regulation 17Ad–22(e)(7)(vi)(A)¹⁹ for purposes of adequately modelling liquidity stress testing parameters and assumptions.

Finally, Regulation 17Ad–22(e)(7)(vi)(B)²⁰ requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum determining the amount and regularly testing the sufficiency of the liquid resources held for purposes of meeting the minimum liquid resource requirement under

Regulation 17Ad–22(e)(7)(i), by at a minimum, . . . conducting a comprehensive analysis on at least a monthly basis of the existing stress testing scenarios, models, and underlying parameters and assumptions used in evaluating liquidity needs and resources, and considering modifications to ensure they are appropriate for determining the clearing agency's identified liquidity needs and resources in light of current and evolving market conditions.²¹

As part of the process to assess the sufficiency of liquid resources held to meet the minimum liquid resource requirement set forth in Regulation 17Ad–22(e)(7)(i),²² LCH SA identified the need to enhance details about how it models for the liquidity needs arising from the daily settlement process in its RepoClear service related to the auto-collateralization feature in its Framework and amend how it accounts for non-defaulting members' excess collateral in the calculation of the operational target in its Framework. With respect to the auto-collateralization feature described in the Framework, LCH SA identified a need to:

(1) add detail with respect to the auto-collateralization feature, including the operational steps by which LCH SA would utilize the feature;

(2) clarify that the maximum potential liquidity drain modelled is based on the operational effectiveness and readiness of the transfer of securities from T2S to the 3G Pool for each issuer, as demonstrated on an annual basis through LCH SA's War Games exercises,

(3) specify how the actual limits for each debt type are determined and validated by internal stakeholders;

(4) clarify that the most conservative ECB haircut of the relevant debt category and step currently in force will apply when determining the maximum liquidity drain; and

(5) make other updates and conforming changes to align with proposed revisions in (1) through (4) above.

LCH SA also identified a need to modify how LCH SA accounts for non-defaulting members' excess collateral in the calculation of the Standalone Operational Target as well as LCR in its Framework. Specifically, LCH SA identified the need to modify the Framework to quantify the withdrawal of excess collateral over a seven-day liquidity horizon based on the second

worst observed relative variation experienced over seven days, capped at the biggest historical reduction in excess collateral, utilizing up to ten years of historical data, and implement daily back testing to ensure any changes in the partial withdrawal scenario are flagged to senior management, such that any new extreme would automatically be integrated in the Framework the following day. LCH SA is also proposing additional updates and confirming changes to the Framework for consistency. LCH SA believes the Proposed Rule Change is therefore appropriate for determining its liquidity needs and resources in light of current and evolving market conditions, consistent with Regulation 17Ad–22(e)(7)(vi)(B).²³

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act 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.²⁴ LCH SA does not believe the Proposed Rule Change would have any impact, or impose any burden, on competition. The Proposed Rule Change does not address any competitive issue or have any impact on the competition among central counterparties. LCH SA operates an open access model, and the Proposed Rule Change will have no effect on this model.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the Proposed Rule Change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

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

¹⁷ *Id.*

¹⁸ 17 CFR 240.17Ad–22(e)(7)(ii).

¹⁹ 17 CFR 240.17Ad–22(e)(7)(vi)(B).

²⁰ *Id.*

²¹ *Id.*

²² 17 CFR 240.17ad–22(e)(7)(i).

²³ 17 CFR 240.17ad–22(e)(7)(vi)(B).

²⁴ 15 U.S.C. 78q–1(b)(3)(I).

(B) institute proceedings to determine whether the proposed rule change should be 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-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-LCH SA-2025-003 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. All submissions should refer to file number SR-LCH SA-2025-003. 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-regulations/self-regulatory-organization-rulemaking>). 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 LCH SA and on LCH SA's website at: <https://www.lch.com/resources/rulebooks/proposed-rule-changes>.

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-LCH SA-2025-003

and should be submitted on or before May 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-06856 Filed 4-21-25; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21049 and #21050; LOUISIANA Disaster Number LA-20010]

Administrative Declaration of a Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated April 16, 2025.

Incident: Severe Storms and Flooding.

DATES: Issued on April 16, 2025.

Incident Period: March 29, 2025 through April 2, 2025.

Physical Loan Application Deadline Date: June 16, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: January 16, 2026.

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 Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <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.

The following areas have been determined to be adversely affected by the disaster:

Primary Parish: Acadia

Contiguous Parishes:

Louisiana: Evangeline, Jefferson Davis, Lafayette, St. Landry, Vermilion

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.500
Homeowners without Credit Available Elsewhere	2.750
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.625
Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 210496 and for economic injury is 210500.

The State which received an EIDL Declaration is Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2025-06870 Filed 4-21-25; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice: 12698]

Proposal To Extend the Cultural Property Agreement Between the United States and Costa Rica

SUMMARY: Proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Costa Rica Concerning the Imposition of Import Restrictions on Categories of Archaeological Material of Costa Rica ("the Costa Rica Agreement").

FOR FURTHER INFORMATION CONTACT:

Anashya Srinivasan, Cultural Heritage Center, Bureau of Educational and Cultural Affairs at (202) 919-0062, or culprop@state.gov; include "Costa Rica" in the subject line.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Acting Assistant Secretary of State for Educational and Cultural Affairs, and pursuant to 19 U.S.C. 2602(f)(1), an extension of the Costa Rica Agreement is hereby proposed.

A copy of the Costa Rica Agreement, the Designated List of categories of

²⁵ 17 CFR 200.30-3(a)(12).

material currently restricted from import into the United States, and related information can be found at the Cultural Heritage Center website: <https://culturalheritage.state.gov>.

Andrew L. Zonderman,

Designated Federal Officer, Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–06891 Filed 4–21–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2025–0788]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Information Collection: Aviation Maintenance Technician Schools

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew information collection. The collection involves Aviation Maintenance Technician School (AMTS) applicants and certificate holders. The information to be collected will be used to ensure AMTS applicants and certificate holders meet applicable requirements prior to being certificated, and on an ongoing basis following FAA certification.

DATES: Written comments should be submitted by June 23, 2025.

ADDRESSES: Please send written comments:

By Electronic Docket: <https://www.regulations.gov> (Enter docket number into search field).

By email: Tanya Glines, Tanya.glines@faa.gov.

FOR FURTHER INFORMATION CONTACT: Tanya Glines by email at: Tanya.glines@faa.gov; phone: 202–380–5896.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be

minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0040.

Title: Aviation Maintenance Technician Schools.

Form Numbers: FAA Form 8310–6.

Type of Review: This is a renewal of an information collection.

Background: This information collection summarizes the burden imposed by 14 CFR part 147 regulations, issued under Section 135 of the Aircraft Certification, Safety, and Accountability Act (Pub. L. 116–260). It includes reporting and recordkeeping requirements for Aviation Maintenance Technician Schools (AMTS).

Applicants and certificate holders submit the required information to their FAA Flight Standards office. The FAA uses this information to determine compliance with part 147 requirements for issuing or maintaining an air agency certificate. When applicants meet all requirements, the FAA issues a certificate with the appropriate ratings. For certificated AMTS, the FAA uses the submitted information to verify an AMTS provides appropriate training at each training location, meets quality control system requirements, and ensures that AMTS students receive appropriate documentation showing the student's eligibility to take the FAA mechanic certification tests.

Respondents: Approximately 10 AMTS applicants, and 208 FAA-certificated applicants respond to this collection annually.

Frequency: AMTS applicants respond one time, prior to certification. FAA-certificated AMTS respond occasionally after certification and have ongoing recordkeeping requirements.

Estimated Average Burden per Response: 29 hours/response on average.

Estimated Total Annual Burden: 21,901 hours/year.

Issued in Washington, DC, on April 16, 2025.

Tanya A. Glines,

Aviation Safety Inspector, Office of Safety Standards, Aircraft Maintenance Division, Airman Section.

[FR Doc. 2025–06851 Filed 4–21–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2004–20000]

Notice of Petition for Amendment to Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that Dallas Area Rapid Transit (DART) petitioned FRA to supplement an existing waiver from certain regulations to include locomotive horns.

DATES: FRA must receive comments on the petition by May 22, 2025. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the

SUPPLEMENTARY INFORMATION section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: John Mardente, Railroad Safety Specialist, FRA Engineering & Technology Division, telephone: 202–493–1335, email: john.mardente@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated April 4, 2025, DART petitioned FRA for an amendment to a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 222 (Use of Locomotive Horns at Public Highway-Rail Grade Crossings), and 229 (Railroad Locomotive Safety Standards). The relevant Docket Number is FRA–2004–20000.¹

¹ The existing relief in this docket pertains to § 229.125, *Headlights and auxiliary lights*, and

Specifically, DART seeks additional relief from § 222.21, *When must a locomotive horn be used?*, and § 229.129, *Locomotive horn*, as DART uses a gong and horn on its system, which, DART states, provide “an alternative measure of equivalent safety.” DART adds that its shared crossings are protected by gates, bells, and lights, among other crossing devices.

In support of its request, DART contends that the requested relief “will allow operational consistency, efficiency[,] and safety among the entire fleet of DART [light rail vehicles] because it will allow DART operators to use the same audible warning device at all crossings within the DART Light Rail System.”

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.

Communications received by May 22, 2025 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's 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 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

§ 234.105, *Activation failure*, which allows operation of DART's rail-fixed guideway public transit lines that share limited connections with the general railroad system, specifically with the Dallas Garland and Northeastern Railroad. DART petitioned for an extension of that relief on July 26, 2024. See <https://www.regulations.gov/document/FRA-2004-20000-0023>.

also <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2025-06849 Filed 4-21-25; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0001]

Notice of Petition for Extension of Waiver of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that Canadian Pacific Kansas City (CPKC) petitioned FRA for an extension of relief from certain regulations concerning virtual simulation training.

DATES: FRA must receive comments on the petition by May 22, 2025. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Lance Hawks, Rail Safety Specialist, FRA Human Performance Division, telephone: 678-633-7400, email: lance.hawks@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letters dated November 14, 2024 and February 4, 2025, CPKC petitioned FRA for an

extension of relief 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-2020-0001.

Specifically, CPKC seeks an extension of relief from § 232.203(b)(8), *Training requirements*, to use three-dimensional simulations using web-based or desktop software to satisfy the “hands-on” portion of required training, in connection with periodic refresher training for conductors, engineers, and supervisory personnel responsible for performing Class I air brake tests.

In support of its request, CPKC states that the “systematic, blended training curriculum . . . exceeds the training objectives of [the regulations] and will continue to increase proficiency, ultimately reducing air brake defects across the CPKC network.” Additionally, CPKC cites the individual training environment of the simulation as more conducive to learning and states that “[d]ue to the velocity within CPKC's network, it is often difficult to provide a consistent training and testing environment.”

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.

Communications received by May 22, 2025 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's 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 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 [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2025-06848 Filed 4-21-25; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2024-0121]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that by letter received October 18, 2024, Union Pacific Railroad (UP) petitioned FRA seeking approval to discontinue or modify a signal system.

DATES: FRA must receive comments on the petition by June 23, 2025. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the

SUPPLEMENTARY INFORMATION section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406-210-3608, email: scott.j.johnson@dot.gov.

SUPPLEMENTARY INFORMATION: Under part 235 of title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by letter received October 18, 2024, UP petitioned FRA seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA-2024-0121.

Specifically, UP requests to remove circuitry and signal equipment for the Atchison Bridge (at milepost 330.8) on the Atchison Industrial Lead near Atchison, Kansas. UP states that “[p]ersonnel will be instructed to visually inspect” the bridge before occupying it, and “stop signs will be placed in lieu of signals for any movements made onto the bridge.”

In support of the request, UP states that no freight traffic moves across the bridge, as the “associated track on the east side of the river and bridge is no longer usable.” The only movements onto Atchison Bridge would be an occasional “poke move” made by a local team that will stop and inspect the bridge. In its petition, UP also notes that the “safety of the system will be retained.”

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.

Communications received by June 23, 2025 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA’s 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 [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2025-06846 Filed 4-21-25; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0613]

Agency Information Collection Activity Under OMB Review: Recordkeeping at Flight Schools

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by May 22, 2025.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900-0613.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping at Flight Schools.

OMB Control Number: 2900-0613. <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: The State Approving Agencies that approve courses for VA training use these records to determine

if courses offered by flight schools should be approved. VA representatives use the records to determine the accuracy of payments made to VA students at flight schools. Regulation do not require any reports, but it does only require the recordkeeping. Flight schools have the option to store these records electronically.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 90 FR 741, January 6, 2025.

Affected Public: Businesses or other for Profit or Not for Profit Schools.

Estimated Annual Burden: 1,316.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 3,949.

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

Dorothy Glasgow,

Acting, VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025-06884 Filed 4-21-25; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0679]

Agency Information Collection Activity Under OMB Review: Certification of Change or Correction of Name Government Life Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by May 22, 2025.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900-0679.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, (202) 461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Certification of Change or Correction of Name Government Life Insurance (VA Form 29-586).

OMB Control Number: 2900-0679
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured as a certification of change or correction of name. The information on the form is required by law, U.S.C. 1904 and 1942.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 97707, December 9, 2024.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: example: Once.

Estimated Number of Respondents: 120.

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

Dorothy Glasgow,

Acting, VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2025-06887 Filed 4-21-25; 8:45 am]

BILLING CODE 8320-01-P



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Part II

Federal Trade Commission

16 CFR Part 312

Children's Online Privacy Protection Rule; Final Rule

FEDERAL TRADE COMMISSION**16 CFR Part 312****RIN 3084–AB20****Children's Online Privacy Protection Rule****AGENCY:** Federal Trade Commission.**ACTION:** Final rule amendments.

SUMMARY: The Federal Trade Commission amends the Children's Online Privacy Protection Rule (the "Rule"), consistent with the requirements of the Children's Online Privacy Protection Act. The amendments to the Rule, which are based on the FTC's review of public comments and its enforcement experience, include one new definition and modifications to several others, as well as updates to key provisions to respond to changes in technology and online practices. The amendments are intended to strengthen protection of personal information collected from children, and, where appropriate, to clarify and streamline the Rule since it was last amended in January 2013.

DATES:

Effective date: The amended Rule is effective June 23, 2025.

Compliance date: Except with respect to § 312.11(d)(1), (d)(4), and (g), regulated entities have until April 22, 2026 to comply.

ADDRESSES: The complete public record of this proceeding will be available at www.ftc.gov.

FOR FURTHER INFORMATION CONTACT:

James Trilling, Attorney, (202) 326–3497; Manmeet Dhindsa, Attorney, (202) 326–2877; Elizabeth Averill, Attorney, (202) 326–2993; Andy Hasty, Attorney, (202) 326–2861; or Genevieve Bonan, Attorney, (202) 326–3139, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

Statement of Basis and Purpose**I. Overview and Background****A. Overview**

This document states the basis and purpose for the Federal Trade Commission's ("Commission" or "FTC") decision to adopt certain amendments to the Children's Online Privacy Protection Rule that were proposed and published for public comment on January 11, 2024, in a notice of proposed rulemaking ("2024 NPRM").¹ After careful review and

consideration of the entire rulemaking record, including public comments submitted by interested parties, and based upon its enforcement experience, the Commission has determined to adopt amendments to the Children's Online Privacy Protection Rule, 16 CFR 312 ("COPPA Rule" or "Rule"). These amendments will update and clarify the COPPA Rule, consistent with the requirements of the Children's Online Privacy Protection Act ("COPPA" or "COPPA statute"), 15 U.S.C. 6501 *et seq.*, to protect children's personal information and give parents control over their children's personal information.

The final amendments to the COPPA Rule include a new definition for *Mixed audience website or online service* that is intended to provide greater clarity regarding an existing sub-category of child-directed websites and online services under the Rule. The final amendments also modify the definitions of *Online contact information* to include mobile telephone numbers; *Personal information* to include government-issued identifiers and biometric identifiers that can be used for the automated or semi-automated recognition of an individual; *Support for the internal operations of the website or online service* to clarify that information collected for the enumerated activities in the definition may be used or disclosed to carry out those activities; and *Website or online service directed to children* to provide some examples of evidence the Commission may consider in analyzing audience composition and intended audience, and to adjust the third paragraph to align with the new definition of *Mixed audience website or online service*. In addition, the Commission is modifying operators' obligations with respect to direct and online notices; information security, deletion, and retention protocols; and FTC-approved COPPA Safe Harbor programs' annual assessment, disclosure, and reporting requirements. The Commission is also adopting amendments related to parental consent requirements, methods of obtaining verifiable parental consent, and exceptions to the parental consent requirement. The Commission is replacing the term "web site" with "website" throughout the Rule and making other minor stylistic or grammatical changes to the Rule that the Commission proposed in the 2024 NPRM.

¹ Children's Online Privacy Protection Rule, Notice of Proposed Rulemaking, 89 FR 2034 (Jan. 11, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-01-11/pdf/2023-28569.pdf>.

In the 2024 NPRM, the Commission proposed a number of Rule modifications relating to educational technology ("ed tech"), including new definitions of *School* and *School-authorized education purpose*,² as well as provisions governing collection of information from children in schools,³ and codifying a school authorization exception to obtaining verifiable parental consent.⁴ In Fall 2024, the United States Department of Education ("DOE") affirmed its intention to propose amendments to the Family Educational Rights and Privacy Act ("FERPA") regulations, 34 CFR 99, "to update, clarify, and improve the current regulations by addressing outstanding policy issues, . . . and clarify[] provisions governing non-consensual disclosures of personally identifiable information from education records to third parties."⁵ These changes may be relevant to provisions of the COPPA Rule related to ed tech and school authorization that the Commission proposed in the 2024 NPRM. To avoid making amendments to the COPPA Rule that may conflict with potential amendments to DOE's FERPA regulations, the Commission is not finalizing the proposed amendments to the Rule related to ed tech and the role of schools at this time.⁶ The Commission will continue to enforce COPPA in the ed tech context consistent with its existing guidance.⁷

² 89 FR 2034 at 2043–2044.

³ *Id.* at 2053–2058, 2059.

⁴ *Id.* The Commission also asked a question about what types of services should be considered to have an educational purpose. *Id.* at 2071 (Question 16).

⁵ Department of Education Fall 2024 Unified Agenda, RIN: 1875–AA15, available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202410&RIN=1875-AA15>.

⁶ This approach is consistent with that taken in a prior Commission rulemaking. See Energy Labeling Rule, Final rule, 87 FR 61465, 61466 (Oct. 12, 2022), available at <https://www.federalregister.gov/documents/2022/10/12/2022-22036/energy-labeling-rule> ("In response to comments, the Commission will wait to update television ranges until [the Department of Energy] completes proposed test procedure changes for those products.").

⁷ See *Complying with COPPA: Frequently Asked Questions* ("COPPA FAQs"), FAQ Section N, available at <https://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions>; FTC, *Policy Statement of the Federal Trade Commission on Education Technology and the Children's Online Privacy Protection Act* (May 19, 2022), available at <https://www.ftc.gov/legal-library/browse/policy-statement-federal-trade-commission-education-technology-childrens-online-privacy-protection>. The Commission will monitor and weigh future developments with respect to DOE's potential FERPA regulation amendments in deciding whether to pursue COPPA Rule amendments related to ed tech.

¹ Children's Online Privacy Protection Rule, Notice of Proposed Rulemaking, 89 FR 2034 (Jan.

B. Background

Congress enacted COPPA in 1998. On November 3, 1999, the Commission issued the COPPA Rule, which became effective on April 21, 2000.⁸ The COPPA Rule imposes certain requirements on operators of websites⁹ or online services directed to, or with actual knowledge of the collection of personal information from, children under 13 years of age (collectively, “operators”). The Rule requires that operators provide direct and online notice to parents and obtain verifiable parental consent before collecting, using, or disclosing personal information from children under 13 years of age.¹⁰ Additionally, the Rule requires operators to provide parents the opportunity to review the types of personal information collected from their child, delete the collected information, and prevent further use or future collection of personal information from their child.¹¹ The Rule requires operators to keep personal information they collect from children secure and to maintain effective data retention and deletion protocols for that information.¹² The Rule prohibits operators from conditioning children’s participation in activities on the collection of more personal information than is reasonably necessary to participate in such activities.¹³ The Rule also includes a “safe harbor” provision that allows industry groups or others to submit to the Commission for approval self-regulatory guidelines that implement the Rule’s protections.¹⁴

In 2013, the Commission adopted changes to the COPPA Rule, consistent with the COPPA statute, in light of changing technology and business practices (“2013 Amendments”).¹⁵ Subsequent changes in how children utilize online services led the Commission to propose in January 2024, and now to finalize, further additional revisions to the COPPA Rule to enable

COPPA to continue to meet its goal of protecting children online.

The Commission initiated the underlying review of the COPPA Rule in July 2019 when it published a document in the **Federal Register** seeking public comment about the Rule’s application to the ed tech sector, voice-enabled connected devices, and general audience platforms that host third-party child-directed content (“2019 Rule Review Initiation”).¹⁶ In response to the 2019 Rule Review Initiation, the Commission received more than 175,000 comments from a variety of stakeholders, including industry representatives, content creators, consumer advocacy groups, academics, technologists, FTC-approved COPPA Safe Harbor programs, members of Congress, and other individual members of the public.

Following consideration of these comments and other feedback received, the Commission issued the 2024 NPRM in the **Federal Register** on January 11, 2024.¹⁷ The Commission received 279 unique responsive comments.¹⁸ After carefully reviewing these additional comments, the Commission now announces this final amended COPPA Rule.

II. Modifications to the Rule

A. Stylistic, Grammatical, and Punctuation Changes

In the 2024 NPRM, the Commission proposed minor revisions to the Rule to address various stylistic, grammatical, and punctuation issues. The Commission proposed amending the Rule to change the term “Web site” to “website” throughout the Rule, noting that this better aligns with the COPPA statute’s use of the term, as well as how the term is used in the marketplace.¹⁹ The Commission also proposed amending § 312.1 of the Rule to adjust the location of a comma.²⁰ The Commission proposed two technical fixes to § 312.5(c)(6) that included adjusting § 312.5(c)(6)(i) to “protect the security or integrity of the website or online service” and removing the word

“be” in § 312.5(c)(6)(iv) to fix a typographical error in the current Rule.²¹ The Commission additionally proposed making a few edits in § 312.12(b) to ensure that each reference to the support for the internal operations of the website or online service is consistent with the COPPA statute’s use of the phrase “support for the internal operations of the [website] or online service.”²² The Commission did not receive any feedback from commenters regarding these minor changes and adopts them in the final Rule.²³

B. § 312.2: Definitions

1. Definition of “Mixed Audience Website or Online Service”

a. The Commission’s Proposal Regarding “Mixed Audience Website or Online Service”

The Commission proposed a new stand-alone definition for “mixed audience website or online service” as “a website or online service that is directed to children under the criteria set forth in paragraph (1) of the definition of website or online service directed to children, but that does not target children as its primary audience, and does not collect personal information from any visitor prior to collecting age information or using another means that is reasonably calculated, in light of available technology, to determine whether the visitor is a child.”²⁴ The proposed definition further requires that “[a]ny collection of age information, or other means of determining whether a visitor is a child, must be done in a neutral manner that does not default to a set age or encourage visitors to falsify age information.”²⁵ The Commission explained in the 2024 NPRM that this proposed stand-alone definition is intended to make clearer in the Rule the existing category for “mixed audience” websites and online services under the Rule and to provide greater clarity about

⁸ Children’s Online Privacy Protection Rule, Final rule, 64 FR 59888 (Nov. 3, 1999), available at <https://www.federalregister.gov/documents/1999/11/03/99-27740/childrens-online-privacy-protection-rule>.

⁹ See 89 FR 2034 at 2040 for discussion of the Commission’s change from using the term “website” to “website” throughout the Rule.

¹⁰ 16 CFR 312.3, 312.4, and 312.5.

¹¹ 16 CFR 312.3 and 312.6.

¹² 16 CFR 312.8 and 312.10.

¹³ 16 CFR 312.7.

¹⁴ 16 CFR 312.11.

¹⁵ See Children’s Online Privacy Protection Rule, Final Rule Amendments, 78 FR 3972 (Jan. 17, 2013), available at <https://www.federalregister.gov/documents/2013/01/17/2012-31341/childrens-online-privacy-protection-rule>.

¹⁶ See Request for Public Comment on the Federal Trade Commission’s Implementation of the Children’s Online Privacy Protection Rule, 84 FR 35842 (July 25, 2019), available at <https://www.federalregister.gov/documents/2019/07/25/2019-15754/request-for-public-comment-on-the-federal-trade-commissions-implementation-of-the-childrens-online>.

¹⁷ 89 FR 2034.

¹⁸ Public comments filed in response to the 2024 NPRM are available at <https://www.regulations.gov/docket/FTC-2024-0003/comments>.

¹⁹ 89 FR 2034 at 2040. The Statement of Basis and Purpose incorporates this change in all instances in which the current Rule uses the term “Web site.”

²⁰ *Id.* at 2040.

²¹ *Id.* at 2059 (emphasis added).

²² *Id.* at 2064, 2076.

²³ Additionally, the final Rule will include in § 312.5(b)(viii), after “Provided that,” a comma that appears in the current Rule but was inadvertently omitted from the proposed Rule text in the 2024 NPRM. The final Rule will also include in § 312.5(d)(4), before the phrase “for each such operator,” a comma that was inadvertently omitted from the proposed Rule text in the 2024 NPRM. In addition, after consultation with the Office of the Federal Register, stylistic adjustments are being made in the final Rule that remove the phrase “general requirements” from the introductory text of § 312.3 and add the phrase “of this section” in § 312.11(c)(ii) to clarify that paragraphs (b)(2) and (b)(3) refer to § 312.11(b)(2) and (3).

²⁴ 89 FR 2034 at 2071.

²⁵ *Id.*

the means by which operators of mixed audience sites and services can determine whether a user is a child.²⁶

Since the Commission established the “mixed audience” category in the 2013 Amendments, the Commission has viewed “mixed audience” sites and services as a subset of the “child-directed” category of websites or online services.²⁷ Under both the current and the proposed amended Rule, a website or online service can fall under the mixed audience designation if it is: (1) “child-directed” under the Rule’s multi-factor test, and (2) does not target children as its primary audience.²⁸ The new definition does not change the established two-step analysis used to determine whether a website or online service is mixed audience.²⁹ The threshold inquiry under the existing Rule and the proposed new definition for “mixed audience website or online service” is whether a website or online service is directed to children, based on an evaluation of the factors set forth in the first paragraph of the definition of “website or online service directed to children.” If a website or online service is directed to children under that analysis, then the second step in the determination of whether a website or online service is “mixed audience” is to ask whether it targets children as its primary audience. Both steps of the analysis require consideration of a totality of the circumstances and the factors set forth in the first paragraph of

the definition of “website or online service directed to children.”

Unlike other child-directed sites and services, those that do not target children as their primary audience may decide to age screen visitors in order to apply COPPA’s protections only to visitors who identify as under 13. Under both the current Rule and proposed stand-alone definition for “mixed audience website or online service,” an operator of a mixed audience website or online service may not collect personal information from any visitor until it collects age information from the visitor or uses another means that is reasonably calculated, in light of available technology, to determine whether the visitor is under 13. To the extent that a visitor identifies as under 13, the operator may not collect, use, or disclose the child’s personal information without first complying with the Rule’s notice and parental consent provisions.

b. Public Comments Received in Response to the Commission’s Proposal Regarding “Mixed Audience Website or Online Service”

The proposed stand-alone definition of “mixed audience website or online service” received general support from many commenters, but also generated many requests for clarification.³⁰ For example, some commenters asked whether the new definition is intended to expand the scope of child-directed websites and online services.³¹ It is not. The Commission reiterates that mixed audience websites and online services are a subset of child-directed websites and online services, and the proposed definition of “mixed audience website or online service” does not change which websites or online services are directed to children under the Rule.

A number of commenters asked for additional guidance about when websites and online services will be considered general audience, primarily child-directed, or mixed audience.³² The Commission directs these commenters to earlier staff guidance,

which explains that operators should analyze who their intended audience is, who their actual audience is, and the likely audience of their website or online service and consider the multiple factors identified in the first paragraph of the Rule’s definition of “website or online service directed to children.”³³

Other commenters expressed concern that the new definition prevents mixed audience websites and online services from utilizing the exceptions to the COPPA Rule’s verifiable parental consent requirement set forth in § 312.5(c).³⁴ In response, the Commission clarifies that operators of mixed audience websites and online services may utilize the exceptions to the verifiable parental consent requirement set forth in § 312.5(c) of the Rule, as is true for operators of child-directed websites and online services targeting children as their primary audience. The Commission is also adding language to the definition of “mixed audience website or online service” to clarify this issue by stating that operators of such websites and online services may not “collect personal information from any visitor, other than for the limited purposes set forth in § 312.5(c), prior to collecting age information or using another means . . . to determine whether the visitor is a child.”

One commenter urged the Commission to state that general audience and mixed audience websites and online services containing “kid-friendly portions” of content or services are not primarily child-directed.³⁵ This request for clarification is somewhat unclear, as it is not apparent to the Commission what the commenter means by “kid-friendly portions.” If a portion of a general audience website or online service is directed to children, then the operator must treat all visitors to that portion of the website or online service as children.³⁶ If a portion of a general

²⁶ *Id.* at 2048.

²⁷ 78 FR 3972 at 3983–84. Staff guidance has also addressed this category. See COPPA FAQs, FAQ Section D.4.

²⁸ When codifying this approach in 2013, the Commission noted that it would first apply the “totality of the circumstances” standard set forth in paragraph (1) of the definition of website or online service directed to children to determine whether the site or service is directed to children, and then the Commission would determine whether children are the primary audience for the site or service. 78 FR 3972 at 3984.

²⁹ Many commenters responding to the 2024 NPRM asked the Commission to clarify whether the determination of whether a site or service is mixed audience remains a two-step process or whether the Commission is changing that process with the new definition and related changes to the definition of “website or online service directed to children.” See, e.g., U.S. Chamber of Commerce (“Chamber”), at 7; Entertainment Software Association (“ESA”), at 7; Interactive Advertising Bureau (“IAB”), at 12–13. The Commission has carefully considered alternative definitions proffered by these and other commenters, but believes the proposed definition is sufficiently clear about the relevant two-step analysis for identifying mixed audience websites and online services. The Commission reiterates its earlier guidance related to the second step of the analysis, that it “intends the word ‘primary’ to have its common meaning, i.e., something that stands first in rank, importance, or value,” and that this will be determined by considering the totality of the circumstances and not through a precise audience threshold. See 78 FR 3972 at 3984 n.162.

³⁰ See, e.g., Children and Screens: Institute of Digital Media and Child Development (“Children and Screens”), at 6; Google, at 3; Information Technology Industry Council (“ITIC”), at 4–5; kidSAFE Seal Program (“kidSAFE”), at 7.

³¹ See, e.g., ITIC, at 4–5; ACT | The App Association, at 5.

³² Google, at 3 (supporting adding a stand-alone definition for mixed audience website or online service, but stating that “further clarity is needed on the distinction between a general audience service or mixed audience service that ‘does not target children as its primary audience’ and a primarily child-directed service”); The Toy Association, Inc. (“The Toy Association”), at 4–5 (contending that distinction between “primarily” and “secondarily” directed to children is not clear).

³³ See COPPA FAQs, FAQ Sections D.1, D.3, and D.5.

³⁴ See, e.g., ESA, at 7; IAB, at 12–13.

³⁵ See Google, at 3. The commenter further suggested “[a]bsent clear guidance on this issue, companies may choose not to offer kid-friendly experiences or content on their service due to the risk of the entire service being deemed primarily child-directed.” *Id.* Somewhat similarly, another industry commenter asked the Commission to clarify that general audience websites and online services will not be deemed to be mixed audience just because they “host pockets of child-directed content” and that such guidance is essential to “forestall general audience services from making a Hobson’s choice between age gating all users or removing children’s content from among their offerings.” NCTA—The Internet and Television Association (“NCTA”), at 10–11.

³⁶ The statutory definition of “website or online service directed to children” includes “that portion

audience website or online service is directed to children but does not target children as its primary audience, the operator can choose to age screen visitors to that portion and must comply with COPPA obligations with respect to visitors identified as under 13. Another industry commenter contended that a general audience website or online service “should not become a mixed audience property just because the property does not include mature content and is presented as appropriate for children.”³⁷ In response, the Commission notes that it agrees that a general audience website or online service, or portion thereof, is not necessarily child-directed merely because it includes content that is appropriate for children and reiterates that categorization is determined by evaluating the totality of the circumstances and the multiple factors set forth in the definition of “website or online service directed to children.”

Another commenter suggested amending the definition of “mixed audience website or online service” to mean “a website or online service that does not target children as its primary audience but where a portion of the website or online service would satisfy the criteria set forth in paragraph (1) of the definition of website or online service directed to children.”³⁸ However, a portion of a website or online service may be primarily directed to children even if the website or online service as a whole is not. The Commission thus declines to amend the definition of “mixed audience website or online service” in response to this comment.

The proposed definition of “mixed audience website or online service” also included language to provide additional clarity about how an operator of a mixed audience website or online service can determine whether a user is a child. The Commission received a variety of comments about this aspect of the proposed definition. Some commenters expressed support for the flexibility built into the Commission’s proposal to permit operators of mixed audience websites or online services to collect age information or use other reasonably

calculated means to determine whether a visitor is a child.³⁹

Other commenters raised concerns related to this aspect of the proposed definition of “mixed audience website or online service.” For example, one commenter opposed references to the “collection of age information” on the ground that “collection” implies retention of information, which the commenter indicated should not be necessary to achieve the goal of determining users’ ages; the commenter favored alternative age verification strategies that avoid retention of age information.⁴⁰ In response, the Commission notes that it disagrees that collection of age information necessarily requires retention of the exact age of a visitor or user,⁴¹ or that operators’ retention of information that a user is 12 years old, or 40 years old, would violate the Rule. Another commenter argued the Commission should require the use of “privacy-protected age estimation methods to determine the likely age of users” rather than including an age verification requirement that would require additional personal data collection and management.⁴² Other commenters suggested the Rule should require additional methods of verification when operators of mixed audience websites or online services are relying on self-declarations to determine whether the visitor is a child.⁴³ The Commission does not have adequate evidence from the record to assess potential benefits and burdens associated with these alternative proposals and declines to amend the definition to impose additional verification obligations on operators at this time.

Other commenters requested clarification about whether the proposed definition of “mixed audience website or online service” permits collection of information without first obtaining parental consent for the

purpose of determining whether a user is a child.⁴⁴ In response, the Commission notes that most of these commenters do not specify the type of information they contemplate operators collecting to determine age or what identifiers such information might be combined with. However, one industry commenter requested that the Commission consider an exception in the Rule allowing operators to collect personal information such as photographs to estimate a visitor’s age as “another means” to determine age under the proposed definition of “mixed audience website or online service” without triggering COPPA compliance obligations.⁴⁵ The Commission did not propose such an exception to the COPPA Rule’s verifiable parental consent requirement in the 2024 NPRM and did not intend to propose one when adding the provision for “another means that is reasonably calculated in light of available technology” to the definition of “mixed audience website or online service.” The Commission reiterates that the COPPA Rule applies to “personal information” collected online from children.⁴⁶ To the extent operators collect information to determine whether a visitor is a child from sources other than a child, such as from a reliable third-party platform, this would not be considered collection of “personal information” under the Rule.

Another commenter suggested that the neutrality requirement for age screening in the proposed definition “presents considerable challenges” because age assurance methodologies present different levels of accuracy and some require the collection of personal

⁴⁴ See, e.g., ITIC, at 4–5; ACT | The App Association, at 5; Consumer Technology Association, at 2. See also Google, at 3–4 (requesting exception from COPPA obligations when personal information is collected solely to verify a user’s age using alternative age verification methods); Network Advertising Initiative (“NAI”), at 7 (same).

⁴⁵ Google, at 4 (“[W]e believe additional protections are needed for companies that use alternative methods to age-screen users. Under the existing Rule, date of birth is not considered ‘personal information.’ This allows companies to collect date of birth from users in order to age-screen those users without triggering compliance obligations under the Rule. We believe the same protection should apply to other categories of information that may be collected to age-screen users under the revised Rule. For example, using selfies for age verification to estimate a user’s age (in a privacy-preserving manner, and without identifying them) may become a more reliable age verification method than asking users to provide their age. Under the current Rule, however, this would be unworkable, as photos containing a child’s image constitute ‘personal information,’ and collecting a selfie from a user under 13 would thus trigger compliance obligations.”).

⁴⁶ See 16 CFR 312.3.

of a commercial website or online service that is targeted to children.” 15 U.S.C. 6501(10)(A)(ii). The definition of “website or online service directed to children” in the Rule also clearly establishes that a portion of a website or online service may be child-directed. 16 CFR 312.2.

³⁷ Privacy for America, at 7.

³⁸ Centre for Information Policy Leadership (“CIPL”), at 8. The Commission declines to adjust the proposed definition in this way and believes that it would result in confusion.

³⁹ See, e.g., kidSAFE, at 7 (expressing support for inclusion of language allowing for other methods of age gating to provide clarity and spur innovation); Google, at 3 (expressing support for flexibility and suggesting the proposed change “will allow companies to leverage new and emerging age verification mechanisms”). In the 2024 NPRM, the Commission observed that the proposed language “allows operators to innovate and develop additional mechanisms that do not rely on a user’s self-declaration.” 89 FR 2034 at 2048.

⁴⁰ Internet Safety Labs, at 6–7.

⁴¹ For example, one commenter suggested operators could retain a Boolean of “user age under 13: Y/N.” Internet Safety Labs, at 7.

⁴² See Electronic Privacy Information Center (“EPIC”), at 5.

⁴³ See, e.g., Motley Rice, at 13 (suggesting Commission should require COPPA-compliant measures to corroborate self-declarations of age because of falsification risks).

information for age assurance while others do not.⁴⁷ The commenter further suggested the Rule should require operators to select an age assurance methodology based on the risks and benefits of different methods, as well as whether the privacy impact of a specific methodology is proportionate to the level of harm being addressed or avoided by the methodology.⁴⁸ The Commission believes the proposed definition provides sufficient guidance and flexibility for operators to select from age assurance methodologies and declines to incorporate the suggested harm-based calculation into the Rule. The Commission agrees with commenters expressing the view that it is important to allow operators to innovate and develop alternative, improved mechanisms to determine age that do not rely on a visitor's self-declaration and finds that the proposed language best accomplishes this.

c. The Commission Adopts Amendments Regarding "Mixed Audience Website or Online Service"

After carefully considering the record and comments, and for the reasons discussed in Part II.B.1.b of this document, the Commission is adopting an amended version of the proposed definition of "mixed audience website or online service" that includes additional language clarifying operators of mixed audience websites and online services may collect personal information for the limited purposes set forth in § 312.5(c) prior to determining visitor age. The Commission intends for operators of mixed audience websites and online services to have the same ability to utilize the exceptions to the verifiable parental consent requirement set forth in § 312.5(c) as operators of other child-directed websites and online services.

2. Definition of "Online Contact Information"

a. The Commission's Proposal Regarding "Online Contact Information"

In the 2024 NPRM, the Commission proposed amending the definition of

"online contact information" in § 312.2 of the Rule by adding to the non-exhaustive list of identifiers that constitute online contact information "an identifier such as a mobile telephone number provided the operator uses it only to send a text message."⁴⁹ The Commission proposed this amendment to allow operators to collect and use a parent's or child's mobile phone number in certain circumstances, including in connection with using a text message to initiate the process of seeking verifiable parental consent.⁵⁰ The proposed amendment was intended to give operators another way to initiate the process of seeking parental consent quickly and effectively.

b. Public Comments Received in Response to the Commission's Proposal Regarding "Online Contact Information"

A substantial majority of commenters addressing the proposed amendment to the definition supported it.⁵¹ Supporters suggested that permitting operators to utilize text messages to facilitate the process of seeking verifiable parental consent is appropriate given the increased utilization of text messaging and mobile phones in the United States.⁵² Commenters also suggested that mobile communication mechanisms are more likely than some other approved consent methods to result in operators reaching parents for the desired purpose of providing notice and obtaining consent, and that sending a text message may be one of the most

direct and frictionless methods of contacting a parent.⁵³

While not clearly opposing the proposal, one FTC-approved COPPA Safe Harbor program, Privacy Vaults Online, Inc. ("PRIVO"), suggested that the use of text messages to seek parental consent might make it more difficult for parents to recognize senders, review disclosures, and contact the operator if they subsequently decide to withdraw consent.⁵⁴ In response, the Commission notes that these issues can also be challenges associated with other methods of communication, such as email. PRIVO further suggested children's provision of parents' mobile telephone numbers may expose parents to increased data mining and profiling because, while many adults have multiple email accounts, they frequently have only one mobile telephone number, thereby enabling use of the number to profile an individual.⁵⁵ In response, the Commission notes that § 312.5(c)(1) restricts the purpose for which online contact information can be collected under that exception to providing notice and obtaining parental consent.⁵⁶ Although mindful of the concerns raised by commenters, the Commission finds that parents' mobile telephone numbers are likely an effective way to reach parents and believes these concerns are outweighed by the strong interest in facilitating effective communication between operators and parents to initiate the process of seeking and obtaining consent.

A minority of commenters opposed the proposal to amend the definition of "online contact information."⁵⁷

⁴⁹ 89 FR 2034 at 2040.

⁵⁰ In the 2024 NPRM, the Commission explained the basis for its conclusion that increased use of "over-the-top" messaging platforms, which are platforms that utilize the internet instead of a carrier's mobile network to exchange messages, means that mobile telephone numbers now permit direct contact with a person online and therefore can be treated as online contact information consistently with the COPPA statute. See 89 FR 2034 at 2041.

⁵¹ See, e.g., Future of Privacy Forum, at 2–3; Computer and Communications Industry Association ("CCIA"), at 2–3; Association of National Advertisers ("ANA"), at 15–16; The Toy Association, at 2; Chamber, at 4; EPIC, at 4; kidSAFE, at 2; Epic Games, Inc. ("Epic Games"), at 4–5; Consumer Technology Association, at 2–3; Consumer Reports, at 3; Children and Screens, at 3; M. Bleyeleben, at 1–2; TechNet, at 3; Software and Information Industry Association ("SIIA"), at 3. See also, e.g., ITIC, at 2 (supporting permitting operators to send text messages to parents for the purpose of initiating verifiable parental consent); Advanced Education Research and Development Fund, at 8 (same); BBB National Programs/Children's Advertising Review Unit ("CARU"), at 2–3 (asserting that the benefits of operators contacting parents via text messages likely outweigh the security risks).

⁵² See, e.g., CCIA, at 2–3; ANA, at 16; Epic Games, at 4; SIIA, at 3; Consumer Reports, at 3.

⁵³ See, e.g., kidSAFE, at 2 (suggesting proposed change "will greatly alleviate the burden of operators initiating a parental consent flow . . . and increase the chances of the parent actually receiving and completing the consent request"); CARU, at 2–3 (permitting use of text messages to initiate verifiable parental consent may improve ease and accessibility); CCIA, at 3 (suggesting text messages are "one of the most direct and frictionless verifiable methods for contacting a parent to provide notice or obtain consent"); Epic Games, at 4 (asserting proposal will enhance operators' ability to connect with parents and "text messaging appears to be a common and trusted platform among consumers"); M. Bleyeleben, at 1–2 ("Allowing operators to communicate with parents via mobile messaging will broaden access and reduce friction for parents to provide parental consent (thereby also reducing incentives for children to circumvent the age gate).").

⁵⁴ Privacy Vaults Online, Inc. ("PRIVO"), at 3–4.

⁵⁵ *Id.* at 2–3. PRIVO did not provide specific evidence to assess these potential impacts.

⁵⁶ 16 CFR 312.5(c)(1) ("Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1).") (emphasis added).

⁵⁷ Internet Safety Labs, at 3; Parent Coalition for Student Privacy, at 11. Commenters also addressed

⁴⁷ See CIPL, at 8–9. In response, the Commission notes that it did not intend for the requirement that collection or other means of determining whether a visitor is a child "must be done in a neutral manner" to require that the means used must be neutral with respect to associated risks and benefits. Instead, the Commission included this provision to make clear that collection or other means employed to age screen visitors must not guide visitors to a particular age or encourage them to indicate they are over the age of 12 through design choices, nudges, communications or site content, or in other ways. Staff guidance has previously addressed this concern. See COPPA FAQs, FAQ Section D.7.

⁴⁸ See CIPL, at 8–9.

Commenters opposing the proposed amendment generally cited possible security risks for recipients of text messages related to malicious links and phishing.⁵⁸ However, more commenters addressing this issue suggested that the use of email messages to initiate the verifiable parental consent process poses comparable security risks.⁵⁹ A number of commenters suggested that operators could take steps to reduce such security risks.⁶⁰ Based on the record, the Commission believes that the security risks associated with initiating the process of seeking verifiable parental consent via text message are comparable to the risks associated with initiating the verifiable parental consent process via other communication methods, such as email. The Commission expects that operators will take steps to reduce security risks to recipients of text messages.

Some commenters suggested that sending text messages to mobile telephone numbers without the consent of mobile telephone subscribers might have the potential to conflict with Federal and State laws related to text

potential security risks in response to Question Three in the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM. *See* 89 FR 2034 at 2069 (Question 3).

⁵⁸ *See, e.g.*, Parent Coalition for Student Privacy, at 11; Internet Safety Labs, at 3 (suggesting proposed change would facilitate phishing). Other commenters that supported, or did not explicitly oppose, the addition of mobile telephone numbers as a category of online contact information in order to permit operators to use text messages to initiate verifiable parental consent noted some of the same potential security risks. *See, e.g.*, City of New York Office of Technology and Innovation (“NYC Technology and Innovation Office”), at 3 (citing increased risk of malicious text messages or “smishing”); B. Hills, at 5 (expressing concern about increased risk of scams with malicious verification links).

⁵⁹ *See, e.g.*, Consumer Reports, at 3 (suggesting risks associated with the use of text messages are not appreciably stronger than the risks with existing contact methods such as email); Future of Privacy Forum, at 2 (suggesting risks associated with the use of text messages are no greater than with the use of existing contact methods such as email); Epic Games, at 4 (suggesting security risks associated with use of text messages are relatively low and not higher or worse than those associated with the use of email); M. Bleyleben, at 2 (same). One of these commenters suggested that security risks can be mitigated because parents can check with their children to determine if they initiated the process before proceeding. *See* Future of Privacy Forum, at 2.

⁶⁰ *See* SIIA, at 14 (suggesting security risk is minimal and can be ameliorated); Heritage Foundation, at 1 (suggesting risks of undetected spam from text may be higher than email, but platforms could employ methods that avoid risks associated with recipients clicking on links). *See also* kidSAFE, at 2 (asserting that, if the Commission approved the use of text messages to obtain verifiable parental consent, the inputting of a code received in a text message could mitigate risks associated with clicking on malicious links in text messages).

messaging⁶¹ and warned that operators might rely on a Commission rule (the potentially amended COPPA Rule) permitting the collection of mobile telephone numbers without a full appreciation of other regulatory requirements related to sending text messages.⁶² While not opposing the proposal, one such commenter contended that the Telephone Consumer Protection Act, the National Do-Not-Call Registry, and an Oklahoma statute “all require prior express consent of the recipient to receive various types of text messages, including marketing messages.”⁶³ The commenter further indicated there is some uncertainty about what constitutes a commercial or marketing message under existing laws, and that it is not clear that children can legally consent on behalf of a parent to the transmission of a text message to a parent’s mobile phone number.⁶⁴ The Commission agrees that it is important for operators and others to carefully consider, and comply with, all applicable State and Federal laws when making decisions about whether and how to collect and use mobile telephone numbers.⁶⁵ The analysis of relevant factual considerations and laws that commenters provided on this issue was limited, but the Commission believes these comments potentially overstate the degree of conflict and expects the content of text messages as well as other decisions related to implementation likely would be important in complying with legal obligations.

At least one commenter expressed confusion about whether the Commission intended the proposed Rule amendments to constitute approval of operators’ use of text messages to obtain verifiable parental consent.⁶⁶ Other commenters encouraged the

⁶¹ Chamber, at 4 (asking Commission to verify that collection and use of mobile phone number provided by children to contact parents to start notice and consent process will not violate relevant Federal or State laws); The Toy Association, at 2 (alluding to possible conflict between proposed collection and use of mobile phone numbers under the Rule and the Telephone Consumer Protection Act and related State laws).

⁶² PRIVO, at 4.

⁶³ *Id.* at 2. *See also* The Toy Association, at 2.

⁶⁴ PRIVO, at 2. PRIVO also suggested parents will not recognize numbers associated with such text messages, which could lead parents to decide not to provide consent or might make it difficult for parents to know how to change their consent decision or request review of their children’s data later. *Id.* at 3.

⁶⁵ The Commission notes that many States have enacted laws regulating commercial text messages. *See, e.g.*, Conn. Gen. Stat. sec. 42–288a; Fla. Stat. sec. 501.059; Wash. Rev. Code sec. 19.190.060 *et seq.*

⁶⁶ *See* Entertainment Software Rating Board (“ESRB”), at 22–23.

Commission to approve text messaging as a mechanism for obtaining verifiable parental consent.⁶⁷ In response, the Commission clarifies that it is amending the definition of “online contact information” and has decided to make a related amendment to § 312.5(b)(2) of the Rule discussed in Part II.D.7. That amendment to § 312.5(b)(2) will permit operators to send text messages to parents to initiate the process of seeking verifiable parental consent, provide direct notice to the parent, and obtain verifiable parental consent, in situations where a child’s personal information is not being disclosed, consistent with a new “text plus” verifiable parental consent method the Commission is approving and adding as § 312.5(b)(2)(ix).

The Commission is also adjusting the definition of “online contact information” proposed in the 2024 NPRM to limit the use of mobile telephone numbers, in the absence of verifiable parental consent, to purposes related to obtaining verifiable parental consent. In the 2024 NPRM, the Commission discussed the importance of avoiding situations where mobile telephone numbers collected from children would be used to make voice calls to children without parental consent. After carefully considering the record and comments, the Commission has adjusted the proposed language to prevent situations where operators are utilizing mobile telephone numbers collected from a child for purposes unrelated to obtaining verifiable parental consent.⁶⁸

c. The Commission Adopts Amendments Regarding “Online Contact Information”

After carefully considering the record and comments, and for the reasons discussed in Part II.B.2.b of this document, the Commission has decided to adopt an amended version of the

⁶⁷ *See, e.g.*, Program on Economics & Privacy at Scalia Law School and Brechner Center for the Advancement of the First Amendment at University of Florida (“Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center”), at 2; TechNet, at 3–4; Consumer Technology Association, at 3; Privacy for America, at 10–11; ANA, at 15–16; ACT|The App Association, at 7.

⁶⁸ At least one commenter requested clarification as to whether the amendment to the “online contact information” definition proposed in the 2024 NPRM was intended to allow operators to use mobile telephone numbers for other purposes set forth in § 312.5(c) of the Rule. kidSAFE, at 2. The Commission did not intend such a result and is therefore modifying the proposed amendment to the definition. For example, the Commission wants to avoid situations where operators use mobile telephone numbers to contact a child multiple times through either text messages or voice calls without verifiable parental consent.

proposed addition to the definition of “online contact information” to include “or a mobile telephone number provided the operator uses it only to send text messages to a parent in connection with obtaining parental consent.”

3. Definition of “Personal Information”

The COPPA statute and the COPPA Rule define “personal information” as individually identifiable information about an individual collected online, including, for example, a first and last name, an email address, or a Social Security number. The COPPA statute also authorizes the Commission to include within the COPPA Rule’s definition of personal information “any other identifier that the Commission determines permits the physical or online contacting of a specific individual.”⁶⁹ Accordingly, as discussed in Part II.B.3.a and b, the Commission has decided to include biometric identifiers in the definition of “personal information”. However, in response to comments, the Commission is adopting a modified version of the definition proposed in the 2024 NPRM.

a. The Commission’s Proposal Regarding “Personal Information”

In the 2024 NPRM, the Commission proposed using its statutory authority to expand the Rule’s coverage by amending the definition of personal information to include “[a] biometric identifier that can be used for the automated or semi-automated recognition of an individual, including fingerprints or handprints; retina and iris patterns; genetic data, including a DNA sequence; or data derived from voice data, gait data, or facial data.”⁷⁰ The Commission explained this proposed amendment is intended to ensure that the Rule is keeping pace with technological developments that facilitate increasingly sophisticated means of identifying individuals.⁷¹ The Commission has determined that biometric recognition technologies have rapidly advanced since the 2013 Amendments to the Rule,⁷² and

biometric identifiers such as fingerprints, handprints, retina and iris patterns, and DNA sequences can be used to identify and contact a specific individual either physically or online.⁷³

b. Public Comments Received in Response to the Commission’s Proposal Regarding “Personal Information”

Many commenters expressed general support for amending the Rule’s definition of personal information to include biometric identifiers.⁷⁴

(Apr. 2024), at 1, available at <https://www.gao.gov/assets/gao-24-106293.pdf> (observing that use of facial and iris recognition technologies to conduct and automate identification has become “increasingly common in both the public and private sectors”); NIST, Press Release, *NIST Evaluation Shows Advance in Face Recognition Software’s Capabilities* (Nov. 30, 2018), available at <https://www.nist.gov/news-events/news/2018/11/nist-evaluation-shows-advance-face-recognition-softwarecapabilities>.

⁷³ See U.S. Government Accountability Office, *Facial Recognition Technology: Current and Planned Uses by Federal Agencies* (Aug. 2021), at 3, available at <https://www.gao.gov/assets/gao-21-526.pdf> (citing biometric technologies used to identify individuals by measuring and analyzing physical and behavioral characteristics, including faces, fingerprints, eye irises, voice, and gait). The Commission notes that law enforcement authorities and agencies are using a variety of biometric-based technologies to identify and contact individuals. For example, the FBI has stated that its Next Generation Identification utilizes fingerprints, palm prints, and facial recognition to identify individuals of interest in criminal investigations, and that it is developing a repository of iris images. See FBI Law Enforcement Resources, available at <https://le.fbi.gov/science-and-lab/biometrics-and-fingerprints/biometrics/next-generation-identification-ngi>. See also U.S. Government Accountability Office, *Facial Recognition Technology: Federal Law Enforcement Agencies Should Better Assess Privacy and Other Risks* (June 2021) (surveying use of facial recognition technology by twenty Federal agencies). The FBI reported that its Combined DNA Index System included 20 million DNA profiles in 2021, and it is used to link crime scene evidence to other cases or to persons already convicted of or arrested for specific crimes. See FBI National Press Office, *The FBI’s Combined DNA Index System (CODIS) Hits Major Milestone* (May 21, 2021), available at [https://www.fbi.gov/news/press-releases/the-fbis-combined-dna-index-system-codis-hits-major-milestone#:~:text=May%202021.%20The%20FBI%E2%80%99s%20Combined%20DNA%20Index%20System%20\(CODIS\)](https://www.fbi.gov/news/press-releases/the-fbis-combined-dna-index-system-codis-hits-major-milestone#:~:text=May%202021.%20The%20FBI%E2%80%99s%20Combined%20DNA%20Index%20System%20(CODIS)).

⁷⁴ See, e.g., B. Hills, at 4; Common Sense Media, at 13; S. Winkler, at 1; Children and Screens, at 5; NYC Technology and Innovation Office, at 1–2; Lawyers’ Committee for Civil Rights Under Law (“Lawyers’ Committee”), at 6; EPIC, at 4; Internet Safety Labs, at 4; Mental Health America, at 4–5; American Civil Liberties Union (“ACLU”), at 13; Center for AI and Digital Policy, at 5; IEEE Consortium for Innovation and Collaboration in Learning Engineering (“IEEE Learning Engineering Consortium”), at 5; Parent Coalition for Student Privacy, at 12; PRIVO, at 4; Attorneys General of Oregon, Illinois, Mississippi, Tennessee, Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode

Supportive commenters emphasized the uniquely personal nature of biometric identifiers and noted that there are particularly compelling privacy interests in protecting such sensitive data.⁷⁵ Moreover, unlike certain other identifiers, such as email addresses, telephone numbers, or first and last names, biometric identifiers are generally immutable.⁷⁶ Commenters also expressed concern about the fact that the expanded collection of biometric data from children online⁷⁷ and from wearable devices with sensor technology⁷⁸ increases the risk of abuse and sale of such data. Commenters discussed the potential for biometric data to be combined with other persistent identifiers such as IP addresses or device IDs to identify specific individuals⁷⁹ and also cited concerns about tools utilizing machine learning or artificial intelligence being used to duplicate and misuse such data.⁸⁰ A children’s advocates coalition

Island, South Carolina, South Dakota, Utah, Vermont, Virgin Islands, Virginia, Washington, and Wisconsin (“State Attorneys General Coalition”), at 2–3; Consortium for School Networking, at 3; Center for Democracy and Technology (“CDT”), at 5; Google, at 3; Consumer Reports, at 4; Center for Digital Democracy, Fairplay, American Academy of Pediatrics, Berkeley Media Studies Group, Children and Screens: Institute of Digital Media and Child Development, Consumer Federation of America, Center for Humane Technology, Eating Disorders Coalition for Research, Policy, & Action, Issue One, Parents Television and Media Council, and U.S. PIRG (“Children’s Advocates Coalition”), at 58; Data Quality Campaign, at 3.

⁷⁵ See, e.g., Children and Screens, at 5; NYC Technology and Innovation Office, at 1–2; Lawyers’ Committee, at 6; Consortium for School Networking, at 3; Consumer Reports, at 4–5; ACLU, at 13; Data Quality Campaign, at 3.

⁷⁶ See, e.g., Mental Health America, at 4 (“Biometric identifiers are generally immutable and could potentially be used to identify a child for the rest of their life.”); NYC Technology and Innovation Office, at 1 (“A person cannot easily alter, if at all, their fingerprints, ocular scans, facial features, or genetic data. This makes biometric information particularly sensitive. . . .[.]”); ACLU, at 13 (noting that “biometrics are inherently personally identifying and generally immutable”); Data Quality Campaign, at 3 (“The immutable nature of biometrics means improper access or use can permanently expose children to unwanted risks.”).

⁷⁷ See, e.g., State Attorneys General Coalition, at 3; Children’s Advocates Coalition, at 58–60.

⁷⁸ See, e.g., State Attorneys General Coalition, at 3 (discussing increased use of wearable devices with sensors and noting that “[t]he prevalence of the collection and use of this type of data—from using a fingerprint to unlock a device to wearable sensors—has resulted in a heightened risk of abuse and sale of this type of data, data that is often immutable and permanently tied to the individual”); Children’s Advocates Coalition, at 59 (discussing collection of biometric data by large platforms and virtual reality products and services).

⁷⁹ See State Attorneys General Coalition, at 3.

⁸⁰ See, e.g., Center for AI and Digital Policy, at 4–5; S. Winkler, at 1. See also *Comment of the Federal Trade Commission In the matter of: Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and*

⁶⁹ 15 U.S.C. 6501(8)(F).

⁷⁰ See 89 FR 2034 at 2041.

⁷¹ *Id.*

⁷² *Id.* For example, the National Institute of Standards and Technology (“NIST”) found that, between 2014 and 2018, facial recognition became 20 times better at finding a matching photograph from a database. See NIST, *Ongoing Face Recognition Vendor Test (FRVT) Part 2: Identification* (2018), at 6, available at <https://nvlpubs.nist.gov/nistpubs/ir/2018/NIST.IR.8238.pdf>. See also U.S. Government Accountability Office, *Biometric Identification Technologies: Considerations to Address Information Gaps and Other Stakeholder Concerns*

expressed concern about the “unreasonable unnecessary collection of biometric information for mass profiling, neuromarketing, targeted advertising, advanced behavioral analytics, behavioral advertising . . . product improvement, and engagement maximization.”⁸¹ Commenters also highlighted harms related to the misuse of biometric data to impersonate individuals through deepfake technologies,⁸² and the particularly grave harms associated with child sexual abuse material generated using such biometric data.⁸³ The Commission finds these concerns compelling. A principal benefit to including biometric identifiers in the definition of personal information is to protect children under 13 from the misuse of this immutable and particularly sensitive information, which can potentially be used to identify a child for the rest of their life. While it is impossible to quantify, the Commission considers protecting children under 13 from the potential misuse of this highly sensitive information to be a significant benefit of the proposed amendment.

A number of commenters that generally supported adding in the definition of personal information a new provision for biometric data encouraged the Commission to consider expanding the biometric identifier provision in the definition of personal information beyond what the Commission proposed in the 2024 NPRM.⁸⁴ For example, one commenter encouraged the Commission to consider adding more examples of biometric identifiers such as electroencephalogram patterns used in brain-computer interfaces, heart rate patterns, or behavioral biometrics such as typing patterns or mouse movements.⁸⁵ Some consumer groups

suggested the Commission should expand the provision to include any information derived from biometric data.⁸⁶ Another suggestion was that the Commission broaden the provision to make it consistent with the Commission’s definition of the term “biometric information” in a recent Commission policy statement.⁸⁷ A coalition of State attorneys general urged the Commission to consider language that would include “imagery of the iris, retina, fingerprint, face, hand, palm, vein patterns, and voice recordings (from which an identifier template such as a faceprint, a minutiae template, or a voiceprint, can be extracted), genetic data, or other unique biological, physical, or behavioral patterns or characteristics, including data generated by any of these data points.”⁸⁸

For a variety of reasons, a significant number of industry group and other commenters opposed the biometric identifier provision proposed in the 2024 NPRM.⁸⁹ Commenters argued the proposal exceeds the Commission’s statutory authority because the Commission has not established that the biometric identifiers enumerated in the 2024 NPRM proposal enable the physical or online contacting of a specific child.⁹⁰ The Commission

disagrees. As explained in this Part, 15 U.S.C. 6501(8)(F) provides that “[t]he term ‘personal information’ means individually identifiable information about an individual collected online, including . . . any . . . identifier that the Commission determines permits the physical or online contacting of a specific individual,” and for several reasons, the Commission has determined that biometric information permits the physical or online contacting of a specific individual.

The Commission notes that the proposed expansion of the definition of personal information to include biometric identifiers appropriately responds to marketplace developments such as the increasingly common use of technologies relying on facial recognition, retina or iris imagery, or fingerprints to allow individuals to unlock mobile devices and to access accounts or facilities,⁹¹ and that enable companies to identify and contact a specific individual. Genetic data, particularly when combined with other personal information, can also be used to identify and, in some circumstances,

(recommending expanding the proposed list of biometric identifiers to include keystroke dynamics); B. Hills, at 4 (recommending adding vein recognition); Internet Safety Labs, at 4 (recommending adding typing cadence); State Attorneys General Coalition, at 2–3. Some commenters proposed adding sensitive categories of information such as student behavioral data, health data, and geolocation data to the definition of personal information. *See, e.g.*, K. Blankinship, at 1; State Attorneys General Coalition, at 3. The Commission notes that at least some forms of student behavioral data and health data currently receive protection under the United States Department of Education’s Family Educational Rights and Privacy Act Regulations, 34 CFR part 99, and the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191. Moreover, the definition of personal information already includes geolocation data that is sufficient to identify street name and name of a city or town, which is the geolocation data that is most likely to permit identifying and contacting a specific child. *See* 78 FR 3972 at 3982–3983 (discussing personal information definition’s coverage of geolocation data).

⁸⁶ *See, e.g.*, Children’s Advocates Coalition, at 58; Mental Health America, at 4.

⁸⁷ Center for AI and Digital Policy, at 5 (discussing Policy Statement of the Federal Trade Commission on Biometric Information and section 5 of the Federal Trade Commission Act).

⁸⁸ State Attorneys General Coalition, at 2.

⁸⁹ *See, e.g.*, R Street Institute, at 1–2; ITIC, at 2; CIPL, at 4–5; ESA, at 9–11; SIJA, at 4, 15; ACT | The App Association, at 4–5; Chamber, at 3; IAB, at 2–5; NCTA, at 5–6; NetChoice, at 3–4; Information Technology and Innovation Foundation (“ITIF”), at 3; CCIA, at 3–4; ANA, at 10; Privacy for America, at 14–15; Epic Games, at 7–8.

⁹⁰ *See, e.g.*, ESA, at 9–11; NCTA, at 5; CCIA, at 3. *See also* NetChoice, at 3–4 (suggesting the

Commission has not demonstrated that biometric data is being misused in ways that allow contact with children).

⁹¹ *See* ACT | The App Association, at 4 (noting that many new apps collect biomarkers such as voice, facial features, and fingerprints in some form). *See also* R.L. German & K.S. Barber, *Current Biometric Adoption and Trends* (November 2016), at 2–13 (analyzing adoption of biometric authentication between 2004 and 2016 and concluding that rapid expansion of biometric technologies has led to similar explosion in biometric services and applications), available at <https://identity.utexas.edu/sites/default/files/2020-09/Current%20Biometric%20Adoption%20and%20Trends.pdf>; H. Kelly, *Fingerprints and Face Scans Are the Future of Smartphones. These Holdouts Refuse to Use Them*, Washington Post (Nov. 15, 2019), available at <https://www.washingtonpost.com/technology/2019/11/15/fingerprints-face-scans-are-future-smartphones-these-holdouts-refuse-use-them/>; National Retail Federation, *2023 National Retail Survey* (Sept. 26, 2023), at 18 (stating that 40% of retail survey respondents were researching, piloting, or implementing either facial recognition or feature-matching technologies to address loss prevention and other security concerns), available at <https://nrf.com/research/national-retail-security-survey-2023>.

Robotexts, Fed. Comm’n CG Docket No. 23–362 (July 29, 2024) (describing some of the FTC’s efforts to address the emergence of new technologies powered by artificial intelligence, particularly those related to voice cloning), available at https://www.ftc.gov/system/files/ftc_gov/pdf/FTC-Comment-VoiceCloning.pdf.

⁸¹ *See* Children’s Advocates Coalition, at 60.

⁸² *See, e.g.*, Center for AI and Digital Policy, at 5; S. Winkler, at 1. *See also* DHS Public-Private Analytic Exchange Program, *Increasing Threats of Deepfake Identities*, at 9–18, 22–25 (discussing how deepfakes using biometric data are made and their use in non-consensual pornography and cyberbullying), available at https://www.dhs.gov/sites/default/files/publications/increasing_threats_of_deepfake_identities_0.pdf.

⁸³ *See* Center for AI and Digital Policy, at 5.

⁸⁴ In Question Five in the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM, the Commission asked commenters to address whether it should consider including any additional biometric identifier examples beyond those listed in the proposed definition. 89 FR 2034 at 2070 (Question 5).

⁸⁵ IEEE Learning Engineering Consortium, at 5. *See also* Parent Coalition for Student Privacy, at 12

contact a specific individual.⁹² Gait⁹³ and other movement patterns⁹⁴ can also be used to identify and contact specific individuals and are an increasing concern with the growth of virtual reality products and services. The Commission also expects that biometric identifiers, particularly when combined with increasingly sophisticated methods of consumer profiling, potentially could be used to track and deliver targeted advertisements to specific children online, which would constitute online contact.⁹⁵ Accordingly, biometric identifiers are appropriately included in the definition of “personal information.”

Other commenters objecting to the proposed biometric identifier provision argued that it is inconsistent with the COPPA statute because the enumerated biometric identifiers do not necessarily identify a specific individual.⁹⁶ In response, the Commission notes that the Rule’s definition of personal information is consistent with the COPPA statute because it remains expressly limited to “individually identifiable information about an

individual,” and the proposed provision for “biometric identifier” only includes “a biometric identifier that can be used for the automated or semi-automated recognition of an individual.” Further, the Commission finds that the biometric identifiers listed as examples in the proposed definition can be used to identify specific individuals.⁹⁷

Commenters also encouraged the Commission to consider the costs and benefits of constraining the collection and use of biometric identifiers,⁹⁸ including considering the impact the proposed biometric identifier provision would have on innovation and on beneficial uses such as security and authentication features.⁹⁹ In response, the Commission notes that the commenters raising these and similar concerns did not provide information or evidence quantifying the potential costs and impacts associated with adding the new biometric identifier provision to the personal information definition. The amendment does not impact the collection or use of biometric identifiers from users over the age of 12. Because the proposed biometric identifier provision only requires that covered operators provide appropriate notice and obtain verifiable parental consent before collecting, using, or disclosing this sensitive data from children, it is not clear that the proposed provision would significantly interfere with innovation or beneficial uses of biometric identifiers. However, in consideration of these and other

comments, the Commission has decided to adopt a modified version of the biometric identifier provision proposed in the 2024 NPRM.

Some commenters urged the Commission to consider adjusting the language proposed in the 2024 NPRM to reduce perceived inconsistencies between the proposed biometric identifier provision and various State laws and industry standards.¹⁰⁰ For example, one industry commenter indicated the term “biometric identifier” is not commonly used in other laws and regulations and recommended instead using the term “biometric data” to align with other laws and industry standards to reduce confusion and help operators fulfill their compliance obligations.¹⁰¹ Another commenter suggested the proposed provision is inconsistent with

⁹² See, e.g., S.Y. Rojahn, *Study Highlights the Risk of Handing Over Your Genome: Researchers found they could tie people’s identities to supposedly anonymous genetic data by cross referencing it with information available online*, MIT Technology Review (Jan. 17, 2013), available at <https://www.technologyreview.com/2013/01/17/180448/study-highlights-the-risk-of-handing-over-your-genome/>; Natalie Ram, *America’s Hidden National DNA Database*, 100 Texas Law Review, Issue 7 (July 2022) (discussing growth of investigative genetic genealogy searches using private platforms and surveying State law policies related to potential law enforcement access to newborn genetic screening samples), available at <https://texaslawreview.org/americas-hidden-national-dna-database/>.

⁹³ L. Topham et al., *Gait Identification Using Limb Joint Movement and Deep Machine Learning*, IEEE Access (Sept. 19, 2022), available at <https://ieeexplore.ieee.org/document/9895247>; D. Kang, *Chinese ‘gait recognition’ tech IDs people by how they walk*, Associated Press (Nov. 6, 2018), available at <https://apnews.com/article/bf75dd1c26c947b7826d270a16e2658a>.

⁹⁴ See V. Nair et al., *Unique Identification of 50,000+ Virtual Reality Users from Head & Hand Motion Data* (Feb. 17, 2023), at 1 (reporting results showing virtual reality users can be uniquely and reliably identified out of a pool of over 50,000 candidates with 94.33% accuracy based on 100 seconds of head and hand motion data), available at <https://arxiv.org/pdf/2302.08927>.

⁹⁵ The plain meaning of “contact” is broader than just an email or other communication, and the legislative history of the COPPA statute also supports a broad interpretation of the term. At the time of adoption, Senator Bryan noted that the term “is not limited to email, but also includes any other attempts to communicate directly with a specific, identifiable individual.” See 144 Cong. Rec. S12741–04, S12787 (1998) (statement of Senator Bryan).

⁹⁶ See, e.g., ITIF, at 3. Some generally supportive commenters also emphasized the importance of ensuring that the definition only includes biometric identifiers that can be used to identify and contact a specific child. See, e.g., Common Sense Media, at 13; The Toy Association, at 3.

⁹⁷ For example, a recent GAO Report found that “a wide range of technologies [] can be used to verify a person’s identity by measuring and analyzing biological and behavioral characteristics” and specifically mentioned facial data, fingerprints, iris, voice, hand geometry, and gait. See U.S. Government Accountability Office, *Biometric Identification Technologies: Considerations to Address Information Gaps and Other Stakeholder Concerns* (April 2024), at 4–5, available at <https://www.gao.gov/assets/gao-24-106293.pdf>. See also A.K. Jain et al., *50 years of biometric research: Accomplishments, challenges, and opportunities*, Pattern Recognition Letters, Volume 79 (Aug. 2016), at 80–83, available at <https://www.sciencedirect.com/science/article/abs/pii/S0167865515004365>.

⁹⁸ See, e.g., ITIC, at 2 (suggesting expansion of personal information to include biometric data requires a detailed assessment of costs and benefits, including impacts on innovation, and that additional work is required to ensure that any inclusion of biometric data is narrowly tailored to clear, evidenced harms); IEEE Learning Engineering Consortium, at 5 (recommending that the Commission periodically review the list of biometric identifiers in the definition to make sure it remains comprehensive and relevant and consider the context in which biometric identifiers are being collected and used).

⁹⁹ See, e.g., kidSAFE, at 4 (discussing use of biometric data for security purposes); ACT | The App Association, at 4 (expressing general concern about the provision’s impact on innovation); ITIF, at 2 (same).

¹⁰⁰ See, e.g., M. Bleyleben, at 2 (suggesting that it is critical that the Commission’s approach to defining and scoping the use of biometric technologies is coordinated with State-level biometric laws such as the Biometric Information Privacy Act in Illinois); CIPL, at 4–5 (suggesting the term biometric identifier is not aligned with the International Organization for Standardization and other laws and regulations); ESA, at 10–11 (discussing State laws that exclude audio recordings, videos, and photos from definitions of biometric information); SIIA, at 4 (opposing biometric identifier provision and suggesting it creates inconsistencies with State privacy laws); IAB, at 3–4 (discussing differences between proposed biometric identifier provision and biometric definitions in various State privacy laws); Chamber, at 3 (encouraging the Commission to harmonize proposed biometric identifier provision with other laws modeled on Consensus State Privacy Approach, and citing the definition of biometric data in the Virginia Consumer Data Protection Act); NCTA, at 6 (arguing Commission’s proposal conflicts with State biometric laws, which consider derived data to be biometric data only where it is used or intended to be used to identify a specific individual); ITIF, at 3 (stating that many States have enacted privacy legislation to protect biometric data and have limited their definitions to biometric data that identifies a specific individual). On the other hand, at least one supportive commenter suggested the proposed biometric identifier provision would better align the Rule’s personal information definition with FERPA. See Data Quality Campaign, at 3.

¹⁰¹ CIPL, at 4. In response, the Commission notes that it is using the term biometric identifier rather than the term biometric data to align with the definition of personal information in the COPPA statute. There is some variation in the defined terms different State privacy and biometric laws use, but Texas, Illinois, and Washington State laws use the term biometric identifier. The Illinois Biometric Information Privacy Act defines that term to mean “a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry” and excludes a variety of other types of information such as written signatures, photographs, or human biological samples used for scientific testing or screening. See 740 Ill. Comp. Stat. 14/10. Washington’s biometric privacy law defines that term to mean “data generated by automatic measurements of an individual’s biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual.” Wash. Rev. Code 19.375.010.

State laws related to biometric information that exclude audio recordings, videos, and photos from their definitions.¹⁰² In response, the Commission notes that the COPPA Rule applies to personal information collected from children online by operators of child-directed websites and online services and operators of general audience websites or online services that have actual knowledge they are collecting personal information from children. State laws' approaches to biometric data may be different, in part, because of the different obligations those laws impose on businesses or because those laws apply to data collected from a large population of users.¹⁰³

Other commenters urged the Commission to consider limiting the proposed biometric identifier provision to biometric identifiers that are used or intended to be used to recognize or identify an individual, to better align with State laws and to simplify operators' compliance obligations.¹⁰⁴ While recognizing there is some variability in defined terms among State privacy laws and also between those laws and the biometric identifier provision in the proposed definition of personal information, industry commenters raising these concerns have not explained how those variations will complicate business practices or create irreconcilable compliance obligations.¹⁰⁵ The Commission is

therefore not persuaded that the proposed amended definition of personal information should be changed to align with specific State laws, particularly when there is variation among such laws.

Other commenters suggested the proposed biometric identifier provision should be similarly narrowed for different reasons. For example, several industry commenters suggested adjusting the provision from biometric identifiers that "can be used" for automated or semi-automated recognition to a biometric identifier that "is used" for automated recognition of an individual, to, in their view, be more consistent with the definition of personal information in the COPPA statute and to avoid vagueness concerns.¹⁰⁶ Other commenters suggested the provision should only include biometric identifiers that are intended to be used for identification, or suggested that there should be an exception when biometric identifiers are used to provide a service without identifying the user.¹⁰⁷ Still others urged the Commission to narrow the biometric identifier provision to a specific list of biometric identifiers and to limit coverage to situations where the biometric identifier is used to contact a child.¹⁰⁸

In response, the Commission notes that it disagrees with these commenters' assertions that such adjustments are necessary to comport with the COPPA statute. The phrase "can be used" is consistent with the COPPA statute, which defines personal information to mean "individually identifiable information about an individual

identifiers in the COPPA Rule would complicate an already complex regulatory environment in the United States and would create consumer confusion, increase compliance costs on businesses, and adversely impact the digital economy); Chamber, at 3.

¹⁰⁶ See, e.g., Chamber, at 3 (arguing that the Commission should revise the definition to include biometric identifiers only when they are used for the automated recognition of an individual rather than when they could be used for such purposes to avoid vagueness concerns); ACT | The App Association, at 4–5 (suggesting definition must be limited to when a biometric identifier is used to identify or reasonably identify a child to comport with the COPPA statute); Privacy for America, at 15 (contending the provision should be limited to biometric identifiers used to identify a child in order to contact them); The Toy Association, at 3 (contending an actual use element needs to be included in the definition to comport with the COPPA statute). See also CIPL, at 4–5.

¹⁰⁷ See, e.g., CIPL, at 5 (suggesting there should be an intent component included in the provision); ITIC, at 2 (contending that the Commission should clarify that any use of biometric data that does not involve identifying a unique individual and that does not allow physical or online contact with a specific individual is exempt).

¹⁰⁸ See NCTA, at 6.

collected online" rather than an alternative such as information used to identify an individual.¹⁰⁹ Further, the Commission believes the proposed language is consistent with the statutory language in 15 U.S.C. 6501(8)(F), which permits the addition of "any other identifier the Commission determines permits the physical or online contacting of a specific individual" rather than alternative language such as "identifiers when used to contact a specific individual physically or online." Additionally, the other identifiers listed in the definition in the COPPA statute qualify as personal information regardless of how an operator uses them. The Commission also believes that adjusting the proposed language from "can be used for the automated or semi-automated recognition of an individual" to language requiring actual use of biometric identifiers to identify individuals may increase opportunities for operators to collect and retain sensitive data for future use and would also present enforcement challenges.

Numerous commenters were particularly critical of the Commission's proposal to include the words "data derived from voice data, gait data, or facial data" in the biometric identifier provision the Commission proposed in the 2024 NPRM.¹¹⁰ Many commenters suggested this language is overbroad or vague.¹¹¹ Some commenters also argued such data is not necessarily individually identifying and cannot be used to contact a specific child, and therefore falls outside the scope of personal information protected by the COPPA statute.¹¹² Commenters contended this aspect of the biometric provision may stifle innovation¹¹³ and interfere with uses of biometric information such as

¹⁰⁹ 15 U.S.C. 6501(8).

¹¹⁰ See, e.g., ANA, at 10; Chamber, at 3; kidSAFE, at 3–4; Epic Games, at 7–8; NCTA, at 5–6.

¹¹¹ See, e.g., CARU, at 3 (suggesting unclear whether data from an avatar based on the user or data from an accelerometer in a connected toy would be included in data derived from voice data, gait data, or facial data); kidSAFE, at 3–4 (suggesting breadth of proposed language may cover unintended data and requesting that the Commission provide clarifying examples and indicate whether it intends to include data tracking the motion of a child in a virtual reality game, analysis of a child's ability to pronounce certain words or sounds, or the text transcript of a child's audio conversation with a connected toy device); ESA, at 10; Chamber, at 10; ANA, at 10. Others suggested that including data derived from voice data in the proposed definition of personal information is potentially inconsistent with the approach adopted in the Commission's Enforcement Policy Statement Regarding the Applicability of the COPPA Rule to the Collection and Use of Voice Recordings. See, e.g., ESA, at 10.

¹¹² See, e.g., ESA, at 9–10; Epic Games, at 7–8.

¹¹³ See, e.g., CARU, at 3.

¹⁰² See, e.g., ESA, at 10–11; IAB, at 3–4. It is not clear why the proposed new provision for biometric identifiers generates concerns for industry commenters about inconsistencies related to the treatment of photographs, videos, or audio files under State law when paragraph 8 of the COPPA Rule's personal information definition currently has a separate provision for such data when they contain a child's image or voice. See 16 CFR 312.2.

¹⁰³ The Commission also notes that use of the term biometric identifier comports with language in the definition of personal information in the COPPA statute. See 15 U.S.C. 6501(8)(F).

¹⁰⁴ See, e.g., Privacy for America, at 15 (citing Connecticut statute's definition of biometric data as "data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, a voiceprint, eye retinas, irises or other unique biological patterns or characteristics that are used to identify a specific individual"); NCTA, at 6 (suggesting the NPRM proposal conflicts with State biometric laws, which consider derived data to be biometric data only where it is used or intended to be used to identify a specific individual); ANA, at 10 (suggesting biometric identifier provision should be limited to instances where biometric information is used or intended to be used to recognize or identify a child rather than data that can theoretically be used for that purpose but is not used in that way and further arguing this approach better aligns with the definitions of similar terms in the majority of State privacy laws and regulations) (citing Cal. Civ. Code 1798.140(c); 4 CCR 904–3, Rule 2.02; Va. Code Ann. 59.1–575); CIPL, at 4–5.

¹⁰⁵ See, e.g., ITIF, at 3 (contending that a materially different definition of biometric

virtual reality applications, educational technology products, connected toys, or speech-enabled apps used by children or individuals with disabilities.¹¹⁴ Others suggested that treating such derived data as personal information would constrain desirable use cases such as security features.¹¹⁵ Still other commenters opposing the proposal argued that it conflicts with relevant State laws and the 2024 NPRM's proposal to except from the COPPA Rule's verifiable parental consent requirement operators' collection of certain audio files that contain a child's voice.¹¹⁶ To reduce the potential burdens and impacts these and other commenters mentioned, the Commission has decided not to include this language in the biometric identifier provision as proposed in the 2024 NPRM.

After carefully considering the record and comments, the Commission has decided to adopt an amended version of the biometric identifier provision the Commission proposed in the 2024 NPRM. The Commission previously explained that the proposed provision included a non-exhaustive list of examples of covered biometric identifiers that can be used for the automated or semi-automated recognition of an individual.¹¹⁷ In response to the comments, the Commission has decided to change the word "including" in the proposed provision to the phrase "such as" in the

final Rule.¹¹⁸ The comments received have also persuaded the Commission not to include the proposed language of "data derived from voice data, gait data, or facial data" in the final Rule because it may be overly broad and include some data that cannot currently be used to identify and contact a specific individual. The Commission's original intent in proposing "data derived from voice data, gait data, or facial data" was to cover situations such as where imagery of a biometric characteristic (e.g., a fingerprint or a photograph) is converted into templates or numeric representations such as fingerprint templates or facial templates that can be used to identify and contact a specific individual.¹¹⁹ The Commission still intends for the modified provision to apply to such biometric identifiers. To make this clearer, and to exclude derived data that cannot be used to identify an individual, the Commission has decided to remove the originally proposed language at the end of the biometric identifier provision but to include additional examples of some covered biometric identifiers that can be used to identify a specific individual such as voiceprints, facial templates, faceprints, and gait patterns.

The Commission has carefully considered input from commenters emphasizing that biometric identifiers are important for uses such as identity authentication, security, age assurance, and virtual reality, and that expanding the definition of personal information to include biometric identifiers will make it more burdensome for operators to collect and use such data from children because they will need to notify parents and obtain verifiable parental consent. However, the Commission is persuaded that enabling parents to make decisions about whether operators are collecting and using their children's biometric identifiers for any purpose and the other benefits commenters identified associated with restricting the collection

of children's biometric identifiers without parental consent outweigh the attendant burdens imposed on operators.¹²⁰

c. NPRM Questions Related to "Personal Information"

i. Potential Exceptions Related to Biometric Data

The Commission also solicited comments about whether it should consider establishing any exceptions to Rule requirements with regard to biometric data, such as when such data is promptly deleted.¹²¹ In the event that the Commission decided to add biometric identifiers to the definition of personal information, some industry commenters expressed support for adding an exception when there is prompt deletion of biometric data.¹²² These commenters suggested this would facilitate beneficial uses such as permitting use of biometric identifiers for identity verification or age assurance purposes.¹²³

Other commenters opposed creating any exceptions tied to prompt deletion of biometric identifiers.¹²⁴ One consumer group commenter expressed concerns about operators "implementing narrow deletion practices, while retaining the ability to

¹¹⁴ See, e.g., SIIA, at 4 (suggesting proposed language would potentially apply to skills assessments, time spent, and other usage information that is derived from voice data and used in literacy products with a recording feature); ACT | The App Association, at 4 (suggesting many apps collect voice, fingerprints, and facial features for beneficial uses and mentioning apps assisting autistic children with speech); CARU, at 3 (suggesting "data derived from voice data, gait data, or facial data" is integral to virtual reality products, connected toys, and metaverse experiences); kidSAFE, at 3–4 (suggesting derived data language is overbroad and could apply to the collection of non-identifying data in virtual reality games, phonics instructional tools, and connected toy devices); R Street Institute, at 1–2 (discussing beneficial use cases such as voice-activated digital assistants with parental controls, educational products, and products assisting children with disabilities).

¹¹⁵ See, e.g., ConnectSafely, at 1 (emphasizing all users should have access to biometric security tools); IEEE Learning Engineering Consortium, at 5 (encouraging the Commission to consider beneficial uses such as security when determining which biometric identifiers to include in the definition).

¹¹⁶ See, e.g., NCTA, at 6 ("This definition conflicts with State biometric laws, which consider derived data to be biometric information only where it is used or intended to be used to identify a specific individual."); CCIA, at 3 (discussing conflict with approach to voice recordings in the 2024 NPRM).

¹¹⁷ 89 FR 2034 at 2042.

¹¹⁸ At least one commenter suggested adjusting the definitional language to clarify the intended scope of the provision. See CIPL, at 5 (suggesting the Commission replace term "including" with the phrase "includes but is not limited to"). The Commission has concluded that an alternative approach of enumerating a complete list of covered biometric identifiers in the Rule would not provide the flexibility necessary to respond to the rapid pace of technological development in biometric recognition.

¹¹⁹ See NIST, The Organization of Scientific Area Committees for Forensic Science, *OSAC Lexicon* (defining the term template in facial identification as a set of biometric measurement data prepared by a facial recognition system from a facial image) (citing ANSI/ASTM Standard Terminology for Digital and Multimedia Evidence Examination), available at https://www.nist.gov/glossary/osac-lexicon?k=&name=template&committee=All&standard=&items_per_page=50#top.

¹²⁰ See Consumer Reports, at 5 (arguing parents should know and have a choice when operators want to collect or process data about their child's most personal attributes, even if such activities are ephemeral). Importantly, the provision advances two of the goals for the COPPA statute identified in relevant legislative history: (1) enhancing parental involvement in a child's online activity to protect the privacy of children in the online environment, and (2) protecting children's privacy by limiting the collection of personal information from children without parental consent. 144 Cong. Rec. S12741–04, S12787 (1998) (statement of Senator Bryan).

¹²¹ 89 FR 2034 at 2070 (Question 5).

¹²² See, e.g., The Toy Association, at 3; Google, at 3; ITIC, at 2; Chamber, at 9; CCIA, at 3. For example, one industry commenter opposed including derived data in any definition related to biometric information and suggested a carveout for biometric data when an identifier is not used to identify a specific individual and is deleted promptly after collection. Epic Games, at 7. Another commenter that opposed the Commission's proposed inclusion of a biometric identifier provision in the definition of personal information also expressed support for a prompt deletion exception permitting use of biometric identifiers for purposes such as fraud and abuse prevention, complying with legal or regulatory requirements, service continuity, and ensuring the safety and age-appropriateness of the service. SIIA, at 15.

¹²³ See, e.g., Google, at 3; Yoti, at 4–5; SIIA, at 15. See also Epic Games, at 8 (recommending adoption of a carveout that would preserve operators' ability to offer features such as motion capture that rely on limited biometric data to translate users' movements to animate non-realistic, in-game avatars).

¹²⁴ See, e.g., Children's Advocates Coalition, at 58; State Attorneys General Coalition, at 3; Consumer Reports, at 4–5.

use and disclose biometric information for secondary purposes.”¹²⁵ Another commenter opposing the idea of a deletion exception emphasized the difficulty in verifying operators’ compliance with their deletion obligations and suggested that some operators would be incentivized to retain biometric identifiers for their business models.¹²⁶ A coalition of State attorneys general suggested that the “mere fact that the data is collected and temporarily held makes it vulnerable to potential cybersecurity attacks or misuse.”¹²⁷ A public advocacy group commenter also contended it would be premature to adopt a new exception for biometric data based on the limited factual record in this rulemaking proceeding and suggested the Commission should instead consider adding to § 312.12 of the Rule a new voluntary approval process for biometric-related exception requests.¹²⁸

A number of commenters suggested the Commission should consider exceptions for biometric identifiers that are based on specific use cases, such as when fingerprints or facial data are used for security or authentication purposes.¹²⁹ One FTC-approved COPPA

Safe Harbor program supported excepting the collection and use of biometric data for security purposes or for a limited purpose such as the temporary use of facial images for age verification or obtaining verifiable parental consent, followed by the data’s prompt deletion.¹³⁰

After carefully considering the record and comments related to this question, the Commission has decided not to add any additional exceptions to COPPA Rule requirements related to biometric data at this time, other than the exception to prior parental consent set forth in proposed § 312.5(c)(9) in the 2024 NPRM for the collection of audio files containing a child’s voice. The Commission has carefully considered the input from commenters emphasizing that biometric identifiers are important for uses such as identity authentication and security purposes, age assurance, and virtual reality, and that expanding the definition of personal information to include biometric identifiers will make it more burdensome for operators to collect and use such data from children.¹³¹ While technologies utilizing biometrics are developing rapidly, they still vary in terms of efficacy across use cases and across providers. Based on the current record, and in light of the uniquely personal and immutable nature of biometric identifiers and potential privacy and other harms when such data is misused, the Commission has concluded at this time that the impact on such uses and the burden placed on operators to obtain verifiable parental consent are outweighed by the benefit of providing greater protection for this sensitive data and enhancing control for parents. Further, as some commenters noted, storage of sensitive biometric identifiers for even limited periods of time increases the risk that such data will be compromised in a data security incident.

ii. Government-Issued Identifiers

The Commission also requested comment on whether it should revise the definition of “personal information” to specifically list government-issued identifiers beyond Social Security numbers that are currently included in the definition.¹³² The Commission

received relatively few comments addressing this proposal, and all of them supported listing additional government-issued identifiers in the definition of “personal information.”¹³³

One commenter noted such identifiers are likely already covered under the existing definition of personal information, but suggested that adding an explicit provision for government-issued identifiers would provide greater clarity.¹³⁴ A coalition of State attorney generals expressed the view that parents should have the right to review and to have discussions with their children before these highly sensitive identifiers are shared.¹³⁵ Based on the comments and its enforcement experience, the Commission is persuaded that government-issued identifiers can be used to identify and permit the physical or online contacting of a specific child and has concluded that it would be beneficial to expressly incorporate additional government identifiers in the definition of personal information in order to provide greater clarity. Therefore, paragraph 6 of the current definition of “personal information” which is “a Social Security number” will be amended to: “[a] government-issued identifier, such as a Social Security, state identification card, birth certificate, or passport number.” The Commission notes that the list of examples of specific government identifiers is not intended to be exhaustive.

iii. Screen and User Names

Since the 2013 Amendments to the Rule, the definition of personal information has included screen or user names to the extent that these identifiers function in the same manner as “online contact information.” In the 2024 NPRM, the Commission sought comment on whether screen or user names should also be treated as online contact information or personal information if the screen or user names do not allow one user to contact another user through the operator’s website or online service, but could enable one user to contact another by assuming that

¹²⁵ Children’s Advocates Coalition, at 65.

¹²⁶ Internet Safety Labs, at 4. The Commission’s enforcement experience suggests that these concerns are well-founded. See, e.g., Complaint, *In re Everalbum, Inc.*, Dkt. No. C-4743, available at https://www.ftc.gov/system/files/documents/cases/1923172_-_everalbum_complaint_final.pdf; Complaint, *United States v. Amazon.com, Inc. et al.*, Case No. 2:23-cv-00811 (W.D. Wash. May 31, 2023), available at https://www.ftc.gov/system/files/ftc_gov/pdf/Amazon-Complaint-%28Dkt.1%29.pdf.

¹²⁷ State Attorneys General Coalition, at 3.

¹²⁸ ACLU, at 15 (“Creating exceptions to the Rule’s protections for biometrics should be done on a case-by-case basis with a robust factual record; it is thus better suited for the voluntary approval process rather than ordinary rulemaking.”).

¹²⁹ See, e.g., ConnectSafely, at 1 (“We strongly believe that biometric tools such as fingerprint and facial recognition should be available for all users to make sure that children and teens, as well as adults, are able to access services in the most secure way possible.”); M. Bleyleben, at 2 (“The decision whether or not to make an exception for biometric data that has been promptly deleted should be based on the use case, not solely on whether it has been deleted. For example, using biometrics for platform-based authentication (such as iPhone’s face ID) is a positive use case that should be covered under any exception.”); IEEE Learning Engineering Consortium, at 5 (suggesting the Commission consider the context in which biometric data is collected and used and that use for security purposes might be treated differently under the COPPA Rule than biometric data used for tracking or monitoring behavior). Another commenter that generally opposed the Commission’s proposed biometric identifier provision expressed support for a prompt deletion exception permitting the use of biometric identifiers for compliance purposes such as to facilitate “fraud and abuse prevention, complying with legal or regulatory requirements, service continuity, and ensuring the safety and age-appropriateness of the service.” SIIA, at 15.

¹³⁰ kidSAFE, at 4.

¹³¹ The Commission notes that COPPA’s requirements relating to biometric identifiers apply only to operators of child-directed websites or online services—including those that have actual knowledge they are collecting personal information from users of another child-directed site or service—and operators that have actual knowledge they are collecting personal information from a child.

¹³² 89 FR 2034 at 2070 (Question 7).

¹³³ See State Attorneys General Coalition, at 4 (recommending inclusion of passport and passport card numbers, Alien Registration numbers or other identifiers from United States Citizenship and Immigration Services, birth certificate numbers, identifiers used for public benefits, State ID card numbers, and student ID numbers); Consumer Reports, at 5–6 (suggesting inclusion of passport, birth certificate, and DMV-issued Child ID cards); EPIC, at 4 (expressing general support for including government-issued identifiers); Common Sense Media, at 7 (same); AASA, The School Superintendents Association, at 8 (same).

¹³⁴ Consumer Reports, at 6.

¹³⁵ State Attorneys General Coalition, at 4.

the user to be contacted is using the same screen or user name on another site or service.¹³⁶

A minority of commenters expressed support for this suggestion.¹³⁷ Some of these commenters suggested there is frequent reuse of screen and user names across platforms, and that screen and user names might allow entities to link information collected across various platforms.¹³⁸ Another commenter cited safety concerns and suggested screen and user names can facilitate contact with, and the grooming of, children for sexual exploitation or other harms.¹³⁹

A majority of commenters opposed this proposal for a variety of reasons.¹⁴⁰ Some of these commenters argued that the proposal to expand the definition is inconsistent with the COPPA statute because a screen or user name does not necessarily permit the physical or online contacting of a specific individual.¹⁴¹ Opponents also highlighted practical problems associated with such an expansion. For example, commenters suggested the proposal would likely result in operators treating all screen and user names as personal information because of the difficulty in determining whether a particular child has used the same screen or user name on other sites or services.¹⁴² Many commenters emphasized this result would adversely impact privacy interests of children and parents because it would require operators of websites or online services that do not currently collect personal information from children to need to do so in order to seek verifiable parental consent.¹⁴³ Industry commenters also

opined that the suggested expansion of screen and user names constituting personal information would require significant changes to common business practices and would impose significant burdens on operators related to changing such practices and trying to determine whether screen or user names are being re-used on other sites and services in ways that permit communication.¹⁴⁴

The Commission currently does not have sufficient evidence concerning either the extent to which children are currently reusing their screen and user names across platforms or the prevalence of children being contacted via screen or user names through secondary platforms to warrant amending the Rule.¹⁴⁵ Recognizing the difficulties operators might face in determining whether screen and user names are being used by specific individuals on other websites and online services, the Commission is persuaded that amending the Rule now to require operators to treat screen or user names that do not allow one user to contact another user through the operator's website or online service as personal information would likely cause operators to treat all screen and user names as personal information and have negative privacy consequences, including increased data collection by operators that currently do not need to collect personal information.¹⁴⁶ After carefully considering the record and comments, the Commission has therefore concluded that it will not amend the definitions of personal information or online contact information at this time to include the suggestion discussed in Question Four of the "Questions for the Proposed Revisions to the Rule" section of the 2024 NPRM. The Commission notes that

if a screen or user name collected online from a child is combined with other personal information, then it is considered personal information under the provision set forth in paragraph 10 of the Rule's definition of "personal information."

iv. Avatars

The Commission solicited comments in Question Six of the "Questions for the Proposed Revisions to the Rule" section of the 2024 NPRM about whether an avatar generated from a child's image should constitute personal information under the Rule even if the photograph of the child is not itself uploaded to the site or service and no other personal information is collected from the child, and, if so, whether the current Rule provides sufficient coverage or whether further modifications to the definition of personal information are necessary to ensure coverage.¹⁴⁷

A minority of commenters supported treating avatars based on a child's image as personal information under the circumstances described in Question Six.¹⁴⁸ A coalition of State attorneys general cited concerns about the possibility of reverse engineering from avatars that are generated using biometric data, and recommended amending the definition of personal information to include "an avatar generated on the child's image and likeness, whether or not a photograph, video or audio file is provided or stored."¹⁴⁹ Another commenter suggested that some popular platforms are encouraging the creation of realistic avatars modelled on users' biometric data and expressed concerns about the possibility that companies might "collect data from an avatar to analyze and influence a child's behavior" including through targeted

¹³⁶ 89 FR 2034 at 2070 (Question 4.a).

¹³⁷ Internet Safety Labs, at 3; AASA, The School Superintendents Association, at 8; ACLU, at 9–10; Center for AI and Digital Policy, at 2–3; Consumer Reports, at 3–4.

¹³⁸ See, e.g., Parent Coalition for Student Privacy, at 3,7; Consumer Reports, at 3–4; AASA, The School Superintendents Association, at 8.

¹³⁹ Center for AI and Digital Policy, at 2–3.

¹⁴⁰ See, e.g., Chamber, at 2–3; ESRB, at 23–25; ESA, at 8; IAB, at 5–6; kidSAFE, at 2–3; M. Bleyleben, at 2; CCIA, at 4, The Toy Association, at 3–4; Privacy for America, at 15–16; Epic Games, at 8–9.

¹⁴¹ See, e.g., ESA, at 8; CCIA, at 4. At least one industry commenter contended that it is common for the same screen name or user name to be used by different children. See The Toy Association, at 3.

¹⁴² IAB, at 5; ESA, at 9.

¹⁴³ For example, the U.S. Chamber of Commerce suggested many operators collect an anonymous username or screen name precisely to avoid collecting personal information—such as full name or email address—when such information is not otherwise needed and that a change to the definition would require operators to collect more personal information from children and their parent to seek verifiable parent consent. Chamber, at 2–3. See also ESRB, at 23–24; ESA, at 8; IAB, at 5–6; The Toy Association, at 3–4; Privacy for America, at 16; Epic Games, at 8.

¹⁴⁴ See, e.g., IAB, at 5 (suggesting operators cannot reasonably determine whether a particular child has used the same screen or user name across different sites or services); Epic Games, at 8 (stating that video game companies use anonymous screen and user names in many ways that do not facilitate the contacting of an individual in order to protect user privacy and arguing that it would be burdensome to require operators to monitor use of their screen names on third-party sites and services).

¹⁴⁵ See kidSAFE, at 2–3 (stating that it was not aware of any studies indicating children are using the same exact usernames across multiple online services, such that knowing a child's username on one online service would allow for direct communication on another online service).

¹⁴⁶ See ESA, at 8 (suggesting that restricting the use of anonymous screen names and user names would negatively impact the online experience for children and undermine the data minimization principles underlying COPPA and stating that many screen and user names are automatically generated and assigned by the service, and therefore would be unlikely to allow a user to contact another user on another website or online service).

¹⁴⁷ 89 FR 2034 at 2070 (Question 6).

¹⁴⁸ See, e.g., Consumer Reports, at 5; EPIC, at 3–4 (recommending including avatars generated from a child's image); State Attorneys General Coalition, at 3–4 (same); Common Sense Media, at 13 (supporting adding avatars that are identifiable and are able to be contacted outside of a specific service or session); L. Lu, at 1 (recommending that definition of personal information include identifiable avatars). At least one commenter recommended the Commission treat all avatars as personal information, regardless of whether they are generated from a child's image. See Internet Safety Labs, at 4.

¹⁴⁹ State Attorneys General Coalition, at 4 ("If the avatars are based on the child's photograph or likeness, regardless of whether the original source is retained, the avatar could be used in the identification of the child, through many different methods including reverse image searches, facial recognition tools, or combining information gleaned from the avatar with other known elements of personal information.").

advertising.¹⁵⁰ A consumer group contended that a likeness of a child generated from an image could alone, or when combined with other sources of information, be used to individually identify a child and suggested adding “or likeness of a child” to existing paragraph 8 of the COPPA Rule’s personal information definition to provide coverage if the Commission decided not to adopt the NPRM proposal of including “data derived . . . from facial data” in the biometric identifier provision in the personal information definition.¹⁵¹

Another commenter discussed potentially sensitive information that might be derived from avatars such as ethnicity or disability information, but suggested more research should precede expansion of the definition.¹⁵²

For a variety of reasons, a majority of commenters opposed the idea of treating avatars described in Question Six as personal information under the Rule.¹⁵³ Some of these commenters emphasized that avatars are often temporary, changeable, and not linkable to personal information.¹⁵⁴ Many commenters raised statutory concerns about expanding the definition of personal information to include avatars, arguing that avatars are not individually identifiable and cannot be used for the physical or online contacting of a child.¹⁵⁵ Some commenters suggested that if a photograph used to generate an avatar is processed locally on a device, the photograph and the avatar would be outside the scope of the COPPA statute and Rule because the photograph is not information collected or stored

online.¹⁵⁶ Several commenters argued the proposal would be inconsistent with existing FTC guidance permitting operators to blur the facial features in children’s photos before posting the photos online in order to avoid collecting personal information.¹⁵⁷ Commenters contended that avatars similarly obscure individually identifying information and should not be treated as personal information.¹⁵⁸

Industry commenters also raised practical and policy-related objections to the idea of requiring operators to treat avatars generated from a child’s image, in situations where the operator has not itself collected the child’s photograph, as personal information. For example, commenters suggested that expanding coverage for avatars under the Rule would be burdensome and confusing, and introduce significant compliance challenges, particularly because operators that do not collect photographs or videos of users would have difficulty determining whether an avatar is created from a child’s image.¹⁵⁹ Commenters suggested that such uncertainty would deter online service providers from offering avatar-based features in games and related product offerings, and that this would negatively impact users’ privacy and online experiences.¹⁶⁰ Commenters argued that the use of avatars as online proxies is privacy-enhancing because they can, like screen and user names, be used by online services as a substitute for personal identification.¹⁶¹ Several commenters also urged the Commission to consider that avatars also benefit

users by personalizing online experiences and allowing users to explore self-expression online.¹⁶²

After carefully considering the record and comments, the Commission is persuaded that it would likely be difficult for operators to determine whether an avatar is generated from a child’s image in situations where they have not collected an image of the child. For example, with the advent of generative AI, the Commission expects that it would be possible for a user to create a highly realistic avatar that might appear to be generated from a child’s image. The Commission also does not currently have sufficient evidence that avatars are individually identifying. Indeed, a number of the comments received suggest that avatars are often temporary and may not resemble users.¹⁶³ However, the Commission notes that an avatar that the operator collects online from a child and combines with another identifier included in the definition of personal information is personal information pursuant to paragraph 10 of the Rule’s definition of personal information.¹⁶⁴ The Commission further notes that it will continue to monitor marketplace and technological developments in this area and may revisit Rule amendments related to avatars in the future.¹⁶⁵

v. Information Concerning the Child or the Parents of That Child

The definition of personal information in the current Rule includes “information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in [the Rule’s definition of “personal information”].”¹⁶⁶ This provision includes the same language found in the COPPA statute’s definition of personal information.¹⁶⁷ In the 2024 NPRM, the Commission solicited comments about whether the phrase

¹⁵⁰ L. Lu, at 2.

¹⁵¹ Consumer Reports, at 5. Paragraph 8 of the COPPA Rule’s personal information definition encompasses “[a] photograph, video, or audio file where such file contains a child’s image or voice.” 16 CFR 312.2.

¹⁵² Yoti, at 5 (“An avatar could give evidence or clues as to age, gender, disability, ethnicity. . . . If the avatar could be combined with additional information held by a service provider, to reasonably identify the avatar’s human representative, that could pose greater risks to a minor. . . .”).

¹⁵³ See, e.g., The Toy Association, at 3–4; ITIC, at 2–3; ESA, at 11–12; ESRB, at 25; Kidify, at 3–4; Epic Games, at 9–10.

¹⁵⁴ See ITIC, at 3. See also Kidify, at 4 (suggesting that avatars are rarely actually used in practice to identify or contact an individual in-game due to their frequently changing nature); CARU, at 7 (suggesting that avatars vary widely, and that many users do not base avatars on their own images); ACT | The App Association, at 5 (contending that avatars are temporary and alterable representations that often do not reflect personal characteristics of an individual user and do not enable contact).

¹⁵⁵ See, e.g., ITIC, at 3; SIA, at 5, 15; IAB, at 7–8; Chamber, at 2; ACT | The App Association, at 5.

¹⁵⁶ ESA, at 11–12 (“[I]f the photograph of the child is not uploaded to the site or service, the photograph is processed locally on the device to generate the avatar. The FTC has previously recognized that local processing of a child’s personal information does not trigger COPPA because the statute requires that personal information must be collected, used, or stored over the internet.”). See also Chamber, at 2 (suggesting that if an avatar image does not leave the device, no personal information is collected under COPPA); IAB, at 7 (same).

¹⁵⁷ See, e.g., ESA, at 12; NCTA, at 7. These commenters cited staff guidance in COPPA Frequently Asked Questions, Section F.3, and previous statements in the 2013 Statement of Basis and Purpose. See COPPA FAQs, FAQ Section F.3; 78 FR 3972 at 3982 n.123.

¹⁵⁸ See, e.g., NCTA, at 7 (suggesting that “avatars, even if initially generated from a child’s image, once altered do not constitute an identity of the sort that permits physical or online contacting of a child”); ESA, at 12 (contending that “once a photo has been transformed into an avatar, facial recognition technology no longer is able to identify the specific individual”).

¹⁵⁹ See, e.g., CARU, at 7; ITIC, at 3; Kidify, at 3.

¹⁶⁰ See, e.g., Kidify, at 3–4; CARU, at 7.

¹⁶¹ See, e.g., M. Bleyleben, at 3; IAB, at 7–8; The Toy Association, at 3–4; SIA, at 5; NCTA, at 6; Chamber, at 2; SuperAwesome, at 5.

¹⁶² L. Lu, at 1; The Toy Association, at 3–4; ITIC, at 2–3; Chamber, at 2–3; SuperAwesome, at 5.

¹⁶³ See, e.g., M. Bleyleben, at 3; Kidify, at 4; CARU, at 7; ACT | The App Association, at 5.

¹⁶⁴ See FTC Press Release, *FTC Will Require Microsoft to Pay \$20 million over Charges it Illegally Collected Personal Information from Children without Their Parents’ Consent* (June 5, 2023), available at <https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-will-require-microsoft-pay-20-million-over-charges-it-illegally-collected-personal-information> (discussing applicability of COPPA to avatars generated from a child’s image when combined with other personal information).

¹⁶⁵ It is possible that if cross-platform use of avatars becomes common, avatars could be used to identify and contact specific individuals and track users across domains. See M. Bleyleben, at 3.

¹⁶⁶ 16 CFR 312.2.

¹⁶⁷ 15 U.S.C. 6501(8)(G).

“concerning the child or the parents of that child” in the Rule requires further clarification.¹⁶⁸ The Commission received relatively few significant comments.

A coalition of State attorneys general suggested the Commission consider amending this provision to: “information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in [the Rule’s definition of ‘personal information’], or which may otherwise be linked or reasonably linkable to personal information of the child.”¹⁶⁹ In response, the Commission observes this provision already provides broad coverage for information concerning children and parents that the operator collects online from a child when it is combined with identifiers included in the Rule’s definition of personal information and declines to expand coverage to the extent proposed by this commenter.

A number of commenters asked the Commission to clarify when, or if, inferred data would be considered personal information under the provision in paragraph 10 of the Rule’s definition of personal information.¹⁷⁰ One consumer group stated that it disagreed with the Commission’s earlier conclusion in the 2024 NPRM that inferred data is outside the scope of the COPPA statute¹⁷¹ and urged the Commission to state specifically that information inferred about a child is information “concerning the child.”¹⁷² This commenter noted that inferred data is commonly used to categorize individuals for marketing purposes and suggested parents should have the right both to be notified when this information is generated and to delete such information when the disclosure of a “business” assumptions about a child carry the risk for personal embarrassment, social stigmatization, [or] discrimination, [and] could be used

as a basis to make legal or other similarly significant decisions.”¹⁷³

Several industry commenters asked the Commission to confirm that the catch-all provision in paragraph 10 of the definition of personal information does not extend to inferred data.¹⁷⁴ Others expressed concern about potential interference with the support for the internal operations exception if inferred data not collected from a child and linked to persistent identifiers were to be covered by the catch-all provision.¹⁷⁵ To clarify that inferred information can be combined with persistent identifiers to support the internal operations of a site or service without parental consent, some commenters suggested amending the catch-all provision in the Rule’s definition of personal information to “information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition, except to the extent such information is combined with a persistent identifier and used solely to support internal operations.”¹⁷⁶

After carefully considering the record and comments related to this question, the Commission has decided to retain the existing language in paragraph 10 of the Rule’s definition of personal information, which tracks the definition in the COPPA statute and provides broad coverage for a wide range of information that is collected from children when such information is combined with other identifiers set forth in the definition.¹⁷⁷ While the Commission agrees that inferred or proxy data about a child may sometimes include sensitive information presenting privacy risks, the COPPA statute regulates the collection of personal information from a child,¹⁷⁸ and inferred or proxy data that is derived from information collected from sources other than a child therefore cannot be

treated as personal information under the COPPA statute.

d. The Commission Adopts Amendments Regarding “Personal Information”

As discussed earlier, after carefully considering the record and comments, the Commission is adopting an amended version of the biometric provision proposed in the 2024 NPRM to be included in the definition of personal information. Specifically, the Commission has decided not to include the language “data derived from voice data, gait data, or facial data” in the provision for the reasons discussed in Part II.B.3.b. The Commission has also decided to replace the word “including” with “such as” and to provide additional illustrative examples of biometric identifiers to provide further clarity concerning the provision’s coverage. The language the Commission is adopting for the biometric identifier provision in the final Rule’s definition of personal information includes the following: “A biometric identifier that can be used for the automated or semi-automated recognition of an individual, such as fingerprints; handprints; retina patterns; iris patterns; genetic data, including a DNA sequence; voiceprints; gait patterns; facial templates; or faceprints[.]” As discussed in Part II.B.3.c.ii, the Commission has also decided to amend paragraph 6 of the definition of personal information to include “[a] government-issued identifier, such as a Social Security, [S]tate identification card, birth certificate, or passport number[.]”

4. Definition of “Support for the Internal Operations of the Website or Online Service”

a. The Commission’s Proposal Regarding “Support for the Internal Operations of the Website or Online Service”

The current Rule defines “support for the internal operations of the website or online service” to include seven enumerated activities and further provides that the information collected to perform such activities cannot be used or disclosed to “contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.”¹⁷⁹ In the 2024

¹⁶⁸ 89 FR 2034 at 2070 (Question 8).

¹⁶⁹ State Attorneys General Coalition, at 5. See also SIA, at 9 (suggesting the word “concerning” is potentially overbroad and recommending adding language to the provision to limit coverage to data that is “linked or reasonably linkable” to the child or parents of that child).

¹⁷⁰ See, e.g., CDT, at 5–6; CIPL, at 5; IAB, at 8–9.

¹⁷¹ See 89 FR 2034 at 2042 (“The Commission has decided not to propose including inferred data or data that may serve as a proxy for ‘personal information’ within the definition. . . . [T]o the extent data is collected from a source other than the child, such information is outside the scope of the COPPA statute and such an expansion would exceed the Commission’s authority.”).

¹⁷² Consumer Reports, at 6.

¹⁷³ *Id.*

¹⁷⁴ See, e.g., ESA, at 12 (urging Commission to clarify a statement in the 2024 NPRM suggesting that inferred data could fall within COPPA’s catch-all provision if combined with other identifiers listed in the definition of personal information and arguing that inferred data does not fall under the catch-all provision if it is not collected from a child online); CIPL, at 5 (same); CDT, at 5–6 (asking the Commission to clarify when and how the catch-all provision applies to inferred data).

¹⁷⁵ See, e.g., Chamber, at 4; ESA, at 12–13.

¹⁷⁶ See Epic Games, at 10; ESA, at 12–13.

¹⁷⁷ See 64 FR 59888 at 59892 (definition of personal information covers “non-individually identifiable information (e.g., information about a child’s hobbies or toys) that is associated with an identifier”).

¹⁷⁸ See 15 U.S.C. 6502(a)(1).

¹⁷⁹ 16 CFR 312.2, definition of “support for the internal operations of the website or online service.” In adopting the 2013 Amendments to the Rule, the Commission observed that a number of functions fall within the scope of the enumerated activities in the definition of “support for the internal operations of the website or online service.” Specifically, the Commission recognized

NPRM, the Commission proposed two substantive amendments to the definition's use restriction. First, the Commission proposed an amendment clarifying that the information collected for the enumerated activities in the definition may be used or disclosed to carry out those activities.¹⁸⁰ Second, the Commission proposed expanding the non-exhaustive list of use restrictions in the definition to prohibit operators relying on the support for the internal operations exception to the COPPA Rule's verifiable parental consent requirement from using or disclosing personal information to contact a specific individual "in connection with processes that encourage or prompt use of a website or online service."¹⁸¹ The Commission also solicited comments about "whether and how the Rule should differentiate between techniques used solely to promote a child's engagement with the website or online service and those techniques that provide other functions, such as to personalize the child's experience on the website or online service."¹⁸²

that "intellectual property protection, payment and delivery functions, spam protection, optimization, statistical reporting, or de-bugging" are covered by the definitional language permitting activities that "maintain or analyze" the functioning of the website or online service or those that protect the "security or integrity" of the website or online service. 78 FR 3972 at 3981. In the 2024 NPRM, the Commission explained its reasons for declining to expand or narrow the list of activities included in the definition as suggested by some commenters. 89 FR 2034 at 2044–2045. The Commission also clarified that ad attribution, personalization, product improvement, and fraud prevention fall within the scope of the activities already enumerated in the definition. 89 FR 2034 at 2045.

¹⁸⁰ 89 FR 2034 at 2050. See also *id.* at 2045.

¹⁸¹ *Id.* at 2072. See also *id.* at 2045.

¹⁸² *Id.* at 2046, 2070–71 (Question 15).

Commenters suggested various alternatives to the proposed amendment that are responsive to this question. For example, an FTC-approved COPPA Safe Harbor program urged the Commission to drop the proposed restriction or adjust it in a way that distinguishes "between engagement techniques that are intrusive, misleading, or unexpected, versus ones that are reasonable and/or core to the functioning of the service" and specifically suggested the alternative language of "in connection with processes that encourage or prompt continuous use of a website or online service in a manner not core to the function of the service or not reasonably expected by the user, or for any other purpose." kidSAFE, at 6 (emphasis in original). An industry commenter contended that "engagement techniques falling outside the Support for Internal Operations exception should be restricted to practices that have negative consequences for children, rather than restricting things that simply make a service more relevant for them, notify them of rewards, or even promote an age-appropriate experience." Chamber, at 5. Another industry commenter that objected to changing the definition suggested in the alternative that the Commission "should clarify that these restrictions do not apply to techniques used to drive engagement for purposes that benefit children . . . and personalization that seeks to make a service more relevant." Google, at 10. In response, the

b. Public Comments Received in Response to the Commission's Proposal Regarding "Support for the Internal Operations of the Website or Online Service"

The Commission received at least one comment supporting the first proposed amendment to the definition of "support for the internal operations of the website or online service"¹⁸³ and did not receive any comments objecting to it. The Commission received a number of comments both for and against the proposal to expand the non-exhaustive list of use restrictions in the definition to include efforts to contact a specific individual "with processes that encourage or prompt use of a website or online service."

A number of consumer advocacy groups, school-related groups, governmental commenters, and other commenters supported the proposal to restrict the use of persistent identifiers collected under the support for the internal operations exception to COPPA's verifiable parental consent requirement to contact a specific individual in order to encourage or prompt use of a website or online service.¹⁸⁴ For example, commenters supporting the additional restriction contended it is necessary to address the use of engagement techniques that exploit children's developmental vulnerabilities¹⁸⁵ and the potential adverse impacts on mental health associated with children spending extended periods of time online or engaging with social media platforms.¹⁸⁶ At least one commenter suggested that parents should be given the opportunity to decide whether to consent to the use of their children's personal information to feed features that encourage engagement with

Commission notes that it believes such alternatives would introduce considerable uncertainty given the variation in possible conclusions as to whether, for example, a prompt is intrusive or has a negative consequence and would be difficult for the Commission to enforce for the same reason.

¹⁸³ See CIPL, at 6.

¹⁸⁴ See, e.g., S. Winkler, at 1–2; Children and Screens, at 2; NYC Technology and Innovation Office, at 2–3; Mental Health America, at 1–2; ASSA, The School Superintendents Association, at 5; SuperAwesome, at 4; Motley Rice, at 13; Sandy Hook Promise, at 5; Children's Advocates Coalition, at 29–31; Family Online Safety Institute, at 2–3; Data Quality Campaign, at 4; Anonymous, Doc. FTC–2024–0003–0125, at 1; Anonymous, Doc. FTC–2024–0003–0127, at 1.

¹⁸⁵ See, e.g., Children's Advocates Coalition, at 29 ("[E]ngagement-maximizing techniques pose particular risks when used on minors, who are developmentally vulnerable to features and functions designed to extend their use of a website or service").

¹⁸⁶ See, e.g., S. Winkler, at 1–2; Children and Screens, at 2; Data Quality Campaign, at 4; Mental Health America, at 1–2.

websites or online services.¹⁸⁷ Other supportive commenters contended that using children's personal information to encourage or prompt use of a website or online service would be inconsistent with the intended purpose of the support for the internal operations exception.¹⁸⁸ Other commenters, while generally supporting the Commission's proposal, suggested push notifications and prompts encouraging children to use a website or online service should be permissible in certain settings, such as "to promote pedagogical engagement on edtech platforms."¹⁸⁹

For a variety of reasons, a majority of commenters that weighed in on this proposal, representing different types of stakeholders, opposed amending the definition's use restriction to prohibit operators from relying on the support for the internal operations exception when persistent identifiers are being used in connection with processes that encourage or prompt the use of a website or online service.¹⁹⁰ Several

¹⁸⁷ S. Winkler, at 1–2.

¹⁸⁸ See, e.g., Children and Screens, at 2 (suggesting "[s]uch uses are an abuse of the exception. . . ."); Children's Advocates Coalition, at 29 (contending children's "nascent executive function skills related to 'impulse control, decision-making, attentional flexibility, planning, self-regulation' . . . make it particularly difficult for children to resist prompts to return to or stay on a platform" and suggesting that "[u]sing a child's personal data to exploit these vulnerabilities via notifications or nudges exceeds the limited practical purposes for which the internal operations exception is intended") (internal citation omitted). As part of the 2013 Amendments to the Rule, the Commission explained that the support for the internal operations exception reflects the agency's recognition that "persistent identifiers are [] used for a host of functions that have little or nothing to do with contacting a specific individual, and that these uses are fundamental to the smooth functioning of the internet, the quality of the site or service, and the individual users' experience." 78 FR 3972 at 3980.

¹⁸⁹ ASSA, The School Superintendents Association, at 5. See also Advanced Education Research and Development Fund, at 7. Some commenters opposing the proposal raised similar concerns about the importance of avoiding amendments to the Rule that would interfere with beneficial features of ed tech products or services. See, e.g., Google, at 10 (discussing ed tech and language learning products and arguing the proposed change should not apply to "techniques used to drive engagement for purposes that benefit children (e.g., sending them important reminders) and personalization that seeks to make a service more relevant."); SIIA, at 6 (contending that "machine learning 'prompting' or 'nudging'" may be beneficial in some circumstances such as "algorithmic or machine learning prompts for the purposes of meeting learning objectives . . . in the context of education technology (specifically adaptive and/or personalized learning)").

¹⁹⁰ See, e.g., SIIA, at 5–6, 16; Chamber, at 5; ACLU, at 21–22; ESA, at 16–18; IAB, at 18–20; NCTA, at 13–14; ACT | The App Association, at 7–8; Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 5–6; kidSAFE, at 5–6; ANA, at 14–15; CCIA, at

Continued

industry group commenters suggested the proposal falls outside the scope of the objectives that the COPPA statute was intended to address and exceeds the Commission's statutory authority.¹⁹¹

Several commenters asserted the proposed language is vague or overbroad and fails to give operators adequate notice of the prohibited conduct.¹⁹² Another commenter suggested the proposed language is "potentially broader than the concerns of maximizing user engagement and could include something as infrequently as one notification per day."¹⁹³ Other commenters argued the proposed restriction is broad enough to potentially include any design feature improving the user experience, because a streamlined or personalized user experience could be viewed as encouraging or prompting the use of the service.¹⁹⁴

5; Google, at 9–10; The Toy Association, at 2–3; Future of Privacy Forum, at 8–9.

¹⁹¹ See, e.g., Google, at 9–10 ("None of the objectives that COPPA was designed to achieve, or harms that COPPA was intended to prevent, have anything to do with children's engagement with online content. The FTC's attempt to regulate children's engagement with content through the COPPA Rule goes beyond its statutory authority and is the type of value judgment that is appropriately reserved for Congress."); Chamber, at 5 (suggesting "it is not clear that COPPA confers authority on the FTC to propose this restriction"); ESA, at 18 ("The intent of COPPA was not to regulate how operators design experiences for children online beyond the specific requirements related to the processing of children's personal information. The FTC should not use this rulemaking to implement age-appropriate-design-code-style features that would overstep its statutory authority and congressional intent in order to, for example, restrict the amount of time children spend online."); IAB, at 19 ("COPPA is intended to protect the privacy and safety of children's personal information online, not to be a 'design code' statute."); NCTA, at 14 (arguing that proposal is "outside the scope of COPPA's remit, which is to protect *privacy* of children online") (emphasis in original).

¹⁹² See, e.g., ESA, at 16 (suggesting language "does not clearly indicate the type of functions and features that are prohibited by the proposed restriction" and therefore does not provide adequate notice to operators about what is prohibited); NCTA, at 14 (contending proposal is vague and unenforceable); kidSAFE, at 5 (arguing restriction is too broad and may require operators to obtain verifiable parental consent and increase data collection "for prompts that are essential to the core function of child-directed services and reasonably expected by users of those services"); IAB, at 18–19 ("[T]he prohibition could be read expansively as applying to a wide range of design practices that benefit consumers, including 'personalization' and 'optimization' expressly permitted under the support for internal operations exception."); ANA, at 15 (arguing "proposed restriction is vague and unclear").

¹⁹³ Future of Privacy Forum, at 9.

¹⁹⁴ See, e.g., ESA, at 16–17; NCTA, at 14 ("[T]he language could be interpreted that *any* design feature that improves user experience is problematic. . . .") (emphasis in original); Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 6 (suggesting proposal will adversely impact quality

Many commenters emphasized that the proposed restriction could have unintended consequences, such as preventing operators from using prompts and notifications that are beneficial for children.¹⁹⁵ For example, commenters mentioned features in educational products that rely on push notifications to help children remain focused on studies or notifications to children related to taking turns in an online game.¹⁹⁶ Another commenter opposing the additional restriction urged the Commission to consider positive use cases for prompts such as "reminders about meditation apps, homework assignment reminders, and notifications about language lessons."¹⁹⁷ Another commenter

of online services for children because "[u]nder the potentially vast and highly subjective standard proposed by the Commission, taking actions to improve one's service risks being deemed by the Commission to have 'encouraged' use or attention"); American Association of Advertising Agencies ("4A's"), at 3 ("The use of persistent identifiers for personalization allows operators to provide valuable benefits to children including reactive learning environments, tailored and improved products, and fraud prevention services. In the longer term, widespread disruption of these services by way of requiring verifiable parental consent would mean a significantly downgraded user experience for children as they engage safely online."); IAB, at 18–19; ANA, at 15 ("On its face, this proposal could restrict *any* feature that makes the offered services more enjoyable or interesting to kids.") (emphasis in original). See also NCTA, at 14 ("Even if the FTC's intention is to protect children against dark patterns, addictive features, or other putatively manipulative characteristics and capabilities, the proposed language sweeps far more broadly and threatens to interfere with beneficial capabilities that enhance user experience.").

¹⁹⁵ See, e.g., SIIA, at 6, 19–20 (suggesting proposal would prohibit useful notifications and machine learning-based prompts reminding students to complete lessons or homework); Chamber, at 5; IAB, at 18–19; ACT | The App Association, at 7–8; CIPL, at 6 (requesting clarification of the terms used in proposal and suggesting undefined phrase of "encourage or prompt use" . . . could unwittingly prohibit innovative and beneficial uses for end users. . . .).

¹⁹⁶ See, e.g., CCLA, at 5 ("Some educational applications . . . utilize push notifications to help children remain focused on their studies, including in conjunction with usage 'streaks' and other methods intended to gamify learning for children's benefit."); E. Tabatabai, at 12–13 (stating that ed tech operators often use "benign forms of encouragement to make a learning activity more enjoyable . . . and to increase the learning benefit for the child by encouraging additional practice"); kidSAFE, at 5–6 (suggesting restriction is overbroad and would apply to beneficial prompts such as (1) an educational website sending alert to student that a teacher has assigned new materials or graded an assignment; (2) a chess game sending an in-app notification that the next move is ready; (3) a connected toy device displaying an indicator that the device is ready to be used after software update or completed battery charge; (4) language learning apps prompting learner to engage in scheduled practice-based curriculum; (5) notice of friend request or that friend request has been accepted; and (6) an email alert informing user to confirm login to account from an unrecognized device).

¹⁹⁷ Future of Privacy Forum, at 9.

criticized the proposal for failing to "differentiate between features that are: (1) commercial in nature or enable access to third parties and/or harmful content, and (2) [those] intended to helpfully personalize a child's experience."¹⁹⁸

Other industry and public interest group commenters argued that the proposed use restriction unduly restricts legal speech and may violate First Amendment constitutional protections.¹⁹⁹ At least one public interest group commenter urged the Commission to address the misuse of push notifications through guidance and enforcement rather than with rulemaking and further suggested that changing the Rule to categorically prohibit push notifications would, in some circumstances, be inconsistent with the COPPA statute's requirement that agency regulations permit operators to respond "more than once directly to a specific request from the child" as long as parents are provided with notice and an opportunity to opt out.²⁰⁰

c. The Commission Adopts Amendments Regarding "Support for the Internal Operations of the Website or Online Service"

After carefully considering the record and comments, and for the reasons discussed in Part II.B.4.b of this document, the Commission adopts the proposed amendment clarifying that persistent identifiers used for the activities enumerated in paragraphs (1)(i) through (vii) of the definition of "support for the internal operations of the website or online service" may be used or disclosed in connection with those activities.²⁰¹

By contrast, the Commission is persuaded that adding "in connection with processes that encourage or prompt use of a website or online service" to the use restriction as proposed is overly broad and would constrain beneficial prompts and notifications, as well as those that prolong children's engagement with sites and services, in

¹⁹⁸ ACT | The App Association, at 7–8.

¹⁹⁹ See, e.g., Chamber, at 5; ACLU, at 21; NCTA, at 13 (stating COPPA statute is not an age appropriate design code and that "such efforts at the state level are actively being challenged on constitutional grounds as impermissible restrictions on speech"); ACT | The App Association, at 8 (suggesting regulation of engagement techniques as proposed would restrict access to legal content online and "gives rise to First Amendment concerns"). See also ESA, at 18 (contending an "overly broad interpretation of this prohibition could also unconstitutionally limit adults' ability to access online content by making sites and services less easy to use (e.g., by limiting personalization)").

²⁰⁰ See ACLU, at 22 (citing 15 U.S.C. 6502(b)(2)(C)).

²⁰¹ See *supra* note 179.

ways that may be detrimental. Although the Commission is not making this proposed change to the Rule, the Commission notes the proposal is consistent with the goals of the COPPA statute, which include protecting children's privacy by "enhancing parental involvement in a child's online activities" and "by limiting the collection of personal information from children without parental consent."²⁰² The Commission shares supportive commenters' concerns regarding practices that operators employ to maximize children's engagement with online services²⁰³ and notes that it may pursue enforcement under section 5 of the FTC Act in appropriate cases to address unfair or deceptive acts or practices encouraging prolonged use of websites and online services that increase risks of harm to children.²⁰⁴ The Commission also reiterates that the support for the internal operations exception restricts the use of persistent identifiers, without parental consent, to what is "necessary" for the activities enumerated in paragraphs 1(i) through (vii) of the definition of the "support for the internal operations of the website or online service."²⁰⁵

d. NPRM Question Nine: Personalization and "Support for the Internal Operations of the Website or Online Service"

In Question Nine of the "Questions for the Proposed Revisions to the Rule" section of the 2024 NPRM, the Commission noted that some commenters on the 2019 Rule Review Initiation recommended modifications to the "support for the internal operations of the website or online service" definition to limit personalization to "user-driven" actions and to exclude methods designed to maximize user engagement.²⁰⁶ To follow up on those recommendations, the 2024 NPRM requested comment as to the circumstances under which personalization would be considered

"user-driven" versus "operator-driven" and as to how operators use persistent identifiers, as defined by the COPPA Rule, to maximize user engagement with a website or online service.²⁰⁷

Most commenters that responded to Question Nine recommended against the Commission amending the definition of "support for the internal operations of the website or online service" to differentiate between user-driven versus operator-driven personalization actions.²⁰⁸ Some such commenters expressed concern that the meaning of "user-driven" personalization is not clear.²⁰⁹ Some commenters asserted that an attempt to draw a distinction between user-driven and operator-driven personalization might violate the First Amendment or exceed the Commission's authority under the COPPA statute.²¹⁰ Some opined that such a distinction does not take into account how operator-driven personalization can benefit children in educational and other contexts.²¹¹

By contrast, a coalition of State attorneys general recommended that the Commission amend the definition of "support for the internal operations of the website or online service" to limit "personalization" to "user-driven" actions.²¹² Specifically, the coalition proposed that the Commission limit user-driven personalization to tools that enable users to customize their experience by, for example, configuring layout, content, or system functionality, while excluding personalization that is "based on data collected from what users search, purchase, and watch."²¹³ The Center for Democracy and Technology also expressed general support for limiting the definition to user-driven rather than operator-driven personalization.²¹⁴ This commenter suggested that, if a user signs into his or her account on an app where the user selects an option to see more of a particular type of content or creator, such action should be deemed to be user-driven personalization that falls within the support for the internal operations definition.²¹⁵ A few commenters recommended that the Commission restrict the use of the

support for the internal operations exception to the COPPA Rule's verifiable parental consent requirement so that it would not be available for user-driven or operator-driven personalization.²¹⁶

Some commenters recommended that, if the Commission decides to exclude some personalization techniques from the support for the internal operations of the website or online service definition, the Commission should focus only on personalization that is based upon user profiling²¹⁷ or permit personalization in educational products that schools have consented for children to use or that facilitate adaptive learning.²¹⁸ Relatedly, an individual commenter opined that operator-driven, profile-based personalization can be beneficial in contexts such as "delivering age-appropriate content, restricting display of adult content, restricting contact by adults, serving content that is relevant to the user, [and] enriching the functionality for a user."²¹⁹

Having carefully considered the record and comments regarding the idea of amending the support for the internal operations of the website or online service definition to exclude operator-driven personalization, the Commission finds persuasive the reasons set forth by commenters that recommended the Commission decline to make such an amendment. The Commission therefore declines to make such an amendment to the definition at this time.²²⁰

e. NPRM Question Ten: Contextual Advertising

The 2024 NPRM noted that the support for the internal operations exception to the COPPA Rule's verifiable parental consent requirement permits operators to collect persistent identifiers for contextual advertising purposes without parental consent as

²¹⁶ See, e.g., Center for AI and Digital Policy, at 6–7; T. McGhee, at 10.

²¹⁷ See, e.g., ACLU, at 21–22. See also, e.g., Consumer Reports, at 7 (opining that the support for the internal operations exception might properly permit operator-driven personalization for purposes such as preserving a child's progress within a game but should not permit operator-driven personalization to create profiles of children).

²¹⁸ See Advanced Education Research and Development Fund, at 7.

²¹⁹ M. Bleyleben, at 4.

²²⁰ The Commission received relatively little specific response to the portion of Question Nine that asked how operators use persistent identifiers to maximize user engagement. For the reasons set forth in Part II.D.5.c, the Commission is not moving forward with the 2024 NPRM's proposal to prohibit operators from using the support for the internal operations exception to the COPPA Rule's verifiable consent requirement in conjunction with processes that encourage or prompt use of a website or online service.

²⁰² See 144 Cong. Rec. S12787–04, S12787 (1998) (statement of Senator Bryan).

²⁰³ See, e.g., FTC Press Release, *FTC Announces Virtual Workshop on the Attention Economy: Monopolizing Kids' Time Online* (Sept. 26, 2024), available at <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-virtual-workshop-attention-economy-monopolizing-kids-time-online>.

²⁰⁴ There may be circumstances where the collection of personal information for the purposes of increasing engagement could violate § 312.7 of the COPPA Rule, where an operator conditions a child's participation in an activity on the collection of such information and such information is more than is reasonably necessary to participate in the activity. See 16 CFR 312.7.

²⁰⁵ See 16 CFR 312.2.

²⁰⁶ 89 FR 2034 at 2070.

²⁰⁷ *Id.*

²⁰⁸ See, e.g., ACLU, at 21–22; Privacy for America, at 14; ANA, at 9; Center for AI and Digital Policy, at 6–7; ESA, at 17; CCIA, at 4–5; SIIA, at 16; News/Media Alliance, at 3; Chamber, at 5; kidSAFE, at 6.

²⁰⁹ See, e.g., ACLU, at 21–22.

²¹⁰ See, e.g., Chamber, at 5; Privacy for America, at 14.

²¹¹ See, e.g., ESA, at 17; News/Media Alliance, at 3; ANA, at 9.

²¹² State Attorneys General Coalition, at 6.

²¹³ *Id.*

²¹⁴ CDT, at 6.

²¹⁵ *Id.*

long as they do not also collect other personal information.²²¹ Question Ten of the “Questions for the Proposed Revisions to the Rule” section of the NPRM requested comment on whether the Commission should consider changes to the COPPA Rule’s treatment of contextual advertising due to the current sophistication of contextual advertising, “including that personal information collected from users may be used to enable companies to target contextual advertising to some extent.”²²²

Several commenters responded to Question Ten by expressing concerns with the COPPA Rule’s treatment of contextual advertising.²²³ Some commenters opined generally that contextual advertising closely resembles targeted advertising by relying upon user-level data and inferences and the use of artificial intelligence.²²⁴ One commenter stated that the COPPA Rule’s support for the internal operations exception to the verifiable parental consent requirement does not need to include contextual advertising because persistent identifiers are not needed for contextual advertising, and including within the exception the use of persistent identifiers for contextual advertising “simply opens the door to the sharing of personal information with third parties who do not need it” and “invit[es] leakage into the broader ad ecosystem.”²²⁵ Some commenters asserted that contextual advertising allows entities such as data brokers to create and sell profiles.²²⁶ Commenters raising these concerns recommended that the Commission respond by, for example, providing greater clarity as to the meaning of “contextual” advertising, including by narrowing the support for the internal operations exception to permit only contextual advertising that does not vary based on personal information collected from, or related to, the child or by stating explicitly that operators should restrict the personal information collected for contextual advertising to what is strictly

necessary to deliver contextual advertising.²²⁷

By contrast, a large number of commenters recommended that the Commission maintain the position that the support for the internal operations exception to the COPPA Rule’s verifiable parental consent requirement permits the use of persistent identifiers for contextual advertising.²²⁸ Many such commenters urged that contextual advertising is critical to maintaining free, high quality content for children.²²⁹ Some emphasized that requiring operators to obtain verifiable parental consent to collect and use persistent identifiers for contextual advertising would negatively affect startup and small businesses, in particular.²³⁰ Some commenters emphasized that enabling operators to use contextual advertising is important for ensuring that children do not receive advertising content that is not appropriate for children.²³¹ Some stated that the COPPA Rule should not require verifiable parental consent for the use of persistent identifiers to serve contextual advertisements because delivering contextual advertisements is a “privacy-centric” advertising practice that does not entail “contacting” a specific individual or child on a one-to-one basis.²³² In addition, a few trade

associations asserted that requiring verifiable parental consent for the use of persistent identifiers to facilitate contextual advertising could violate the Constitution.²³³

Having carefully considered the record and commenters’ responses to Question Ten, the Commission declines to modify the COPPA Rule’s treatment of contextual advertising. As discussed further in Part II.C.2, the Commission’s addition of new § 312.4(d)(3) will enhance the Commission’s ability to monitor operators’ use of the support for the internal operations exception to the COPPA Rule’s verifiable parental consent requirement for contextual advertising and other purposes.

5. Definition of “Website or Online Service Directed to Children”

The Rule’s current definition of “website or online service directed to children” includes in its first paragraph a list of factors that the Commission considers in determining whether a particular website or online service is child-directed. The second paragraph states that a website or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another website or online service directed to children. The third paragraph provides that certain “mixed audience” websites and online services that are child-directed under the multifactor test set forth in the first paragraph of the definition will not be deemed directed to children if the website or online service does not collect personal information from any visitor prior to collecting age information and prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under 13 without first complying with the notice and parental consent provisions of the Rule. The fourth paragraph provides that a website or online service will not be deemed child-directed solely because it refers or links to a commercial website or online service directed to children.

The Commission proposed a number of amendments to this definition in the 2024 NPRM that were intended to provide additional insight and clarity regarding how the Commission currently interprets and applies the definition and were not intended to substantively change the Rule.²³⁴ As explained *infra*, the Commission adopts amendments to paragraphs (1) and (3).

programming/show where the ads appear and not information collected from the viewer.”).

²³³ See, e.g., ACT | The App Association, at 7; NCTA, at 12.

²³⁴ See 89 FR 2034 at 2046.

²²¹ 89 FR 2034 at 2043.

²²² *Id.* at 2070.

²²³ See, e.g., Internet Safety Labs, at 5–6; EPIC, at 6–8; M. Bleyleben, at 1, 4–5; State Attorneys General Coalition, at 6–8; Consumer Reports, at 7–8; CDT, at 7; SuperAwesome, at 2–4; T. McGhee, at 11.

²²⁴ See, e.g., EPIC, at 6–8; State Attorneys General Coalition, at 7–8.

²²⁵ M. Bleyleben, at 1. See also, e.g., T. McGhee, at 11 (questioning what persistent identifiers are needed for “contextual advertising” about the context and content of the web page).

²²⁶ See, e.g., Internet Safety Labs, at 5–6.

²²⁷ See, e.g., EPIC, at 6–8; State Attorney General Coalition, at 5–6; Consumer Reports, at 7–8. See also, e.g., SuperAwesome, at 3–4 (supporting the COPPA Rule permitting operators to collect persistent identifiers for contextual advertising purposes without obtaining parental consent while recommending that the COPPA Rule provide greater clarity as to the distinction between contextual and behavioral advertising).

²²⁸ See, e.g., SIA, at 6, 17; R Street Institute, at 2–3; ITIC, at 3; 4A’s, at 3–4; NAI, at 5–6; Chamber, at 11; NCTA, at 11–13; kidSAFE, at 6–7; ACT | The App Association, at 7; ITIF, at 4; CCLIA, at 5–6; The Toy Association, at 4; Google, at 11; Microsoft, at 6; ANA, at 8–10; News/Media Alliance, at 5–6; Privacy for America, at 3–4; IAB, at 20–21; CIPL, at 6; M. Jones, at 1; S. Ward, at 1.

²²⁹ See, e.g., SIA, at 6, 17; ITIC, at 3; 4A’s, at 3–4; Chamber, at 11; IAB, at 20–21; ITIF, at 4; CCLIA, at 5–6; Google, at 11; News/Media Alliance, at 5–6; Privacy for America, at 3–4; kidSAFE, at 6–7; NAI, at 5–6; ANA, at 8–10; M. Jones, at 1.

²³⁰ See, e.g., Engine, at 3 (emphasizing that startups rely upon revenue received from contextual advertising); 4A’s, at 3–4 (emphasizing that small publishers and content providers rely upon revenue received from contextual advertising).

²³¹ See, e.g., ITIC, at 3; Microsoft, at 6.

²³² See, e.g., NCTA, at 12 (arguing that contextual ads are by their nature not delivered on a one-to-one basis and thus do not result in “contacting”); News/Media Alliance, at 5 (“Contextual advertising is one of the more privacy-centric advertising practices.”). See also The Toy Association, at 4 (“[B]y its very nature contextual advertising is targeting the audience based on the content they are choosing and making common sense inferences about the audience. For our members['] experience, AI and machine learning used for contextual advertising only pertains to content analysis of the

The Commission has decided not to make the proposed amendment to paragraph (2) and also declines to adopt an exemption.

a. Paragraph (1) of “Website or Online Service Directed to Children”

i. The Commission’s Proposal Regarding Paragraph (1) of “Website or Online Service Directed to Children”

The determination of whether a website or online service is child-directed is fact-based and requires flexibility as individual factors may be more, or less, relevant depending on the context. In the 2024 NPRM, the Commission preserved the multi-factor test for determining child-directedness in the Rule,²³⁵ but proposed amending paragraph (1) of the definition of “website or online service directed to children” to include a non-exhaustive list of examples of evidence the Commission may consider in analyzing audience composition and intended audience. Specifically, the Commission proposed adding to the definition marketing or promotional materials or plans, representations to consumers or to third parties, reviews by users or third parties, and the age of users on similar websites or services.

ii. Public Comments Received in Response to the Commission’s Proposal Regarding Paragraph (1) of “Website or Online Service Directed to Children”

The Commission received numerous comments in response to this proposal, with many commenters expressing support for including certain proposed examples in the definition of “website or online service directed to children” while opposing the inclusion of other proposed examples.²³⁶

Regarding the examples of “marketing or promotional materials or plans” and “representations to consumers or to third parties,” a majority of commenters addressing the proposal supported including such examples.²³⁷ Some of these commenters emphasized these factors are within operators’ control and appropriately focus on the ways that

operators signal to consumers, advertisers, and others that children are a targeted audience.²³⁸ For these reasons, the Commission is convinced such materials and representations often provide compelling direct evidence regarding an operator’s intended audience and audience composition and notes that complaints in previous COPPA enforcement cases have cited such evidence as being relevant in determining whether a website or online service is directed to children.²³⁹

Most of the commenters that opposed the Commission’s proposal primarily raised concerns with the addition of “reviews by users or third parties” and “the age of users on similar websites or services” to paragraph (1) of the definition. Some commenters contended these examples are not “competent and reliable empirical evidence” of audience composition or intended audience, and are therefore inconsistent with the standard set forth in the final sentence of paragraph (1) and should not be considered in the Commission’s assessment of child-directedness.²⁴⁰ Many commenters also asserted that these examples are subjective or vague,²⁴¹ and unlike other factors identified in paragraph (1) of the definition, improperly make operators responsible for factors outside of their knowledge and control.²⁴² For example, regarding reviews by users or third parties, commenters questioned which reviews the Commission would deem relevant²⁴³ and noted that not all

reviews are reliable or genuine.²⁴⁴ Some commenters also expressed concern that this proposed amendment would incentivize competitors or others to file false reviews in an attempt to influence how a website or online service is categorized.²⁴⁵

Regarding the age of users on similar websites or services, commenters emphasized that operators would likely not have access to data about the ages of users of websites or online services controlled by others,²⁴⁶ and that it is not clear what would be considered a “similar” website or service.²⁴⁷ Many industry commenters also emphasized that monitoring third-party reviews or gathering available information about the age of users of “similar” websites and online services would significantly increase operators’ compliance burdens.²⁴⁸ Others suggested that inclusion of such evidence in the definition would be inconsistent with the Commission’s position that operators of general audience properties have no duty to investigate the ages of visitors to their properties under COPPA²⁴⁹ and would inappropriately import a constructive knowledge standard into the Rule that is inconsistent with the COPPA statute.²⁵⁰

In response to these comments, the Commission reiterates that the inquiry in determining child-directedness requires consideration of a totality of the circumstances. Depending on the facts, reviews or the age of users on similar websites or online services may receive little weight in determining audience composition or the intended audience of a website or online service. For example, the Commission understands that reviews may not always be representative, accurate, or genuine and that content ratings or other ratings published by platforms or other third

²³⁸ See Mental Health America, at 5; NAI, at 6.

²³⁹ See, e.g., Complaint, *United States v. Microsoft Corp.*, Case No. 2:23-cv-00836 (W.D. Wash. June 5, 2023), at 7, available at https://www.ftc.gov/system/files/ftc_gov/pdf/microsoftcomplaintcivilpenalties.pdf; Complaint, *FTC v. Google LLC and YouTube, LLC*, Case No. 1:19-cv-02642 (D.D.C. Sept. 4, 2019), at 15–16, available at https://www.ftc.gov/system/files/documents/cases/youtube_complaint.pdf.

²⁴⁰ See, e.g., IAB, at 9–12 (arguing that user reviews and age demographics of other services are not competent and reliable indicators of child-directedness); NCTA, at 8–9 (arguing the two factors do not meet the heightened standard of competent and reliable empirical evidence); News/Media Alliance, at 4 (“It is our members’ experience that reviews by users and third parties are often subjective and tend to be imprecise.”).

²⁴¹ See, e.g., Chamber, at 6; ESRB, at 19; ESA, at 2–3; NCTA, at 8–9.

²⁴² See, e.g., CCIA, at 6–7; T. McGhee, at 4; 4A’s, at 2; Chamber, at 6; ESA, at 2–3; IAB, at 5–6; NCTA, at 7–8; ACT | The App Association, at 5; ANA, at 7–8; International Center for Law & Economics, at 14–15; Privacy for America, at 5–6; Epic Games, at 11; Google, at 4–5.

²⁴³ See, e.g., American Consumer Institute, at 2; CCIA, at 7; Taxpayers Protection Alliance, at 2. At least one commenter expressed uncertainty about whether the Commission would evaluate user reviews over time, or whether the assessment would be based on evaluating reviews at a particular point of time. See, e.g., ESA, at 3.

²⁴⁴ See, e.g., CIPL, at 7; ANA, at 7.

²⁴⁵ See, e.g., ANA, at 7 (“[L]isting reviews as a factor in this test incentivizes competitors to file false reviews in an attempt to influence how a website or online service is categorized.”); TechFreedom, at 11–12 (“allowing third-party reviews to color the intent of the website or service provider almost guarantees the weaponization of this new definition”).

²⁴⁶ See, e.g., American Consumer Institute, at 2; ANA, at 8; CCIA, at 7; Google, at 4–5.

²⁴⁷ See, e.g., ANA, at 8; CCIA, at 6–7; International Center for Law & Economics, at 14–15; Privacy for America, at 5–6; Google, at 4–5; NetChoice, at 4; Taxpayers Protection Alliance, at 2; News/Media Alliance, at 4–5; ESA, at 3; CIPL, at 7.

²⁴⁸ See, e.g., Privacy for America, at 6; CCIA, at 7; 4A’s, at 2; ANA, at 7–8. Some such commenters asserted that such monitoring may be “entirely infeasible” for small operators. Privacy for America, at 6; 4A’s, at 2.

²⁴⁹ See Privacy for America, at 5–6; ACT | The App Association, at 5.

²⁵⁰ See, e.g., SIIA, at 18; IAB, at 10–11.

²³⁵ See *id.* at 2046. The Commission notes that many commenters expressed support for continued application of the multi-factor test. See, e.g., ESA, at 2; IAB, at 9; CDT, at 7; CIPL, at 7.

²³⁶ Certain commenters expressed support for all of the proposed examples. See, e.g., Common Sense Media, at 3; Consumer Reports, at 8; Mental Health America, at 5.

²³⁷ See, e.g., CIPL, at 7; T. McGhee, at 4; NAI, at 6–7; ESRB, at 19; Microsoft, at 8; TechFreedom, at 9–10; News/Media Alliance, at 4; Common Sense Media, at 3; Consumer Reports, at 8; Mental Health America, at 5. Other commenters expressed support for one of these examples. See Chamber, at 6 (expressing support for Commission considering marketing and promotional materials in determining child-directedness).

parties are developed for a range of different purposes that are not necessarily fully aligned with determining whether a website or online service is directed to children under the COPPA Rule.²⁵¹ The Commission will take such considerations into account when determining whether to rely on such evidence in assessing child-directedness. The Commission also observes that it is common for companies to monitor reviews related to their websites or online services as well as to track information about user demographics and the features of competitors' websites or online services. The addition of these examples to the definition of "website or online service directed to children" is not intended to impose a burdensome requirement that operators identify and continuously monitor all such information. However, there certainly may be circumstances in which operators' knowledge of reviews or the ages of users on similar websites or services may be relevant to the Commission's determination, based on the totality of the circumstances, that a website or service is directed to children.²⁵²

iii. The Commission Amends Paragraph (1) of "Website or Online Service Directed to Children"

After carefully considering the record and comments, and for the reasons discussed in Part II.B.5.a.ii of this document, the Commission has decided to amend paragraph (1) of the definition as proposed.

²⁵¹ See, e.g., ESRB, at 20 (suggesting reviews by third parties could potentially include content ratings which would be inappropriate for the Commission to consider because such ratings are about the appropriateness of content rather than whether a service is directed to children).

²⁵² If an operator is aware of publicly-available information indicating that children under 13 are using its website or online service, such information may be relevant to determining that the website or online service is child-directed. For example, in a complaint against Epic Games, the Commission alleged the company and its employees regularly monitored, read, and circulated news articles and social media posts chronicling Fortnite's popularity among children, and sometimes incorporated kids' ideas directly into the game. See Complaint, *United States v. Epic Games, Inc.*, Case No. 5:22-cv-00518 (E.D.N.C. Dec. 19, 2022), at 15, available at https://www.ftc.gov/system/files/ftc_gov/pdf/2223087EpicGamesComplaint.pdf. In an enforcement case involving a weight-loss app directed to children, the Commission's complaint highlighted that defendants featured consumer reviews from young children to market their app in the Apple App Store. Complaint, *United States v. Kurbo, Inc. and WW International, Inc.*, Case No. 22-cv-946 (N.D. Cal. Feb. 16, 2022), at 7, available at https://www.ftc.gov/system/files/ftc_gov/pdf/filed_complaint.pdf.

b. NPRM Question Eleven: Potential Exemption From "Website or Online Service Directed to Children"

In Question Eleven of the "Questions for the Proposed Revisions to the Rule" section of the NPRM, the Commission requested comment on various questions related to whether it should offer an exemption within the definition of website or online service directed to children, or other incentive, if an operator of a website or online service undertakes an analysis of its audience composition and determines that no more than a specific percentage of its users are likely to be children under 13.²⁵³

The Commission received some comments supporting such an exemption.²⁵⁴ One FTC-approved COPPA Safe Harbor program suggested an exemption would motivate operators to thoroughly investigate their audiences without fear of collecting evidence that might be used in government enforcement actions.²⁵⁵ An industry commenter suggested an exemption would allow operators of sites with a small percentage of users under 13 to avoid unnecessary compliance costs and better tailor their services to their audience, and provide the FTC with greater insight into online services' audiences.²⁵⁶

However, a large majority of commenters addressing Question Eleven opposed implementing such an exemption.²⁵⁷ Commenters opposing or expressing skepticism about this potential exemption raised concerns

²⁵³ See 89 FR 2034 at 2070 (Question 11). Question Eleven's subsidiary questions included what are reliable means by which operators can determine the likely ages of their sites' or services' users (Question 11(b)) and whether inclusion of an audience composition-based exemption within the definition of "website or online service directed to children" would be inconsistent with the COPPA Rule's multi-factor test for determining whether a website or online service, or a portion thereof, is directed to children (Question 11(e)).

²⁵⁴ See, e.g., CARU, at 2; ITIF, at 4. See also generally Family Online Safety Institute, at 3–4 (responding to Question Eleven by expressing the view that age assurance processes can improve online safety for young users by enabling operators to offer age appropriate online experiences).

²⁵⁵ CARU, at 2. However, another FTC-approved COPPA Safe Harbor program saw limited value in the proposal. See *kidSAFE*, at 7–8.

²⁵⁶ ITIF, at 4–5.

²⁵⁷ See, e.g., Motley Rice, at 8–10; IAB, at 15–16; NCTA, at 9–10; Center for AI and Digital Policy, at 8–9; State Attorneys General Coalition, at 8–9; A. Artman, at 2; M. Bleyleben, at 6; The Toy Association, at 5. See also, e.g., Consumer Reports, at 8–9 (cautioning against any incentive that would lead operators to collect additional data on consumers); T. McGhee, at 11–12 (asserting that such an incentive could be better handled in a controlled environment such as under the supervision of FTC-approved COPPA Safe Harbor programs).

such as the possibility of operators manipulating data,²⁵⁸ difficulties in handling fluctuations in user bases over time,²⁵⁹ and doubts about the efficacy of methods used to determine age.²⁶⁰ Several commenters argued that incentivizing audience analysis with an exemption would increase the collection of personal data and reduce privacy for all visitors.²⁶¹ A significant number of commenters viewed the approach as being inconsistent with the multi-factor approach that is central to determining whether a website or online service is directed to children.²⁶² One industry commenter argued that it would be potentially inconsistent with the COPPA statute to treat the number of child visitors to a website or online service as the "sole determinative factor" in determining whether a website or online service is child-directed and that other factors such as the intent of the operator and whether content is child-directed are more relevant factors.²⁶³ Another industry commenter suggested incentivizing age estimation and the collection of additional information from website visitors could unconstitutionally restrict access to speech, encourage unreliable age analysis techniques, perpetuate bias if age estimation techniques rely on information from photographs or user behavior, and would disadvantage, and be unduly burdensome for, small and medium-sized businesses with fewer resources to conduct sophisticated age analyses.²⁶⁴

After carefully considering the record and comments, the Commission has determined not to move forward with an exemption related to audience analysis at this time. The Commission is persuaded by the comments suggesting that an exemption based on audience composition may be inconsistent with the multi-factor approach used to determine whether a website or online service is child-directed as well as the comment suggesting that small and medium-sized businesses may be disadvantaged by such a provision because they have fewer resources to conduct and update audience analyses.

²⁵⁸ See, e.g., Motley Rice, at 8–10.

²⁵⁹ See, e.g., T. McGhee, at 11–12; IAB, at 15–16.

²⁶⁰ See, e.g., Center for AI and Digital Policy, at 8–9; IAB, at 14–15.

²⁶¹ See, e.g., ESA, at 4; State Attorneys General Coalition, at 9; CDT, at 7–8; Consumer Reports, at 8; IAB, at 13.

²⁶² See, e.g., IAB, at 13; NCTA, at 9–10; CIPL, at 2; Center for AI and Digital Policy, at 9. See also M. Bleyleben, at 5 (expressing view that the multi-factor test has been effective and opposing audience composition exemption).

²⁶³ The Toy Association, at 5.

²⁶⁴ IAB, at 13–15.

c. Paragraph (2) of “Website or Online Service Directed to Children”

i. The Commission’s Proposal Regarding Paragraph (2) of “Website or Online Service Directed to Children”

Currently, the second paragraph of the definition of “[w]eb site or online service directed to children” states that “[a] website or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another website or online service directed to children.”²⁶⁵ In the 2024 NPRM, the Commission explained this provision was added to the Rule as part of the 2013 Amendments, along with certain changes to the definition of operator, to clarify that the operator of a child-directed website or online service is strictly liable when a third party collects personal information through its website or online service, while the third party is liable under COPPA only if it had actual knowledge that the website or online service from which it was collecting personal information was child-directed.²⁶⁶ The Commission proposed removing the term “directly” from paragraph (2) in the 2024 NPRM to address the possibility that third parties could knowingly receive children’s data from another site or service that is directed to children, without collecting it directly from the users of such site or service.²⁶⁷

ii. Public Comments Received in Response to the Commission’s Proposal Regarding Paragraph (2) of “Website or Online Service Directed to Children”

Commenters supporting the proposal agreed that the amendment addressed a “loophole” that is contrary to COPPA’s intent.²⁶⁸ Some of these commenters argued that adopting the proposal would help ensure that advertising networks do not get access to children’s personal information without first obtaining verifiable parental consent.²⁶⁹

However, a majority of the commenters addressing this proposal opposed it, raising several concerns.²⁷⁰ Some commenters raised practical

issues with extending COPPA obligations to downstream third parties, such as difficulties facing third parties in determining whether the first party properly collected information in compliance with COPPA²⁷¹ and how third parties could satisfy COPPA’s notice and consent requirements without a direct relationship to the child or parents.²⁷² Other commenters argued that the removal of “directly” departs from express limitations in the COPPA statute.²⁷³ For example, some commenters contended “actual knowledge” triggers COPPA’s requirements under 15 U.S.C. 6502(a)(1) only where the operator knows that it is collecting personal information “from a child” and does not extend to a third party’s actual knowledge of another service’s child-directedness when the third party is not collecting personal information directly from the child.²⁷⁴ Commenters contended the proposed amendment would expand the scope of covered operators beyond what is specified in the COPPA statute and would be inconsistent with Congress’ intent when enacting the COPPA statute.²⁷⁵ One public interest group commenter argued the Commission’s proposal to regulate third parties that are indirectly collecting personal

information from children raises First Amendment concerns because it restricts third parties’ receipt and possession of information.²⁷⁶

iii. The Commission Declines To Amend Paragraph (2) of “Website or Online Service Directed to Children”

Given the general lack of support for the NPRM proposal, the Commission has decided not to remove the term “directly” from paragraph (2) of the definition of “website or online service directed to children.” Practical considerations, such as how a third party would provide notice and obtain verifiable parental consent in accordance with the COPPA Rule without having a direct relationship to the child or parent, make the proposal difficult to implement. In addition, given other proposed amendments the Commission is finalizing,²⁷⁷ the Commission believes that this proposed amendment is not necessary to protect the privacy of personal information collected from children. Specifically, because the Rule amendments the Commission is finalizing clarify that operators must obtain separate verifiable parental consent for disclosures to third parties, parents will have to provide consent for disclosures to third parties such as ad networks.

The Commission also notes that in circumstances where downstream entities receive personal information collected from children on a child-directed website or online service, the operator of the child-directed site or service and any third party that has actual knowledge that it is collecting personal information directly from users of another website or online service that is directed to children would be liable for violating COPPA.²⁷⁸ The operator and entities that collect directly from the operator’s users on behalf of the operator thus have powerful incentive not to allow downstream entities to violate COPPA. Also, many operators and companies in the advertising ecosystem transmit COPPA flags or signals indicating that the personal information or other traffic sent with the flag or signal is associated with a child. Companies that receive these signals are directly liable under COPPA on the basis that they have actual knowledge

²⁷¹ See, e.g., IAB, at 25 (proposal would “require a recipient of personal information to assess the COPPA status of all vendors from which it receives such data. This is not only impractical, but exceeds the bounds of the statute . . .”).

²⁷² See, e.g., CIPL, at 7–8; IAB, at 25.

²⁷³ See, e.g., IAB, at 24–25; CIPL, at 7–8; ACLU, at 5–7; ANA, at 11.

²⁷⁴ See, e.g., IAB, at 24–25 (“The proposed definition would improperly render superfluous the statutory requirement that collection be ‘from a child.’”).

²⁷⁵ See, e.g., ANA, at 11 (“This change would expand COPPA compliance burdens, as well as COPPA enforcement and fines, to a large universe of entities previously not subject to the law, merely on the basis of being ‘downstream’ data recipients.”); NetChoice, at 4 (suggesting proposal “would sweep in many more websites and online services, even those not targeting children as their primary audience, imposing COPPA obligations on them and restricting general audience content”); IAB, at 24–25 (contending proposed change “exceeds the bounds of the statute enacted by Congress: nothing in the statute suggests that a business should be transitively responsible for data processing decisions made by other businesses”). Commenters raised additional concerns with this proposal, such as that it would impose substantial burdens on third parties to assess and reassess the COPPA status of all vendors they receive data from. See Chamber, at 7 (“Removing the direct collection requirement would [] create further uncertainty, particularly if no determination has been made by the Commission or the third-party that a third-party website’s content is directed to children.”); IAB, at 25 (suggesting proposed change “would, in effect, require a recipient of personal information to assess the COPPA status of all vendors from which it receives data” and that “[c]ompliance would become particularly difficult when vendors rebrand or launch new products or services that could change their status under COPPA.”).

²⁷⁶ ACLU, at 6–7.

²⁷⁷ See Part II.D.1 discussing § 312.5(a)(2) of the Rule.

²⁷⁸ See, e.g., Office of the New York State Attorney General, A.G. Underwood Announces Record COPPA Settlement with Oath—Formerly AOL—For Violating Children’s Privacy, available at <https://ag.ny.gov/press-release/2018/ag-underwood-announces-record-coppa-settlement-oath-formerly-aol-violating>.

²⁶⁵ 16 CFR 312.2.

²⁶⁶ 89 FR 2034 at 2047.

²⁶⁷ See *id.*

²⁶⁸ Children and Screens, at 4. See also SuperAwesome, at 1–2 (supporting proposal of removing “directly” to cover ad exchanges and ad networks); Common Sense Media, at 9–10 (supporting proposal “to ensure that operators who are ad networks who are integrated with child directed content, or on sites with known child users and who collect information from users of those sites, are liable even if information collection is not ‘directly’ from children”).

²⁶⁹ Common Sense Media, at 9.

²⁷⁰ See, e.g., Chamber, at 7; IAB, at 24–25; CIPL, at 7–8; ACLU, at 5–7; ANA, at 11.

that the individual user is a child, regardless of whether they collected information from the child-directed site directly.

d. Proposed Amendment to Paragraph (3) of “Website or Online Service Directed to Children”

In the 2024 NPRM, the Commission proposed amending paragraph (3) of the definition of “website or online service directed to children” to remove content now covered by the new proposed definition for “mixed audience website or online service” and adding a statement clarifying that “[a] mixed audience website or online service shall not be deemed directed to children with regard to any visitor not identified as under 13.”²⁷⁹ No comments were received addressing this specific proposed amendment of paragraph (3). For the reasons discussed in Part II.B.1, the Commission has decided to adopt a new stand-alone definition for “mixed audience website or online service” and is accordingly amending paragraph (3) of the definition of “website or online service directed to children” as proposed.

C. § 312.4: Notice

1. § 312.4(c): Content of the Direct Notice

In the 2024 NPRM, the Commission proposed various amendments to § 312.4(c) of the COPPA Rule, which governs “[c]ontent of the direct notice to the parent.” In totality, the proposed amendments would expand the disclosures required in direct notices.

As a threshold matter, one commenter generally opposed expanding the disclosures required in direct notices, warning that such expansion “will add regulatory burden without creating any added privacy or benefits for children or consumers generally.”²⁸⁰ The Commission disagrees. As multiple other commenters asserted,²⁸¹ the proposed amendments to the direct notice requirements will empower parents to make informed choices when navigating online services with children and clarify operators’ obligations under this section of the Rule.

a. Proposals Related to § 312.4(c)(1), 312.4(c)(1)(i), 312.4(c)(1)(ii), and 312.4(c)(1)(vi)

i. The Commission’s Proposals Regarding § 312.4(c)(1), 312.4(c)(1)(i), 312.4(c)(1)(ii), and 312.4(c)(1)(vi)

Under the current Rule, § 312.4(c)(1) sets forth the required content of the direct notice when an operator collects personal information in order to initiate a request for parental consent under the parental consent exception set forth in § 312.5(c)(1).²⁸²

In the 2024 NPRM, the Commission proposed amending the heading of § 312.4(c)(1) and making minor amendments to § 312.4(c)(1)(i), (ii), and (vi).²⁸³ Specifically, the Commission proposed adding after “[c]ontent of the direct notice to the parent” in the heading of § 312.4(c)(1) the phrase “for purposes of obtaining consent, including”²⁸⁴ This proposed amendment was intended to clarify that the direct notice requirement applies to all instances in which the operator provides direct notice to a parent for the purposes of obtaining consent.²⁸⁵ The Commission also proposed amending § 312.4(c)(1)(i), which currently requires, in relevant part, that the direct notice state “[t]hat the operator has collected the parent’s online contact information from the child. . . .” The Commission proposed adding “If applicable” to the beginning of this paragraph, and to include “or child’s” online contact information in addition to the parent’s, to align with the related verifiable parental consent exception in § 312.5(c)(1).²⁸⁶ The next paragraph, § 312.4(c)(1)(ii), requires the direct notice to state that “the parent’s consent is required for the collection, use, or disclosure of such information.” The Commission proposed replacing “such” with “personal” to clarify that this paragraph refers to the collection, use, or disclosure of personal information.²⁸⁷ Finally, the Commission proposed amending what is currently § 312.4(c)(1)(vi) (proposed to be redesignated as § 312.4(c)(1)(vii)). That paragraph currently states that operators must also explain in the direct notice that “if the parent does not provide consent within a reasonable time from

the date the direct notice was sent, the operator will delete the parent’s online contact information from its records.” For clarity, the Commission proposed adding, “If the operator has collected the name or online contact information of the parent or child to provide notice and obtain parental consent,” to the beginning of this paragraph, inserting “or child’s” before “online contact information,” and adding “and the parent’s or child’s name” before “from its records.”²⁸⁸

ii. Public Comments Received in Response to the Commission’s Proposals Regarding § 312.4(c)(1), 312.4(c)(1)(i), 312.4(c)(1)(ii), and 312.4(c)(1)(vi)

The Commission received minimal feedback about these proposals. Without specifically supporting or opposing the proposed amendment, CIPL suggested that the proposed change to the § 312.4(c)(1) heading “greatly expands the scope of” § 312.4(c)(1) because it clarifies that § 312.4(c)(1)’s requirements apply to all instances in which an operator provides direct notice to a parent for purposes of obtaining consent rather than applying only when an operator is collecting a parent’s online contact information pursuant to the parental consent exception provided by § 312.5(c)(1) of the Rule.²⁸⁹ The Commission proposed revising the § 312.4(c)(1) heading because the Commission is aware that, in some contexts, operators may initiate the process of seeking parental consent by means that do not require collecting online contact information.²⁹⁰ The proposed revision to the heading makes clear that the direct notice requirements set forth in § 312.4(c)(1) apply whenever an operator is seeking verifiable parental consent from a parent.²⁹¹ The Commission did not receive comments relating to the other proposed

²⁸⁸ Because the Commission proposed to add a new paragraph (c)(1)(iv) requiring that direct notices to parents contain information concerning disclosures of personal information to third parties, the Commission also proposed redesignating § 312.4(c)(1)(iv), (v), and (vi) as paragraphs (c)(1)(v), (vi), and (vii), respectively. See 89 FR 2034 at 2073. The Commission did not receive any comments concerning the proposals to redesignate these paragraphs and therefore adopts those proposals without change.

²⁸⁹ CIPL, at 9.

²⁹⁰ For example, in the 2024 NPRM, the Commission highlighted that an operator could use an in-app pop-up message that directs a child to hand a device to the parent and then instructs the parent to call a toll-free number. 89 FR 2034 at 2049.

²⁹¹ See 89 FR 2034 at 2049 (explaining that the amendment is intended to clarify that the operator must provide the relevant aspects of the § 312.4(c)(1) direct notice to the parent even where the operator does not collect personal information to initiate consent under § 312.5(c)(1)).

²⁸² See 16 CFR 312.4(c)(1).

²⁸³ As discussed in Part I.A., the Commission is not finalizing at this time the 2024 NPRM’s proposals related to school authorization. Consequently, the Commission is neither finalizing the proposed changes to § 312.4(b) nor deleting the phrase “to the parent” in the heading for § 312.4(c).

²⁸⁴ 89 FR 2034 at 2049.

²⁸⁵ *Id.* at 2049.

²⁸⁶ *Id.* at 2049.

²⁸⁷ *Id.*

²⁷⁹ 89 FR 2034 at 2047–2048, 2072.

²⁸⁰ NCTA, at 16.

²⁸¹ See, e.g., Children’s Advocates Coalition, at 39–40; Consumer Reports, at 9.

amendments to § 312.4(c)(1)(i), (ii), and (vi).

iii. The Commission Amends § 312.4(c)(1), 312.4(c)(1)(i), 312.4(c)(1)(ii), and 312.4(c)(1)(vi)

After careful consideration of the record and comments, and for the reasons discussed above, the Commission has concluded that the proposed amendments clarify operators' obligations and appropriately extend the requirements of § 312.4(c)(1) to all instances in which the operator provides direct notice to a parent for the purposes of obtaining consent.²⁹² The Commission therefore adopts the proposed amendment to the heading of § 312.4(c)(1) and the other proposed amendments to paragraphs 312.4(c)(1)(i), (ii), and (vi) (redesignated as § 312.4(c)(1)(vii)) as originally proposed.

b. Proposal Related to § 312.4(c)(1)(iii)

i. The Commission's Proposal Regarding § 312.4(c)(1)(iii)

Section 312.4(c)(1)(iii) currently requires the direct notice to include "[t]he additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent." In the 2024 NPRM, the Commission proposed to amend § 312.4(c)(1)(iii) by deleting "additional," inserting a requirement for the direct notice to state "how the operator intends to use such information," and replacing "or" with "and."²⁹³

ii. Public Comments Received in Response to the Commission's Proposal Regarding § 312.4(c)(1)(iii)

Several commenters generally supported the proposed requirement for the direct notice to state how the operator intends to use the personal information collected from the child if the parent provides consent. The Center for Democracy and Technology, for example, stated that "[a]dditional information about the intended use of the child's data is vital for ensuring the parent gives fully informed consent for the operator to collect their child's data, and therefore should be included in the [direct] notice."²⁹⁴ And a coalition of

State attorneys general similarly stated that the proposed requirement "represents a significant step toward enhancing parental understanding and decision-making regarding consent to their child's personal information collection."²⁹⁵

Some commenters that supported these additions also suggested the Commission take further steps to "provide parents with a more comprehensive understanding of how their child's data may be utilized beyond the initial collection, enabling them to make more informed decisions regarding consent."²⁹⁶ A children's advocates coalition supported the proposed requirement but also proposed that the Commission add "more clarity" by requiring that the direct notice "t[ie] each personal data element or categories of personal data to a stated purpose."²⁹⁷ Similarly, the State attorneys general coalition encouraged the Commission to require operators "to disclose the purpose or use for each item of information if it's intended to be shared with a third party."²⁹⁸

The Commission agrees with the children's advocates coalition and the State attorneys general coalition that, in some instances, direct notices disclosing how the operator would use each element of personal information the operator collects would be most helpful to parents. In other instances, however, the Commission is concerned that an item-by-item correlation of personal information elements and uses could be superfluous, unduly complex, and in tension with the need for direct notices to be clear and concise.

iii. The Commission Amends § 312.4(c)(1)(iii)

After careful consideration of the record and comments, and for the reasons discussed in Part II.C.1.b.ii, the Commission believes the amendments the Commission proposed to § 312.4(c)(1)(iii) would further the important goals of increasing operator transparency and empowering parents. The Commission is therefore finalizing the amendments to § 312.4(c)(1)(iii) as originally proposed.

c. New § 312.4(c)(1)(iv) Regarding Disclosure of Sharing of Personal Information with Third Parties

i. The Commission's Proposal Regarding New § 312.4(c)(1)(iv)

In the 2024 NPRM, the Commission proposed adding new § 312.4(c)(1)(iv)²⁹⁹ to require that operators sharing personal information with third parties (including the public if making personal information publicly available) identify in the direct notice to parents for purposes of obtaining consent the third parties as well as the purposes for such sharing, should the parent provide consent.³⁰⁰ Proposed § 312.4(c)(1)(iv) would also require the operator to state that the parent can consent to the collection and use of the child's information without consenting to the disclosure of such information, except to the extent such disclosure is integral to the nature of the website or online service.³⁰¹

ii. Public Comments Received in Response to the Commission's Proposal Regarding New § 312.4(c)(1)(iv)

Many commenters addressed whether proposed new § 312.4(c)(1)(iv) should require operators to identify in the direct notice by name or by category the third parties to which disclosures would be made. In separate comments, Common Sense Media and a children's advocates coalition each urged the Commission to require operators to identify third parties by name and category, stating that doing so was necessary to ensure parents' decision-making was adequately informed.³⁰² As Common Sense Media observed, many parents may not be familiar with the names of third-party, business-to-business service providers that have little or no consumer-facing presence, so categorization of such third parties by the operator could shift the burden of identification away from busy parents.³⁰³ The children's advocates coalition similarly asserted that identification by name and category is necessary to "allow[] parents and advocates to evaluate an operator's practices for personal comfort and legal compliance."³⁰⁴ The children's advocates coalition further advised the FTC to "prescribe categories itself" to prevent operators from "us[ing]

²⁹² After conferring with the Office of the Federal Register, minor additional edits have been made to the headings of § 312.4(c)(1) through (c)(4) to remove references to Rule citations. These edits and related edits to the introductory text of these provisions are not intended to substantively change the requirements of these provisions.

²⁹³ 89 FR 2034 at 2049.

²⁹⁴ CDT, at 3.

²⁹⁵ State Attorneys General Coalition, at 17.

²⁹⁶ *Id.*

²⁹⁷ Children's Advocates Coalition, at 39.

²⁹⁸ State Attorneys General Coalition, at 17–18 (recommending "[f]or instance, if an operator plans to collect a child's first name, geolocation, and address, they should be obligated to disclose the specific purpose for why the name, geolocation, and address, individually, will be shared with third parties").

²⁹⁹ The Commission also proposed redesignating § 312.4(c)(1)(iv), (v), and (vi) as paragraphs (c)(1)(v), (vi), and (vii), respectively. See note 288.

³⁰⁰ See 89 FR 2034 at 2049.

³⁰¹ See *id.*

³⁰² See Common Sense Media, at 8; Children's Advocates Coalition, at 41.

³⁰³ See Common Sense Media, at 8.

³⁰⁴ Children's Advocates Coalition, at 41.

meaningless terms or non-specific examples to disguise their practices.”³⁰⁵

Other commenters argued that operators should only be required to identify the categories of third parties to which disclosures would be made.³⁰⁶ One such commenter noted that “the identities of third parties may be subject to frequent change” for some businesses, which would make disclosing the identities of such third parties challenging for these businesses.³⁰⁷ Another commenter opined that naming individual recipients in the direct notice would be “impractical” since the direct notice “is intended to be brief and approachable.”³⁰⁸

Two commenters from the advertising industry—the American Association of Advertising Agencies and Privacy for America—opined that operators should not be required to identify the names or categories of third-party disclosure recipients at all.³⁰⁹ These commenters asserted that any such requirement would lead to long notices that do not “advance accountability or meaningful transparency.”³¹⁰ Privacy for America further asserted that requiring operators to identify the names or categories of third-party disclosure recipients would chill competition for service providers and “increase the risk of anticompetitive behavior” by forcing operators to “reveal sensitive

commercial information about themselves and their partners.”³¹¹

The Commission agrees with the commenters that suggested knowing the third parties with which an operator shares children’s personal information is an important consideration for parents. The Commission believes that requiring operators to identify such third parties in the direct notice will enhance parents’ ability to make an informed decision about whether to consent to the collection of their child’s personal information. The Commission also agrees with the many commenters that stressed the importance of clear and concise direct notices. Accordingly, the Commission believes the Rule should provide operators with enough flexibility to ensure they are able to meaningfully identify the third-party disclosure recipients in a direct notice that is also clear and concise. In some cases, the Commission believes that categories may help parents understand the implications of the parent’s decision in a way that names may not, particularly where the third party might be unfamiliar to consumers (e.g., because the third party has little or no consumer-facing presence).³¹² In other cases, for example where an operator discloses children’s personal information to a small set of well-known third parties, identifying third parties by name may be more informative and more efficient than identifying third parties by category.³¹³

Many commenters also weighed in with views on where operators should be required to identify the third parties

to which disclosures would be made.³¹⁴ Citing the likely importance of the information to parents, and the different purposes served by the different notices, several commenters urged the FTC to require operators to identify such third parties both in the direct notice required under § 312.4(c) and the online notice required under § 312.4(d),³¹⁵ as the Commission proposed in the 2024 NPRM.³¹⁶ Other commenters worried that direct notices would become unduly long and complex if third parties must be identified in the direct notice, and recommended the FTC only require operators to identify the third parties to which disclosures would be made in the online notice.³¹⁷ Balancing

³¹⁴ Question Twelve in the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM requested that commenters address whether it would be better for the COPPA Rule to require operators that share personal information with third parties to identify the third parties by name or category in the operators’ direct notices to parents required under § 312.4(c) or their online notices required under § 312.4(d). 89 FR 2034 at 2070.

³¹⁵ See, e.g., Children and Screens, at 4 (“When operators share personal information with third parties, they should be required to identify those third parties or specific categories of those third parties in the direct notice to the parent, and in the online notice.”); Internet Safety Labs, at 8 (“Why is this an either/or and not a ‘both’? It must be included in the direct notice under section 312.4(c) for the parent to provide initial consent. This notice is likely to be processed by the parent at the time of provisioning the service for the child. Whereas the notice in 312.4(d) is likely to be accessed while the service is used. Thus, if the third-party sharing behavior changes, it is more likely to be observed/noticed in the online notice.”); Children’s Advocates Coalition, at 42 (“[W]e urge the Commission to require such identification in both the direct and online notices.”); EPIC, at 8 (“This information must be included in both the direct notice to parents as well as notice posted on the website.”); Consumer Reports, at 9 (“The third parties with which an operator shares personal data is likely one of the key decision points upon which parents evaluate their consent choices (for example, whether the operator shares personal data with social media companies or data brokers) and thus this type of information should be shared up-front in the direct notice, as well as in the online notice required under § 312.4(d).”); M. Bleyleben, at 5 (“Why not both? It’s hard enough to ensure parents get the information they need. They should get it both proactively (direct notice) and if they click through to it from the site or search for it on the service itself (online notice).”).

³¹⁶ The Commission proposed changing the Rule to require that operators provide the identities or specific categories of any third-party disclosure recipients in the direct notice and the online notice, and sought comment on whether such information was better positioned in the direct notice or the online notice. See 89 FR 2034 at 2049–2050, 2070.

³¹⁷ See, e.g., CARU, at 4 (“CARU believes that, because the identity or category list may be long, it might detract from other more important information required in the direct notice to parents; therefore, it is most appropriately placed in the online notice required under § 312.4(d).”); kidSAFE, at 8 (“While kidSAFE generally supports the FTC’s clarification of the notice requirements under this exception, we urge the FTC not to require lengthier and more complex direct notice statements. Information about data usage practices

³⁰⁵ *Id.* (stating that operators’ current practices are inconsistent, using “phrases [that] do not have clear or generally-accepted definitions” and “[v]ague terms like ‘affiliates’ [that] thwart a parent’s ability to fully assess the operator’s notice and give their consent”).

³⁰⁶ See, e.g., Epic Games, at 6; CCIA, at 7; CIPL, at 9–10.

³⁰⁷ CIPL, at 9–10.

³⁰⁸ ACLU, at 19–20 (emphasizing, however, that “[a]lthough the brevity of the direct notice may limit the practicality of listing each individual recipient of a child’s personal information, parents should still have access to that information” and suggesting the Commission amend § 312.3(c) to require operators to “[p]rovide a reasonable means for a parent to review . . . the specific personal information disclosed to third parties and the identit[y] of each individual recipient”).

³⁰⁹ See 4A’s, at 4 (“These requirements will lengthen and complicate privacy notices for parents to review and create competition concerns among operators. While notice, transparency, accountability, and consumer choice are values that 4A’s members hold in efforts to protect children’s privacy, any proposed changes to COPPA notices must balance the value of the disclosure with consumer benefits, operational realities, and the need for a competitive advertising marketplace.”); Privacy for America, at 9 (“Setting forth the identities or specific categories of third parties and purposes of disclosure to such parties in the direct notice to parents will harm competition and lead to confusing notices.”).

³¹⁰ Privacy for America, at 9–10. See also 4A’s, at 4.

³¹¹ Privacy for America, at 10 (arguing that “operators likely would be incentivized to list all potential third parties, or categories of third parties, and all potential purposes for disclosures to avoid the possible need to notify parents and obtain new consent if the operator’s practices changed,” and “[t]he Commission’s proposal would also harm innovation and competition” by exerting a “chilling effect on competition among service providers,” incentivizing operators “to work with only large vendors that can provide a variety of services,” and “reveal[ing] sensitive commercial information about themselves and their partners”).

³¹² Of course the categories that operators use to identify third-party disclosure recipients cannot themselves be deceptive. They must be meaningful and specific.

³¹³ Where an operator changes the roster of third-party recipients to which it discloses children’s personal information after the operator has provided the roster of such recipients in its online notice, the Commission is not likely to consider the addition of a new third party to the already-disclosed category of third-party recipients to be a material change that requires new consent. See, e.g., 64 FR 59888 at 59895 (“Thus, for example, if the operator plans to disclose the child’s personal information to a new operator with different information practices than those disclosed in the original notice, then a new consent would be required”); see also *id.* at n.107.

the importance of the information to parents with the utility of clear and concise direct notices, some commenters suggested a hybrid or “nested” information approach, recommending that operators be required to include hyperlinked cross-references in their direct and online notices.³¹⁸

Considering the likely importance of the information to parents, and the role that direct notices play in helping parents make informed decisions, the Commission agrees with those commenters that urged the Commission to require operators to identify third-party disclosure recipients in the direct notice (as well as the online notice). To mitigate concerns that such a requirement might lead to unduly long and complex direct notices, and mindful of the different contexts in which parents may encounter the different notices, the Commission notes that operators may include a hyperlinked cross-reference from the direct notice to the section in the operator’s online notice where operators are able to provide more detail regarding the third parties to which, and the

and the identities or categories of third parties with whom personal information may be shared should not be required within direct notices and is better suited for the fuller privacy policy.”); Engine, at 2 (“Many of the third parties in a startup[]’s technology stack are unlikely to be familiar to parents, like content delivery networks or software development kits, etc. In the interest of maintaining clear and concise direct notices that both ease burdens on startups and place parents’ attention on truly important disclosures, this information should be relayed in the online notice.”); J. Chanenson et al., at 1–2 (“[I]t would be more advantageous for privacy researchers and parents alike to have the information posted within the online notice [] rather than the direct notice []. Placing details about third-party sharing in the online notice offers several benefits. Firstly, an online platform provides a centralized and easily accessible location for comprehensive information, allowing researchers and parents to efficiently analyze and compare privacy practices across multiple operators. . . . Furthermore, requir[ing] third-party disclosure in the online notice enhances the longevity and accessibility of the information, ensuring that researchers can reference and track changes over time.”); The Toy Association, at 7 (“We also question the utility of requiring that operators that share personal information with third parties identify those third parties, or specific categories of those third parties, in the direct notice to parents. Direct notices to parents must contain certain specific information and a link to the posted privacy policy. This allows notices to be reasonably succinct and provides the vehicle for them to access additional information. Several state laws . . . already require disclosing categories of third-party recipients in posted privacy policies, so placing this information in the direct notice would be redundant. These proposed requirements will simply make notices longer and more cumbersome, will be difficult to read (especially in text message form), and are unlikely to be meaningful to parents.”).

³¹⁸ See, e.g., M. Bleyleben, at 5; SIIA, at 18; Google, at 7; T. McGhee, at 13.

purposes for which, the operator discloses personal information.

In addition to whether operators must identify third-party disclosure recipients by name or category, and whether operators must include such identification in operators’ direct and online notices, commenters also addressed other aspects of proposed § 312.4(c)(1)(iv). Some commenters emphasized that operators should be required to state which disclosures are integral to the nature of the website or online service,³¹⁹ reasoning, for example, that such delineation would serve as “a crucial layer of protection” to prevent parents from “unwittingly providing consent to a broader range of disclosures than they may have intended.”³²⁰ As a children’s advocates coalition put it, “[t]he consent request should clearly state which personal information element or which category of personal information will be shared with which third party and for what purpose,”³²¹ and “the Commission should clarify that data shared for a particular purpose can only be used for that specified purpose and must not be used for any other purposes.”³²² Moreover, where the subject website or online service facilitates public disclosure of a child’s information, the children’s advocates coalition further argued that operators should have a “heightened responsibility to alert parents to the risks” of such disclosure.³²³ One commenter, however, expressed concern that “requiring the disclosure of business practices necessary to ensure compliance with a law would [] likely expose sensitive, nonpublic business information.”³²⁴

Under proposed § 312.4(c)(1)(iv), and the proposed amendments to § 312.4(c)(1)(iii), operators would be required to provide direct notices that clearly state (by name or category) which third parties³²⁵ would receive

³¹⁹ See, e.g., J. Chanenson et al., at 3; Center for AI and Digital Policy, at 10. As discussed in Part II.C.1.c.iii of this document, the Commission is not including the words “the nature of” in § 312.4(c)(1)(iv) of the Rule.

³²⁰ J. Chanenson et al., at 3.

³²¹ Children’s Advocates Coalition, at 40.

³²² *Id.* at 24.

³²³ *Id.* at 16 (explaining that “parents should also receive additional notice regarding the potential risks before giving consent for the public disclosure of their child’s personal information in services like public chats, public virtual worlds, or public gaming forums”).

³²⁴ SIIA, at 19.

³²⁵ As defined in § 312.2 of the Rule, “third party” does not include a “person who provides support for the internal operations of the website or online service and who does not use or disclose information protected under this part for any other purpose.”

personal information for what purpose—including the public if a child’s personal information would be made publicly available. Accordingly, the use of a child’s personal information by a third party for an undisclosed purpose would violate the Rule. Further, because proposed § 312.4(c)(1)(iv) would require operators to identify all third-party disclosure recipients by name or category (regardless of whether disclosure is integral to the website or online service) and tell parents that they can choose not to consent to the disclosure of personal information to third parties (except to the extent such disclosure is integral to the website or online service), and because the proposed revisions to § 312.5(a)(2) would require operators to obtain separate consent for such disclosures, operators must distinguish between disclosures to third parties that are integral to the website or online service and those that are not.³²⁶

iii. The Commission Adopts New § 312.4(c)(1)(iv)

After careful consideration of the record and comments, and for the reasons discussed in Part II.C.1.c.ii of this document, the Commission has decided to amend § 312.4(c)(1) to add a new paragraph (iv) as originally proposed in the 2024 NPRM, with a minor modification. For consistency with the changes described in Part II.D.1.c, the Commission is dropping the words “the nature of” from the last clause of the proposed amendments to § 312.4(c)(1)(iv) for consistency with longstanding guidance³²⁷ and to enhance readability.

2. § 312.4(d): Notice on the Website or Online Service

a. Proposal Related to § 312.4(d)(2)

i. The Commission’s Proposal Regarding § 312.4(d)(2)

Under the current Rule, § 312.4(d)(2) requires operators to include in their online notice a description of the

³²⁶ The Commission notes that this paragraph uses the phrase “integral to the website or online service” rather than the language proposed in the 2024 NPRM, which utilized the phrase “integral to the nature of the website or online service”. As discussed further in Part II.C.1.c.iii, the Commission is adopting an amendment to § 312.4(c)(1)(iv) to include the phrase “integral to the website or online service,” and therefore uses that phrase here.

³²⁷ See COPPA FAQs, FAQ Section A.1 (noting that operators covered by the Rule must give parents the choice of consenting to the operator’s collection and internal use of a child’s information but prohibiting the operator from disclosing that information to third parties (unless disclosure is integral to the site or service, in which case, this must be made clear to parents)).

operator's disclosure practices for children's personal information. In the 2024 NPRM, the Commission proposed amending § 312.4(d)(2) to expressly require that operators include in their online notice "the identities or specific categories of any third parties to which the operator discloses personal information and the purposes for such disclosures," and "the operator's data retention policy as required under § 312.10."³²⁸

ii. Public Comments Received in Response to the Commission's Proposal Regarding § 312.4(d)(2)

Many commenters generally supported the Commission's proposed amendments to § 312.4(d)(2) and the additional transparency about operators' personal information disclosure and retention practices that the proposed amendments would require.³²⁹

As discussed in Part II.C.1.c.ii, a wide range of commenters opined that the third parties to which the operator discloses personal information and the purposes for such disclosures are important considerations for parents.³³⁰ Many commenters supported the Commission's proposed requirement that operators include the identities or specific categories of any third-party disclosure recipients in the online notice describing the operator's information practices.³³¹ A few commenters welcomed the proposal's use of the "or" conjunction (*i.e.*, "the identities or specific categories"),³³² opining that the names of particular third parties "are unlikely to be important to parents" in some circumstances,³³³ and that requiring

operators to identify third-party disclosure recipients by name "could prove to be challenging for some businesses, as the identities of third parties may be subject to frequent change."³³⁴ Other commenters, however, urged the Commission to require that operators identify the third-party disclosure recipients in the operator's online notice by name and category, explaining that identification by name and category was "essential to informed consent" and in line with legislation in other jurisdictions.³³⁵

Considering the potentially significant privacy implications of an operator's disclosure practices,³³⁶ the Commission believes that parents who navigate to an operator's online notice to learn more about how the operator will handle their child's personal information should be provided with the names and categories of any third-party disclosure recipients. Besides improving parents' ability to make informed decisions about the websites or online services their children use, the Commission believes that requiring operators to describe any third-party disclosure recipients by name and category in the operator's online notice will also facilitate enhanced accountability for

long as they maintain the confidentiality, security, and integrity assurances required by other areas of the COPPA rule, are unlikely to be important to parents, and therefore make most sense disclosed as categories.").

³³⁴ CIPL, at 11 ("CIPL supports a requirement calling for the disclosure of categories of third parties and of the purposes for such disclosures, but disclosure of the *identities of third parties* could prove to be challenging for some businesses, as the identities of third parties may be subject to frequent change. That said, we appreciate the Commission's use of the conjunction "or" to make the disclosure of identities optional.") (emphasis in original).

³³⁵ Common Sense Media, at 8–9 ("[R]ather than merely listing the names of third parties that operators share data with, or listing categories alone, Common Sense supports a further amendment to the rule which would require operators to organize the third parties they share data with into categories based on their function or service and identify them."). See also Children's Advocates Coalition, at 41–42 ("We advise the Commission to maintain its original proposal and require individual identification of third parties by name, organized by category, as defined by the FTC. This requirement provides the necessary specificity that allows parents and advocates to evaluate an operator's practices for personal comfort and legal compliance."); Consumer Reports, at 9 ("The third parties with which an operator shares personal data is likely one of the key decision points upon which parents evaluate their consent choices (for example, whether the operator shares personal data with social media companies or data brokers). . . . In recent years, Consumer Reports has advocated for privacy laws to require the disclosure of specific third parties with which covered entities share personal data on consumer transparency grounds, as well as the fact that such disclosures make assessing compliance easier for both regulators and consumer advocates.").

³³⁶ See, e.g., Part II.C.1.c.ii.

operators.³³⁷ Accordingly, the Commission has decided to revise proposed § 312.4(d)(2) to require that operators' online notices identify any third-party disclosure recipients by name and category.

Several commenters also addressed the Commission's proposal to require operators to include in their online notice their data retention policy for children's personal information. Some commenters focused on the content that operators should be required to include within these retention policies. To satisfy the requirement to provide a written children's data retention policy in the § 312.4(d) online notice,³³⁸ the Center for Democracy and Technology recommended that the Commission specify that the operator must connect the use and purpose for each type of children's data with each type of children's data.³³⁹ Similarly, a children's advocates coalition requested that operators be required to "[tie] each personal data element to its stated purpose," and state that the operator "will not retain personal information longer than is reasonably necessary for the specified purpose for which the data was collected, and also not for any other purpose."³⁴⁰

The current Rule requires operators to describe in their online notice how the operator uses the children's data that the operator collects.³⁴¹ The Commission agrees with the commenters that, in some instances, operators' descriptions could be most helpful to parents if each type of personal information collected is tied to a particular use or to particular uses. In other circumstances, however, that level

³³⁷ See, e.g., J. Chanenson et al., at 1–2 ("This approach aligns with the contemporary trend of digital transparency, empowering children and their parents to make informed decisions about their privacy. Furthermore, required third-party disclosure in the online notice enhances the longevity and accessibility of the information, ensuring that researchers can reference and track changes over time, contributing to a more robust and insightful analysis of privacy practices in the digital landscape.").

³³⁸ As discussed in Part II.G.c, amended § 312.10 of the COPPA Rule will require that an operator include in the operator's online notice its "written data retention policy addressing personal information collected from children" rather than a "written children's data retention policy."

³³⁹ CDT, at 3 ("This additional specificity would avoid a situation where a company lists various types of data collected from children, then separately lists a variety of uses, with no indication of the purposes for which the specific data types are used.").

³⁴⁰ Children's Advocates Coalition, at 37–38.

³⁴¹ See 16 CFR 312.4(d)(2) ("To be complete, the online notice of the website or online service's information practices must state the following: . . . (2) A description of what information the operator collects from children [. . .]; how the operator uses such information; . . .").

³²⁸ 89 FR 2034 at 2073–2074. See also *id.* at 2050 (stating "the Commission believes that this information will enhance parents' ability to make an informed decision about whether to consent to the collection of their child's personal information").

³²⁹ See, e.g., Children's Advocates Coalition, at 37–38; Consumer Reports, at 9; EPIC, at 8.

³³⁰ See Part II.C.1.c.ii.

³³¹ See, e.g., M. Bleyleben, at 5; Children and Screens, at 4.

³³² See, e.g., CCIA, at 7 ("To ensure that the Rule's existing notice requirements remain clear and consistent, CCIA recommends that operators should be able to identify the categories of those third parties and rely upon their existing privacy and security programs for purpose limitation.").

³³³ Engine, at 2 ("internet companies, especially startups, rely on many types of third parties to build and make their services available to end users—for example, to provide cloud hosting, storage, or other infrastructure. Many of the third parties in a [startup's] technology stack are unlikely to be familiar to parents, like content delivery networks or software development kits, etc. In the interest of maintaining clear and concise direct notices that both ease burdens on startups and place parents' attention on truly important disclosures, this information should be relayed in the online notice. Moreover, the particular third-party services, so

of detail could be superfluous, so the Commission declines to require that operators provide in their online notice an item-by-item matrix correlating each item of personal information collected with the particular use or uses of that item of information.

Other commenters focused on the format and placement of the operator's retention policy within the operator's online notice. Concerned about possible "clutter," kidSAFE suggested that the Commission consider allowing operators to include within their online notice a link to their data retention policy rather than the actual retention policy.³⁴² Another commenter, the Interactive Advertising Bureau ("IAB"), argued that the Commission should "give operators reasonable flexibility to determine whether and where retention information is presented on their websites and services, rather than requiring that it be provided as part of the online notice."³⁴³

The Commission believes that an operator's retention policy for children's personal information must be included as part of the operator's online notice, enabling parents and other interested persons to consistently and efficiently locate the policy. To mitigate concerns that such a requirement might lead to unduly long, complex, or cluttered online notices, the Commission notes that operators may use various design features, such as expandable sections (enabling a reader to obtain more detail within a given section), or intra-notice hyperlinks (enabling a reader to quickly navigate between sections within the online notice).

iii. The Commission Amends § 312.4(d)(2)

After careful consideration of the record and comments, the Commission has decided to adopt the amendments to § 312.4(d)(2) as proposed in the 2024 NPRM, with one adjustment: rather than permitting operators to include in their online notice "the identities or specific categories of any third parties to which the operator discloses personal information," operators must include the identities and specific categories of

any such third parties. As discussed in Part II.C.2.a.ii, the Commission believes that requiring operators to provide the names and categories of third-party disclosure recipients will improve parents' ability to make informed decisions about the websites or online services their children use and facilitate enhanced accountability for operators.

b. New § 312.4(d)(3): Notice Regarding the Collection of Persistent Identifiers

i. The Commission's Proposal Regarding New § 312.4(d)(3)

In the 2024 NPRM, the Commission proposed adding new § 312.4(d)(3), which would require an operator's online notice to include, "[i]f applicable, the specific internal operations for which the operator has collected a persistent identifier pursuant to" § 312.5(c)(7)'s support for the internal operations exception to the Rule's verifiable parental consent requirement, "and the means the operator uses to ensure that such identifier is not used or disclosed to contact a specific individual, including . . . in connection with processes that encourage or prompt use of a website or online service, or for any other purpose (except as specifically permitted to provide support for the internal operations of the website or online service)."³⁴⁴

ii. Public Comments Received in Response to the Commission's Proposal Regarding New § 312.4(d)(3)

Some consumer advocate and industry commenters supported proposed § 312.4(d)(3) while also recommending changes to it. A children's advocates coalition expressed strong support for proposed § 312.4(d)(3) and also recommended that the Commission revise the proposed section to require operators' online notices to "specify each particular internal operation(s) purpose or activity for each identifier" the operator collects pursuant to § 312.5(c)(7).³⁴⁵ Similarly, another commenter recommended that an operator should be required to state the purpose for which the data will be used,

rather than the purpose of the disclosure.³⁴⁶ Google expressed support for the proposal, but recommended "allowing businesses to refer to categories to explain how they use persistent identifiers pursuant to the exception" and "[clarify] that operators can provide general information about the means used to comply with the definition's use restriction."³⁴⁷ Citing interest in making operators' disclosures related to their collection of persistent identifiers "easily understood and parsable, as well as scalable," Google recommended that § 312.4(d)(3) permit operators to use "categories" such as "troubleshooting and debugging" to identify the specific internal operations for which they have collected persistent identifiers under the support for the internal operations exception.³⁴⁸ Google cited the same interests in recommending that the Commission clarify that operators "can provide general information about the means used to comply with" the use restrictions set forth in the COPPA Rule's definition of "support for the internal operations of the website or online service."³⁴⁹

Many commenters opposed the proposed addition of § 312.4(d)(3). Several raised concerns about the technical nature of the types of activities that are considered to be "support for the internal operations," and indicated that disclosures about such activities would be "highly technical and unlikely to be useful to parents."³⁵⁰ Some commenters suggested that requiring the notice to disclose the practices for which a persistent identifier is collected "could reveal confidential information, security measures, proprietary information, and trade secrets . . . [as well as] previously nonpublic security practices, which bad actors could exploit."³⁵¹ By way of example, one

³⁴⁶ CIPL, at 11–12.

³⁴⁷ Google, at 8–9.

³⁴⁸ *Id.*

³⁴⁹ *Id.*

³⁵⁰ NCTA, at 17–18; *see also*, e.g., ESA, at 13, 20–22; Epic Games, at 12; IAB, at 17–18; CIPL, at 6–7, 10–11; NAI, at 3; SuperAwesome, at 5; SIIA, at 17; The Toy Association, at 7; ANA, at 12; ACT | The App Association, at 8.

³⁵¹ CIPL, at 6–7, 11; *see also* Epic Games, at 12 ("Operators should not be required to state the internal, and often proprietary, business decisions they make to ensure compliance."); IAB, at 17–18 ("[S]FIO exception will be undermined] by requiring operators to reveal previously nonpublic security practices or fraud and theft prevention measures."); ITIC, at 6–7 ("Some of the most important activities covered by the support for the internal operations exception are operators' efforts to protect 'the security and integrity of the user, website, or online service.'"); Internet Infrastructure Coalition, at 3–4 ("Requiring such detailed disclosure of confidential business operations makes operators vulnerable.

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³⁴² kidSAFE, at 15.

³⁴³ IAB, at 21–22 ("While operators should maintain and implement internally a data retention policy, publishing such policies online would needlessly lengthen and complicate privacy notices with no meaningful benefit to parents. Where operators choose to voluntarily publish data retention schedules, this information may be more useful if provided in just-in-time disclosures or customer support articles, rather than in the privacy policy. Such an approach could provide transparency where useful to consumers and avoid redundancy where an operator already discloses retention information elsewhere on the website or service.").

³⁴⁴ 89 FR 2034 at 2050, 2074.

³⁴⁵ Children's Advocates Coalition, at 38. As discussed in Part II.D.6.b, other commenters raised concerns about requiring operators to provide too much detail in describing the operator's support for the internal operations practices. *See also* NCTA, at 17 ("The specific purposes for which NCTA members may rely on COPPA's support for internal operations exception may vary on a user-by-user basis or over time. Operators may simultaneously use persistent identifiers for multiple permissible internal operations purposes, for example, for authentication, content delivery, anti-fraud measures, payment, and ad attribution.").

commenter warned that “[a]n operator might rely on persistent identifiers to implement a system that detects suspicious login attempts or password changes. With sufficient knowledge of how the persistent identifiers are used, a bad actor could be able to tailor attacks to circumvent the system.”³⁵² Another commenter similarly opposed the disclosure requirement, suggesting that the proposed addition would do little to increase transparency for parents while undermining operators’ ability to keep their platforms safe.³⁵³ Another commenter expressed concern that the proposed amendment will potentially “create painstakingly long notices” because the proposal can be read to require the operator to disclose every internal use, and stated that the disclosure requirement would call into question whether new internal uses are considered material changes that require new consent.³⁵⁴ This commenter emphasized that the proposal will be particularly burdensome for operators because it will require operators that currently do not have COPPA obligations to provide notice about internal uses that the FTC deemed, by definition, to be benign enough not to require consent.³⁵⁵

One commenter queried whether the disclosure of personal information collection and use practices would duplicate disclosures in existing privacy policies required by other laws.³⁵⁶

. . . Such forced openings for bad actors at this level can have dramatically negative network security effects throughout the internet infrastructure ecosystem.”); SIIA, at 17 (warning that the proposal is overbroad and risks “compromising competitive or otherwise sensitive business information”); CCIA, at 7–8 (warning that “[i]njurious actors may be able to leverage the new information found in these notices to discover vulnerabilities” and recommending that “the Commission confirm that online notice requirements do not require operators to disclose potentially sensitive business information that could compromise the safety, security, or competitiveness of the operator and their service or website”); Chamber, at 6; NCTA, at 17–18 (“While NCTA supports the principle of transparency, requiring operators to inventory and disclose their use of persistent identifiers on a specific and real-time basis would only increase the burden and liability of operators and introduce considerable new friction into the user experience without advancing the goals of ensuring that persistent identifiers are not misused.”).

³⁵² CIPL, at 11.

³⁵³ ESA, at 13, 20–22.

³⁵⁴ ANA, at 12–13 (citing to the NPRM’s statement that some internal uses are permitted even though the Rule does not explicitly include them).

³⁵⁵ ANA, at 13.

³⁵⁶ SuperAwesome, at 5. This commenter also opined that the potential benefit of requiring the direct notice to disclose information about the use of persistent identifiers for support for the internal operations “is likely to be outweighed by potential consumer confusion” because “a parent may not

Another commenter expressed general skepticism of the benefits of detailed disclosure requirements and stated that “ambiguity around the required level of specificity for disclosures made under the new requirements could create confusion in the enforcement context, potentially leading to unpredictable or arbitrary enforcement patterns that could burden access to lawful content . . . and potentially raise constitutional concerns by impairing [] access to lawful content.”³⁵⁷ Other commenters raised concerns about operators having to “prove a negative”³⁵⁸ with respect to the proposed requirement that operators disclose “the means the operator uses to ensure that such identifier is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, in connection with processes that encourage or prompt use of a website or online service, or for any other purpose.”³⁵⁹

iii. The Commission Adopts New § 312.4(d)(3)

After carefully considering the record and comments, the Commission adopts the proposed new § 312.4(d)(3) with modifications. For the reasons explained in Parts II.B.4.c and II.D.5.c, the Commission has decided not to adopt the proposed amendments to the definition of “support for the internal operations of the website or online service” and § 312.5(c)(4) that would specifically restrict processes or uses that “encourage or prompt use of a website or online service.” Therefore, the Commission will not specifically require the online notice to include disclosure of the means operators use to ensure that persistent identifiers are not used “in connection with processes that encourage or prompt use of a website or online service” as proposed in the 2024 NPRM.

In response to questions raised about the detail the online notice must provide regarding the operator’s use of persistent identifiers for support for internal operations purposes, the

understand why consent is not always needed for the collection and use of a persistent identifier.” *Id.* To clarify, under proposed § 312.4(d)(3), an operator would be required to include this disclosure in an online notice, not in a direct notice.

³⁵⁷ IAB, at 17. It is unclear how this provision, which would require companies to include a notice in an online privacy policy indicating that they use persistent identifiers for support for internal operations purposes, would affect children’s access to lawful content. Regarding the level of detail that operators must disclose to satisfy the disclosure requirement, that issue is addressed in Part II.D.6.b.

³⁵⁸ NCTA, at 17; T. McGhee, at 3–4.

³⁵⁹ 89 FR 2034 at 2074.

Commission clarifies that § 312.4(d)(3) will require an operator to disclose—in general, categorical terms—how the operator uses persistent identifiers for support for internal operations purposes.³⁶⁰ Disclosure of details that would threaten security protocols or reveal proprietary information, anti-fraud practices, or trade secrets is not required.

Moreover, the Commission agrees that operators need not prove a negative. Operators must, however, explain in their online notice what policies or practices are in place to avoid using persistent identifiers for unauthorized purposes, such as by providing a general statement about training, data segregation, and data access and storage.

The Commission has determined that new § 312.4(d)(3), as modified and clarified, will enhance oversight of operators’ use of the exception relating to support for the internal operations in § 312.5(c)(7) and therefore adopts new § 312.4(d)(3).

c. New § 312.4(d)(4): Notice Regarding Collection of Audio Files

i. The Commission’s Proposal Regarding New § 312.4(d)(4)

In the 2024 NPRM, the Commission proposed a new § 312.4(d)(4) to require that when an “operator collects audio files containing a child’s voice pursuant to” the audio file exception to the verifiable parental consent requirement that the Commission proposed to codify in § 312.5(c)(9), the operator’s online notice must include “a description of how the operator uses such audio files and that the operator deletes such audio files immediately after responding to the request for which they were collected[.]”³⁶¹

ii. Public Comments Received in Response to the Commission’s Proposal Regarding New § 312.4(d)(4)

One commenter sought clarification as to whether proposed § 312.4(d)(4) seeks disclosure of the purpose for which, rather than technical explanations of how, the operator uses the covered audio files.³⁶² In response to that comment, the Commission clarifies that proposed § 312.4(d)(4) would require an operator’s online notice to describe the purposes for which the operator will use the audio files the operator collects in accord with

³⁶⁰ The Commission envisions that some operators might state generally that persistent identifiers are used, for example, for ad attribution, website maintenance, data security, or user authentication, while others might choose to provide additional information.

³⁶¹ 89 FR 2034 at 2074.

³⁶² CIPL, at 11.

§ 312.5(c)(9) of the Rule rather than providing “technical explanations” of how the operator will use the files.

A children’s advocates coalition strongly supported proposed § 312.4(d)(4) and also recommended that the Commission amend the proposed language to clarify that an operator’s online notice must describe the purpose for which the operator will use each covered audio file or each category of covered audio files.³⁶³ In response, the Commission clarifies that proposed § 312.4(d)(4) would require an operator’s online notice to describe the purpose for which the operator will use any audio files the operator collects in accord with § 312.5(c)(9).

iii. The Commission Adopts New § 312.4(d)(4)

After carefully considering the record and comments, and for the reasons discussed in Part II.C.2.c.ii of this document, the Commission adopts § 312.4(d)(4) as proposed.³⁶⁴

D. § 312.5: Parental Consent

1. Proposal Related to § 312.5(a)(2)

a. The Commission’s Proposal Regarding § 312.5(a)(2)

Section 312.5(a)(2) currently states that “[a]n operator must give the parent the option to consent to the collection and use of the child’s information without consenting to disclosure of his or her personal information to third parties.”³⁶⁵ In the 2024 NPRM, the Commission proposed bolstering this requirement by adding that operators must obtain separate verifiable parental consent for disclosures of a child’s personal information, unless such disclosures are integral to the nature of the website or online service. The Commission also proposed adding language that would prohibit operators required to obtain separate verifiable parental consent for disclosures from conditioning access to the website or online service on such consent.

b. Public Comments Received in Response to the Commission’s Proposal Regarding § 312.5(a)(2)

A wide range of commenters expressed general support for the Commission’s proposed amendments to § 312.5(a)(2).³⁶⁶ Many of these commenters emphasized that requiring separate consent for disclosure, and prohibiting operators from conditioning access on such consent, could enhance transparency and enable parents to make more deliberate and meaningful choices.³⁶⁷ Several commenters noted

³⁶⁶ See, e.g., Common Sense Media, at 7; J. Chanenson et al., at 2; Mental Health America, at 2; ACLU, at 19; NYC Technology and Innovation Office, at 4; Consumer Reports, at 9; Heritage Foundation, at 1; Epic Games, at 6; AFT, at 2; Kidentify, at 3; State Attorneys General Coalition, at 11. Question Fourteen in the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM requested that commenters address whether the Commission should require operators to obtain separate verifiable parental consent prior to disclosing a child’s personal information, unless such disclosure is integral to the nature of the website or online service; whether the proposed consent mechanism for disclosure should be offered at a different time and/or place than the mechanism for the underlying collection and use; whether the proposed exception from the proposed separate consent requirement for disclosures that are integral to the nature of the website or online service is clear; and whether the Rule should require operators to state which disclosures are integral to the nature of the website or online service. See 89 FR 2034 at 2070 (Question 14).

³⁶⁷ See, e.g., Mental Health America, at 2 (“The requirement that the second notice be detailed will increase transparency, providing insights as to which third parties receive young people’s data and what the alleged purpose for that data sharing is. That information will shed light on opaque business practices and allow young people and their families to better understand and make informed decisions as to how their information may be used.”); Sutter Health, at 3 (“By requiring separate opt-in consent for targeted advertising and prohibiting the conditioning of a child’s participation on the collection of excessive personal data, the proposed amendments empower parents and caregivers to make informed decisions about their children’s online activities.”); Epic Games, at 6 (“Epic believes that parents can make better informed decisions about their child’s data when the operator’s practices are laid out for them in stages. It is appropriate that for disclosures of a child’s information (which can be among the most sensitive of uses), parents be given the opportunity to stop and consider their options.”); CDT, at 8 (“Limiting consent to only collection and use forces parents to either accept those risks of disclosure so children can access a website or service, or to deny children a service’s benefits to avoid the risks that come with disclosure.”); Kidentify, at 3 (“Many parents today who provide VPC do so in an ‘all or nothing’ capacity, where their only options are either to agree to the full tracking of their child for advertising purposes, or to prohibit their child from participating in the activity altogether. By empowering parents with the granular option to refuse third-party disclosures while prohibiting operators from conditioning a child’s access to websites or online services on parental consent, the Commission reinforces its dedication to protecting children’s privacy, empowering parents, and fostering a safer online ecosystem.”); State Attorneys General Coalition, at 11 (“Separate parental consent requirements for both collection

that the Commission’s proposed amendments to § 312.5(a)(2) would reduce the flow of children’s information to data brokers and make it more difficult for companies to target children with personalized advertising.³⁶⁸

In addition to expressing support for the proposed amendments to § 312.5(a)(2), numerous commenters opined on what a separate consent process for disclosures should look like, urging the Commission to avoid implementing the proposed § 312.5(a)(2) amendments in a way that could allow for consent to be obtained through manipulative design features or strategies.³⁶⁹ Some commenters opined that the separate consent contemplated by the Commission’s proposed amendments to § 312.5(a)(2) should be “offered at a different time and/or place than the mechanism for the underlying collection and use.”³⁷⁰ Others asserted that the Commission should take a more flexible approach to avoid frustrating parents,³⁷¹ facilitating “consent

and disclosure of children’s personal information will heighten child privacy. It will also avoid parental confusion by preventing parents from incorrectly assuming that collection, use, and disclosure are ‘bundled’ together. The new proposed rule works to allow parents to control who obtains their child’s information and provides an avenue for parents to further protect their child’s personal information.”).

³⁶⁸ See, e.g., Mental Health America, at 2; I. Seemann, at 1.

³⁶⁹ Children’s Advocates Coalition, at 42 (“[T]he Commission should explicitly prohibit the use of design features or manipulative strategies, commonly referred to as dark patterns, to influence parental consent decision making.”); Consumer Reports, at 10 (“Drawing from lessons learned from [State privacy] laws, we strongly urge the Commission to clearly prohibit businesses from attempting to ‘game’ consent by bundling unrelated consents, misleading consumers about the effect of a consent decision, and manipulating consumers through consent interfaces to make the business’ preferred consent decision.”); California Privacy Protection Agency, at 6 (“Combining consent for collection, use, and disclosure could potentially constitute a choice architecture that is a dark pattern under the CCPA. The [California Consumer Privacy Act Regulations] explain that bundling choices such that a consumer must consent to incompatible uses of their personal information to obtain services that they expect the business to provide impairs and interferes with the consumer’s ability to make a choice.”); Heritage Foundation, at 1 (“Parental consent requests should be clear and not read like a complicated terms of service agreement that is easily ignored and accepted without thorough review. Consent requests should not trick parents into accepting. For example, many cookie notices make it easier to ‘accept all’ rather than ‘confirm my choices.’”).

³⁷⁰ J. Chanenson et al., at 3. See also Children’s Advocates Coalition, at 42; State Attorneys General Coalition, at 11–12; PRIVO, at 5.

³⁷¹ See, e.g., Microsoft, at 9–10 (“Given the importance of user control when it has been affirmatively exercised by the user, Microsoft believes that the Commission should consider ways to avoid having that control overridden or hindered

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³⁶³ Children’s Advocates Coalition, at 39.

³⁶⁴ The Commission received a comment that recommended that the Commission expand the audio file exception to the COPPA Rule’s verifiable parental consent requirement to include “other forms of media or biometrics, such as facial images” and accordingly expand proposed § 312.4(d)(4) to require that operators’ online notices address their collection of those other forms of media under such an expanded exception to the verifiable parental consent requirement. kidSAFE, at 8–9. As discussed in further detail in Part II.B.3.c.i, the Commission is not persuaded that the benefits of allowing an exception for prompt deletion of children’s sensitive biometric information outweighs the risk to consumers. Therefore, the Commission is not expanding the audio file exception or § 312.4(d)(4) as the commenter proposed.

³⁶⁵ 16 CFR 312.5(a)(2).

fatigue,”³⁷² or otherwise imposing unnecessary friction.³⁷³ At least one commenter simply sought more clarity regarding the proposed separate consent requirement’s parameters.³⁷⁴

Some commenters opposed the proposed separate consent requirement

through additional requirements which require a parent to reaffirm their already stated preference. For example, when creating a child account under Xbox, parents are asked whether they want to allow their child to have access to third party publishers’ games. The default setting is off. If a parent has made an affirmative change to allow a child to access these games (which are frequently a core reason for purchasing a console), it would be cumbersome and frustrating to require that parent to restate that preference through the verified parental consent process.”); ITIC, at 6 (“It would also be helpful to have further clarity on when a parent can control a child’s data processing by way of affirmative changes to parental settings. For example, consent for third party disclosures should be deemed sufficient when a parent affirmatively chooses to share information with third parties as part of an operator’s parental control tools—this preference should not need to be reaffirmed through a separate verified parental consent process.”).

³⁷² See, e.g., Center for AI and Digital Policy, at 10 (“To streamline administration and avoid perpetuating ‘consent fatigue,’ the [consent] mechanism for disclosure may be offered at the same time and place as the [consent] mechanism for the underlying collection and use. However, it should be clearly distinguished by being positioned in a distinctly separate section following the latter [consent] mechanism with separate affirmative consent.”); ITIC, at 5 (“To avoid consent fatigue and duplication, operators should be allowed to gain consent for third-party disclosures as a distinct item that is part of the broader first-party VPC process for the underlying collection/use of personal information (such as by using a clear disclosure and checkbox).”); CIPL, at 12 (“[A]ttempting to secure multiple consents could negatively impact the user experience and risk contributing to consent fatigue, which ultimately lowers privacy protections with reflexive box ticking instead of informed decision-making. Furthermore, it could degrade the quality of users’ experience where, for example, parents may be required to enter the same information twice in rapid succession.”).

³⁷³ See, e.g., Epic Games, at 6 (“Epic would suggest [] that, to reduce friction and provide as seamless an experience for parents as possible, operators be permitted to present the separate consent for third party disclosures in the same flow as the permission for the operator’s own internal uses. . . . Such a rule will enable operators of well-established services to make their parental consent features and related parental controls available to third parties, many of which are small companies that have limited ability to invest in building advanced regulatory compliance systems.”); ACT | The App Association, at 7 (“We encourage FTC to ensure that its rules do not introduce unneeded friction into the VPC process. For example, the App Association supports the FTC’s COPPA rules allowing operators to gain consent for third-party disclosures as part of the broader first-party VPC process for the underlying collection/use of personal information (e.g., a disclosure and checkbox). Further, once a parent has provided consent to a third party to make disclosures through parental controls settings, this choice need not be reaffirmed separately in the VPC process.”).

³⁷⁴ See Taxpayers Protection Alliance, at 3 (“The FTC should specify whether consent would have to be gained for each instance of disclosure, whether this consent must be obtained in an entirely separate consent request from the consent request to gather and process data, and other expected procedures.”).

altogether, arguing that it was redundant.³⁷⁵ would lead to consent fatigue by imposing needless burdens on parents,³⁷⁶ and would “hinder many valuable and reasonable practices beyond targeted advertising, such as independent research activity.”³⁷⁷ A few commenters opposed the Commission’s proposed amendments to § 312.5(a)(2) but recommended that, if the Commission nonetheless decided to implement a separate consent requirement, the Commission allow for parents to provide their consent in a streamlined fashion such as by “permitting an unchecked check box, toggle, or similar option within the initial VPC notice.”³⁷⁸

³⁷⁵ See, e.g., Future of Privacy Forum, at 4 (“Notably, in the current COPPA rule there is already a prohibition on conditioning a child’s participation in an online activity on the unnecessary disclosure of personal information. . . . Since the rule already incorporates a prohibition on the exact conduct that the separate VPC requirement in Section 312.5(a)(2) of the NPRM seeks to address, it seems that it would be a redundant requirement that does not clearly add benefit to parents and children. Therefore, FPF recommends against requiring a separate VPC for disclosure of children’s data to third parties because stakeholders already face significant challenges under current VPC requirements for an operator’s collection and use of child data, which a secondary VPC requirement would augment.”); Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 18–19 (“Because parents have already consented to data collection, sharing, and use, these additional real-time notice-and-consent requirements are a needless burden. The FTC’s goal in requiring another round of consent is to slow or deter the shifting of data outside the setting in which it was originally collected, but there is little reason to speculate that these secondary collections and uses—which were already subject to notice and consent—will cause harm.”); ANA, at 14 (“Parents [] are already assured of the ability to provide separate consents for (1) collection and use of personal information from children and (2) disclosures of personal information to third parties. Therefore, the separate consent obligation for disclosures to third parties is unnecessary and merely creates additional work for parents.”).

³⁷⁶ See, e.g., 4A’s, at 5; The Toy Association, at 7–8; Google, at 6–7.

³⁷⁷ Privacy for America, at 8.

³⁷⁸ CARU, at 4–5 (opining that “requiring a second VPC process for disclosure will create confusion for parents and may have a chilling effect on companies that offer websites and online services to children”). See also Future of Privacy Forum, at 7–8 (recommending the Commission “avoid prescribing specific processes and flows for when and how the VPC for disclosure should occur” as “[o]perators’ services, products, and features vary widely and thereby require different data processes and data flows which would necessitate the use of varying third parties at different times”); ESA, at 15–16 (“The proposed modification should not impose requirements that are unreasonably burdensome for parents. For example, a parent should not be required to re-start the verifiable parental consent process from scratch to consent to third-party disclosures. Instead, this separate consent to disclosure could be as simple as an affirmative action the parent must take within the existing verifiable parental consent flow. Another alternative could be for parents to use

Like many of the commenters that addressed the proposed amendments to § 312.5(a)(2), the Commission agrees that a separate consent requirement for non-integral disclosures to third parties, such as for third-party advertising, enhances transparency and enables parents to make more deliberate and meaningful choices, and is thus adopting the approach proposed in the NPRM in the final rule, with minor language modifications as discussed in Part II.D.1.c. As to how and when such separate consent must be sought, rather than prescribe rigid requirements, the Commission is persuaded that operators should be provided sufficient flexibility to enable them to integrate the separate consent requirement in a way that enhances parents’ ability to make deliberate and meaningful choices. In many contexts, seeking a parent’s consent for non-integral disclosures to third parties during the initial verifiable parental consent flow may be an efficient way to obtain a parent’s deliberate and meaningful consent. The Commission is persuaded, however, by

previously-provided parental passwords or pins to provide this additional consent at a later time. Moreover, many platforms and games have parental controls that allow a parent to control whether their child can disclose personal information to third parties, among other privacy and safety settings Because the parent is taking an affirmative action to allow a child to disclose their personal information *after* the parent has already reviewed the operator’s direct notice and provided verifiable parental consent, these settings should satisfy the additional verifiable parental consent requirement.”) (emphasis in original); SIIA, at 19 (“We support incorporating the consent mechanism for [third parties’] disclosures into the broader first-party VPC process for the collection and use of personal information. . . . However, capturing VPC this way is only workable if the Commission allows for reasonable implementation procedures. For example, operators should be able to use a clear disclosure and check box acknowledgment to capture VPC for disclosures to third parties as part of their own VPC for first-party collection and use.”); Chamber, at 8 (“It is unclear that the COPPA statute expressly authorizes a separate disclosure requirement. But even if the COPPA statute does expressly authorize a separate disclosure requirement, the Chamber recommends that to avoid notice overloading consumers, operators should be allowed to obtain the verified parental consent for disclosure in the same notice and consent flows that they utilize in their current VPC processes.”); ANA, at 14 (“Alternatively, to avoid overwhelming parents with consent requests, operators should be permitted to obtain verifiable parental consent to disclose personal information to third parties within the same interface and process used to obtain consent for collection and internal use.”); Google, at 7 (“We encourage the FTC to adopt a flexible approach here to ensure any definition of ‘integral’ is future-proof and makes sense for different websites and online services. At the same time, we suggest that the FTC enumerate common examples of disclosures that are ‘integral’ across different services and likely to persist over time, such as disclosures required for legal and compliance purposes (e.g., reporting CSAM to the government) or safety purposes (e.g., reporting imminent threats to authorities).”).

the commenters that suggested operators should have the flexibility to seek parental consent for such non-integral disclosures at a later time—*e.g.*, when a child seeks to interact with a feature on the site or service that implicates non-integral third-party sharing. In that instance, the Commission expects that the operator will provide notice to the parent at the time that the parent's consent is sought so that, at minimum, the parent understands the types of personal information that will be disclosed, the identities or specific categories of third parties (including the public if making it publicly available) to whom personal information will be disclosed, and the purposes for such disclosure should the parent provide consent, and that the operator will inform the parent that the parent can consent to the collection and use of the child's personal information without consenting to the disclosure of such personal information to third parties.

Regardless of whether an operator seeks a parent's consent for non-integral disclosures to third parties during the initial verifiable parental consent flow or at a later time, the key question is whether a parent's consent to the underlying third-party disclosures is freely given, informed, specific, and unambiguously expressed through an affirmative action distinct from the parent's consent to the operator's collection and use of their child's personal information. To be clear, consent flows that mislead, manipulate, or coerce parents—including choice architectures that deceive parents about the effect of a consent, or trick parents into providing their consent—will not suffice.³⁷⁹

Moving beyond whether separate consent should be required and what form it should take, a few commenters asserted that the Commission should require operators to obtain separate parental consent before disclosing children's personal information to entities that might not meet the Rule's definition of a "third party" (and thus would fall outside the scope of the proposed separate consent requirement).³⁸⁰ Other commenters

urged the Commission to ensure that various sharing scenarios were treated as disclosures covered by the proposed separate consent requirement.³⁸¹ A children's advocates coalition, for example, described at length how companies use "data clean rooms," "collaborative data sharing strategies," and "various marketing 'partnerships'" to allow marketers to "match" their data with that collected by operators covered by the Rule.³⁸²

The Commission believes proposed § 312.5(a)(2) would sufficiently cover the entities described by these commenters given how the Rule defines the terms "Operator," "Person," and "Third party." The Rule's definition of "Operator" covers the "person" who operates the subject website or online service, where "Person" is defined as "any individual, partnership, corporation, trust, estate, cooperative, association, or other entity."³⁸³ And the Rule defines "Third party" as "any person" who is neither an operator of the subject website or online service nor "a person who provides support for the internal operations" of the subject website or online service.³⁸⁴ Accordingly, where an operator of a child-directed website or online service has allowed a third party to collect personal information through the operator's child-directed website (for example, via an advertising or social networking plug-in), the third party is still a "third party" with respect to the operator of the child-directed website or

predatory data practices as their data sharing relationships do not rise to the definition of "third-party sharing.""); EPIC, at 10 (arguing that "[f]or the proposed Rule to be the most effective in mitigating privacy and data security harms to children, the term 'third party' should be revised to encompass any external entity—including operators. Currently there is no mechanism to regulate sharing with an external entity that is not a third party (as that term is defined by the Rule). . . . As it stands now, any external entity that could be considered an operator would not be a third party. The consequences for excluding operators and other external entities from the definition of third party are significant."). In response to these comments, the Commission notes that, for purposes of determining whether a disclosure has been made to a "third party," where a third party is liable directly as an operator because it has actual knowledge that it is collecting information directly from users of a child-directed website or online service, that party is still a "third party" with respect to the operator with which the child is interacting—*i.e.*, that party is still considered a "third party" even if it is also an operator under the first prong of the "third party" definition.

³⁸¹ See, *e.g.*, Children's Advocates Coalition, at 16–22.

³⁸² See *id.* (emphasizing that "[u]nder COPPA, data clean rooms and associated practices should only be allowed with a separate parental consent for disclosures to third parties, as required under 312.5(a)(2)").

³⁸³ 16 CFR 312.2.

³⁸⁴ *Id.*

online service regardless of whether the third party might be liable directly as an operator (*i.e.*, because it has actual knowledge that it is collecting personal information directly from users of a child-directed site or service).³⁸⁵ This means that operators of child-directed websites and services would have to obtain separate consent from parents before disclosing a child's personal information to any entity other than the one providing the subject website or online service (or providing support for the internal operations of the subject website or online service).

The Commission also believes proposed § 312.5(a)(2) would sufficiently cover the sharing scenarios described by commenters given how the Rule defines "Collect" and "Disclose." Under the Rule, "Collects or collection means the gathering of any personal information from a child by any means,"³⁸⁶ and "Disclose or disclosure means, with respect to personal information: (1) the release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service. . . ." ³⁸⁷ Accordingly, an operator that releases personal information collected from a child to a third party (other than for support for the internal operations of the operator's site or service) for a non-integral purpose would have to first obtain separate consent from parents, regardless of whether the release occurs through a so-called "data clean room," "collaborative sharing strategy," or "marketing partnership."³⁸⁸

Many commenters additionally provided their views on what types of disclosures the Commission should consider "integral to the nature of the website or online service," and some commenters urged the Commission to

³⁸⁵ See, *e.g.*, 78 FR 3972 at 3975–77 (describing providers of plug-in services that collect personal information from users through child-directed sites and services as "independent entities or third parties" with respect to "the child-directed content provider," modifying the definition of "operator" to hold the operator of "the primary-content site or service" strictly liable "for personal information collected by third parties through its site;" and explaining that "it cannot be the responsibility of parents to try to pierce the complex infrastructure of entities that may be collecting their children's personal information through any one site").

³⁸⁶ 16 CFR 312.2.

³⁸⁷ *Id.*

³⁸⁸ For example, an operator that allows an advertiser to match data held by the advertiser with data collected by the operator using persistent identifiers, email addresses, or other elements of personal information will have disclosed personal information to the advertiser and would thus first need to obtain separate consent from parents.

³⁷⁹ See 16 CFR 312.4(a) (stating "[i]t shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to [. . .] disclosing personal information from children," and providing that "[s]uch notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials").

³⁸⁰ See, *e.g.*, Sandy Hook Promise, at 3 ("[W]e recommend that companies be required to obtain separate parental consent for external or partnered companies that may not qualify as third-parties. Companies often partner directly or own several platforms, which may allow them to utilize

require separate consent regardless of whether the underlying disclosures were integral.³⁸⁹ Several commenters requested that the Commission provide further clarity, and some identified particular disclosures that they believe should never be considered “integral to the nature of the website or online service,” such as disclosures for advertising purposes³⁹⁰ or for training or developing artificial intelligence technologies.³⁹¹ One commenter requested the Commission limit the separate consent requirement “to only third-party advertisers, not third-party service providers,” asserting that many operators subject to the Rule “rely on third-party service providers to operate their businesses, and need to share the data the operator[s] collect[] with those service providers to function.”³⁹² As an alternative, another commenter suggested the Commission should allow operators “the opportunity to define which disclosures are integral to their service” while providing “guidance on what could be claimed as an integral third-party use and disclosure” and requiring operators “to state which disclosures are integral in their direct notice to parents.”³⁹³

Some commenters observed that the proposed separate consent requirement could create potential complications for platform providers that host services developed by third parties. One commenter, for example, asked whether parents would be required to provide separate consent for each login to a new child-directed website or online service by their child using an email service.³⁹⁴

³⁸⁹ See Children’s Advocates Coalition, at 15; Parent Coalition for Student Privacy, at 13.

³⁹⁰ See, e.g., Common Sense Media, at 8; State Attorneys General Coalition, at 12.

³⁹¹ See, e.g., Center for AI and Digital Policy, at 10; Common Sense Media, at 8.

³⁹² CARU, at 5 (opining that “[i]f the FTC decides not to narrow the scope of third parties, this will have an outsized impact on smaller businesses”); see also NCTA, at 19–20 (“The FTC intimates that its primary concern underpinning this proposal is the disclosure of persistent identifiers ‘for targeted advertising purposes, as well as disclosure of other personal information for marketing or other purposes.’ If this is the case, then COPPA could require separate consent solely for behavioral advertising.”).

³⁹³ Future of Privacy Forum, at 7.

³⁹⁴ kidSAFE, at 9 (“... kidSAFE wonders to what extent this requirement would apply to platform providers, especially those that offer opportunities to share data with third party developers on their platform. For example, suppose a child is prompted to login with their COPPA-compliant Gmail account on a third party child-directed website, and as part of that login, the child’s email address and other personal information may be shared with the third party site. Would a parent be required to provide separate consent to each such login and data sharing request, if the parent has already consented to the initial collection and sharing by Google? . . . Perhaps,

Another commenter, the Entertainment Software Association (“ESA”), asserted that the disclosure of children’s personal information between game publishers and the operators of console, handheld, mobile device, and app store services “is integral to the functioning of online video game services” because, “[f]or a child user to have a properly functioning experience in a third-party game, the platform may need to disclose certain player information along with information such as parental controls and permissions to access certain purchased entitlements along to the game publisher.”³⁹⁵ Citing a similar example, Consumer Reports noted that “a video game platform that allows third-party brands to create virtual worlds should be able to disclose personal data to that brand necessary to allow that virtual world to load,” but suggested the Commission “clarify that a disclosure to a third-party is ‘integral’ to the nature of the website or online service when it is functionally necessary to provide the product or service the consumer is asking for.”³⁹⁶ Consumer Reports further urged the Commission to make clear “that the sale or sharing of personal information for consideration (monetary or otherwise) shall never be considered ‘integral’ to the nature of the website or service.”³⁹⁷ Lastly, writing in support of the proposed separate consent requirement, a large video game developer asked the Commission to “refrain from engaging in an effort to itself define those disclosures [that] are integral” because any such definition “will either be too narrow to account for the varied nature and purposes of websites and online services, or else be so broad as to be no more instructive than the plain meaning of ‘integral.’”³⁹⁸

The Commission agrees that disclosures to third parties that are necessary to provide the product or service the consumer is asking for are

therefore, this would be another good example of when the disclosure is integral to the nature of the website or online service.”). See also Microsoft, at 9–10 (noting that parents creating child Xbox accounts are asked whether the parent wants “to allow their child to have access to third party publishers’ games,” and opining that “it would be cumbersome and frustrating to require th[ose] parent[s] to restate that preference”).

³⁹⁵ ESA, at 15.

³⁹⁶ Consumer Reports, at 10; see also State Attorneys General Coalition, at 12 (“One proposed definition could be—the minimum disclosure necessary to effectuate the transaction, as reasonably expected by the consumer/parent.”) (emphasis removed).

³⁹⁷ Consumer Reports, at 10.

³⁹⁸ Epic Games, at 6–7 (noting “COPPA has long included the concept of integral disclosures but has left to operators the flexibility to define for themselves what activities they deem integral”).

integral to the website or online service and would not fall within the scope of the proposed amendments to § 312.5(a)(2). Of course, operators would have to identify such disclosures in the notices required under §§ 312.4(c)(1)(iv) and 312.4(d). Disclosures of a child’s personal information to third parties for monetary or other consideration, for advertising purposes, or to train or otherwise develop artificial intelligence technologies, are not integral to the website or online service and would require consent pursuant to the proposed amendments to § 312.5(a)(2).

c. The Commission Amends § 312.5(a)(2)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.1.b of this document, the Commission adopts the amendments to § 312.5(a)(2) as originally proposed, with two minor modifications. The Commission is persuaded by certain commenters’ overall calls for clarity on this provision. Therefore, the Commission is dropping the words “the nature of” from the first sentence of the proposed amendments to § 312.5(a)(2) for consistency with longstanding guidance³⁹⁹ and to enhance readability.⁴⁰⁰ In addition, the Commission is dropping “. . . and the operator may not condition access to the website or online service on such consent” from the second sentence of the proposed amendments to § 312.5(a)(2) to avoid potential confusion with a long-standing Commission position. In its 1999 Notice of Proposed Rulemaking, the Commission noted that § 312.5(a)(2) “ensures that operators will not be able to condition a child’s participation in any online activity on obtaining parental consent to disclosure to third parties.”⁴⁰¹ Given this previous

³⁹⁹ See COPPA FAQs, FAQ Section A.1 (noting that operators covered by the Rule must give parents the choice of consenting to the operator’s collection and internal use of a child’s information but prohibiting the operator from disclosing that information to third parties (unless disclosure is integral to the site or service, in which case, this must be made clear to parents)).

⁴⁰⁰ Regarding certain commenters’ request for the Commission to identify particular disclosures that are “integral” to the website or online service, the Commission notes that this is a fact-specific inquiry that depends on the type of services offered by the website or online service. The Commission agrees with other commenters that noted that any attempt to identify particular disclosures may be over- or under-inclusive depending on the website or online service, and therefore the Commission declines to provide such guidance.

⁴⁰¹ Children’s Online Privacy Protection Rule, Notice of Proposed Rulemaking, 64 FR 22750 at 22756 (Apr. 27, 1999), available at <https://www.federalregister.gov/documents/1999/04/27/64fr22750>.

declaration of § 312.5(a)(2)'s requirements regarding conditioning access, the Commission is dropping the above-referenced language to clarify that operators' obligations remain the same regarding the prohibition against conditioning participation on obtaining consent to disclosures.

2. Proposal Related to § 312.5(b)(2)(ii)

a. The Commission's Proposal Regarding § 312.5(b)(2)(ii)

Section 312.5(b) of the COPPA Rule governs "[m]ethods for verifiable parental consent."⁴⁰² Section 312.5(b)(2)(ii) currently states, in relevant part, "Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include: . . . (ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder[.]" In the 2024 NPRM, the Commission proposed to delete the word "monetary" from § 312.5(b)(2)(ii).

b. Public Comments Received in Response to the Commission's Proposal Regarding § 312.5(b)(2)(ii)

The Commission received numerous comments in support of this proposed amendment.⁴⁰³ The consensus was that removing the requirement that operators charge a parent a monetary fee in order to obtain verifiable parental consent under this method "will help ease parental burden and help streamline the consent process."⁴⁰⁴

Opposition to the proposal came from one FTC-approved COPPA Safe Harbor program, which framed the proposed amendment as "a step backwards," as it would allow "permissioning at the highest level of assurance without any transparency to the parent or accountability by the service."⁴⁰⁵ The commenter shared that, "when the credit card method is offered, up to 11% of the time, parents will use it when they know that the charge will be refunded."⁴⁰⁶ The Safe Harbor program also stated that the Commission should not allow the use of debit cards as a

verification mechanism, as proposed in the NPRM, because debit cards (as well as gift cards) increasingly "are available to and used by children under 13."⁴⁰⁷

With respect to the concerns raised by the FTC-approved COPPA Safe Harbor program, while the Commission recognizes that debit cards are now more widely available to teens than in the past, the comment did not cite data indicating that debit cards are available to children under 13. With respect to the 11% figure of parents who are willing to accept a credit or debit card charge on the basis that the charge will be refunded, that option is still available to operators, but the Commission's proposed approach would allow a credit or debit card, or other qualifying online payment, to be used without requiring the operator to enter a monetary charge and subsequently refund the amount of the charge. The Commission expects that more parents would be willing to use this option to provide verifiable parental consent if the monetary charge requirement is dropped. The Commission believes the proposed amendment could help eliminate a barrier to some parents providing verifiable parental consent while still ensuring that the use of credit cards, debit cards, or other online payment systems that provide the primary account holder with notification of each discrete transaction meets § 312.5(b)'s requirement that verifiable parental consent methods "must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent."⁴⁰⁸

c. The Commission Amends § 312.5(b)(2)(ii)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.2.b of this document, the Commission adopts the amendment to § 312.5(b)(2)(ii) as originally proposed.

3. New § 312.5(b)(2)(vi): Knowledge-Based Authentication Method for Obtaining Verifiable Parental Consent

In the 2024 NPRM, the Commission proposed adding to COPPA Rule § 312.5(b)(2)'s list of approved verifiable consent methods two methods that the Commission approved pursuant to the process set forth in § 312.12(a) after the Commission last amended the COPPA Rule in 2013.⁴⁰⁹

a. The Commission's Proposal Regarding New § 312.5(b)(2)(vi)

The Commission proposed adding to the Rule a new § 312.5(b)(2)(vi) that would codify as an approved verifiable parental consent method the use of a knowledge-based authentication process that meets the particular criteria the Commission approved in December 2013.⁴¹⁰ Such a knowledge-based authentication process entails "[v]erifying a parent's identity using knowledge-based authentication, provided: (A) the verification process uses dynamic, multiple-choice questions, where there are a reasonable number of questions with an adequate number of possible answers such that the probability of correctly guessing the answers is low; and (B) the questions are of sufficient difficulty that a child age 12 or younger in the parent's household could not reasonably ascertain the answers."⁴¹¹

b. Public Comments Received in Response to the Commission's Proposal Regarding New § 312.5(b)(2)(vi)

Several commenters supported the Commission's proposal to codify such a knowledge-based authentication process as an approved verifiable parental consent method.⁴¹²

Although it generally supported the overall proposal to codify knowledge-based authentication as an approved verifiable consent method, FTC-approved COPPA Safe Harbor program kidSAFE urged the Commission to omit the proposed requirement that the probability of correctly guessing the answers to the dynamic, multiple-choice questions be "low."⁴¹³ kidSAFE contended that the wording of the requirement "would suggest that the [knowledge-based authentication] mechanism should be designed to be unsuccessful in obtaining consent."⁴¹⁴ The Commission disagrees with that concern. As stated earlier, the criteria the Commission approved in 2013 require the party employing a knowledge-based authentication process to "use[] dynamic, multiple-choice questions, where there are a reasonable number of questions with an adequate number of possible answers such that the probability of correctly guessing the

www.govinfo.gov/content/pkg/FR-1999-04-27/pdf/99-10250.pdf.

⁴⁰² As an initial matter, the Commission recommends that operators offer consumers at least a couple of different methods that the parent can use to provide verifiable parental consent.

⁴⁰³ See CIPL, at 13; Chamber, at 9; ESRB, at 21; ACT | The App Association, at 7; kidSAFE, at 9; Advanced Education Research and Development Fund, at 8; TechNet, at 4; Epic Games, at 5.

⁴⁰⁴ Chamber, at 9; see also Epic Games, at 5.

⁴⁰⁵ PRIVO, at 5.

⁴⁰⁶ *Id.*

⁴⁰⁷ *Id.*

⁴⁰⁸ 16 CFR 312.5(b)(1).

⁴⁰⁹ 89 FR 2034 at 2053.

⁴¹⁰ *Id.* & n.221 (citing *FTC Letter to Imperium, LLC* (Dec. 20, 2013), available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-grants-approval-new-coppa-verifiable-parental-consent-method/131223imperiumcoppa-app.pdf>).

⁴¹¹ 89 FR 2034 at 2074.

⁴¹² See, e.g., CIPL, at 13; ESRB, at 21; ACT | The App Association, at 7; The Toy Association, at 7.

⁴¹³ kidSAFE, at 10.

⁴¹⁴ *Id.*

answers is low” and “the questions [are] of sufficient difficulty that a child age 12 or younger in the parent’s household could not reasonably ascertain the answers.”⁴¹⁵ The Commission believes those criteria make clear that the answers should be difficult for a child to guess, not that the answers would be difficult for the parent to provide.

c. The Commission Adopts New § 312.5(b)(2)(vi)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.3.b of this document, the Commission adopts new § 312.5(b)(2)(vi) as originally proposed.⁴¹⁶

4. New § 312.5(b)(2)(vii): Face Match to Verified Photo Identification Method for Obtaining Verifiable Parental Consent

a. The Commission’s Proposal Regarding New § 312.5(b)(2)(vii)

The Commission proposed codifying as new § 312.5(b)(2)(vii) a previously approved verifiable parental consent method involving the matching of an image of a face to verified photo identification, subject to the particular criteria that the Commission approved in November 2015.⁴¹⁷ The method entails “[h]aving a parent submit a government-issued photographic identification that is verified to be authentic and is compared against an image of the parent’s face taken with a phone camera or webcam using facial recognition technology and confirmed by personnel trained to confirm that the photos match; provided that the parent’s identification and images are deleted by the operator from its records after the match is confirmed.”⁴¹⁸

b. Public Comments Received in Response to the Commission’s Proposal Regarding New § 312.5(b)(2)(vii)

Several commenters supported the Commission’s proposal to codify the face match to photo identification

verifiable parental consent method in the Rule.⁴¹⁹

Commenters that opposed codifying this parental consent method in the Rule expressed concerns regarding privacy, the cost or accuracy of human review, and the amount of burden that operators or parents bear when using the method.⁴²⁰ The Commission believes it has sufficiently addressed the first two of those concerns with conditions it imposed and statements the Commission made when approving this parental consent method in November 2015.

First, the Commission conditioned its approval of the parental consent method on the requirements that operators must not use the information collected pursuant to the method for any purpose other than completing the verifiable parental consent process, and must destroy the information “promptly” after the verifiable consent process has been completed.⁴²¹ In light of privacy concerns that commenters raised in response to the Commission’s proposal to codify the face match to photo identification verifiable parental consent method in the Rule, the Commission will modify proposed § 312.5(b)(2)(vii) so that the section states explicitly what the Commission said when it approved the parental consent method in November 2015: an operator who uses the method must “promptly” delete the parent’s photographic identification and facial

⁴¹⁹ See, e.g., CIPL, at 13; ESRB, at 21; ACT | The App Association, at 7; kidSAFE, at 10; The Toy Association, at 7.

⁴²⁰ See, e.g., SIIA, at 8 (stating that Commission should remove the human review requirement because it is burdensome and less accurate than automated comparison of photographic images); American Consumer Institute, at 2–4 (opposing codification of the method because it comes with “significant issues to user privacy and could be a massive burden for affected companies” due, in part, to the human review requirement; stating that small businesses would struggle to use the method); ITIC, at 2 (opposing codification of the method because of “disproportionate requirement on operators to collect and process personal information” and “creat[ion of] an undue burden on parents, potentially acting as a barrier to allowing children to engage with otherwise age-appropriate content”); TechNet, at 6 (expressing concerns that use of the method requires disproportionate collection and processing of personal information to access a service, creates an undue burden on parents, and increases the risk of inaccuracy by requiring human review); Taxpayers Protection Alliance, at 1–2 (expressing concerns about privacy risks).

⁴²¹ *FTC Letter to Jest8 Limited (Trading as Riyo)* (Nov. 18, 2015), at 4, available at https://www.ftc.gov/system/files/documents/public_statements/881633/151119riyocoppaletter.pdf (“Riyo’s

application makes clear that information collected will be promptly destroyed and that the information will not be used for any other purpose. Approval of the proposed method is conditioned on adherence to these conditions.”).

image after confirming a match between them.

Second, the Commission believes that human review by trained personnel can enhance the likelihood of an operator concluding correctly whether an individual pictured in a government-issued identification that technology has determined is authentic is the same as the individual pictured in a second image that technology has determined came from a live person rather than a photo.⁴²² As for the third concern, the Commission notes that codifying in the Rule a verifiable consent method that the Commission has already approved will not require any operator to use the method. Thus, operators will only bear costs associated with using the particular method if they decide to use the method instead of using other verifiable parental consent methods that meet the COPPA Rule’s standard of being “reasonably calculated, in light of available technology, to ensure that the person providing consent is the child’s parent.”⁴²³ Parents who do not wish to use the face match to photo identification method can let operators know, and the Commission anticipates that operators will take such feedback into account in determining which verifiable parental consent methods to offer.

The Center for Democracy and Technology recommended that the COPPA Rule state that the children’s personal information security program that the 2024 NPRM proposed to require under § 312.8 must ensure the deletion of the information collected in conjunction with the newly approved verifiable parental consent methods in proposed § 312.5(b)(2)(vi) and (vii).⁴²⁴ The Commission understands that a separate requirement that an operator ensure, as an element of its security program, that it has deleted information as required could be useful as a backstop. However, there are already a number of Rule provisions that require operators to delete personal information, and if operators are not deleting that information as required, then they will be liable for that failure under the relevant provision of the Rule.

The Center for Democracy and Technology also stated that the Commission should provide guidance to operators regarding how they should confirm the authenticity of government-issued IDs submitted pursuant to the face match to photo identification method.⁴²⁵ The Commission notes that,

⁴²² *Id.* at 3.

⁴²³ 16 CFR 312.5(b)(1).

⁴²⁴ CDT, at 4.

⁴²⁵ *Id.*

⁴¹⁵ See *FTC Letter to Imperium, LLC* (Dec. 20, 2013), at 3, available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-grants-approval-new-coppa-verifiable-parental-consent-method/131223imperiumcoppa-app.pdf>.

⁴¹⁶ Due to the adoption of new § 312.5(b)(2)(vi) and (vii) (discussed in Part II.D.4), the paragraph of § 312.5(b)(2) regarding the “email plus” method of verifiable parental consent will be redesignated as § 312.5(b)(2)(viii).

⁴¹⁷ 89 FR 2034 at 2053 & n.221 (citing *FTC Letter to Jest8 Limited (Trading as Riyo)* (Nov. 18, 2015), available at https://www.ftc.gov/system/files/documents/public_statements/881633/151119riyocoppaletter.pdf).

⁴¹⁸ 89 FR 2034 at 2074.

when the Commission approved the method in 2015, the Commission stated that the approved method included “using computer vision technology, algorithms, and image forensics to analyze the fonts, holograms, microprint, and other details coded in the” government-issued identification document to ensure its authenticity.⁴²⁶ While operators that seek to use the face match to photo identification verifiable parental consent method need not use a particular proprietary system, the approved method requires operators to use technology such as computer vision technology, algorithms, and image forensics to analyze the parent’s government-issued identification document in order to ensure its authenticity.⁴²⁷

Another commenter recommended that the Commission consider requiring operators to conduct and disclose risk assessments for disparate treatment and bias before they use facial recognition technology in conjunction with the method.⁴²⁸ The Commission declines to impose such a risk assessment requirement, as the requirement for human review can potentially mitigate risks. Although the Rule will not impose such a requirement, operators should be aware that the Commission has challenged as an unfair act or practice under section 5 of the FTC Act the deployment of facial recognition technology that resulted in demonstrably inaccurate outcomes, where the company deploying it failed to heed red flags or to conduct appropriate risk assessments.⁴²⁹

c. The Commission Adopts New § 312.5(b)(2)(vii)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.4.b of this document, the Commission adopts new § 312.5(b)(2)(vii) with the minor modification of stating that operators’ deletion of parents’ identification and images collected to use the face match to photo identification verifiable parental consent method must occur “promptly” after confirmation of a match between them.

5. Proposal Related to § 312.5(c)(4)

a. The Commission’s Proposal Regarding § 312.5(c)(4)

Section 312.5(c) of the Rule enumerates a number of exceptions to obtaining verifiable parental consent, stating that “[v]erifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in [paragraphs (1)–(8)].” Section 312.5(c)(4) sets forth an exception to obtaining verifiable parental consent “[w]here the purpose of collecting a child’s and a parent’s online contact information is to respond directly more than once to the child’s specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child.”⁴³⁰ In the 2024 NPRM, the Commission proposed additional language to prohibit operators from utilizing this exception to “encourage or prompt use of a website or online service.”⁴³¹ The Commission explained that the proposed amendment was intended to address concerns about children’s overuse of online services due to engagement-enhancing techniques, including push notifications.⁴³²

b. Public Comments Received in Response to the Commission’s Proposal Regarding § 312.5(c)(4)

Some commenters supported the proposed amendment to § 312.5(c)(4).⁴³³ One parent commenter supporting the proposal stated that studies have shown “a positive association with time spent on social media platforms and teen depression and suicidality.”⁴³⁴ Supportive commenters also emphasized that children are uniquely susceptible to addictive features of social media platforms, internet games, and in-game purchases.⁴³⁵

However, a majority of commenters responding to this 2024 NPRM proposal opposed it.⁴³⁶ Industry commenters

argued the proposed language was overbroad and vague,⁴³⁷ and would restrict beneficial push notifications and personalization, as well as features that have harmful impacts on children.⁴³⁸ One commenter suggested the Commission should clarify the type of activities that would be considered encouraging or prompting the use of a website or online service, and argued that “nudging” should be permitted under the Rule as long as there is a mechanism to permit the parent to opt out of such practices by turning off the nudging feature.⁴³⁹ Several commenters suggested the proposed restriction is outside the scope and purposes of the COPPA statute.⁴⁴⁰ The American Civil Liberties Union (“ACLU”) specifically contended the proposal is inconsistent with the COPPA statute because the statute provides that the Commission’s regulations “shall” permit operators to respond “more than once directly to a specific request from a child” when parents are provided notice and an opportunity to opt out.⁴⁴¹ The ACLU further suggested that instead of adding the proposed restriction, the Commission should pursue enforcement actions in appropriate cases under the existing COPPA statute and Rule where push notifications are not responsive to a “specific request” from the child or

⁴³⁷ See, e.g., ITIC, at 6; ANA, at 14; The Toy Association, at 8.

⁴³⁸ See, e.g., The Toy Association, at 8; Privacy for America, at 13. See also ConnectSafely, at 2 (suggesting “there are occasions where contact from the company may be appropriate even for young users, such as letting them know a friend or relative wants to chat with them . . . or to inform children of an important safety or security update or a new feature they might enjoy using”); E. Tabatabai, at 12–13 (discussing beneficial nudging and push notifications in ed tech products).

⁴³⁹ See E. Tabatabai, at 13 (proposing alternative language for § 312.5(c)(4) stating that “an operator may not utilize this exception to contact the child to encourage or prompt use of a website or online service unless the parent is given an opportunity to turn off or opt-out of such contact”).

⁴⁴⁰ See, e.g., ConnectSafely, at 2 (“While we support efforts to prevent websites from pressuring or manipulating children to spend more time online, this appears to be outside the scope of COPPA, which was designed to protect children’s data privacy.”); ANA, at 14 (suggesting restriction is “outside the scope of the FTC’s authority under COPPA, as the law addresses privacy and does not provide a mandate for the Commission to address or police the extent of children’s online engagement”); The Toy Association, at 8 (suggesting proposal is inconsistent with the COPPA statute); Google, at 9 (“None of the objectives that COPPA was designed to achieve, or harms that COPPA was intended to prevent, have anything to do with children’s engagement with online content.”).

⁴⁴¹ ACLU, at 22 (“The statutory language is mandatory and does not provide for exceptions for use cases such as push notifications, so long as the operator meets the notice and opt-out requirement. Consequently, it is not clear that the Commission has authority under the statute to amend the Rule for a specific type of repeat contacts such as push notifications or prompts.”).

⁴²⁶ Letter to Jest8 Limited (Trading as Riyo) (Nov. 18, 2015), at 2, available at https://www.ftc.gov/system/files/documents/public_statements/881633/151119riyocoppaletter.pdf.

⁴²⁷ Id.

⁴²⁸ NYC Technology and Innovation Office, at 2.

⁴²⁹ See, e.g., Complaint, *FTC v. Rite Aid Corp.*, Case No. 2:23-cv-5023 (D.D.C. Dec. 19, 2023), at 11–13, 35, available at https://www.ftc.gov/system/files/ftc_gov/pdf/2023190_riteaid_complaint_filed.pdf.

⁴³⁰ 16 CFR 312.5(c)(4).

⁴³¹ 89 FR 2034 at 2059.

⁴³² Id.

⁴³³ See S. Winkler, at 2; Common Sense Media, at 10–11; Heritage Foundation, at 1; Data Quality Campaign, at 4.

⁴³⁴ See S. Winkler, at 2–3 (citing C. Vidal et al., *Social media use and depression in adolescents: a scoping review* (Feb. 17, 2020), available at <https://doi.org/10.1080/09540261.2020.1720623>).

⁴³⁵ See Common Sense Media, at 10–11; Heritage Foundation, at 1. See also Data Quality Campaign, at 4 (“Prohibiting the use of data to optimize children’s attention provides an essential safeguard against digital addiction and other documented challenges.”).

⁴³⁶ See ITIC, at 6; ACLU, at 21–22; Privacy for America, at 12–14; The Toy Association, at 8; ANA, at 14.

where subsequent responses are outside the scope of the child's request.⁴⁴² Several industry commenters argued the proposed amendment would violate the First Amendment rights of operators and children by restricting push notifications and other communications based on whether they contain content encouraging or prompting use of a website or online service,⁴⁴³ and commenters suggested, that given the breadth of the restriction, it would likely be deemed unconstitutional under either a strict scrutiny⁴⁴⁴ or an intermediate standard of review.⁴⁴⁵

c. The Commission Does Not Amend § 312.5(c)(4)

The Commission remains deeply concerned about the use of push notifications and other engagement techniques that are designed to prolong children's time online in ways that may be harmful to their mental and physical health. However, the Commission also finds commenters' concerns about inconsistency between the proposal and the COPPA statute⁴⁴⁶ and some of the First Amendment concerns related to the breadth of the proposed restriction persuasive, and therefore has decided not to adopt the proposed amendment to § 312.5(c)(4) at this time. The Commission emphasizes that the

current exception set forth in § 312.5(c)(4) does not permit the collection, use, or disclosure of a child's or parent's online contact information for purposes that are not related to directly responding to a child's specific request.⁴⁴⁷

d. NPRM Question Fifteen: Engagement Techniques

The Commission also solicited comments about whether the Rule should be amended to address other engagement techniques and if, and how, the Rule should "differentiate between techniques used solely to promote a child's engagement with the website or online service and those techniques that provide other functions, such as to personalize the child's experience on the website or online service."⁴⁴⁸

Several commenters responded with a variety of suggestions. One industry commenter that opposed the amendment to § 312.5(c)(4) proposed in the 2024 NPRM indicated some support for narrower restrictions in the Rule that would impose use restrictions on techniques that solely promote a child's engagement and that would not apply to techniques that serve other functions, such as to personalize the child's experience and make content more relevant.⁴⁴⁹ An FTC-approved COPPA Safe Harbor program suggested the Rule "should differentiate between techniques used solely to promote a child's engagement with the website or online service and those techniques that provide other functions, such as to personalize the child's experience[.]"⁴⁵⁰

⁴⁴⁷ Section 312.5(c)(4) establishes an exception to obtaining verifiable parental consent "[w]here the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child." 16 CFR 312.5(c)(4). The Commission may take appropriate enforcement action when online contact information collected from a child, without verifiable parental consent, is used for push notifications or other purposes that are not related to directly responding to a child's specific request.

⁴⁴⁸ See 89 FR 2034 at 2070–2071 (Question 15).

⁴⁴⁹ See ITIC, at 6. This commenter further suggested the Commission could consider specifying that engagement techniques only fall within use restrictions (1) if they have a commercial aspect (e.g., push notification promoting purchases), or (2) when they facilitate or enable access to harmful content or interactions with third parties. *Id.* However, this commenter did not suggest where or how such provisions should be incorporated into the Rule.

⁴⁵⁰ CARU, at 3. See also CCIA, at 10 (suggesting Rule "should differentiate between techniques used solely to promote a child's engagement with the website or online service and those techniques that provide other functions such as making the content more relevant"); Google, at 10 ("The FTC should clarify that personalization that seeks to make a service more relevant is not a technique used to

This commenter further suggested the Commission should provide greater clarity about what engagement techniques it views as problematic, and that this might include "any use of a timer, clock, countdown visual, or engagement tracker where a prize or incentive is given for remaining on a game, activity, website or online service for an extended amount of time, or frequenting that game, activity, website or online service."⁴⁵¹ One non-profit organization commenter generally suggested the Rule should be amended to address the use of artificial intelligence and machine learning engagement techniques, particularly artificial intelligence chatbots and deepfakes.⁴⁵² Another non-profit organization commenter proposed that the usage of recommendation systems, particularly algorithmic-driven systems, should be regulated under the Rule as problematic engagement-enhancing techniques.⁴⁵³

Another commenter suggested the Commission should develop, with appropriate experts and other stakeholders, guidelines for "minimally addictive technology practices for child-directed services."⁴⁵⁴ This commenter further suggested that engagement techniques nudging children towards "financialized experiences," such as features inviting children to create content for financial gain or to use currency-like features, should not be permitted.⁴⁵⁵

Given the variety, and generality, of suggestions advanced in the limited number of comments responding to Question Fifteen in the "Questions for the Proposed Revisions to the Rule" section of the 2024 NPRM, the Commission is not amending the Rule to address specific engagement techniques at this time.

6. Proposal Related to § 312.5(c)(7)

a. The Commission's Proposal Regarding § 312.5(c)(7)

Section 312.5(c)(7) sets forth the exception to the requirement to obtain verifiable parental consent when an operator is collecting "a persistent identifier and no other personal information and such identifier is used

encourage or prompt use of a website or online service.").

⁴⁵¹ CARU, at 4.

⁴⁵² Center for AI and Digital Policy, at 10. This commenter specifically suggested that a new subsection should be added to § 312.5 "that clarifies the consent requirement, and exclusion from the consent exceptions, regarding AI/ML engagement techniques." *Id.* at 11.

⁴⁵³ Center for Countering Digital Hate, at 1.

⁴⁵⁴ Internet Safety Labs, at 9.

⁴⁵⁵ *Id.*

⁴⁴² ACLU, at 22 ("[T]he statute *does* require that the notice be in response to a 'specific request' from the child; it also limits subsequent responses to the 'scope of that request.' There may be many instances where push notifications do not meet those requirements, suggesting more proactive enforcement by the Commission may be more appropriate than amending the Rule.") (emphasis added).

⁴⁴³ See, e.g., ANA, at 14 ("This proposed modification would unconstitutionally restrict users from receiving information about products and services and impermissibly burden commercial speech. . . . [C]ourts have long affirmed that the First Amendment's protections include both the right of the speaker to speak and the right of the listener to receive information."); Privacy for America, at 12–14 ("The proposed prohibitions are content-based as they would disfavor protected speech with particular content such as marketing speech that encourages use of an operator's property and speech that intends to 'maximize user engagement.' Restrictions on the content of protected speech are presumptively invalid [under the First Amendment]. Only restrictions that pass strict scrutiny may be upheld.").

⁴⁴⁴ See, e.g., Privacy for America, at 12–14 (arguing strict scrutiny standard of review applies to content-based restrictions of protected speech and that Commission will not be able to satisfy its burdens of demonstrating a compelling State interest for restriction and showing that the proposal is narrowly drawn to serve that interest).

⁴⁴⁵ See ANA, at 14–15 ("Regulations on commercially protected speech require the state to assert a substantial interest in protecting the speech. The regulation must directly and materially advance the state's asserted interest, and it must be narrowly tailored to serve that interest.") (citing *Central Hudson Gas & Electric v. Public Service Commission*, 447 U.S. 557, 566 (1980)).

⁴⁴⁶ See ACLU, at 22.

for the sole purpose of providing support for the internal operations of the website or online service.” Under the current Rule, there is “no obligation to provide notice under § 312.4” when an operator collects and uses a persistent identifier pursuant to this exception.⁴⁵⁶ In the 2024 NPRM, the Commission proposed to amend this exception to require that “the operator shall provide notice [in their online notices] under § 312.4(d)(3).”⁴⁵⁷

b. Public Comments Received in Response to the Commission’s Proposal Regarding § 312.5(c)(7)

Commenters supporting the proposed amendment commended the requirement for “businesses to disclose if and when they are collecting information from a child to support internal operations, what operational purpose this serves, and affirm that it is not used for targeted advertising.”⁴⁵⁸

Commenters opposing the proposed amendment stated that publicly providing notice of data collection for the purpose of support for the internal operations would have “minimal, if any, benefit to parents,” suggesting that the requirement would cause online notices to be too lengthy to be of use when they should be clear and concise;⁴⁵⁹ could expose sensitive business information and compromise “competitiveness of the operator;”⁴⁶⁰ could expose data security practices;⁴⁶¹ and would not be effective in improving COPPA compliance.⁴⁶²

The Commission is receptive to the point that lengthy notices could become less effective at empowering parents to make privacy decisions for their children. However, the Commission weighs this against its concerns that additional transparency is needed with respect to operators’ use of the § 312.5(c)(7) exception and that some operators may not comply with the use restriction.⁴⁶³ The Commission believes

the proposed amendment will enhance accountability for operators and require them to be thoughtful about their statements relating to data collection. In response to commenters suggesting that the online notices required by the proposed amendment could expose operators’ sensitive business information, or adversely impact competition or data security practices, the Commission notes that the proposed amendment to § 312.5(c)(7) does not require a detailed description of sensitive business or technical information, including how collected information is being used to support internal operations. As discussed further in Part II.C.2.b of this document, the amendments the Commission is adopting instead require an operator that is using the § 312.5(c)(7) exception to the verifiable parental consent requirement to include in its online notice a succinct statement that the operator is collecting and using data for those categories of activity listed in § 312.2’s definition of the “support for the internal operations of the website or online service,” and an explanation of what policies or practices are in place to avoid using persistent identifiers for unauthorized purposes.

c. The Commission Amends § 312.5(c)(7)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.6.b of this document, the Commission adopts the amendment to § 312.5(c)(7) as originally proposed.

7. New § 312.5(b)(2)(ix): Text Plus Method for Obtaining Verifiable Parental Consent

a. The Commission’s Proposal Related to New § 312.5(b)(2)(ix)

In the 2024 NPRM, the Commission observed that “permitting parents to provide consent via text message would offer them significant convenience and utility,” and also noted that “consumers are likely accustomed to using mobile telephone numbers for account creation or log-in purposes.”⁴⁶⁴ The Commission further explained that these considerations suggested that “operators should be able to collect parents’ mobile telephone numbers as a method to obtain parental consent”⁴⁶⁵ and specifically proposed an amendment to the definition of “online contact

some commenters that there is a lack of clarity in how operators implement the support for the internal operations exception and that certain operators may not comply with the use restriction.”)

⁴⁶⁴ 89 FR 2034 at 2040.

⁴⁶⁵ *Id.*

information.” As previously discussed, some commenters responding to this proposal in the 2024 NPRM also urged the Commission to consider a related amendment to § 312.5(b)(2) incorporating and approving a new text message-based method for obtaining verifiable parental consent.⁴⁶⁶

b. Public Comments Received Related to New § 312.5(b)(2)(ix)

A number of industry commenters and one FTC-approved COPPA Safe Harbor program⁴⁶⁷ responding to the 2024 NPRM urged the Commission to approve and add a “text plus” provision to § 312.5(b)(2) of the Rule that would allow operators to use text messages sent to a parent’s mobile telephone number to obtain verifiable parental consent with requirements similar to the approved “email plus” method set forth in § 312.5(b)(2)(vi) of the current Rule.⁴⁶⁸ Commenters supporting a “text plus” provision suggested such a method would be more convenient to parents,⁴⁶⁹ is similar to other consent and identity verification processes commonly used by consumers and businesses,⁴⁷⁰ and is an appropriate update in light of technological developments and the increased use of mobile telephones.⁴⁷¹ The Commission finds these considerations persuasive.

At least one industry commenter suggested an alternative method of verifiable parental consent, proposing that the Commission add a new provision to § 312.5(b)(2) that would merely require “[h]aving a parent reply to a message sent using the parent’s online contact information.”⁴⁷² The Commission does not believe that an operator receiving a reply in response to

⁴⁶⁶ See, e.g., TechNet, at 3–4; 4A’s, at 4–5; Privacy for America, at 10–11; Consumer Technology Association, at 3; kidSAFE, at 2; ANA, at 15–16; Future of Privacy Forum, at 2–3; IAB, at 26. See also Taxpayers Protection Alliance, at 3 (requesting that FTC clarify how operators “would be expected to obtain text-message-based consent”).

⁴⁶⁷ See, e.g., TechNet, at 3–4; 4A’s, at 4–5; Privacy for America, at 10–11; Consumer Technology Association, at 3; kidSAFE, at 2; ANA, at 15–16; Future of Privacy Forum, at 2–3.

⁴⁶⁸ See 16 CFR 312.5(b)(2)(vi).

⁴⁶⁹ See, e.g., 4A’s, at 5 (“Texting is ubiquitous, convenient, and secure, making it a reasonable mechanism for consent.”); Privacy for America, at 11 (“Given the ubiquitous nature of cell phone and text message communication, enabling parents to provide verifiable consent via text message is aligned with parental expectations.”).

⁴⁷⁰ See, e.g., 4A’s, at 5; IAB, at 25.

⁴⁷¹ See 4A’s, at 5 (contending a text plus method would “effectively respond[] to evolving technology changes”); Privacy for America, at 10–11 (suggesting that “[w]hen the Commission commenced its last update to the COPPA Rule in 2011, about 83% of American adults owned a cell phone. Today, 97% of American adults own a cell phone.”).

⁴⁷² IAB, at 26.

⁴⁵⁶ 16 CFR 312.5(c)(7).

⁴⁵⁷ 89 FR 2034 at 2050.

⁴⁵⁸ Heritage Foundation, at 2. See also Children’s Advocates Coalition, at 38 (strongly supporting requirement that operator specify the particular internal operations for which it has collected a persistent identifier).

⁴⁵⁹ TechNet, at 2; Privacy for America, at 8–9; SuperAwesome, at 4–5.

⁴⁶⁰ TechNet, at 2. See also, e.g., Internet Infrastructure Coalition, at 3–4 (“The Commission’s desire for greater transparency can be satisfied with far less security risk and potentially anticompetitive effects by allowing operators to identify purposes in general, categorical terms and holding them accountable to those representations through their policies on data security and privacy.”).

⁴⁶¹ TechNet, at 2; Internet Infrastructure Coalition, at 3–4.

⁴⁶² Privacy for America, at 8–9.

⁴⁶³ See 89 FR 2034 at 2045 (“The Commission appreciates the concerns expressed by

a single text message is a sufficiently reliable method of obtaining verifiable parental consent. As with email, a child rather than a parent may be responding to an initial text message sent by an operator to a mobile telephone number provided by a child.⁴⁷³

At least two commenters opposed the idea of amending the Rule in a way that would allow operators to use text messages to obtain verifiable parental consent.⁴⁷⁴ These commenters expressed concerns about security risks associated with text messages⁴⁷⁵ and difficulties that parents might have in reading and storing a consent form on a mobile telephone.⁴⁷⁶ As discussed in Part II.B.2.b, based on the record, the Commission has concluded that security risks are comparable in text and email communications and potential difficulties in storing consent forms are present in both email communications and text messaging. Further, the Commission notes that many parents likely would use a mobile telephone to read consent forms sent via either email or text message and, in both scenarios, parents would be reviewing notice and consent documents on the same-sized screen.⁴⁷⁷ Text messages also can be forwarded to email accounts, allowing parents who prefer to use their email accounts for storage and reference purposes an additional way to retain and organize text messages related to

notice and providing verifiable parental consent.

c. The Commission Adopts New § 312.5(b)(2)(ix)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.7.b of this document, the Commission has decided to incorporate into § 312.5(b)(2)(ix) of the Rule a new “text plus” method for obtaining verifiable parental consent that contains requirements similar to those for the “email plus” method set forth in § 312.5(b)(2)(vi) of the current Rule. Importantly, as with the “email plus” method, the new “text plus” method can only be utilized when an operator does not “disclose” children’s personal information, because both forms of communication carry a higher risk of a child impersonating a parent than do other approved methods of obtaining verifiable parental consent. Specifically, the new provision that the Commission is adding to the Rule as § 312.5(b)(2)(ix) includes the following language: “Provided that, an operator that does not ‘disclose’ (as defined by § 312.2) children’s personal information, may use a text message coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory text message to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent’s consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier text message.”

8. New § 312.5(c)(9): Audio Files Exception

a. The Commission’s Proposal Regarding New § 312.5(c)(9)

In the 2024 NPRM, the Commission proposed to add to § 312.5(c) a ninth category of exception to the Rule’s verifiable parental consent requirement.⁴⁷⁸ This proposed exception provides that where an operator collects an audio file containing a child’s voice, and no other personal information, for use in responding to a child’s specific request, and where the operator does not use such information for any other purpose, does not disclose it, and deletes it immediately after responding to the child’s request, there shall be no obligation to obtain verifiable parental consent. In such case, there also shall be

no obligation to provide a direct notice, but an online notice shall be required under § 312.4(d). This proposal is consistent with the Commission’s 2017 enforcement policy statement regarding the collection and use of audio files containing a child’s voice.⁴⁷⁹

b. Public Comments Received in Response to the Commission’s Proposal Regarding New § 312.5(c)(9)

The Commission received some comments that supported codifying the agency’s treatment of audio files in proposed § 312.5(c)(9).⁴⁸⁰ FTC-approved COPPA Safe Harbor program kidSAFE also suggested expanding the proposed exception to include other types of biometric data. For example, kidSAFE proposed facial images or other biometrics could be temporarily used to respond to a child’s request and then deleted; this could occur when a child uploads a photo of their face to generate a deidentified cartoon version of their face, or avatar, or scans their fingerprint for age verification.⁴⁸¹ The Commission is not persuaded that the record is sufficient at this time to support broadening the scope of exceptions for which verifiable parental consent is needed beyond what was proposed in the 2024 NPRM.⁴⁸²

c. The Commission Adopts New § 312.5(c)(9)

After carefully considering the record and comments, and for the reasons discussed in Part II.D.8.b of this document, the Commission will add the audio file exception to § 312.5(c)(9) of the Rule as proposed in the 2024 NPRM.

9. NPRM Question Thirteen: Platform-Based Consent Mechanisms

The Commission noted in the 2024 NPRM that several commenters on the 2019 Rule Review Initiation recommended that the Commission encourage platforms to participate in the verifiable parental consent process.⁴⁸³ In so doing, the Commission reiterated

⁴⁷³ The Commission has previously discussed the potential problem of children short circuiting the verifiable parental consent process by either providing their own mobile telephone number to operators or obtaining access to a parent’s mobile device. See *Decision on AgeCheq Inc.’s Application for Verifiable Parental Consent Method*, FTC Matter No. P155400 (Jan. 27, 2015), available at https://www.ftc.gov/system/files/documents/public_statements/621461/150129agecheqltr.pdf. It is for this reason that, as discussed in Part II.D.7.c, the Commission is limiting the use of the “text plus” consent method that it is approving to situations where operators will not disclose children’s personal information.

⁴⁷⁴ See Parent Coalition for Student Privacy, at 11; B. Hills, at 4–5.

⁴⁷⁵ See Parent Coalition for Student Privacy, at 11; B. Hills, at 4.

⁴⁷⁶ See Parent Coalition for Student Privacy, at 11.

⁴⁷⁷ See U.S. Census Bureau, *Computer and Internet Use in the United States: 2021* (June 2024), at 3 (observing that smartphones were the most common type of computer device reported in the American Community Survey), available at <https://www2.census.gov/library/publications/2024/demo/acs-56.pdf>; Risa Gelles-Watnick, *Americans’ Use of Mobile Technology and Home Broadband* (Jan. 31, 2024) (discussing survey results related to smart phone and home broadband use and noting that “[s]ome 15% of adults are ‘smartphone dependent,’ meaning they own a smartphone but do not subscribe to a high-speed home broadband service”), available at <https://www.pewresearch.org/internet/2024/01/31/americans-use-of-mobile-technology-and-home-broadband/>.

⁴⁷⁸ 89 FR 2034 at 2058–59, 2075.

⁴⁷⁹ *Enforcement Policy Statement Regarding the Applicability of the COPPA Rule to the Collection and Use of Voice Recordings*, Federal Trade Commission (Oct. 20, 2017), at 2, available at https://www.ftc.gov/system/files/documents/public_statements/1266473/coppa_policy_statement_audiorecordings.pdf.

⁴⁸⁰ See, e.g., Chamber, at 9; kidSAFE, at 12; The Toy Association, at 3.

⁴⁸¹ kidSAFE, at 12.

⁴⁸² As discussed in Parts II.B.3.b and II.B.3.c.i, the Commission received a number of comments related to biometric identifiers in connection with the proposed amended definition of “personal information” and the related questions that the 2024 NPRM posed about potential exceptions related to the proposed biometric identifiers provision.

⁴⁸³ See 89 FR 2034 at 2052.

its prior statement expressing general agreement that “platforms could play an important role in the consent process.”⁴⁸⁴ Then, in Question Thirteen of the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM, the Commission requested that commenters on the 2024 NPRM provide additional input regarding potential benefits that platform-based consent mechanisms could provide to operators and parents and steps the Commission might take to encourage the development of such mechanisms.⁴⁸⁵

A variety of commenters asserted that platform-based consent could benefit individual operators and parents by making the verifiable parental consent process more efficient. For example, FTC-approved COPPA Safe Harbor program kidSAFE stated that platform-based consent could help developers obtain verifiable parental consent “in a streamlined and industry-standard fashion” and “greatly alleviate the costs associated with implementing [verifiable parental consent], especially for smaller developers.”⁴⁸⁶ Common Sense Media similarly opined that “platforms, mobile device providers, or potentially even other third parties, could prove to be useful intermediaries in obtaining verifiable parental consent” by streamlining consent to help ensure that consent is fully-informed.⁴⁸⁷ A coalition of State attorneys general further stated that a potential benefit of platform-based consent mechanisms is that they might reduce the number of times a parent would need to provide sensitive, identifying data for the purpose of providing consent.⁴⁸⁸

ACT | The App Association stated that some platforms already implement measures such as family plans and parental controls that “allow[] parent[s] a simplified process to see what their kids are doing on their devices and decide what limits they want to set for their children, and ensure[] that parents have meaningful notice of and control over how an app collects, uses, and discloses their children’s personal information without imposing unnecessary burdens and costs on app developers.”⁴⁸⁹ Asserting that parents “welcome a clear, centralized streamlined process,” Epic Games supported the “concept of platform-based notice and consent methods” and recommended that the Commission “outline the baseline features” the

Commission believes such platform-based consent mechanisms must contain to meet COPPA’s requirements and then solicit public comment.⁴⁹⁰ Kidentify Pte. Ltd. stated that platforms can help standardize consent flows and urged the Commission to focus on “platform[-]agnostic” mechanisms rather than distribution platforms because of the prevalence of cross-platform online experiences.⁴⁹¹

Some commenters cited online gaming as a particular context in which platform-based consent mechanisms would be useful. The ESA stated that the process of creating an account on a game platform before accessing any game content can provide “a convenient moment for parents to receive COPPA notices and provide verifiable parental consent,” whereby “[p]ublishers can provide information about their practices for the collection, use, and disclosure of children’s personal information in a uniform way, such as on game pages where parents and players can access the game for the first time on the platform.”⁴⁹² The ESA further opined that implementation of platform-based consent could help ease parents’ confusion about why they currently must provide consent to individual publishers after they have already provided platform consent to the platform for their children to use interactive gaming features.⁴⁹³

Some commenters that supported the development of platform-based consent mechanisms raised potential implementation concerns and suggested steps that the Commission could take to address those concerns and to incentivize development of platform-based consent mechanisms. The ESA, for example, urged that the Commission should permit operators to choose between platform-level and operator-level consent rather than making platform-based consent mandatory.⁴⁹⁴ The ESA and an individual commenter also posited that the Commission could help incentivize platforms to create platform-based consent mechanisms by taking steps to make clear that platforms would not be liable for third parties’ actions with respect to consent.⁴⁹⁵ Common Sense Media stated that the Commission could support development of platform-based consent methods by “creating a regulatory sandbox type environment” such as that created by an international privacy

agency.⁴⁹⁶ Yoti stated that efficiency considerations support the Commission encouraging platform-level consent mechanisms but cautioned that it should keep in mind that the Commission’s competition mission necessitates preventing large platforms from driving competitors from the market by locking out other providers’ consent mechanism.⁴⁹⁷

Numerous commenters voiced skepticism about or opposed platform-based consent mechanisms. One such commenter stated that platform-based consent “opens too many doors to opaque privacy practices that would be against the interests of children and against the spirit of COPPA.”⁴⁹⁸ Along similar lines, another commenter stated that the COPPA Rule should not permit large platforms to obtain one single consent for related operators, at least in part, because larger companies’ purchases of many smaller companies “mak[e] it almost impossible for a parent or guardian to know what data is being given to whom.”⁴⁹⁹ The Software and Information Industry Association opposed the “requirement of platform-based consent” and urged that the Commission “reiterate that the implementation duties remain on the developer, such that the developer—not the platform—is responsible for limiting app privileges to comply with the consents that parents provide.”⁵⁰⁰ The Computer and Communications Industry Association expressed concern that making platforms responsible for obtaining verifiable parental consent for other operators could shift liability and legal risks from developers to platforms while providing little or no benefit to parents.⁵⁰¹ Without definitively supporting or opposing platform-based consent mechanisms, Google expressed concern about the potential of shifting from individual operators to platforms such as app stores, operating system providers, and original equipment manufacturers liability for complying with COPPA and urged the Commission to provide platforms sufficient liability protections if the Commission seeks to encourage platform-level consent mechanisms.⁵⁰²

An individual commenter asserted that variations in what individual operators are asking parents to consent to make the idea of a common consent mechanism operationally difficult to

⁴⁸⁴ See *id.*

⁴⁸⁵ See *id.* at 2070.

⁴⁸⁶ kidSAFE, at 10.

⁴⁸⁷ Common Sense Media, at 13.

⁴⁸⁸ See State Attorneys General Coalition, at 10.

⁴⁸⁹ ACT | The App Association, at 6.

⁴⁹⁰ Epic Games, at 13.

⁴⁹¹ Kidentify, at 1–3.

⁴⁹² ESA, at 14.

⁴⁹³ *Id.*

⁴⁹⁴ See *id.*

⁴⁹⁵ See ESA, at 14–15; T. McGhee, at 6.

⁴⁹⁶ Common Sense Media, at 13.

⁴⁹⁷ See Yoti, at 14–15.

⁴⁹⁸ M. Bean, at 1.

⁴⁹⁹ S. Winkler, at 3.

⁵⁰⁰ SIIA, at 8, 18.

⁵⁰¹ See CCIA, at 8–9.

⁵⁰² See Google, at 7–8.

implement and suggested that the Commission instead support the creation of a common age assurance mechanism, such as “a universal age API.”⁵⁰³ The commenter opined that the creation of a common age assurance mechanism “would be a very helpful first step in addressing the biggest gap in protecting children from harms, whether privacy or content or design-related.”⁵⁰⁴

In light of the diverse comments that the Commission received regarding platform-based consent mechanisms, and the fact that the Commission did not include proposed language regarding such mechanisms in the 2024 NPRM, the Commission is not at this time adding language to the COPPA Rule specific to the issue of platform-based consent mechanisms. The Commission might seek additional public comment on the issue in the future.

E. § 312.7: Conditioning Access

a. The Commission’s Questions for Public Comment Regarding § 312.7

Section 312.7 of the Rule provides that “[a]n operator is prohibited from conditioning a child’s participation in a game, the offering of a prize, or another activity on the child’s disclosing more personal information than is reasonably necessary to participate in such activity.”⁵⁰⁵ As the Commission noted in the 2024 NPRM, because § 312.7 is an outright prohibition, an operator may not collect from a child more information than is reasonably necessary for the child to participate in a game, offering of a prize, or another activity, “even if the operator obtains consent for the collection of information that goes beyond what is reasonably necessary.”⁵⁰⁶

With respect to the scope of § 312.7, the Commission noted in the 2024 NPRM that it was considering adding new language in the section to provide that an “activity” means “any activity offered by a website or online service, whether that activity is a subset or component of the website or online service or is the entirety of the website or online service.”⁵⁰⁷ In so doing, the Commission requested comment on whether that language is consistent with the COPPA statute’s text and purpose, and whether it is necessary to add such language to § 312.7 given the breadth of

the plain meaning of the term “activity.”⁵⁰⁸

The 2024 NPRM also sought public comments on additional specific questions related to § 312.7 of the Rule including: what efforts operators take to comply with § 312.7, whether the Commission should specify whether disclosures for particular purposes are reasonably necessary or not reasonably necessary in a particular context, and to what extent the Commission should consider the information practices disclosed to the parent in assessing whether information collection is reasonably necessary, given that operators generally must provide notice and seek verifiable parental consent before collecting personal information.⁵⁰⁹

b. Public Comments Received in Response to the Commission’s Questions Regarding § 312.7

Numerous advocacy organizations expressed support for the Commission’s statement in the 2024 NPRM that § 312.7 is an outright prohibition on collecting more information than is reasonably necessary, even if the operator obtains consent to collect information beyond what is reasonably necessary.⁵¹⁰ A children’s advocates coalition, for example, observed that the Commission’s statement in the 2024 NPRM is consistent with previous Commission guidance, previous enforcement actions, and “the general principles of data minimization that effectuate COPPA’s mandate.”⁵¹¹ By contrast, the Commission received no comments disagreeing with its statement.

The Commission received comments both supporting and opposing the possibility of adding new language to § 312.7 to define “activity.” A wide range of commenters generally supported the definition of “activity” that the Commission presented for public comment in the 2024 NPRM.⁵¹² Such commenters stated that the proposed language would, among other things, reduce ambiguity⁵¹³ and

properly place the onus of protecting privacy on operators of websites and online services rather than on parents or children.⁵¹⁴

On the other hand, commenters including trade associations, scholars, a coalition of State attorneys general, and an FTC-approved COPPA Safe Harbor Program opposed adding language to § 312.7 to define “activity.”⁵¹⁵ Such commenters asserted, for example, that the proposed language constitutes an expansion of the meaning of “activity” beyond statutory intent;⁵¹⁶ would reduce revenue streams for, and lead to fewer and lower quality, online services for children;⁵¹⁷ and “could get confusing” if personal information was needed for one part of a website.⁵¹⁸ A coalition of State attorneys general expressed concern that defining “activity” in § 312.7 “may inadvertently introduce complexities and challenges, especially as technology continues to evolve.”⁵¹⁹ The coalition asserted that leaving the text of § 312.7 as it currently exists and not defining the word “activity” would “allow for flexibility and adaptability as technology evolves” and “enable a more pragmatic and case-specific assessment of activities offered by websites or online services.”⁵²⁰ FTC-approved COPPA Safe Harbor Program kidSAFE stated that it sees no value in the Commission defining “activity” and shared its experience that operators assess on a “feature-by-feature basis” whether the data they are collecting is reasonably necessary.⁵²¹ The Toy Association similarly stated that there is not an apparent need for the Commission to define the meaning of “activity” within § 312.7.⁵²²

Some commenters, including some that expressed general support for defining “activity,” recommended that the Commission revise, or provide more specific guidance regarding, the definition the Commission set forth in the 2024 NPRM. Mental Health America, for example, recommended that the Commission “make the implicit

⁵¹⁴ ACLU, at 3.

⁵¹⁵ NCTA, at 21; Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 2–3, 6–8, 13–14; T. McGhee, at 8; State Attorneys General Coalition, at 18; kidSAFE, at 13; The Toy Association, at 5.

⁵¹⁶ NCTA, at 21; Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 13–14; T. McGhee, at 8 (the statutory language “seems to be focused on unrelated incentive-based information gathering”).

⁵¹⁷ Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 2–3.

⁵¹⁸ T. McGhee, at 8.

⁵¹⁹ State Attorneys General Coalition, at 18.

⁵²⁰ *Id.*

⁵²¹ kidSAFE, at 13.

⁵²² The Toy Association, at 5.

⁵⁰³ M. Bleyleben, at 6.

⁵⁰⁴ *Id.*

⁵⁰⁵ 16 CFR 312.7.

⁵⁰⁶ 89 FR 2034 at 2060.

⁵⁰⁷ *Id.*

⁵⁰⁸ *Id.* at 2060, 2071 (Question 18).

⁵⁰⁹ *Id.* at 2071 (Question 17).

⁵¹⁰ Children’s Advocates Coalition, at 8; CDT, at 2; Consumer Reports, at 10; ACLU, at 2–3. *See also* AFT, at 2 (supporting restricting companies from collecting more personal information than is reasonably necessary for a child to use a platform).

⁵¹¹ Children’s Advocates Coalition, at 8.

⁵¹² Children and Screens, at 5; NYC Technology and Innovation Office, at 4; Mental Health America, at 2–3; Common Sense Media, at 4–5; ACLU, at 3; Consumer Reports, at 12; CDT, at 2; Children’s Advocates Coalition, at 8; Council of the Great City Schools, at 7; Yoti, at 17; J. Bogard, at 1.

⁵¹³ Children and Screens, at 5; NYC Technology and Innovation Office, at 4; Consumer Reports, at 12.

data minimization principles within Sections 312.7, 312.10, and 312.4 [of the COPPA Rule] expressly stated, by prohibiting operators from collecting, using, or retaining, a child's personal information unless reasonably necessary, and only for the specific purpose for which it was collected.”⁵²³ The Centre for Information Policy Leadership (“CIPL”) recommended that the Commission define “activity” with greater clarity to lower the risk of blocking legitimate and beneficial data practices.⁵²⁴ It recommended, in particular, that the Commission clarify “whether an activity ‘offered’ by a website or online service should always be understood as being ‘a subset or component’ of the website or online service, or whether some activities might be deemed ‘offered’ but not ‘a subset or component,’ such as giveaways of physical prizes.”⁵²⁵

A group of scholars stated that the potential definition of “activity” the Commission set forth in the 2024 NPRM raises questions about whether the COPPA Rule permits an operator to use personal information for targeted advertising, even after obtaining verifiable parental consent.⁵²⁶ The group further opined that any definition of “activity” that would prohibit targeted advertising in spite of consent would be inconsistent with §§ 312.2 and 312.5(a)(2) of the Rule, which the group interprets as permitting verifiable parental consent to use persistent identifiers for purposes other than support for the internal operations of a website or service, including for targeted advertising.⁵²⁷ In contrast, Consumer Reports opined that, because the Commission has stated that it interprets § 312.7 to be an outright prohibition on the collection of personal information beyond what is reasonably necessary, it follows that “any child-directed website that contains common types of third-party behavioral tracking (e.g. third-party cookies, the Facebook pixel) on a game, offering of a prize, or another activity would . . . be in violation” of § 312.7 even if the website received verifiable parental consent for such tracking.⁵²⁸

After careful consideration of the record and comments, the Commission has decided not to add new language to § 312.7 to define “activity.” Questions and concerns that commenters raised about defining “activity” in § 312.7 are substantial enough to warrant additional consideration before the Commission would add new language to define this term.

In considering defining the meaning of “activity” in § 312.7, the Commission was not attempting to categorically prohibit behavioral advertising to children where the parent has provided consent. Amended § 312.5(a)(2) of the Rule does not prohibit operators from collecting personal information to engage in targeted advertising. To do so, operators must obtain the parent's opt-in consent. If the parent chooses not to consent, the operator may not condition the child's access to the operator's website or service on the child disclosing personal information for behavioral advertising purposes, and such advertising must be off by default.⁵²⁹

Although the Commission has decided not to define the meaning of “activity” in § 312.7, the Commission notes that at least some of the potential benefits that commenters contended the Commission could provide by defining the meaning of “activity” are substantially achieved through other revisions that the Commission is making to the COPPA Rule. As discussed in Parts II.C.1.b and II.C.1.c, the Commission is amending § 312.4(c)(1)(iii) and (iv) to require that an operator's direct notice to a parent for the purpose of obtaining verifiable parental consent must state, respectively, how the operator intends to use the personal information the operator seeks consent to collect from the child and, if applicable, the purposes for disclosing such personal information to one or more third parties, should the parent provide consent.⁵³⁰ In addition, as discussed in Part II.C.2.a, the Commission is revising § 312.4(d)(2)

be de-identified and aggregated.” Common Sense Media, at 5–6.

⁵²⁹ A number of commenters sought or recommended that the Commission provide additional guidance as to whether an operator's collection of personal information from a child is reasonably necessary. Application of the “reasonably necessary” standard, however, is inherently fact-specific. Thus, the Commission is unable to provide the additional guidance some commenters requested.

⁵³⁰ Section 312.4(d)(2) currently requires operators to state in their online notices how they use the information they collect from children and, as discussed in Part II.C.2.a, under the revisions the Commission is adopting, will also require operators' online notices to state the purposes for disclosures of the information to third parties.

to require that an operator's online notice must describe the operator's retention policy for children's personal information. And, as discussed *infra*, the Commission is revising § 312.10 both to state that an operator may retain children's personal information only for as long as is reasonably necessary for the specific purposes for which it was collected, and to require an operator to establish and maintain a written data retention policy specifying the operator's business need for retaining children's personal information and the operator's timeframe for deleting it. Taken together, these revisions will prevent an operator from retaining children's personal information for longer than necessary for the specific documented purposes for which the operator collects it and ensure that, before providing consent, a parent will receive notice of how the operator intends to use their child's personal information and a hyperlink to the operator's online notice that must describe the business need for retaining children's personal information and the timeframe for deleting it. These revisions will bolster parents' ability to make informed decisions while also implementing baseline data minimization requirements that reduce the burden on parents.

Relatively few commenters responded in particular to the Commission's question of whether it should specify whether disclosures for particular purposes are reasonably necessary or not reasonably necessary in a particular context.⁵³¹ While suggesting that the Commission could provide additional guidance and illustrative examples, a coalition of State attorneys general noted that a “reasonably necessary” determination requires a detailed, fact-specific analysis.⁵³² Consumer Reports expressed support for “a framework that would allow for disclosures of personal information when they are ‘reasonably necessary’ to provide the service requested by the user.”⁵³³ Common Sense Media stated that the Commission should provide guidance that it should never be reasonably necessary to use a child's personal information for advertising and that most, if not all, children's data used for machine

⁵²³ Mental Health America, at 3.

⁵²⁴ CIPL, at 15.

⁵²⁵ *Id.*

⁵²⁶ Scalia Law School Program on Economics & Privacy and University of Florida Brechner Center, at 6–8.

⁵²⁷ *Id.*

⁵²⁸ Consumer Reports, at 11. Similarly, Common Sense Media recommended that the Commission state that “[t]he use of a child's personal information for advertising” is never reasonably necessary and that “most if not all data that may be ‘reasonably necessary’ for an AI model should

⁵³¹ 89 FR 2034 at 2071 (Question 17.b).

⁵³² State Attorneys General Coalition, at 15–17.

⁵³³ Consumer Reports, at 11. Consumer Reports also stated that an operator should be required to obtain separate verifiable parental consent before disclosing a child's personal information to facilitate the use of targeted advertising to monetize the operator's website. Consumer Reports, at 9–10.

learning should be de-identified and aggregated.⁵³⁴

Commenters that responded to the Commission's question regarding the extent to which the Commission should consider the information practices disclosed to the parent in assessing whether information collection is reasonably necessary⁵³⁵ generally stated that the Commission should avoid making an operator's disclosures to parents determinative of whether an operator's collection of personal information from a child was reasonably necessary.⁵³⁶ The Parent Coalition for Student Privacy, for example, stated that while "[c]lear and thorough notifications should be required," they "do[] not justify collection of unreasonable amounts of data nor using it for unreasonable purposes."⁵³⁷ A coalition of State attorneys general similarly stated that "the Commission should review the information practices disclosed to the parent" when seeking to determine whether an operator has complied with § 312.7 of the COPPA Rule, "but such disclosures should not be determinative in deciding whether the collection of information from the child was reasonably necessary."⁵³⁸ Consumer Reports stated that the Commission should focus on "a comparison of the operator's stated collection activities against what the Commission contextually assesses to be the data reasonably necessary to provide the service."⁵³⁹

c. The Commission Declines To Amend § 312.7

After carefully considering the record and comments, the Commission is not making any amendments to § 312.7. Commenters' varied responses weigh against the Commission making amendments at this time.

F. § 312.8: Confidentiality, Security, and Integrity of Personal Information

Section 312.8 of the COPPA Rule requires operators to "establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children" and to "take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining" the information's confidentiality, security,

and integrity and provide assurances that they will do so.

a. The Commission's Proposal Regarding § 312.8

In the 2024 NPRM, the Commission proposed amendments to § 312.8 to provide additional clarity as to steps operators can take to comply with § 312.8's "reasonable procedures" standard.⁵⁴⁰ In particular, the Commission proposed adding to § 312.8 two new paragraphs (proposed § 312.8(b) and (c)). Proposed § 312.8(b) specifies that operators must, at a minimum, establish, implement, and maintain a written children's personal information security program that contains safeguards that are appropriate to the sensitivity of personal information collected from children and the operator's size, complexity, and nature and scope of activities.⁵⁴¹ Proposed § 312.8(b) further specifies that, to establish, implement, and maintain such a program, an operator must designate one or more employees to coordinate the program; conduct assessments to identify internal and external risks to the confidentiality, security, and integrity of personal information collected from children and the sufficiency of any safeguards in place to control them; design, implement, and maintain safeguards to control risks identified through the required risk assessments; regularly test and monitor the effectiveness of the safeguards in place to control risks identified through the required risk assessments; and evaluate and modify the program at least annually.⁵⁴² Proposed § 312.8(c) clarifies that operators that release children's personal information to other operators, service providers, or third parties must first "take reasonable steps to determine that such entities are capable of maintaining the confidentiality, security, and integrity of the information" and obtain written assurances that the recipients will do so.⁵⁴³

⁵⁴⁰ 89 FR 2034 at 2061.

⁵⁴¹ *Id.* at 2075. The paragraph is modeled on the Commission's original Safeguards Rule, which the Commission promulgated in 2002 under the Gramm-Leach-Bliley Act and then amended in 2021 to require financial institutions within the FTC's jurisdiction to take certain additional steps to protect customer data. *See generally* Standards for Safeguarding Customer Information, Final rule, 86 FR 70272 (Dec. 9, 2021), available at <https://www.regulations.gov/document/FTC-2021-0072-0001>.

⁵⁴² 89 FR 2034 at 2075.

⁵⁴³ *Id.*

b. Public Comments Received in Response to the Commission's Proposal Regarding § 312.8

Many commenters supported the Commission's proposed revisions to § 312.8 of the Rule.⁵⁴⁴ Such commenters stated, for example, that stronger data security safeguards will help prevent or mitigate harms that can occur after data breaches.⁵⁴⁵ Commenters supported the way that the Commission proposed to maintain flexibility in § 312.8 such as by, among other things, stating explicitly in § 312.8 that an operator's children's personal information security program and safeguards should take into account an operator's size, complexity, nature, and scope of activities.⁵⁴⁶

Some commenters recommended that the Commission specify additional requirements in § 312.8.⁵⁴⁷ One such commenter recommended that the Commission consider including requirements such as third-party assessments or verification of information security practices, training of all employees on data security, or encryption of certain personal information.⁵⁴⁸ Although the Commission agrees that specific safeguards recommended by some commenters might be appropriate in order for some operators to meet § 312.8's "reasonable procedures" standard, the Commission believes that proposed § 312.8(b) properly recognizes that variations in the sensitivity of the

⁵⁴⁴ Mental Health America, at 3; PRIVO, at 6; Children and Screens, at 7–8; CARU, at 5; National School Boards Association, at 5; Consortium for School Networking, at 3–4; Sutter Health, at 3; Lawyers' Committee, at 6–7; J. Tirado, at 2; Microsoft, at 13; Future of Privacy Forum, at 9; EPIC, at 11–16. *See also, e.g.,* NYC Technology and Innovation Office, at 4–5 (supporting requirement for operators to obtain third parties' written assurance that they will maintain reasonable safeguards because the requirement will enhance accountability).

⁵⁴⁵ Mental Health America, at 3; Sutter Health, at 3.

⁵⁴⁶ *See* PRIVO, at 6; Microsoft, at 13.

⁵⁴⁷ *See, e.g.,* EPIC, at 11–17; CARU, at 5. *See also generally* J. Tirado, at 2 (recommending the Commission "designate the NIST [Privacy Framework] as a preferred and approved industry framework, much like a Safe Harbor framework, to both clarify the 'reasonable procedures' standard and incentivize entities to use the NIST Privacy Framework"). Along similar lines, the Parent Coalition for Student Privacy recommended that the Rule require websites or online services that rely upon school authorization as the basis for collecting personal information from children to implement specific and enhanced security protections, such as encryption at rest and in motion, regular independent audits, the provision of the results of such audits to parents upon request, and notification of schools and parents of breaches. Parent Coalition for Student Privacy, at 3, 9–10. As discussed in Part I.A, the Commission is not finalizing at this time amendments to the Rule related to ed tech and the role of schools.

⁵⁴⁸ *See* CARU, at 5.

⁵³⁴ Common Sense Media, at 5–6.

⁵³⁵ 89 FR 2034 at 2071 (Question 17.c).

⁵³⁶ ACLU, at 5; Parent Coalition for Student Privacy, at 14; State Attorneys General Coalition, at 18.

⁵³⁷ Parent Coalition for Student Privacy, at 14.

⁵³⁸ State Attorneys General Coalition, at 18.

⁵³⁹ Consumer Reports, at 11–12.

personal information operators collect from children and in operators' size, complexity, and nature and scope of activities are important considerations that inform the specific safeguards the Rule should require operators to implement.

Along the same lines as commenters that recommended the Commission should include additional specific safeguards in § 312.8, another commenter recommended that the Commission "compile best practices and carefully examine" State, Federal, and international data security rules "to help avoid conflicting provisions and unnecessary duplication."⁵⁴⁹ In response, the Commission notes that it has examined other data security rules and believes that its proposed amendments to § 312.8 provide operators appropriate flexibility and generally avoid conflict with other data security rules.

The Electronic Privacy Information Center ("EPIC") recommended that the Commission require operators' information security programs to mitigate harms to individuals rather than harms to the operator.⁵⁵⁰ The Commission believes that proposed § 312.8(b)'s requirements—including identifying internal and external risks to the confidentiality, security, and integrity of personal information collected from children; designing, implementing and maintaining safeguards to control those risks; and regularly testing and monitoring the effectiveness of the safeguards—inherently compel operators to take steps to mitigate harms to individuals. Accordingly, the Commission does not believe that it is necessary for § 312.8 to refer explicitly to harms to individuals.

The Toy Association opined that the proposed requirement for operators to obtain written assurances that third parties will maintain reasonable safeguards would be unduly burdensome.⁵⁵¹ Relatedly, kidSAFE contended that § 312.8 currently contains a sufficient requirement for operators who release children's personal information to service providers and other third parties to obtain assurances that those parties will maintain the confidentiality, security, and integrity of the information.⁵⁵² As the Commission stated in the 2024 NPRM, the written assurance requirement that the Commission

proposed clarifies that an operator cannot rely solely upon oral assurances⁵⁵³ to meet § 312.8's existing assurance requirement.⁵⁵⁴ However, obtaining a written contract is not the only way an operator can satisfy the written assurance requirement. To the contrary, the 2024 NPRM noted that, in proposing the written assurance requirement, the Commission envisioned that operators would be able to rely on assurances for which there is tangible evidence, such as a written contract, an email message, or a service provider's written terms and conditions.⁵⁵⁵ The Commission continues to believe that the proposed written assurance requirement will help provide additional protection for children's personal information while allowing operators sufficient flexibility to avoid imposing undue burdens on them.⁵⁵⁶ Therefore, the Commission adopts the written assurance requirement as proposed in the 2024 NPRM.

Numerous commenters stated that, if an operator already maintains a general information security program that applies both to children's personal information and to other data and otherwise satisfies proposed § 312.8, the Commission should not require the operator to establish and maintain a separate children's personal information

security program.⁵⁵⁷ The ESA, for example, recommended that § 312.8 "make clear that a general data security program" can satisfy the proposed requirement to establish, implement, and maintain a written children's personal information security program "so long as it considers the sensitivity of children's personal information and implements appropriate safeguards as necessary to address any identified risks."⁵⁵⁸

Some commenters proposed the inclusion of particular language in § 312.8 consistent with that recommendation. The Future of Privacy Forum, for example, recommended that the Commission revise the proposed amendments to § 312.8 to require a "written security program that contains safeguards that are appropriate to the sensitivity of the personal information collected from children" instead of a "written children's personal information security program."⁵⁵⁹ Along similar lines, Google recommended that the Commission permit operators to use risk assessments conducted independently of the requirements set forth in § 312.8 of the Rule to satisfy § 312.8's proposed risk assessment requirement.⁵⁶⁰ Google asserted that the Commission's adoption of that recommendation would help prevent the Rule from imposing undue compliance burdens on operators, especially startups or small businesses.⁵⁶¹

The Commission agrees that an operator should not be required to implement requirements specifically to protect the confidentiality, security, and integrity of personal information collected from children if the operator has established, implemented, and maintained an information security program that applies both to children's personal information and other information and otherwise meets the requirements the Commission proposed in § 312.8 of the 2024 NPRM. Accordingly, the Commission is modifying the language it proposed in § 312.8 of the 2024 NPRM. In particular,

⁵⁵³ The 2024 NPRM explained that, when the Commission amended § 312.8 in 2013 "to require operators to 'take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintain the confidentiality, security, and integrity of such information, and who provide assurances that they will maintain the information in such a manner' . . . , the Commission did not intend to allow operators to rely on verbal assurances alone." 89 FR 2034 at 2061. As the context makes clear, the 2024 NPRM's reference to "verbal" rather than "oral" assurances was inadvertent.

⁵⁵⁴ Since July 1, 2013, when the last revision of the COPPA Rule became effective, § 312.8 has required an operator to obtain assurances from any entity that collects or maintains personal information from children on the operator's behalf, or to whom the operator releases children's personal information, that the entity will maintain the confidentiality, security, and integrity of the personal information. See 78 FR 3972 at 3994–95, 4012.

⁵⁵⁵ 89 FR 2034 at 2061.

⁵⁵⁶ A commenter expressed concern about small operators' ability to comply with security requirements when they are not managing the hardware on which their site is hosted. T. McGhee, at 9. To the extent the commenter has in mind an operator relying upon another entity to collect children's personal information on the operator's behalf or an operator releasing children's personal information to another entity, the operator would be able to comply with § 312.8(c) by taking reasonable steps—such as conducting research—to determine that such other entity is capable of maintaining the confidentiality, security, and integrity of the personal information and obtaining written assurances that the entity will employ reasonable measures to do so.

⁵⁵⁷ See, e.g., ESRB, at 13 ("When an operator already has comprehensive written data security and data retention policies in place, we see no reason for requiring a separate policy or program as long as the overarching policies account for the heightened sensitivity of children's data and the operator implements corresponding measures."); Microsoft, at 13–14; Future of Privacy Forum, at 9; Chamber, at 11; ESA, at 19–20; IAB, at 23–24; NCTA, at 21–22; ITIC, at 7; CIPL, at 15–16; ANA, at 16; The Toy Association, at 8; Internet Infrastructure Coalition, at 4.

⁵⁵⁸ ESA, at 19.

⁵⁵⁹ Future of Privacy Forum, at 9.

⁵⁶⁰ Google, at 12.

⁵⁶¹ *Id.*

⁵⁴⁹ R Street Institute, at 4.

⁵⁵⁰ EPIC, at 11–16. See also, e.g., Children's Advocates Coalition, at 66–67 (supporting EPIC's comments on proposed § 312.8).

⁵⁵¹ The Toy Association, at 8.

⁵⁵² kidSAFE, at 14.

in the first sentence of proposed § 312.8(b), proposed § 312.8(b)(1), and proposed § 312.8(b)(5), the Commission is changing “children’s personal information security program” to “information security program.” Further, the Commission is changing “[t]o establish, implement, and maintain a children’s personal information security program” in the second sentence of proposed § 312.8(b) to “[t]o satisfy this requirement.” And the Commission is adding to the end of proposed § 312.8(b)(5) the phrase “to protect personal information collected from children.”

One commenter expressed concern that the Commission’s proposed revision of § 312.8 does not make sufficiently clear the level of detail that a written children’s personal information security program must contain.⁵⁶² The Commission disagrees with that concern. As set forth in the 2024 NPRM, the Commission’s proposed revisions of § 312.8 state specific steps an operator must take to establish, implement, and maintain an information security program to protect personal information collected from children and criteria for determining which safeguards such a program will contain.⁵⁶³ In addition, as discussed *supra*, the Commission is now providing additional clarity by making modifications to proposed § 312.8 to make clear that an operator need not maintain a separate children’s personal information security program if it maintains an information security program that applies both to children’s personal information and other information and otherwise meets § 312.8’s requirements. The Commission believes that § 312.8, as finalized, provides sufficient guidance to facilitate operators’ compliance.

Some commenters requested that the Commission clarify that the employee an operator designates to coordinate its information security program to protect personal information collected from children in accord with proposed § 312.8(b)(1) of the Rule may also have other job duties.⁵⁶⁴ That request is consistent with the Commission’s intent. The Commission therefore clarifies that § 312.8 will permit the employee an operator designates to coordinate its information security program to have additional job duties.

Some commenters stated that the Commission should not require operators to publish their information security programs.⁵⁶⁵ The Commission clarifies that it did not propose, and is not seeking to impose, such a requirement.

kidSAFE raised the concern that the Commission’s proposed revisions to § 312.8 of the Rule are “extremely cost and resource prohibitive for small businesses” and will “push companies over the edge financially or lead them to turn a blind-eye to children users.”⁵⁶⁶ kidSAFE recommended that, if the Commission codifies the proposed revisions in the Rule, the Commission should apply them only to businesses that exceed certain thresholds in terms of revenues or number of employees.⁵⁶⁷ kidSAFE did not provide evidence to support these assertions. As discussed earlier, the proposed revisions to § 312.8 include flexibility that will help ensure small businesses do not face undue burdens. Among other things, § 312.8, as finalized, states that an operator’s size, complexity, and nature and scope of activities, and the sensitivity of the personal information the operator collects from children, are all pertinent factors for determining which safeguards are appropriate for the particular operator to establish, implement, and maintain. In addition, an operator need not maintain a separate children’s personal information security program if it maintains an information security program that applies both to children’s personal information and other information and otherwise meets § 312.8’s proposed requirements. And the employee who coordinates an operator’s information security program in accord with § 312.8 may have additional job duties.

c. The Commission Amends § 312.8

Having carefully considered the record and comments, and for the reasons discussed in Part II.F.b of this document, the Commission adopts the revisions to § 312.8 as proposed in the 2024 NPRM, except for minor changes to make clear that an operator need not implement requirements specifically to protect the confidentiality, security, and integrity of personal information collected from children if the operator has established, implemented, and maintained an information security program that applies both to children’s personal information and other information and otherwise meets

§ 312.8’s requirements. In particular, as discussed in more detail *supra*, the Commission has modified the 2024 NPRM’s proposed revisions of § 312.8 to omit references to a “children’s personal information security program.”

G. § 312.10: Data Retention and Deletion Requirements

Current § 312.10 of the COPPA Rule states that “[a]n operator of a website or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected.”⁵⁶⁸ In addition, current § 312.10 states that, when an operator deletes personal information collected online from a child, it must use “reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.”⁵⁶⁹

a. The Commission’s Proposal Regarding § 312.10

Some commenters that responded to the Commission’s 2019 Rule Review Initiation recommended that the Commission clarify operators’ obligations under § 312.10. Commenters expressed concern that, because § 312.10 does not set forth specific time limits on data retention, operators could read the COPPA Rule to allow indefinite retention of children’s personal information.⁵⁷⁰ In response to these comments, the Commission stated in the 2024 NPRM that, although the Commission framed § 312.10’s prohibition on data retention to permit operators flexibility to retain data for specified business needs, § 312.10 prohibits operators from retaining children’s personal information indefinitely.⁵⁷¹ This clarification is consistent with the complaints and orders in numerous recent FTC enforcement actions under COPPA.⁵⁷²

⁵⁶⁸ 16 CFR 312.10.

⁵⁶⁹ *Id.*

⁵⁷⁰ See 89 FR 2034 at 2062.

⁵⁷¹ See *id.* (“Section 312.10 prohibits operators from retaining children’s personal information indefinitely. The Commission framed the prohibition on data retention to permit enough flexibility to allow operators to retain data only for specified, necessary business needs.”).

⁵⁷² See, e.g., Complaint, *FTC and The People of the State of California v. NGL Labs, LLC*, Case No. 2:24-cv-05753 (C.D. Cal. July 9, 2024), at 22, 28–29, available at https://www.ftc.gov/system/files/ftc_gov/pdf/NGL-Complaint.pdf (alleging that Defendants retained all customer data provided to them indefinitely and thus violated COPPA by retaining data collected online from children under the age of 13 for longer than reasonably necessary); Complaint, *United States v. Microsoft Corp.*, Case No. 2:23-cv-00836 (W.D. Wash. June 5, 2023), at 7, 9–10, available at https://www.ftc.gov/system/files/ftc_gov/pdf/microsoftcomplaintcivilpenalties.pdf

⁵⁶² The Toy Association, at 8.

⁵⁶³ 89 FR 2034 at 2060–61, 2075.

⁵⁶⁴ CIPL, at 16. See also generally The Toy Association, at 8 (“In addition, businesses with smaller staff may be less able to designate employees to coordinate a security program, as such coordination would likely be in addition to employees’ existing roles at the business.”).

⁵⁶⁵ Internet Infrastructure Coalition, at 4; ITIC, at 7.

⁵⁶⁶ kidSAFE, at 13.

⁵⁶⁷ *Id.* at 13–14.

In addition to noting that § 312.10 is an outright prohibition against indefinite retention, the Commission proposed in the 2024 NPRM to amend § 312.10 to state more clearly operators' duties with regard to the retention of personal information collected from children. First, the Commission proposed clarifying that operators may retain children's personal information for only as long as is reasonably necessary for the specific purposes for which it was collected, and not for any secondary purpose.⁵⁷³ Concomitant with that proposal, the Commission proposed stating in § 312.10 that operators must delete children's personal information when the information is no longer reasonably necessary for the purposes for which it was collected.⁵⁷⁴ In addition, the Commission proposed requiring in § 312.10 that an operator must establish and maintain a written children's data retention policy specifying the purposes for which children's personal information is collected, the business need for retaining the information, and the timeframe for deleting it, precluding indefinite retention.⁵⁷⁵ The Commission also proposed requiring in § 312.10 that operators provide their written children's data retention policies in the notices required by § 312.4(d) of the Rule.⁵⁷⁶

(alleging that Defendant violated COPPA by indefinitely retaining personal information collected online from children under the age of 13 who did not complete account creation process); Complaint, *United States v. Amazon.com, Inc.*, Case No. 2:23-00811 (W.D. Wash. May 31, 2023), at 3, 6-10, 14, available at https://www.ftc.gov/system/files/ftc_gov/pdf/Amazon-Complaint-%28Dkt.1%29.pdf (alleging that Defendants violated COPPA by indefinitely retaining personal information collected online from children under the age of 13); Complaint, *United States v. Edmodo, LLC*, Case No. 3:23-cv-02495 (N.D. Cal. May 22, 2023), at 14-17, available at https://www.ftc.gov/system/files/ftc_gov/pdf/edmodocomplaintfiled.pdf (alleging that Defendant violated COPPA by indefinitely retaining personal information collected online from children under the age of 13); Complaint, *United States v. Kurbo, Inc.*, Case No. 3:22-cv-00946 (N.D. Cal. Feb. 16, 2022), at 11, 14-15, available at https://www.ftc.gov/system/files/ftc_gov/pdf/filed_complaint.pdf (alleging that Defendants violated COPPA by indefinitely retaining personal information collected online from children under the age of 13).

⁵⁷³ 89 FR 2034 at 2062, 2075.

⁵⁷⁴ *Id.*

⁵⁷⁵ *Id.*

⁵⁷⁶ *Id.* at 2050, 2073-74. The Commission explained that the proposed revisions to § 312.10 reinforce § 312.7's data minimization requirements, which, as discussed in Part II.E.a, prohibit an operator from conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity. See 89 FR 2034 at 2062.

b. Public Comments Received in Response to the Commission's Proposal Regarding § 312.10

Numerous commenters stated general support for the Commission's proposed revisions to § 312.10.⁵⁷⁷ The Center for Democracy and Technology, for example, stated that the proposed "additions to § 312.10 better emphasize operators' data minimization responsibilities."⁵⁷⁸ Consumer Reports similarly stated that the proposed revisions would both "ensure that the data minimization protections contemplated in § 312.7 extend beyond the collection phase so that operators may not use [children's] personal information for unexpected secondary purposes, like profiling or third-party targeted advertising" and reduce the attack surface for data breaches.⁵⁷⁹ Mental Health America stated that the proposed revisions "will effectively prohibit platforms from using kids' data for secondary uses such as optimizing design features that have harmful mental health effects and will help ensure operators are not maintaining data profiles of child users indefinitely."⁵⁸⁰ In addition to those commenters that stated general support for the proposed revisions of § 312.10, some commenters expressed support, in particular, for the Commission's proposal to amend § 312.10 to explicitly prohibit indefinite retention of personal information collected from children,⁵⁸¹ or to require operators to establish, implement, and maintain a written children's data retention policy.⁵⁸²

A few commenters raised questions about the "secondary purpose" language in the proposed amendments to

⁵⁷⁷ See, e.g., Children and Screens, at 7-8; Lawyers' Committee, at 6; Mental Health America, at 3-4; Sutter Health, at 3; Consumer Reports, at 11; CDT, at 4-5; Data Quality Campaign, at 3-4 (expressing support and also stating that it is important for § 312.10 to still enable and allow, among other things, longitudinal research, school accountability, systemic school improvements, and other school-authorized education purposes); EPIC, at 16-17; AFT, at 2 (supporting proposal for the Rule to state explicitly that operators cannot retain children's personal information indefinitely).

⁵⁷⁸ CDT, at 5.

⁵⁷⁹ Consumer Reports, at 11. See also, e.g., CDT, at 5 ("We agree that these additions to § 312.10 better emphasize operators' data minimization responsibilities. Data retention and deletion requirements go hand-in-hand with up-front minimization requirements like those in § 312.7. Even when an operator legally collects data, there is little reason for indefinite retention of that data. Therefore, it is good policy to ensure that operators incorporate soup-to-nuts data practices that begin with collection limits and end with retention limits.").

⁵⁸⁰ Mental Health America, at 4.

⁵⁸¹ See, e.g., PRIVO, at 6 (stating that PRIVO has long implemented such a prohibition); AFT, at 2.

⁵⁸² See, e.g., SIIA, at 12-13.

§ 312.10. The IAB asked the Commission to clarify whether the retention of children's personal information to improve products and services or to personalize content shown to children would be a "secondary purpose," and recommended that the Commission clarify in amended § 312.10 that "activities constituting 'support for the internal operations' are not secondary purposes."⁵⁸³ The ACLU made a similar recommendation and posited that the Commission modifying proposed § 312.10 to state explicitly that operators may retain data as is reasonably necessary to provide support for the internal operations of the website or online service would help "avoid precluding uses that bolster privacy and security."⁵⁸⁴ In response to these commenters, the Commission notes that proposed amended § 312.10 expressly permits operators to collect children's personal information for more than one specific purpose.⁵⁸⁵ Under the proposed amended section, an operator that collects children's personal information to improve the website or online service, to personalize content shown to children on the website or online service, to provide support for the internal operations of the website or online service, or for any other purpose must set forth such purposes in its online notice, along with the business need for retaining the information, and a timeframe for deleting the information. The "secondary purpose" language was meant to encompass retention of children's personal information for any other purpose (*i.e.*, any purpose that the operator has not disclosed in its online notice)—not to suggest that retention limits must depend on a single primary purpose. Because the proposed "secondary purpose" language is unnecessary⁵⁸⁶ and appears to have generated some confusion, the Commission has decided to omit the words "and not for a secondary purpose" from the final Rule. With that adjustment, the Commission believes that the proposed amendments to § 312.10 will provide more transparency about operators' practices without precluding data uses that support the internal operations of

⁵⁸³ IAB, at 22.

⁵⁸⁴ ACLU, at 4.

⁵⁸⁵ For consistency, the Commission is changing "purpose" to "purposes" in the second sentence of proposed amended § 312.10.

⁵⁸⁶ Regardless of whether the words "and not for a secondary purpose" are included, operators may only retain children's personal information for as long as is reasonably necessary to fulfill the specific purposes for which it was collected, and must delete the information when it is no longer reasonably necessary for the purposes for which it was collected.

websites or online services or that bolster privacy and security.

A large number of commenters requested that the Commission clarify that the express prohibition on indefinite retention in the proposed amendments to § 312.10 will not prevent operators from retaining children's personal information indefinitely for purposes such as security, fraud and abuse prevention, financial record-keeping, ensuring service continuity, complying with other legal or regulatory requirements, or ensuring the age-appropriateness of the website or online service.⁵⁸⁷ Along similar lines, CIPL and Epic Games each recommended that amended § 312.10 permit indefinite retention for specific use cases, such as an online gaming services' indefinite retention of a child's personal information to preserve scores, interactions, communications, user-generated content, purchases, and other transactions in accordance with the user's expectations.⁵⁸⁸ kidSAFE recommended that the Commission

revise § 312.10 to allow for indefinite retention in relation "to certain features in cloud-based productivity tools or in products for which parents have purchased lifetime subscriptions."⁵⁸⁹ A few commenters also requested that the Commission clarify that the proposed revisions to § 312.10 will permit operators to retain children's personal information where the child user or the parent directs an operator to retain data.⁵⁹⁰

The Commission does not see a need to adjust its initial proposal based on these recommendations. The proposed amendments to § 312.10 would permit operators to retain children's personal information for as long as is reasonably necessary to fulfill the specific purposes for which the operator collects the information and discloses to parents. The Commission believes that the proposed revisions to § 312.10 would give operators sufficient flexibility to establish, and state in their written children's personal information retention policies, reasonable retention periods for children's personal information to satisfy any of the purposes commenters identified while ensuring that operators do not retain children's personal information indefinitely. For example, the proposed revisions would permit an operator to retain children's personal information for a specific amount of time after the child has last used the operator's website or online service, or a subscription has ended, if there is a business need for retaining the information and the operator's retention policy explains the operator will take such action.⁵⁹¹ However, the proposed revisions will preclude operators from retaining children's personal information indefinitely, including permanently.

⁵⁸⁹ kidSAFE, at 15 (asserting that "[t]imed deletion of user data in these cases would be unfair to parents and children, who reasonably expect that these services retain their data").

⁵⁹⁰ See, e.g., ITIC, at 7 (child user or parent); ESA, at 20 (parent); Internet Infrastructure Coalition, at 4 (parent).

⁵⁹¹ Such a scenario is consistent both with comments that recommended that the Commission require operators' data retention policies to State data retention periods as precisely as possible and comments that advised against prescribing specific time frames for data retention. See, e.g., L. Cline, at 3–5 (criticizing information retention policies that state that an operator will retain information "for as long as necessary to fulfill the business purpose" without including an enforceable end date); J. Schwarz, at 8–10 (recommending that the Commission require operators to state in "days, weeks, months, and years" the retention period for each category of data they collect); The Heritage Foundation, at 2 ("Prescribing a specific time frame for data retention creates a ceiling and encourages operators to use the maximum time allowed.").

Similar to comments that the Commission received in response to its proposal to revise § 312.8 to require operators to maintain a written children's personal information security program, numerous commenters urged the Commission to clarify that the proposed revisions to § 312.10 would not require operators to establish, implement, or maintain a separate, distinct written children's data retention policy as long as they maintain a general data retention policy that encompasses children's personal information.⁵⁹² The Commission does not intend to require an operator to establish, implement, or maintain a separate written children's data retention policy if the operator has established, implemented, and maintained a written data retention policy that encompasses children's personal information and satisfies the requirements set forth in amended § 312.10, including the requirements that (1) the written data retention policy set forth the purposes for which children's personal information is collected,⁵⁹³ the business need for retaining such information, and a timeframe for deletion of such information, and (2) the operator provide the policy in the online notice required by § 312.4(d) of the COPPA Rule. In response to the comments suggesting the proposed revisions of § 312.10 did not make the Commission's intent clear, the Commission is modifying the language proposed for § 312.10 in the 2024 NPRM. In particular, instead of adopting the phrase "children's data retention policy," the Commission is adopting the phrase "data retention policy." Additionally, as part of the 2024 NPRM, the Commission proposed that the final sentence of amended § 312.10 read, "The operator must provide its written data retention policy in the notice on the website or online service provided in accordance with § 312.4(d)." In finalizing the proposed amendments, the Commission is adding the phrase "addressing personal information collected from children" following the word "policy." These changes make clearer that the amended Rule will not require an operator to establish, implement, or maintain a separate written children's data retention policy if the operator has established, implemented, and maintained a written data retention policy that encompasses

⁵⁹² See, e.g., ITIC, at 7; CCLA, at 11; Internet Infrastructure Coalition, at 4; ESRB, at 13; IAB, at 21–22; Chamber, at 11.

⁵⁹³ In other words, the written data retention policy must set forth the purposes for which personal information is collected from children as distinguished from people aged 13 or older.

⁵⁸⁷ See, e.g., ITIC, at 7; Google, at 11–12 (requesting flexibility to retain children's personal information to comply with legal requirements like preservation letters or for security, fraud and abuse prevention, financial record-keeping, or to ensure continuity of services); SIIA, at 13 (recommending exceptions to the prohibition against indefinite retention for security, fraud and abuse prevention, financial record-keeping, complying with legal or regulatory requirements, ensuring service continuity, or ensuring the safety and age appropriateness of the service"); CCLA, at 11 (recommending exceptions for security, fraud and abuse prevention, financial record-keeping, complying with relevant legal or regulatory requirements, ensuring service continuity, or when the user has provided verifiable parental consent to the extended retention of data); ANA, at 16 (same); ACT | The App Association, at 8 (recommending exceptions for maintaining the security and integrity of the offering, preventing fraud and abuse, adhering to other legal requirements, and when a parent requests that data be retained); TechNet, at 2 (recommending exceptions for security, fraud and abuse prevention, financial recordkeeping, compliance with legal or regulatory requirements, service continuity, and efforts to ensure the safety and age-appropriateness of the service); Internet Infrastructure Coalition, at 4 (recommending flexibility for security, prevention of fraud and abuse, financial record-keeping, and continuity of service operations"); Taxpayers Protection Alliance, at 3–4 (recommending exceptions for necessary security, regulatory-compliance, safety, and anti-fraud purposes"); See also generally R Street Institute, at 4–5 (supporting "data minimization concepts, including data retention and deletion requirements," but opposing "broad data use restrictions that limit future innovation" and stating that a general prohibition against indefinite retention might need to provide exceptions for purposes like financial record-keeping, legal requirements, and fraud prevention); CIPL, at 16–17 (stating that the Commission should clarify that data retention purposes such as security, fraud prevention, financial recordkeeping, legal and regulatory requirements, ensuring service continuity, and consent for extended retention of data are not "secondary purposes" under the proposed amendments to § 312.10).

⁵⁸⁸ CIPL, at 16; Epic Games, at 12.

children's personal information and meets the requirements of amended § 312.10.

One commenter, the IAB, opined that the Commission underestimated the burden of the Commission's proposal to require operators to establish and maintain a written data retention policy addressing personal information collected from children.⁵⁹⁴ It recommended that the Commission reduce such burden by clarifying that "a general description of the purposes for which personal information is collected and a general statement of the operator's retention timeframes suffices to satisfy the requirement."⁵⁹⁵ But the IAB offered no supporting evidence for its assertion regarding burden, and the Commission declines to adopt its recommendation. The Commission believes that its proposal that operators' written data retention policies state the purposes for which children's personal information is collected, the business need for retaining such information, and the timeframe for deleting it will require no more than the approximately 10 hours per operator that the Commission estimated in the 2024 NPRM⁵⁹⁶ because, to comply with the COPPA Rule and other laws and regulations, and for operational reasons, the Commission believes that many covered operators already have written data retention policies that include the same or largely the same elements that the Commission has proposed to require.⁵⁹⁷ The IAB did not provide sufficient detail for the Commission to evaluate what it meant by a "general description of the purposes for which personal information is collected and a general statement of the operator's retention timeframes". That said, as already discussed, the Commission is adopting

the recommendation of the IAB and other commenters that the Commission clarify that amended § 312.10 will permit maintenance of a general written data retention policy that encompasses children's personal information and otherwise meets the requirements of amended § 312.10.

Some commenters opposed § 312.10's proposed requirement for operators to publish their data retention policies addressing personal information collected from children on the grounds that the policies could contain information that is proprietary or could otherwise compromise the safety or security of a website or online service or that of its vendors, and that potential benefits to consumers do not outweigh those potential risks.⁵⁹⁸ The Commission disagrees with that assertion. Simply put, the commenters did not provide persuasive evidence that including the required disclosures in the § 312.4(d) notices will compromise proprietary information or the safety or security of operators' websites or online services. Disclosure of the required information can help inform parents' and children's choices about which websites or online services children will use and also help ensure that operators are complying with their other obligations under §§ 312.10, 312.7, and 312.8 of the Rule.⁵⁹⁹

EPIC recommended that the Commission more clearly impose "both a necessity and a volume limitation" in § 312.10 by stating that an operator may retain personal information collected online from a child for only "as long as reasonably necessary and proportionate to provide the service requested by a child or parent."⁶⁰⁰ The Commission declines to implement this recommendation in light of the protections already provided under § 312.7's prohibition against collecting from a child personal information beyond that which is reasonably necessary for the child to participate in an activity and amended § 312.10's

prohibition against retaining such personal information for longer than is reasonably necessary for the specific purpose for which it is collected.

c. The Commission Amends § 312.10

After carefully considering the record and comments, and for the reasons stated in Part II.G.b, the Commission finalizes the amendments to § 312.10 that it proposed in the 2024 NPRM with minor modifications. In particular, the Commission is dropping the words "and not for a secondary purpose" from the first sentence of proposed § 312.10, and changing "purpose" to "purposes" in the second sentence of proposed § 312.10. The Commission is also removing the words "that precludes indefinite retention" from the fourth sentence of proposed § 312.10 because the third sentence of proposed § 312.10 states unequivocally that personal information collected online from a child may not be retained indefinitely. In addition, the Commission is changing "children's data retention policy" in proposed § 312.10 to "data retention policy," and inserting "addressing personal information collected from children" in the final sentence of proposed § 312.10 so that the revised sentence will state that "[t]he operator must provide its written data retention policy addressing personal information collected from children in the notice on the website or online service provided in accordance with § 312.4(d)." These changes make clearer that operators may only retain children's personal information for as long as reasonably necessary to fulfill the specific purposes for which it was collected, and that the amended Rule will not require an operator to establish, implement, and maintain a separate written children's data retention policy if the operator has established, implemented, and maintained a written data retention policy that encompasses children's personal information and meets the requirements the Commission proposed in § 312.10 of the 2024 NPRM.

H. § 312.11: Safe Harbor Programs

Section 312.11 of the COPPA Rule enables industry groups or others to submit for Commission approval self-regulatory guidelines that implement substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8 and 312.10 of the Rule. The provision requires FTC-approved COPPA Safe Harbor programs to satisfy specific obligations, including implementing an "effective, mandatory mechanism for the independent assessment" of member

⁵⁹⁴ IAB, at 21–22. *See also generally* ANA, at 16 (stating that the proposed requirement to post a written children's personal information retention policy would "burden smaller operators disproportionately in comparison to their larger counterparts that can dedicate time and expenses to crafting, updating, and managing such a public policy").

⁵⁹⁵ IAB, at 21.

⁵⁹⁶ *See* 89 FR 2034 at 2066.

⁵⁹⁷ The IAB asserted that proposed revised § 312.10 should not require operators' written children's personal information retention policies to state the "business need" for retaining children's personal information because such a requirement is "redundant" with the proposed requirement for the policies to state the purposes for collecting the personal information. IAB, at 21–22. The Commission disagrees that those proposed requirements are necessarily redundant. A business need for retaining personal information—*e.g.*, to comply with recordkeeping obligations after a user has ceased using the website or online service—may differ from the purpose for which the personal information was collected—*e.g.*, to authenticate a user seeking to log into the website or online service.

⁵⁹⁸ *See, e.g.*, ESA, at 20; Internet Infrastructure Coalition, at 4; NCTA, at 18.

⁵⁹⁹ The Commission disagrees with NCTA's assertion that the proposed requirement for operators to post their data retention policies is "unnecessarily duplicative of existing Rule requirements [in § 312.6] that operators provide parents, upon request, with a description of the specific types or categories of personal information the operator collects from children and a means of reviewing any personal information collected from that particular child." NCTA, at 18. For example, operators' posting of their policies for retaining children's personal information will enable parents to evaluate operators' retention practices before deciding whether to consent to operators' collection of the children's personal information in the first instance.

⁶⁰⁰ EPIC, at 16–17.

operators,⁶⁰¹ maintaining a protocol for disciplinary action,⁶⁰² and submitting to the FTC an annual report with “an aggregated summary of the results of the independent assessments.”⁶⁰³ In the 2024 NPRM, the Commission proposed several amendments to § 312.11 to enhance oversight of, and transparency regarding, FTC-approved COPPA Safe Harbor programs.

1. Proposal Related to § 312.11(b)(2)

a. The Commission’s Proposal Regarding § 312.11(b)(2)

Section 312.11(b) requires FTC-approved COPPA Safe Harbor programs to demonstrate that they meet certain performance standards, including conducting an at least annual independent assessment of member operators’ compliance with the Safe Harbor programs’ self-regulatory program guidelines. Section 312.11(b)(2) currently specifies that a FTC-approved COPPA Safe Harbor program’s required assessments of a member’s compliance with the Safe Harbor program’s guidelines must include comprehensive review of the member’s “information policies, practices, and representations.” In conjunction with the proposal to add more specificity to § 312.8 of the Rule, the 2024 NPRM proposed clarifying in § 312.11(b)(2) that such comprehensive reviews must include member operators’ “information privacy and security policies, practices, and representations.”⁶⁰⁴

b. Public Comments Received in Response to the Commission’s Proposal Regarding § 312.11(b)(2)

Several commenters expressed overall support for this proposed amendment to § 312.11(b)(2).⁶⁰⁵ CARU noted that it “has been conducting a comprehensive review of member operators’ information privacy and security policies, practices, and representations for over 20 years and welcomes” the Commission’s proposed clarification regarding the required scope of annual assessments.⁶⁰⁶ Another commenter

supporting the proposed amendment suggested additionally requiring an independent assessment of the platform on which the operator hosts its service before the FTC-approved COPPA Safe Harbor program certifies the operator.⁶⁰⁷

Another commenter expressed support and suggested that, to the extent the revised COPPA Rule permits operators to comply with § 312.8 by maintaining a single comprehensive information security program that applies to the operator’s business as a whole, rather than requiring a separate security program if one part of the operator’s business is directed to children, then, consistent with that approach, the FTC-approved COPPA Safe Harbor programs should not require a separate children’s personal information security program.⁶⁰⁸

Some FTC-approved COPPA Safe Harbor programs expressed concerns about the proposed amendment of § 312.11(b)(2).⁶⁰⁹ kidSAFE asserted that the proposed requirement for FTC-approved COPPA Safe Harbor programs to conduct a comprehensive review of an operator’s information privacy and security program would exceed the competency of the Safe Harbor programs and require the programs to employ greater resources.⁶¹⁰ kidSAFE stated the cost of these additional resources would cause the FTC-approved COPPA Safe Harbor programs to significantly increase their fees, and suggested that the proposed amendment should therefore apply only to “larger entities.”⁶¹¹ Another FTC-approved COPPA Safe Harbor program, the Entertainment Software Rating Board (“ESRB”), expressed concern that the proposal does not provide sufficient clarity regarding the Safe Harbor programs’ “enhanced responsibilities,” suggested that the proposal requires the programs to become “data security system auditors,” and recommended either removing the security provision or providing more guidance.⁶¹²

c. The Commission Amends § 312.11(b)(2)

After carefully considering the record and comments, the Commission is adopting the proposed amendment to § 312.11(b)(2). The Rule has always

included both privacy- and security-related requirements, and the Commission in this rulemaking is putting more focus on operators’ data security requirements. Revised § 312.11(b)(2) does not require operators to create an additional information security program exclusively dedicated to children’s data. In parallel with adding specificity to the Rule’s data security requirements,⁶¹³ the Commission expressly proposed that FTC-approved COPPA Safe Harbor programs’ oversight of their member operators must encompass both the privacy and security aspects of the Rule. Moreover, because an operator’s overall security program may vary based on the operator’s size, complexity, and nature and scope of activities, the cost and resources required to assess different operators’ programs also may vary. Thus, the Commission would expect that small operators’ practices might be significantly less expensive to review than the practices of larger operators. In fact, as noted earlier, one FTC-approved COPPA Safe Harbor program’s comment pointed out that it already takes steps to assess operators’ security practices to determine whether operators comply with current § 312.8.⁶¹⁴ Taking all those factors into consideration, the Commission disagrees that requiring FTC-approved COPPA Safe Harbor programs to review operators’ security practices as well as privacy practices will impose undue burdens or make COPPA Safe Harbor program membership inaccessible.

2. Proposals Related to § 312.11(d)

Section 312.11(d) of the Rule sets forth requirements for FTC-approved COPPA Safe Harbor programs to, among other things, submit annual reports to the Commission and maintain for not less than three years, and make available to the Commission upon request, consumer complaints alleging that subject operators violated the Safe Harbor program’s FTC-approved guidelines, records of the Safe Harbor program’s disciplinary actions taken against subject operators, and results of the Safe Harbor program’s § 312.11(b)(2) assessments.

To strengthen the Commission’s oversight of FTC-approved COPPA Safe Harbor programs, the 2024 NPRM proposed several amendments to § 312.11(d). The Commission proposed to require FTC-approved COPPA Safe Harbor programs’ mandatory reports to the Commission to (1) identify (a) each subject operator, (b) all approved

⁶⁰¹ 16 CFR 312.11(b)(2).

⁶⁰² 16 CFR 312.11(b)(3).

⁶⁰³ 16 CFR 312.11(d)(1).

⁶⁰⁴ In the portion of the 2024 NPRM that set forth the proposed revised text of the COPPA Rule, the Commission inadvertently excluded what is currently—and what will remain in the revised COPPA Rule—the final sentence of § 312.11(b)(2). That sentence states: “The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.” The 2024 NPRM did not discuss or request comment on a proposal to remove that sentence for § 312.11(b)(2) because the Commission did not intend to make such a proposal.

⁶⁰⁵ CARU, at 6; PRIVO at 6; CIPL, at 17.

⁶⁰⁶ CARU, at 6.

⁶⁰⁷ Truth in Advertising, Inc., at 15.

⁶⁰⁸ CIPL, at 17. As discussed in Part II.F.b, the revised Rule permits operators to maintain a single comprehensive information security program that applies both to children’s personal information and other information and otherwise meets § 312.8’s requirements.

⁶⁰⁹ kidSAFE, at 14; ESRB, at 14–15.

⁶¹⁰ kidSAFE, at 14.

⁶¹¹ *Id.*

⁶¹² ESRB, at 14–15.

⁶¹³ See *supra* Part II.F.

⁶¹⁴ CARU, at 6.

websites or online services, and (c) any subject operators that have left the safe harbor program, and (2) include (a) “a narrative description of the safe harbor program’s business model,” (b) “copies of each consumer complaint related to each subject operator’s violation of [the] safe harbor program’s guidelines,” and (c) “a description of the process for determining whether a subject operator is subject to discipline.”⁶¹⁵ The Commission also proposed to require each FTC-approved COPPA Safe Harbor program to publicly post a list of its subject operators on its websites or online services.⁶¹⁶ These amendments are intended to increase transparency. Each proposal is addressed in turn *infra*.

a. General Feedback Related to the Proposed Amendments to § 312.11(d)

One FTC-approved COPPA Safe Harbor program, iKeepSafe, expressed overall support for increased transparency in the Rule, stating that “the ability to monitor ongoing activities within all Safe Harbors would foster the ability to identify ongoing challenges within the Program or perhaps identify data privacy trends that can be addressed across the board.”⁶¹⁷ Another commenter expressed general support for “the Commission’s decision to increase transparency into safe harbor programs and promote accountability [for Safe Harbor programs].”⁶¹⁸

Some commenters expressed concerns about the burden of the proposed additional reporting requirements.⁶¹⁹ One of those commenters suggested that FTC-approved COPPA Safe Harbor programs would increase their membership fees as a result of having to comply with the reporting requirements as proposed and, consequently, that “[l]ow resourced companies, like startups,” would leave their respective Safe Harbor programs.⁶²⁰ Another commenter expressed concerns that the proposed amendments, if finalized, “will undermine the safe harbor process . . . [and] set new requirements that could be unduly burdensome for safe harbor programs to maintain and may

discourage the scope of [safe harbor] participation that Congress expressly encouraged when enacting COPPA.”⁶²¹

The Commission takes seriously concerns about the burden and accessibility of COPPA Safe Harbor program membership as it balances the interests of consumers with the obligations placed on FTC-approved Safe Harbor programs and their members. But transparency and accountability of the FTC-approved COPPA Safe Harbor programs are important to encouraging COPPA compliance. The Commission believes that the proposed amendments to § 312.11(d) will impose modest or trivial costs (for example, in publicly identifying members).

Finally, one commenter recommended that the Commission require FTC-approved COPPA Safe Harbor programs’ annual assessments of subject operators’ compliance with Safe Harbor programs guidelines to be “publicly accessible.”⁶²² The commenter opined that making the annual assessments publicly accessible would help parents make informed decisions and motivate operators to join the most protective Safe Harbor programs.⁶²³

While the Commission strongly agrees that helping parents make informed decisions is an important goal of the Rule, FTC-approved COPPA Safe Harbor programs’ assessments of subject operators’ compliance with their guidelines may include confidential and proprietary information, as well as information about issues other than subject operators’ compliance with the Safe Harbor program’s guidelines. As discussed in further detail *infra*, a public assessment process could also have the perverse result of deterring FTC-approved COPPA Safe Harbor programs from identifying situations where operators need to remedy problems or from pushing for best practices in their assessments. For these reasons, the Commission declines to require Safe Harbors to publish their assessments of member operators.

i. Proposed Amendment to § 312.11(d)(1)

The 2024 NPRM proposed amending § 312.11(d)(1) to require FTC-approved COPPA Safe Harbor programs’ annual reports to the Commission to identify each subject operator and all approved websites or online services, as well as any subject operators that left the program during the time period covered

by the annual report. Commenters generally supported this proposed amendment to the annual report requirements.⁶²⁴

Some FTC-approved COPPA Safe Harbor programs expressed support for the proposed amendment.⁶²⁵ One such commenter said that it “records, maintains and publishes each operator and its approved services publicly and in its annual report to the FTC and welcomes the inclusion of such requirements to ensure all safe harbors do the same.”⁶²⁶ After carefully considering the record and comments, and given the general support for the proposed amendment, the Commission adopts it as originally proposed.

ii. Proposed Amendment to § 312.11(d)(1)(i)

The Commission proposed to amend § 312.11(d)(1)(i) to require an FTC-approved COPPA Safe Harbor program’s annual report to include a “narrative description of the Safe Harbor program’s business model, including whether [the Safe Harbor program] provides additional services such as training to subject operators.”

Most commenters that addressed this proposed amendment supported it. One FTC-approved COPPA Safe Harbor program noted that the Commission already collects a business model narrative in Safe Harbor programs’ annual reports even though the Rule does not explicitly require it.⁶²⁷ Another commenter suggested that this proposed amendment would enhance the Commission’s oversight and help “identify potential conflicts early.”⁶²⁸ After carefully considering the record and comments, the Commission will amend the provision as proposed in the 2024 NPRM.

iii. Proposed Amendment to § 312.11(d)(1)(ii)

The Commission proposed to amend § 312.11(d)(1)(ii) to require FTC-approved COPPA Safe Harbor programs to submit with the Safe Harbor program’s annual report to the Commission copies of each consumer complaint related to each subject operator’s violation of the Safe Harbor program’s guidelines. One FTC-approved COPPA Safe Harbor program supported this proposed amendment,

⁶²⁴ See, e.g., CIPL, at 17–18; Advanced Education Research and Development Fund, at 8–9; iKeepSafe, at 2–3; ESRB, at 7; PRIVO, at 6; kidSAFE, at 15; Public Knowledge, at 3–6.

⁶²⁵ See ESRB, at 7; iKeepSafe, at 2–3; PRIVO, at 6; kidSAFE, at 15.

⁶²⁶ PRIVO, at 6–7; see also kidSAFE, at 15.

⁶²⁷ ESRB, at 7–9.

⁶²⁸ Public Knowledge, at 6.

⁶¹⁵ 89 FR 2034 at 2063–64.

⁶¹⁶ *Id.* at 2064.

⁶¹⁷ iKeepSafe, at 2–3.

⁶¹⁸ Advanced Education Research and Development Fund, at 8–9; see also Student Political Research Institute for New Governance, at 4–5 (encouraging the Commission to “take a more proactive role in monitoring Safe Harbor organizations’ commitment to overseeing member compliance with children’s privacy laws” and stating that the Commission should “encourage more independent organizations to submit a Safe Harbor application”).

⁶¹⁹ Engine, at 3; The Toy Association, at 8–9.

⁶²⁰ Engine, at 3.

⁶²¹ The Toy Association, at 8.

⁶²² Public Knowledge, at 7.

⁶²³ *Id.*

but pointed out that Safe Harbor programs “do not necessarily have custody or control over consumer complaints related to each subject operator’s violation of an FTC-approved COPPA Safe Harbor program’s guidelines” unless they are directly provided to the Safe Harbor programs.⁶²⁹ Another FTC-approved COPPA Safe Harbor program noted that most complaints received by operators are related to customer service issues (log in, functionality, *etc.*), and are not related to potential violations of the Safe Harbor program’s guidelines.⁶³⁰

The Commission has carefully considered these points and does not seek to create a new requirement that FTC-approved COPPA Safe Harbor programs must collect complaints from operators. The proposed amendment requires FTC-approved COPPA Safe Harbor programs to submit consumer complaints that they receive directly or that an operator shares with the Safe Harbor program, but does not impose an additional obligation for a Safe Harbor program to request complaints from its member operators. After carefully considering the record and comments, the Commission amends § 312.11(d)(1)(ii) as originally proposed.

iv. Proposed Amendment to § 312.11(d)(1)(iv)

Current § 312.11(d)(1)(iii) requires that FTC-approved COPPA Safe Harbor programs’ annual reports to the Commission include a description of any disciplinary action taken against any subject operator under § 312.11(b)(3). In the 2024 NPRM, the Commission proposed amending this provision, which, upon finalization of the proposed amendments, will now be redesignated as § 312.11(d)(1)(iv), to clarify that an FTC-approved COPPA Safe Harbor program’s report must include a description of each disciplinary action the Safe Harbor program took against any subject operator during the reporting period and to require that the report include a description of the process for determining whether a subject operator was subjected to discipline.

One supportive commenter, Public Knowledge, stated that, along with the proposed requirement for FTC-approved COPPA Safe Harbor programs to include copies of consumer complaints related to violations of COPPA in their annual reports to the Commission, this proposed amendment “would strengthen internal regulation, empower parents to make informed decisions, and

not significantly burden [Safe Harbor] programs.”⁶³¹

Expressing concerns about this proposal, FTC-approved COPPA Safe Harbor program ESRB requested that the Commission clarify the proposed reporting requirement would apply only “to the formal disciplinary measures set out in Section 312.11(b)(3) of the COPPA Rule,” and not require reporting on issues of non-compliance that do not lead to such disciplinary measures because the issues are, for example, technical and inadvertent and promptly and easily remediated.⁶³² The ESRB contended that the Commission should not hold FTC-approved COPPA Safe Harbor programs and their subject members to a “perfection” standard and stated that requiring a Safe Harbor program “to disclose every remedial action . . . would be self-defeating and dissuade companies from joining Safe Harbor programs.”⁶³³

As the ESRB noted in its comment, the Commission’s template for FTC-approved COPPA Safe Harbor program annual reports already asks programs to describe what constitutes a violation of the Safe Harbor program’s guidelines and the types of disciplinary measures taken.⁶³⁴ The Commission agrees that FTC-approved COPPA Safe Harbor programs should not hold subject operators to a standard of “perfection” and that it may sometimes be appropriate for Safe Harbor programs to take remedial actions other than disciplinary action under § 312.11(b)(3).

If an FTC-approved COPPA Safe Harbor program determines, in its assessment of an operator, that some corrective action is warranted but does not discipline the operator due to prompt responsiveness or other similar reasons, then amended § 312.11(d) will not require disclosure in the Safe Harbor program’s annual report. In other words, the Commission is not attempting to redefine what constitutes a disciplinary action for subject operators’ non-compliance with an FTC-approved COPPA Safe Harbor program’s guidelines. After carefully considering the record and comments, the Commission is finalizing § 312.11(d)(1)(iv) as proposed.

v. Proposed Amendment to § 312.11(d)(4)

In the 2024 NPRM, the Commission also proposed amending § 312.11(d)(4) to require each FTC-approved COPPA Safe Harbor program to “publicly post a

list of all current subject operators on [its] websites and online services,” and to “update the list every six months to reflect any changes to the approved safe harbor program[s] subject operators or their applicable websites and online services.”⁶³⁵

Some commenters supported the proposal to require FTC-approved COPPA Safe Harbor programs to publicly identify members, including those who leave the Safe Harbor program.⁶³⁶ One such commenter highlighted, for example, that the proposal (along with other proposed amendments to § 312.11) would “strengthen internal regulation, empower parents to make informed decisions, and not significantly burden programs, as they already should submit annual reports and maintain up-to-date lists of their operators.”⁶³⁷

By contrast, some commenters expressed concerns about the proposal to require FTC-approved COPPA Safe Harbor programs to publicly identify members.⁶³⁸ The ESRB warned that implementation of the proposed requirement could mislead consumers “into believing that all products and services provided by the company have been certified as compliant by the Safe Harbor” program.⁶³⁹ kidSAFE supported a requirement for Safe Harbor programs to post member lists publicly subject to the “very important condition” that the Commission limit the requirement to certified products and not include operators or products that are under review for potential certification.⁶⁴⁰ In response to these comments, the Commission clarifies that the requirement to identify certified products or services applies to those that have been approved, not those that are under review for possible certification.

The Commission expects that FTC-approved COPPA Safe Harbor programs’ identification of members will be helpful to parents as they make decisions about which websites or online services to allow their children to use. A number of FTC-approved COPPA Safe Harbor programs already identify their members in various ways, such as on their websites or by having members display seals indicating their participation in the program.⁶⁴¹ The

⁶³⁵ 89 FR 2034 at 2076.

⁶³⁶ PRIVO, at 6; CIPL, at 18.

⁶³⁷ Public Knowledge, at 6.

⁶³⁸ ESRB, at 10–11; kidSAFE, at 15–16; ANA, at 17.

⁶³⁹ ESRB, at 10.

⁶⁴⁰ kidSAFE, at 15–16.

⁶⁴¹ Some commenters suggested that standardization of the FTC-approved COPPA Safe Harbor programs’ seals would help clarify to

⁶²⁹ CARU, at 6.

⁶³⁰ ESRB, at 7–9.

⁶³¹ Public Knowledge, at 3, 6.

⁶³² ESRB, at 9–10.

⁶³³ *Id.* at 9.

⁶³⁴ *Id.*

Commission believes that parents rely on these indicia of participation and place confidence in a certified product's or service's COPPA compliance. However, in order to address the issue FTC-approved COPPA Safe Harbor programs raised with respect to certifications that apply only to a particular product or service offered by a member that also offers other products or services that are not certified, the Commission adopts the proposed amendments to § 312.11(d)(4) with minor modifications. The Commission's intent for this provision is to require FTC-approved COPPA Safe Harbor programs to publicly share a list of the particular websites and online services certified by their respective programs. If there is a version of a particular service, for example, that is certified only for one operating system but not for another, the list must reflect that limitation. With this in mind, amended § 312.11(d)(4) states that FTC-approved COPPA Safe Harbor programs shall "publicly post on each of the approved safe harbor program's websites and online services a list of all current subject operators and, for each such operator, list each certified website or online service."

3. Proposed § 312.11(f)

The Commission proposed that FTC-approved COPPA Safe Harbor programs submit triennial reports detailing each Safe Harbor program's technological capabilities and mechanisms for assessing members' fitness for membership in each respective program. The Commission received several comments in support of this proposed amendment.⁶⁴² One commenter that supported the proposal suggested the Commission should also set out minimum expectations for such benchmarks.⁶⁴³

Because the technologies that FTC-approved COPPA Safe Harbor programs use to assess operators' practices may change as business practices change and

as the tools used to assess those practices evolve, the Commission declines to set forth such standards in the Rule. In the process of reviewing the triennial reports and annual reports, the Commission expects that agency staff will raise concerns if the technical tools employed are inadequate.

4. Proposed § 312.11(g)

Current § 312.11(f) reserves the Commission's right to revoke the approval of any FTC-approved COPPA Safe Harbor program whose guidelines or implementation of guidelines do not meet the requirements set forth in the Rule, and requires modifications to Safe Harbor guidelines to be submitted prior to March 1, 2013. The Commission proposed to redesignate this provision as § 312.11(g) in light of the newly proposed § 312.11(f), and to delete the March 2013 deadline because this date has long passed.

Several comments supported the proposed amendments to this section.⁶⁴⁴ Relatedly, in addressing § 312.11(g), kidSAFE recommended that, after the final Rule at issue is published, the Commission provide Safe Harbor programs at least six months to submit revised guidelines for approval and another six months to implement the new guidelines to measure members' compliance.⁶⁴⁵ Other FTC-approved COPPA Safe Harbor programs also made similar recommendations.⁶⁴⁶ The Commission agrees that FTC-approved COPPA Safe Harbor programs will need time to assess the revisions to the Rule and revise their guidelines and practices to reflect the changes. After carefully considering the record and comments, the Commission will revise § 312.11(g) to state that FTC-approved COPPA Safe Harbor programs shall submit proposed modifications to their guidelines within six months after the final Rule is published in the **Federal Register**.

5. Proposed § 312.11(h)

Current § 312.11(g) addresses operator compliance with the FTC-approved COPPA Safe Harbor program guidelines. In the 2024 NPRM, the Commission proposed to redesignate this provision as § 312.11(h) in light of its proposal to add a new paragraph (f) in § 312.11 and the resulting need to redesignate paragraph (g) in § 312.11. The

Commission did not receive any comments related to this proposed amendment and will therefore adopt it as originally proposed.

6. NPRM Question Nineteen: Safe Harbor Program Conflicts of Interest

In the 2024 NPRM, the Commission solicited comments on what conflicts would affect an FTC-approved COPPA Safe Harbor program's ability to effectively assess a subject operator's fitness for membership.⁶⁴⁷

The Commission received few comments addressing this issue. One commenter raised concerns that FTC-approved COPPA Safe Harbor programs may offer compliance consulting services in addition to their role in overseeing member operators' compliance with the guidelines, and that such a dual role is a conflict of interest.⁶⁴⁸ Another posited that there is a "natural conflict" inherent in the Safe Harbor concept because approved programs have incentive to have more members.⁶⁴⁹ Another commenter questioned whether advertising platforms can be adequately assessed by FTC-approved COPPA Safe Harbor programs.⁶⁵⁰

The Commission received responses from two FTC-approved COPPA Safe Harbor programs regarding conflicts of interest. The ESRB rejected "the assumption that conflicts of interest are inherent in the COPPA Safe Harbor program," pointing among other things to the Commission's "robust" oversight of the Safe Harbor programs.⁶⁵¹ CARU indicated that it does not require companies to contribute financially to its organization other than the fee for the review service and does not require members to purchase other products or services, to avoid conflicts of interest.⁶⁵²

Based on the comments received, the Commission has determined that the proposed amendments to FTC-approved COPPA Safe Harbor reporting requirements under the Rule will facilitate the Commission's ability to monitor Safe Harbor programs and that it is unnecessary to adopt additional amendments to the Rule to address potential conflicts of interest. The Commission will continue to monitor the FTC-approved COPPA Safe Harbor programs closely.

⁶⁴⁷ 89 FR 2034 at 2071 (Question 19).

⁶⁴⁸ Public Knowledge, at 2.

⁶⁴⁹ Internet Safety Labs, at 11.

⁶⁵⁰ *Id.* at 11–12.

⁶⁵¹ ESRB, at 16–18. The ESRB indicated that while it does not provide COPPA consulting services, it would not recommend prohibiting FTC-approved COPPA Safe Harbor programs from doing so, albeit potentially subject to additional transparency requirements. *Id.* at 18.

⁶⁵² CARU, at 6–7.

parents what the seal and certification signify. See Public Knowledge, at 5, 7–8; ESRB, at 11–12; see also Truth in Advertising, Inc., at 9–13 (suggesting the Commission address when and how Safe Harbor certification seals may be used to prevent deceptive representations). One such commenter referenced the fact that FTC-approved COPPA Safe Harbor programs may offer various certifications and seals related to, for example, assessment of privacy practices unrelated to COPPA or the FTC-approved guidelines. ESRB, at 4. The Commission believes that the amendments it is adopting will make it easier for parents to determine whether websites or online services are participants in an FTC-approved COPPA Safe Harbor program without being overly prescriptive about how Safe Harbor programs organize their websites and other communications.

⁶⁴² CIPL, at 17–18; NAI, at 7; PRIVO, at 7.

⁶⁴³ ESRB, at 12.

⁶⁴⁴ CIPL, at 18; ESRB, at 25–26; CARU, at 7.

⁶⁴⁵ kidSAFE, at 16.

⁶⁴⁶ ESRB, at 25–26 (requesting "at least a six month deadline" to submit revised program guidelines to the Commission for approval); CARU, at 7 (recommending a period of at least one year for operators to come into complete compliance with the final Rule).

I. Other Issues

1. NPRM Question Two: Automatic Deletion of Information Collected

a. The Commission's Question Regarding Automatic Deletion of Information Collected

Currently, the Rule defines “[c]ollects or collection” as, in relevant part, “the gathering of any personal information from a child by any means, including . . . [e]nabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child’s postings before they are made public and also to delete such information from its records.”⁶⁵³ During the Rule review that led to the 2013 Amendments, the Commission explained that movement from a 100% deletion standard to a “reasonable measures” standard would enable operators to implement automated filtering systems to delete personal information from children’s postings.⁶⁵⁴ In Question Two of the 2024 NPRM’s “Questions for the Proposed Revisions to the Rule” section, however, the Commission stated its concern that, if automatic moderation or filtering technologies can be circumvented, reliance on them may not be appropriate in a context where a child is communicating one to one with another person privately instead of in a public posting.⁶⁵⁵ Based on that concern, the Commission requested comment on whether the Commission should retain its position that an operator will not be deemed to have “collected” a child’s personal information and therefore will not have to comply with the COPPA Rule’s requirements if it employs automated means to delete personal information from one-to-one communications.⁶⁵⁶

b. Public Comments Received in Response to the Commission’s Question Regarding Automatic Deletion of Information Collected

Overall, the Commission received relatively few comments in response to Question Two. Some commenters generally supported the Commission continuing to permit the use of automatic moderation or filtering technologies as a means to delete all or virtually all personal information from

children’s one-to-one communications.⁶⁵⁷ One commenter asserted generally that permitting the use of automated filtering systems to enable an operator to avoid being deemed to have “collected” personal information from a child “aligns with the [COPPA] Rule’s scope.”⁶⁵⁸

Asserting that automated filtering entails holding data at least briefly in order to delete it, one commenter opposed the Commission continuing to permit the use of automated filtering systems as a means for operators to avoid being deemed to have collected personal information from children in any context, including one-to-one communications.⁶⁵⁹ Another commenter asserted that “there is no way such automated means will work” and raised the possibility that any deletion mechanism may have “bugs which result in leakage or misuse.”⁶⁶⁰ This commenter suggested that “any deletion requirement that is to be meaningful needs to specify particular timelines within which deletion must occur.”⁶⁶¹ Another commenter raised the concern that monitoring one-on-one communication could impair encryption security.⁶⁶²

In all, commenters largely did not weigh in as to whether an operator should be allowed to enable a child to communicate one-to-one with another user, possibly an adult, without providing notice or seeking verifiable parental consent from the parent, when the one-to-one communication is moderated by the operator using automated means alone. That question concerns whether automated means are sufficiently reliable to ensure safety when a child is in direct communication with another individual

⁶⁵⁷ SIIA, at 13–14; The Toy Association, at 4.

⁶⁵⁸ M. Bleyeben, at 1. Like commenters that opposed the Commission permitting the use of automated filtering systems to enable an operator to avoid being deemed to have “collected” personal information from a child, this commenter acknowledged that deletion of personal information from communications “will necessarily require momentary processing of personal information.”

⁶⁵⁹ Parent Coalition for Student Privacy, at 10–11.

⁶⁶⁰ Internet Safety Labs, at 2.

⁶⁶¹ *Id.*

⁶⁶² ACLU, at 9 (“On one hand, the current Rule permits operators to remove children’s personal information from one-to-one messaging, thus allowing known children and users of child-directed services to engage in additional forms of communication, speech, and learning. On the other hand, such measures likely require the monitoring of users’ messages and may pose technical difficulties when implemented alongside privacy-protective measures such as end-to-end encryption.”). The Commission notes that if an operator covered by the Rule enabled a child to communicate with others via end-to-end encryption, the operator would have to provide notice and obtain verifiable parental consent.

(as opposed to a context where the communications will be available to other users, such as in a chat room).

c. The Commission Declines To Make Rule Amendments Related to NPRM Question Two

In reply to commenters’ responses to Question Two of the “Questions for the Proposed Revisions to the Rule” section of the 2024 NPRM regarding deletion, the Commission expects that operators relying upon automatic deletion of children’s personal information to avoid having to provide notice and obtain verifiable parental consent will ensure that such deletion occurs in real time, concurrent with facilitating the communication, and without storing the personal information for any length of time. The Commission does not propose to adopt changes to require notice and verifiable parental consent in this circumstance. However, the Commission will monitor this issue closely for potential abuse.

2. NPRM Question Twenty: Effective Date of Rule Amendments

a. The Commission’s Question Regarding Effective Date of Rule Amendments

In the 2024 NPRM, the Commission requested comment on whether an effective date of six months after the issuance of the Commission’s final Rule would be an appropriate effective date for any proposed changes that do not specify an effective date.⁶⁶³ In so doing, the Commission noted that the Commission had taken the same approach with the issuance of the initial COPPA Rule and the 2013 Amendments.⁶⁶⁴

b. Public Comments Received in Response to the Commission’s Question Regarding Effective Date of Rule Amendments

Most commenters that opined on an appropriate effective date recommended that the effective date be one year⁶⁶⁵ or

⁶⁶³ 89 FR 2034 at 2071 (Question 20).

⁶⁶⁴ *Id.*

⁶⁶⁵ ESRB, at 25–26 (also requesting at least six months for FTC-approved COPPA Safe Harbor programs to submit their revised program guidelines to the FTC); kidSAFE, at 16; CARU, at 7; TechNet, at 6. *See also* NCTA, at 23 (“Depending on the changes the Commission ultimately adopts, operators may need to update their privacy disclosures, consent process, contracts with service providers, and data security policies and practices. Given that some operators have multiple websites and apps and work with many different service providers, a six-month implementation period is insufficient for significant changes to COPPA Rule requirements.”); The Toy Association, at 9 (stating that a majority of the association’s members are small businesses and that it would be difficult for them to meet a six-month compliance deadline;

⁶⁵³ 16 CFR 312.2.

⁶⁵⁴ *See* 78 FR 3972 at 3973–3974; 76 FR 59804 at 59808.

⁶⁵⁵ *See* 89 FR 2034 at 2069 (Question 2).

⁶⁵⁶ *Id.*

longer⁶⁶⁶ after issuance of the final Rule. Such commenters asserted that the breadth or complexity of the proposed amendments weigh in favor of the effective date being more than six months after issuance of the final Rule. On the other hand, one commenter “strongly urge[d]” the Commission to implement the proposed amendments “in the shortest time frame possible” and opined that the proposed amendments are not significant enough to warrant the Commission making the effective date later than six months after issuance of the final Rule.⁶⁶⁷ Another commenter stated that the Commission should set an effective date that “balance[s] the urgency of protecting children’s privacy with the practical considerations of implementation for those affected by the changes, including comprehensive understanding, proper implementation, and adjustment by all stakeholders involved.”⁶⁶⁸

c. The Commission Changes the Effective Date in Response to NPRM Question Twenty Comments

The Commission has carefully considered the record and comments regarding an appropriate effective date for any proposed changes that do not specify an effective date. The effective date for the final Rule will be 60 days from the date the final Rule is published in the **Federal Register**. In order to account for some of the commenters’ concern that entities subject to the Rule will need more than six months after the Final Rule’s publication to assess the Rule amendments and revise their policies and practices to comply with them, the final Rule provides 365 days from the final Rule’s publication date to come into full compliance with the amendments that do not specify earlier compliance dates. The Commission clarifies that, during this 365-day period, regulated entities may comply with the Rule provisions that do not

specify earlier compliance dates either by complying with the pre-2025 Rule or with the revised Rule. That said, the final Rule specifies earlier compliance dates related to obligations on FTC-approved COPPA Safe Harbor programs of six months after the Rule’s publication date for § 312.11(d)(1), 90 days after the Rule’s publication date for § 312.11(d)(4), and six months after the Rule’s publication date for § 312.11(g).

III. Paperwork Reduction Act

The Paperwork Reduction Act (“PRA”), 44 U.S.C. chapter 35, requires Federal agencies to seek and obtain approval from the Office of Management and Budget (“OMB”) before undertaking a collection of information directed to ten or more persons.⁶⁶⁹ Under the PRA, a rule creates a “collection of information” when ten or more persons are asked to report, provide, disclose, or record information in response to “identical questions.”⁶⁷⁰ The existing COPPA Rule contains recordkeeping, disclosure, and reporting requirements that constitute “information collection requirements” as defined by 5 CFR 1320.3(c) under the OMB regulations that implement the PRA. OMB has approved the Rule’s existing information collection requirements through April 30, 2025 (OMB Control No. 3084–0117).⁶⁷¹ This final Rule modifies the collections of information in the existing COPPA Rule. For example, the amendments to the COPPA Rule adopted here amend the definition of “website or online service directed to children,” potentially increasing the number of operators subject to the Rule, albeit likely not to a significant degree. FTC staff believes that any such increase will be offset by other operators of websites or online services adjusting their information collection practices so that they will not be subject to the Rule. The amendments also increase disclosure obligations for operators and FTC-approved COPPA Safe Harbor programs, and FTC-approved COPPA Safe Harbor programs will also face additional reporting obligations under the amended Rule.

While the amended Rule requires operators to establish, implement, and maintain a written comprehensive security program and data retention policy, such requirements do not constitute a “collection of information” under the PRA. Namely, under the amended Rule, each operator’s security

program and the safeguards instituted under such program will vary according to the operator’s size and complexity, the nature and scope of its activities, and the sensitivity of the information involved. Thus, although each operator must summarize its compliance efforts in one or more written documents, the discretionary balancing of factors and circumstances that the amended Rule allows does not require entities to answer “identical questions” and therefore does not trigger the PRA’s requirements.⁶⁷²

As required by the PRA, the Commission sought OMB review of the modified information collection requirements at the time of the publication of the NPRM. OMB directed the Commission to resubmit its request at the time the final Rule is published. Accordingly, simultaneously with the publication of this final Rule, the Commission is resubmitting its clearance request to OMB. FTC staff has estimated the burdens associated with the amendments as set forth below.

A. Practical Utility

According to the PRA, “practical utility” is “the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion.”⁶⁷³ The Commission has maximized the practical utility of the new disclosure (notice) and reporting requirements contained in the final Rule amendments, consistent with the requirements of COPPA.

With respect to disclosure requirements, the amendments to § 312.4(c) more clearly articulate the

recommending a minimum of a one-year compliance deadline).

⁶⁶⁶ ITIC, at 7 (recommending that the effective date be 18–24 months after issuance of the final Rule due to the breadth of the proposed amendments); Chamber, at 12 (recommending that the effective date be two years after publication of the final Rule “in line with Europe’s General Data Protection Regulation”); IAB, at 27–28 (same); Consumer Technology Association, at 3 (same); Internet Infrastructure Coalition, at 4–5 (recommending that the effective date be up to two years after publication of the final amended rule to recognize and balance the compliance complexity among businesses of different sizes, resources, and breadth, and especially to help small- and medium-sized businesses); CCIA, at 11 (recommending providing 18–24 months for compliance because the proposed amendments would greatly expand the scope and extent of obligations).

⁶⁶⁷ M. Bleyleben, at 8.

⁶⁶⁸ Yoti, at 17–18.

⁶⁶⁹ 44 U.S.C. 3502(3)(A)(i).

⁶⁷⁰ See 44 U.S.C. 3502(3)(A).

⁶⁷¹ The 2024 NPRM erroneously indicated that the Rule’s information collection requirements were approved through March 31, 2025.

⁶⁷² The IAB raised Paperwork Reduction Act issues with respect to the requirement that operators develop a written security program, and asked that the Commission clarify “that a generally applicable comprehensive data security program will be in compliance with the proposed requirement if it addresses the sensitivity of personal information, including information collected from children.” IAB, at 23–24. The Commission has made a change in the final Rule to make clear that an operator is not required to implement requirements specifically to protect the confidentiality, security, and integrity of personal information collected from children if the operator has established, implemented, and maintained an information security program that applies both to children’s personal information and other information and otherwise meets the requirements the Commission had proposed in § 312.8 of the 2024 NPRM.

⁶⁷³ 44 U.S.C. 3502(11). In determining whether information will have “practical utility,” OMB will consider “whether the agency demonstrates actual timely use for the information either to carry out its functions or make it available to third-parties or the public, either directly or by means of a third-party or public posting, notification, labeling, or similar disclosure requirement, for the use of persons who have an interest in entities or transactions over which the agency has jurisdiction.” 5 CFR 1320.3(l).

specific information that operators' direct and online notices for parents must include about their information collection and use practices, and ensure that parents have the information that they need to assess the operator's practices and determine whether to grant consent. For example, the Rule previously required that operators retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose(s) for which the information was collected; the revised Rule requires each operator to set down its retention policy in writing and to disclose that policy to parents in the online notice. Similarly, the amended Rule will require operators that disclose personal information to third parties to state in the direct notice the identities or specific categories of such third parties;⁶⁷⁴ the purposes for such disclosure; and that the parent can consent to the collection and use of the child's personal information without consenting to the disclosure of such personal information to third parties for non-integral purposes. This disclosure requirement provides parents with information about the purpose for and scale of disclosure to third parties and effectuates the parental right, in effect since the Rule was originally promulgated, to object to certain third-party disclosures. The amended Rule also formally adopts an exception, previously reflected in a discretionary enforcement policy, that allows operators to collect audio files in certain circumstances when the operator describes in its online notice how the operator uses such audio files. The Rule also requires the small number of FTC-approved COPPA Safe Harbor programs to publicly post lists of each subject operator's certified websites and online services (which the programs already maintain as part of their normal business operations). These modifications are intended to increase transparency and enable parents and the public to determine whether a particular website or online service has been certified by an approved Safe Harbor program.

With respect to reporting obligations, the amended Rule includes additional reporting obligations that will apply only to the small number of FTC-approved Safe Harbor programs. The changes include additional requirements for Safe Harbor programs' mandatory reports to the Commission to identify each subject operator and their

approved websites or online services, as well as any subject operators that have left the Safe Harbor program; describe the Safe Harbor program's business model; describe the process for determining whether an operator is subject to discipline; and provide copies of consumer complaints related to each subject operator's violation of the program's guidelines.⁶⁷⁵ These requirements strengthen the FTC's oversight of FTC-approved COPPA Safe Harbor programs by providing the agency with information to assess whether operators participating in the programs may be violating the Rule, and make the FTC's own oversight more transparent to the public.

Given the justifications stated above for the amended disclosure and reporting requirements, the amendments will have significant practical utility.⁶⁷⁶

B. Explanation of Estimated Incremental Burden Under the Amendments

1. Number of Respondents

As noted in the Regulatory Flexibility Act section, FTC staff estimates that in 2025 there are approximately 6,140 operators subject to the Rule.⁶⁷⁷ FTC staff does not believe that the amendments to the Rule's definitions will affect the number of operators subject to the Rule. For example, FTC staff does not expect that the Commission's addition of "biometric

⁶⁷⁵ The ESRB indicated that it receives "very few complaints that are actually about companies' privacy practices", so the requirement to provide complaints is not "necessary for the proper performance of the functions of the FTC" nor will it have "practical utility" as required by the Paperwork Reduction Act. ESRB, at 9 (internal quotation marks omitted). However, the amended Rule provision requires FTC-approved COPPA Safe Harbor programs to provide "copies of each consumer complaint related to each subject operator's violation of a safe harbor program's guidelines." (emphasis added). The amended Rule thus does not require Safe Harbor programs to provide complaints that are not germane to companies' privacy practices.

⁶⁷⁶ The Commission has also declined to adopt certain potential changes to the Rule on the basis of potential burden or lack of utility. For example, the Commission has not amended the Rule to provide an exemption for an operator that undertakes an analysis of its audience composition and determines that no more than a specific percentage of its users are likely to be children under 13. See IAB, at 15 (addressing Question 11 of the "Questions for the Proposed Revisions to the Rule" section of the 2024 NPRM by raising burden objections, in particular with respect to use of such technology by small- and medium-sized businesses).

⁶⁷⁷ This estimate differs from the number of operators subject to the COPPA Rule estimated in the 2024 NPRM, 5,710. See 89 FR 2034 at 2065. That estimate has been updated for 2025 by adding an estimated 430 new operators for the past year. This leads to the current estimated number of 6,140 operators subject to the Rule (5,710 + 430 = 6,140).

identifiers" to the Rule's definition of "personal information" will significantly alter the number of operators subject to the Rule. FTC staff believes that all or nearly all operators of websites or online services that collect "biometric identifiers" from children are already subject to the Rule.

In total, to the extent that any of the Commission's amendments to the Rule's definitions might result in minor additional numbers of operators being subject to the Rule, FTC staff believes that any such increase will be offset by other operators of websites or online services adjusting their information collection practices so that they will not be subject to the Rule.

For this burden analysis, FTC staff updates its recently published estimate to 430 new operators per year.⁶⁷⁸ Commission staff retains its estimate that no more than one additional entity will become an FTC-approved COPPA Safe Harbor program within the next three years of PRA clearance.

2. Recordkeeping Hours

Commission staff does not expect that the Rule amendments will increase operators' recordkeeping obligations. With respect to the FTC-approved COPPA Safe Harbor programs, similarly, the Commission has not revised the recordkeeping requirement applicable to those programs under § 312.11(d)(3).

3. Disclosure Hours

a. New Operators' Disclosure Burden

Based on Census data, FTC staff estimates that the Rule affects approximately 430 new operators per year. FTC staff does not expect that new operators' obligations with respect to disclosure of their privacy practices through a direct notice and an online notice will take more time to complete under the revised Rule than under the existing Rule, except with respect to disclosure of a data retention policy. The amended Rule includes a new requirement that operators disclose a data retention policy. Commission staff estimates it will require, on average, approximately 10 hours to meet the data

⁶⁷⁸ The average growth rate from 2013 through 2021 for Software Publishing and Other Information Services (which includes internet publishing) was 7.4%. See <https://www.census.gov/programs-surveys/susb/data/tables.html>. Multiplying this rate by the estimated number of existing operators, 5,710, gives an estimate of approximately 430 new operators per year on a going forward basis. This new estimate is different from the previously published estimate of 280 new operators per year in the 2024 NPRM as it uses a different, more up-to-date data source. See 2024 NPRM, 89 FR 2034 at 2065 n.354.

⁶⁷⁴ The operator must disclose both the names and the categories of third parties in its online notice.

retention policy requirement.⁶⁷⁹ This yields an estimated incremental annual hours burden of 4,300 hours (430 respondents × 10 hours).

b. Existing Operators' Disclosure Burden

The amended Rule imposes various new disclosure requirements on operators that will require them to update the direct and online notices that they previously provided. Specifically, the amendments require operators to update the direct and online notices with additional information about the operators' information practices. Additionally, the amended Rule requires operators to disclose a data retention policy. Finally, the amended Rule will now require operators utilizing the support for the internal operations exception, 16 CFR 312.5(c)(7), to provide an online notice.⁶⁸⁰

FTC staff believes that an existing operator's time to make these changes to its online and direct notices for the first time would be no more than that estimated for a new entrant to craft an online notice and direct notice for the first time, *i.e.*, 60 hours.⁶⁸¹ Additionally,

⁶⁷⁹ As discussed in Part II.G.b, the IAB asserted that this 10-hour estimate is low and also requested that the Commission clarify that an existing retention policy that is compliant with the requirements in the Rule is sufficient. *See* IAB, at 21, 23. A retention policy that complies with the requirements in the Rule is adequate even if the policy were adopted before the revised Rule was promulgated. With respect to the estimated burden hours, the comments received as a whole do not support the view that the estimate is low. The Commission believes that the requirement that operators' written data retention policies state the purposes for which children's personal information is collected, the business need for retaining such information, and the timeframe for deleting it will require no more than approximately 10 hours per operator because, to comply with the existing COPPA Rule and other laws and regulations and for operational reasons, the Commission believes that many covered operators already have written data retention policies that include the same or largely the same elements that the Commission is now requiring in the amended Rule.

⁶⁸⁰ Previous burden estimates have not distinguished between the burden on this subset of operators who had no disclosure obligations under the Rule and the burden on operators who were required to provide both a direct and an online notice—the analysis assumed that this subset of operators had the same, higher burden. This analysis takes the same approach in assuming that operators who now have to provide an online notice will have the same burden, 60 hours, to develop an online notice as other existing operators would take to develop both a direct notice and an online notice.

⁶⁸¹ FTC staff maintains its longstanding estimate that new operators of websites and online services will require, on average, approximately 60 hours to draft a privacy policy, design mechanisms to provide the required online privacy notice, and, where applicable, provide the direct notice to parents. *See, e.g.*, Children's Online Privacy Protection Rule, Notice, 86 FR 55609 (Oct. 6, 2021), available at <https://www.govinfo.gov/app/details/FR-2021-10-06/2021-21753>; 2022 COPPA PRA Supporting Statement, available at <https://omb.report/icr/202112-3084-002/doc/119087900>.

as discussed previously, FTC staff believes the time necessary to develop, draft, and publish a data retention policy is approximately 10 hours. Therefore, these disclosure requirements will amount to a one-time burden of approximately 70 hours. Annualized over three years of PRA clearance, this amounts to approximately 23 hours (70 hours ÷ 3 years) per operator each year. Aggregated for the 6,140 existing operators, the annualized disclosure burden for these requirements would be approximately 141,220 hours per year (6,140 respondents × 23 hours).

The amended Rule will also require each FTC-approved COPPA Safe Harbor program to provide a list of all current subject operators, websites, and online services on each of the FTC-approved COPPA Safe Harbor program's websites and online services, and the amended Rule further requires that such list be updated every six months thereafter. Because FTC-approved COPPA Safe Harbor programs already keep up-to-date lists of their subject operators, FTC staff does not anticipate this requirement will significantly burden FTC-approved COPPA Safe Harbor programs. To account for time necessary to prepare the list for publication and to ensure that the list is updated every 6 months, FTC staff estimates 10 hours per year. Aggregated for one new FTC-approved COPPA Safe Harbor program and six existing FTC-approved COPPA Safe Harbor programs, this amounts to an estimated cumulative disclosure burden of 70 hours per year (7 respondents × 10 hours).

4. Reporting Hours

The amendments will require FTC-approved COPPA Safe Harbor programs to include additional content in their annual reports. The amendments will also require each FTC-approved COPPA Safe Harbor program to submit a report to the Commission every three years detailing the program's technological capabilities and mechanisms for assessing subject operators' fitness for membership in the program.

The burden of conducting subject operator audits and preparing the annual reports likely varies by FTC-approved COPPA Safe Harbor program, depending on the number of subject operators. FTC staff estimates that the additional reporting requirements for the annual report will require approximately 50 hours per program per year. Aggregated for one new FTC-approved COPPA Safe Harbor program (50 hours) and six existing FTC-approved COPPA Safe Harbor programs (300 hours), this amounts to an

estimated cumulative reporting burden of 350 hours per year (7 respondents × 50 hours).

Regarding the reports that the amended Rule will require FTC-approved Safe Harbor programs to submit to the Commission every three years, § 312.11(c)(1) of the existing Rule already requires FTC-approved COPPA Safe Harbor programs to include similar information in their initial application to the Commission. Specifically, existing § 312.11(c)(1) requires that the application address FTC-approved COPPA Safe Harbor programs' business models and the technological capabilities and mechanisms they will use for initial and continuing assessment of operators' fitness for membership in their programs. Consequently, the three-year reports should merely require reviewing and potentially updating an already-existing report. FTC staff estimates that reviewing and updating existing information to comply with amended § 312.11(f) will require approximately 10 hours per FTC-approved COPPA Safe Harbor program. Divided over the three-year period, FTC staff estimates that annualized burden attributable to this requirement would be approximately 3.33 hours per year (10 hours ÷ 3 years) per FTC-approved COPPA Safe Harbor program, which staff will round down to 3 hours per year per FTC-approved COPPA Safe Harbor program. Given that several FTC-approved COPPA Safe Harbor programs are already available to website and online service operators, Commission staff anticipates that no more than one additional entity is likely to become an FTC-approved COPPA Safe Harbor program within the next three years of PRA clearance. Aggregated for one new FTC-approved COPPA Safe Harbor program and six existing FTC-approved COPPA Safe Harbor programs, this amounts to an estimated cumulative reporting burden of 21 hours per year (7 respondents × 3 hours).

5. Labor Costs

a. Disclosure

i. New Operators

As previously noted, FTC staff estimates an incremental annual burden of 4,300 hours (430 respondents × 10 hours) associated with developing and posting a retention policy in the online notice. Consistent with its past estimates and based on its 2013 rulemaking record,⁶⁸² FTC staff

⁶⁸² *See, e.g.*, 78 FR 3972 at 4007 (Jan. 17, 2013); 2022 COPPA PRA Supporting Statement, available

estimates that the time spent on compliance for new operators covered by the COPPA Rule would be apportioned five to one between legal (outside counsel lawyers or similar professionals) and technical (e.g., computer programmers, software developers, and information security analysts) personnel. Therefore, FTC staff estimates that approximately 3,583 of the estimated 4,300 hours required will be completed by legal staff.

Regarding legal personnel, FTC staff anticipates that the workload among law firm partners and associates for assisting with COPPA compliance would be distributed among attorneys at varying levels of seniority.⁶⁸³ Assuming two-thirds of such work is done by junior associates at an estimated rate of approximately \$559 per hour in 2025, and one-third by senior partners at an estimated rate of approximately \$847 per hour in 2025, the weighted average of outside counsel costs would be approximately \$655 per hour.⁶⁸⁴

FTC staff anticipates that computer programmers responsible for posting privacy policies and implementing direct notices and parental consent mechanisms would account for the remaining 717 hours. FTC staff estimates an hourly wage of \$60.43 for technical personnel in 2025, based on Bureau of Labor Statistics (“BLS”) data.⁶⁸⁵ Accordingly, associated annual

labor costs would be \$2,390,193 in 2025 [(3,583 hours × \$655/hour) + (717 hours × \$60.43/hour)] for the estimated 430 new operators.

ii. Existing Operators

As previously discussed, FTC staff estimates that the annualized disclosure burden for these requirements for the 6,140 existing operators would be 141,220 hours per year. Thus, apportioned five to one, this amounts to 117,683 hours of legal and 23,537 hours of technical assistance. Applying hourly rates of \$655 and \$60.43, respectively, for these personnel categories, associated labor costs would total approximately \$78,504,706 (\$77,082,365 + \$1,422,341) in 2025.

iii. Safe Harbor Programs

Previously, industry sources have advised that all of the labor to comply with new Safe Harbor program requirements would be attributable to the efforts of in-house lawyers. FTC staff estimates an average hourly rate of \$111.94 for a Washington DC in-house lawyer in 2025.⁶⁸⁶ Applying this hourly labor cost estimate to the hours burden associated with the estimated 70-hour disclosure burden for the FTC-approved COPPA Safe Harbor programs yields an estimated annual labor cost burden of \$7,836 (70 hours × \$111.94).

b. Annual Audit and Report and Triennial Report for Safe Harbor Programs

FTC staff assumes that compliance officers, at a mean estimated hourly wage of \$39.92 in 2025, will prepare annual reports and the triennial report.⁶⁸⁷ Applying this hourly labor cost estimate to the hours burden associated with preparing annual audit reports and the annualized burden for the triennial report yields an estimated annual labor cost burden of \$14,810 (371 hours × \$39.92).

6. Non-Labor/Capital Costs

Because both operators and FTC-approved COPPA Safe Harbor programs will already be equipped with the computer equipment and software

necessary to comply with the existing Rule’s notice requirements, the amended Rule should not impose any additional capital or other non-labor costs.

IV. Final Regulatory Analysis and Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601 *et seq.*, requires an agency to provide an Initial Regulatory Flexibility Analysis (“IRFA”) with a proposed rule and a Final Regulatory Flexibility Analysis (“FRFA”) with a final rule unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers potential impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities.

In Part II of this document, the Commission adopts many of the amendments the Commission proposed in the 2024 NPRM, adopts some of them with minor modifications, and declines to adopt a small number of them. As discussed in the IRFA in the 2024 NPRM, the Commission believes the amendments it is adopting will not have a significant economic impact on a substantial number of small entities. Among other things, the amendments clarify definitions, increase content requirements for existing notices, increase specificity for existing security requirements, increase clarity for existing retention and deletion requirements, and increase specificity for certain reporting requirements.

Although the amendments will require some entities to implement notices they were not required to provide before, obtain consent they previously were not required to obtain, and implement new retention policies, the Commission believes this will not require significant additional costs for entities covered by the Rule. Instead, the Commission believes some of the amendments, such as an amendment to create an additional exception to the Rule’s verifiable parental consent requirement, might even reduce costs for some entities covered by the Rule. Therefore, based on available information, the Commission certifies that the amendments will not have a significant impact on a substantial number of small entities.

While the Commission certifies under the RFA that the amended Rule will not have a significant impact on a substantial number of small entities, and hereby provides notice of that

at <https://omb.report/icr/202112-3084-002/doc/119087900>.

⁶⁸³ For the purposes of this calculation, FTC staff considers a senior partner to have 12 or more years of experience and a junior attorney to have one or zero years of experience.

⁶⁸⁴ These estimates are drawn from the “Fitzpatrick Matrix.” The Fitzpatrick Matrix was developed to provide a tool for the “reliable assessment of fees charged for complex [civil] federal litigation,” in the District of Columbia, and has been adopted by, among others, the Civil Division of the United States Attorney’s Office for the District of Columbia. See Fitzpatrick Matrix, Civil Division of the United States Attorney’s Office for the District of Columbia, Fitzpatrick Matrix, 2013–2024 (quoting *DL v. District of Columbia*, 924 F.3d 585, 595 (D.C. Cir. 2019)), available at <https://www.justice.gov/usao-dc/media/1353286/dl?inline>. It is used here as a proxy for market rates for litigation counsel in the Washington, DC area. In order to estimate what the mean hourly wages will be in 2025 (\$559 and \$847 for junior associates and senior partners), staff applies the average growth rate in wages from 2013 through 2024 for junior associates and senior partners (9.7% and 5.5% respectively) to the 2024 mean hourly wages (\$510 and \$803) for one additional year.

⁶⁸⁵ The estimated mean hourly wages for technical personnel (\$56.03) are based on an average of the mean hourly wage for computer programmers, software developers, information security analysts, and web developers as reported by the Bureau of Labor Statistics. See Bureau of Labor Statistics, Occupational Employment and Wages—May 2023, Table 1 (May 2023) (“BLS Table 1”), available at <https://www.bls.gov/news.release/ocwage.t01.htm> (National employment and wage data from the Occupational Employment Statistics

survey by occupation). In order to estimate what the mean hourly wages will be in 2025 (\$60.43), staff applies the average growth rate in wages from 2013 through 2023 for technical personnel (3.85%) to the 2023 mean hourly wages (\$56.03) for two additional years.

⁶⁸⁶ <https://www.roberthalf.com/us/en/job-details/in-house-counsel-associate-general-counsel-10-years-experience/washington-dc>.

⁶⁸⁷ See BLS Table 1 (compliance officers, \$38.55). In order to estimate what the mean hourly wages will be in 2025 (\$39.92), staff applies the average growth rate in wages from 2013 through 2023 for compliance officers (1.76%) to the 2023 mean hourly wages (\$38.55) for two additional years.

certification to the Small Business Administration (“SBA”), the Commission has determined, nonetheless, that it is appropriate to publish an FRFA to inquire about the impact of the amendments on small entities. Therefore, the Commission has prepared the following analysis:

A. Need for and Objectives of the Amendments

The objectives of the amendments are to update the COPPA Rule to ensure that children’s online privacy continues to be protected, as directed by Congress, even as new online technologies emerge and existing online technologies evolve, and to clarify existing obligations for operators under the Rule. The legal basis for the amendments is the Children’s Online Privacy Protection Act, 15 U.S.C. 6501 *et seq.*

B. Significant Issues Raised by Public Comments in Response to the IRFA, the Commission’s Assessment and Response, and Any Changes Made as a Result

As discussed in Part II of this document, the Commission received numerous comments that argued that amendments the Commission proposed—including some of the amendments the Commission is now adopting—would be burdensome for businesses. A small number of such comments raised general concerns about the burden that certain proposed amendments would have on small entities. The comments that made assertions about burden did not address the IRFA in particular, or provide empirical evidence about the asserted burdens.

For example, one FTC-approved COPPA Safe Harbor program characterized as “cost and resource prohibitive for small businesses” the Commission’s proposed revision to § 312.8 to require operators to establish, implement, and maintain a “comprehensive written security program.”⁶⁸⁸ As discussed in Part II.F.b, the Commission does not believe that amended § 312.8 will impose significant burdens on small entities. Amended § 312.8 states explicitly, for example, that an operator’s size, complexity, and nature and scope of activities, and the sensitivity of the personal information the operator collects from children, are all pertinent factors for determining which information security safeguards are appropriate for the particular operator to establish, implement, and maintain in order to comply with

§ 312.8.⁶⁸⁹ This language will help ensure that amended § 312.8 does not impose undue burdens on small entities.

A trade association asserted that “businesses with smaller staff” might be less able than other businesses to designate employees “to coordinate” an information security program in order to comply with amended § 312.8 “as such coordination would likely be in addition to employees’ existing roles.”⁶⁹⁰ In response to that comment and other comments about § 312.8, the Commission has clarified in Part II.F.b that the employee an operator designates to coordinate its information security program in accord with amended § 312.8(b)(1) may also have other job duties. The Commission believes that clarification addresses the trade association’s stated concern.

A different trade association asserted that the proposed amendment to § 312.10 to require operators to provide a written children’s personal information retention policy in the online notice required by § 312.4(d) would “burden smaller operators disproportionately in comparison to their larger counterparts that can dedicate time and expenses to crafting, updating, and managing such a public policy.”⁶⁹¹ As discussed in Part II.G.b, the Commission has modified proposed § 312.10 to make clearer that amended § 312.10 does not require operators to establish, implement, or maintain a separate, distinct written children’s data retention policy as long as they maintain a general written data retention policy that encompasses children’s personal information. The Commission believes that modification will help reduce burdens on operators—including “smaller operators”—that have a single, general written data retention policy that encompasses children’s personal information and would have interpreted amended § 312.10 to require a separate, distinct written children’s data retention policy if the Commission had adopted amended § 312.10 as originally proposed in the 2024 NPRM.

In commenting on the proposed amendments to the definition of “website or online service directed to children” in § 312.2 of the Rule, two industry groups asserted that it might be “entirely infeasible” for small entities to

comb the internet for third-party user reviews in order to assess their audience composition.⁶⁹² As discussed in Part II.B.5.a.ii, the amended definition of “website or online service directed to children” does not, in fact, require regulated entities to identify and continuously monitor the internet for such information.

One commenter asserted that the proposed amendment to § 312.4(c)(4) of the Rule to require operators to list in their direct notices the identities or categories of third parties to which they disclose children’s personal information would potentially harm small entities by incentivizing regulated entities to work only with large vendors in order to limit the number of third parties to track and update on such lists.⁶⁹³ As discussed in Part II.C.1.c.ii, the amended Rule will provide operators the flexibility to identify third-party disclosure recipients in their direct notices by name or category. The Commission believes that flexibility addresses the commenter’s stated concern.

A commenter asserted that the time and resources needed to implement the human-review component of the face match to verified photo identification verifiable parental consent method the Commission proposed to codify in new § 312.5(b)(2)(vii) would cause small entities to struggle to use the consent method.⁶⁹⁴ As discussed in Part II.D.4.b, operators will only bear costs associated with using the particular consent method—which the Commission already approved in November 2015—if they decide to use the method instead of using other verifiable parental consent methods that meet the COPPA Rule’s standard of being “reasonably calculated, in light of available technology, to ensure that the person providing consent is the child’s parent.”

In response to Question Ten of the “Questions for the Proposed Revisions to the Rule” section of the NPRM, some commenters asserted that amending the Rule to require operators to obtain verifiable parental consent to collect and use persistent identifiers for contextual advertising would negatively affect startup and small entities, in particular.⁶⁹⁵ As discussed in Part II.B.4.e, those comments helped inform the Commission’s decision not to amend the Rule to require operators to obtain verifiable parental consent to collect

⁶⁸⁸ Some commenters asserted that § 312.8 should include consideration of an operator’s size as part of the determination of which information security safeguards are appropriate for the operator to establish, implement, and maintain. *See, e.g.*, R Street Institute, at 4.

⁶⁹⁰ The Toy Association, at 8.

⁶⁹¹ ANA, at 16.

⁶⁹² Privacy for America, at 6; 4A’s, at 2.

⁶⁹³ *See* Privacy for America, at 10.

⁶⁹⁴ *See* American Consumer Institute, at 4.

⁶⁹⁵ *See, e.g.*, Engine, at 3; 4A’s, at 3–4.

⁶⁸⁸ kidSAFE, at 13–14.

and use persistent identifiers for contextual advertising.

A trade association asserted that it would be difficult for its members that are small entities to comply with the Final Rule if the effective date were less than one year after its adoption.⁶⁹⁶ Another business coalition similarly asserted that a six-month effective date for the amended rule “may present significant burdens for many small businesses” and recommended “[a]n allowance of up to two years after publication of the final amended Rule” in the **Federal Register**.⁶⁹⁷ As discussed in Part II.I.2.c, the compliance date for most requirements in the Final Rule is one year after publication of the Final Rule in the **Federal Register**. The Commission believes that compliance date will avoid imposing undue burdens on small entities.

In all, the Commission does not believe it needs to make any changes to its IRFA in response to these comments.

Part II provides a section-by-section analysis that discusses the provisions proposed in the NPRM, the comments received, the Commission’s responses to the comments, and any changes made by the Commission as a result.

C. Comments by the Chief Counsel for Advocacy of the SBA, the Commission’s Assessment and Response, and Any Changes Made as a Result

The Commission did not receive any comments from the Chief Counsel for Advocacy of the SBA.

D. Description and Estimate of the Number of Small Entities to Which the Rule Will Apply

The COPPA Rule applies to operators of commercial websites or online services directed to children that collect personal information through such websites or online services, and operators of any commercial websites or online services with actual knowledge that they are collecting personal information from children. The Rule also applies to operators of commercial websites or online services that have actual knowledge that they are collecting personal information directly from users of another commercial website or online service directed to children.

Based on the previous estimates and the Commission’s compliance monitoring efforts in the areas of children’s privacy, FTC staff estimates that approximately 6,140 operators may be subject to the Rule’s requirements, with approximately 430 new operators

becoming subject to the Rule each year.⁶⁹⁸

Under the Small Business Size Standards issued by the Small Business Administration, “Web Search Publishers and All Other Information Services” qualify as small businesses if the firms have fewer than 1,000 employees, and “Software Publishers” qualify as small businesses if they have \$47 million or less in sales. Using 2021 and 2017 Census Statistics of United States Businesses data on the number of firms in the above categories that would qualify as small businesses, FTC staff estimates that approximately 94% to 98% of operators potentially subject to the Rule qualify as small entities.

E. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

The amended Rule will impose reporting, recordkeeping, and other compliance requirements. For example, while not constituting a “collection of information” under the PRA, the amended Rule will require operators to establish, implement, and maintain a written comprehensive security program. The amended Rule will also increase the disclosure requirements for covered operators, and it will increase the disclosure and reporting requirements for FTC-approved COPPA Safe Harbor programs. Specifically, the amendments require operators to update existing disclosures with additional content requirements, namely, to update the direct and online notices with additional information about the operators’ information practices. Some operators may have to provide disclosures that the Rule did not previously require. Additionally, the amended Rule requires operators to disclose a data retention policy.

The amended Rule will require each FTC-approved COPPA Safe Harbor program to provide a list of all current subject operators and their certified websites or online services on each of the FTC-approved COPPA Safe Harbor program’s websites and online services, and the amended Rule further requires that such list be updated every six months thereafter. The amendments will also require FTC-approved COPPA Safe Harbor programs to include additional content in their annual reports and submit a new report to the Commission every three years detailing the program’s technological capabilities and mechanisms for assessing subject operators’ fitness for membership in the program.

The estimated burden imposed by these amendments is discussed in the PRA section of this document. While the Rule’s compliance obligations apply equally to all entities subject to the Rule, it is unclear whether the economic burden on small entities will be the same as, or greater than, the burden on other entities. That determination would depend upon a particular entity’s compliance costs, some of which may be largely fixed for all entities (e.g., website programming) and others variable (e.g., participation in an FTC-approved COPPA Safe Harbor program), and the entity’s income or profit from operation of the website or online service itself (e.g., membership fees) or related sources. As explained in the PRA section, in order to comply with the amended Rule’s requirements, website or online service operators will require the professional skills of legal (lawyers or similar professionals) and technical (e.g., computer programmers, software developers, and information security analysts) personnel.

As explained in the PRA section and this FRFA, FTC staff estimates that there are approximately 6,140 websites or online services that qualify as operators under the amended Rule, and that approximately 94% to 98% of such operators qualify as small entities under the SBA’s Small Business Size standards.

F. Description of Steps Taken To Minimize Impact of the Rule on Small Entities

As the Commission described in the IRFA, the Commission attempted to tailor each proposed amendment to avoid unduly burdensome requirements for businesses subject to the Rule. Additionally, the Commission built flexibilities into various amendments to reduce burden for all entities subject to the Rule. For example, the amendments the Commission is adopting permit flexibilities within the information security program, such as to tailor the program to an entity’s operations and allow the employee coordinating the program to have other job duties, and within the data retention policy, such as allowing entities to maintain a general written data retention policy that encompasses children’s personal information rather than maintaining a separate children’s data retention policy. Because the Commission estimates that small entities account for 94% to 98% of entities subject to the Rule, the Commission anticipates that such flexibilities will reduce burden on small entities. In addition, in response to comments, and as discussed in Part II, the Commission has further clarified

⁶⁹⁶ See The Toy Association, at 9.

⁶⁹⁷ See Internet Infrastructure Coalition, at 4–5.

⁶⁹⁸ See Part III.

or modified some of the proposed amendments and has declined to adopt some of the proposed amendments altogether. Those actions should minimize further any economic impact on small entities.

V. Other Matters

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

List of Subjects in 16 CFR Part 312

Communications, Computer technology, Consumer protection, Infants and children, Internet, Privacy, Reporting and recordkeeping requirements, Safety, Science and technology, Trade practices, Youth.

■ Accordingly, the Federal Trade Commission revises and republishes 16 CFR part 312 to read as follows:

PART 312—CHILDREN’S ONLINE PRIVACY PROTECTION RULE (COPPA RULE)

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child’s participation on collection of personal information.
- 312.8 Confidentiality, security, and integrity of personal information collected from children.
- 312.9 Enforcement.
- 312.10 Data retention and deletion requirements.
- 312.11 Safe harbor programs.
- 312.12 Voluntary Commission Approval Processes.
- 312.13 Severability.

Authority: 15 U.S.C. 6501 through 6506.

§ 312.1 Scope of regulations in this part.

This part implements the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501, *et seq.*), which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information

from a child by any means, including but not limited to:

- (1) Requesting, prompting, or encouraging a child to submit personal information online;
- (2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child’s postings before they are made public and also to delete such information from its records; or
- (3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

- (1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service; and
- (2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Mixed audience website or online service means a website or online service that is directed to children under the criteria set forth in paragraph (1) of the definition of *website or online service directed to children*, but that does not target children as its primary audience, and does not collect personal information from any visitor, other than for the limited purposes set forth in § 312.5(c), prior to collecting age

information or using another means that is reasonably calculated, in light of available technology, to determine whether the visitor is a child. Any collection of age information, or other means of determining whether a visitor is a child, must be done in a neutral manner that does not default to a set age or encourage visitors to falsify age information.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

- (1) Receives notice of the operator’s personal information collection, use, and disclosure practices; and
- (2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over Internet Protocol (VOIP) identifier, a video chat user identifier, or a mobile telephone number provided the operator uses it only to send text messages to a parent in connection with obtaining parental consent.

Operator means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is collected or maintained on behalf of an operator when:

- (1) It is collected or maintained by an agent or service provider of the operator; or
- (2) The operator benefits by allowing another person to collect personal information directly from users of such website or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;s
(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A government-issued identifier, such as a Social Security, State identification card, birth certificate, or passport number;

(7) A persistent identifier that can be used to recognize a user over time and across different websites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town;

(10) A biometric identifier that can be used for the automated or semi-automated recognition of an individual, such as fingerprints; handprints; retina patterns; iris patterns; genetic data, including a DNA sequence; voiceprints; gait patterns; facial templates; or faceprints; or

(11) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the website or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the website or online service;

(ii) Perform network communications;
(iii) Authenticate users of, or personalize the content on, the website or online service;

(iv) Serve contextual advertising on the website or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, website, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4).

(2) Provided, however, that, except as specifically permitted by paragraphs (1)(i) through (vii) of this definition, the information collected for the activities listed in paragraphs (1)(i) through (vii) of this definition cannot be used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the website or online service; or

(2) A person who provides support for the internal operations of the website or online service and who does not use or disclose information protected under this part for any other purpose.

Website or online service directed to children means a commercial website or online service, or portion thereof, that is targeted to children.

(1) In determining whether a website or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition and evidence regarding the intended audience, including marketing or promotional materials or plans, representations to consumers or to third parties, reviews by users or third parties, and the age of users on similar websites or services.

(2) A website or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another website or online service directed to children.

(3) A mixed audience website or online service shall not be deemed directed to children with regard to any visitor not identified as under 13.

(4) A website or online service shall not be deemed directed to children solely because it refers or links to a commercial website or online service directed to children by using

information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the internet.

It shall be unlawful for any operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the website or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent*—(1) *Content of the direct notice to the parent for purposes of obtaining consent.* The direct notice to obtain the parent's affirmative consent to the collection, use, or disclosure of a child's personal information (including under § 312.5(c)(1)) shall set forth:

(i) If applicable, that the operator has collected the parent's or child's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of personal information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The items of personal information the operator intends to collect from the child, how the operator intends to use such information, and the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) Where the operator discloses personal information to one or more third parties, the identities or specific categories of such third parties (including the public if making it publicly available) and the purposes for such disclosure, should the parent provide consent, and that the parent can consent to the collection and use of the child's personal information without consenting to the disclosure of such personal information to third parties except to the extent such disclosure is integral to the website or online service;

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(vi) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vii) If the operator has collected the name or online contact information of the parent or child to provide notice and obtain parental consent, that if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's or child's online contact information and the parent's or child's name from its records.

(2) *Content of the direct notice to the parent of a child's online activities not involving the collection, use or disclosure of personal information.* Where an operator chooses to notify a parent of a child's participation in a website or online service, and where such site or service does not collect any personal information other than the

parent's online contact information, the voluntary direct notice to the parent of a child's online activities not involving the collection, use or disclosure of personal information (required under § 312.5(c)(2)) shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a website or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the website or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent of operator's intent to communicate with the child multiple times.* The direct notice to the parent of the operator's intent to communicate with the child multiple times (required under § 312.5(c)(4)) shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent in order to protect a child's safety.* The direct notice to the parent in order to protect a child's safety (required under § 312.5(c)(5)) shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the website or online service.* In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its website or online service, and, at each area of the website or online service where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience website or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the website or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the website or online service. Provided that: The operators of a website or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the website or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the website or online service enables a child to make personal information publicly available; how the operator uses such information; the operator's disclosure practices for such information, including the identities and specific categories of any third parties to which the operator discloses

personal information and the purposes for such disclosures; and the operator's data retention policy as required under § 312.10;

(3) If applicable, the specific internal operations for which the operator has collected a persistent identifier pursuant to § 312.5(c)(7); and the means the operator uses to ensure that such identifier is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose (except as specifically permitted to provide support for the internal operations of the website or online service);

(4) Where the operator collects audio files containing a child's voice pursuant to § 312.5(c)(9), a description of how the operator uses such audio files and that the operator deletes such audio files immediately after responding to the request for which they were collected; and

(5) If applicable, that the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements.* (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties, unless such disclosure is integral to the website or online service. An operator required to give the parent this option must obtain separate verifiable parental consent to such disclosure.

(b) *Methods for verifiable parental consent.* (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.

(2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the

operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete;

(vi) Verifying a parent's identity using knowledge-based authentication provided:

(A) the verification process uses dynamic, multiple-choice questions, where there are a reasonable number of questions with an adequate number of possible answers such that the probability of correctly guessing the answers is low; and

(B) the questions are of sufficient difficulty that a child age 12 or younger in the parent's household could not reasonably ascertain the answers;

(vii) Having a parent submit a government-issued photographic identification that is verified to be authentic and is compared against an image of the parent's face taken with a phone camera or webcam using facial recognition technology and confirmed by personnel trained to confirm that the photos match; provided that the parent's identification and images are promptly deleted by the operator from its records after the match is confirmed; or

(viii) Provided that, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(ix) Provided that, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use a text message coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps

include: Sending a confirmatory text message to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier text message.

(3) *Safe harbor approval of parental consent methods.* A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent.* Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child except as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a website or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information

collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

(i) Protect the security or integrity of the website or online service;

(ii) Take precautions against liability;

(iii) Respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the website or online service. In such case, the operator shall provide notice under § 312.4(d)(3);

(8) Where an operator covered under paragraph (2) of the definition of *website or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4; or

(9) Where an operator collects an audio file containing a child's voice, and no other personal information, for use in responding to a child's specific request and where the operator does not use such information for any other purpose, does not disclose it, and deletes it immediately after responding to the child's request. In such case, there also shall be no obligation to provide a direct notice, but notice shall be required under § 312.4(d).

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a website or online service, the operator of that website or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

(a) The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(b) At a minimum, the operator must establish, implement, and maintain a written information security program

that contains safeguards that are appropriate to the sensitivity of the personal information collected from children and the operator's size, complexity, and nature and scope of activities. To satisfy this requirement, the operator must:

(1) Designate one or more employees to coordinate the operator's information security program;

(2) Identify and, at least annually, perform additional assessments to identify internal and external risks to the confidentiality, security, and integrity of personal information collected from children and the sufficiency of any safeguards in place to control such risks;

(3) Design, implement, and maintain safeguards to control risks identified through the risk assessments required under paragraph (b)(2) of this section. Each safeguard must be based on the volume and sensitivity of the children's personal information that is at risk, and the likelihood that the risk could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information;

(4) Regularly test and monitor the effectiveness of the safeguards in place to control risks identified through the risk assessments required under paragraph (b)(2) of this section; and

(5) At least annually, evaluate and modify the information security program to address identified risks, results of required testing and monitoring, new or more efficient technological or operational methods to control for identified risks, or any other circumstances that an operator knows or has reason to know may have a material impact on its information security program or any safeguards in place to protect personal information collected from children.

(c) Before allowing other operators, service providers, or third parties to collect or maintain personal information from children on the operator's behalf, or before releasing children's personal information to such entities, the operator must take reasonable steps to determine that such entities are capable of maintaining the confidentiality, security, and integrity of the information and must obtain written assurances that such entities will employ reasonable measures to maintain the confidentiality, security, and integrity of the information.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502(a) of this Act shall be treated as a violation of a

rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a website or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the specific purpose(s) for which the information was collected. When such information is no longer reasonably necessary for the purposes for which it was collected, the operator must delete the information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion. Personal information collected online from a child may not be retained indefinitely. At a minimum, the operator must establish, implement, and maintain a written data retention policy that sets forth the purposes for which children's personal information is collected, the business need for retaining such information, and a timeframe for deletion of such information. The operator must provide its written data retention policy addressing personal information collected from children in the notice on the website or online service provided in accordance with § 312.4(d).

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a

comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information privacy and security policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required under paragraphs (b)(2) and (b)(3) of this section provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By October 22, 2025, and annually thereafter, submit a report to the Commission that identifies each subject operator and all approved websites or online services, as well as any subject operators that have left the safe harbor program. The report must also contain, at a minimum:

(i) a narrative description of the safe harbor program's business model, including whether it provides additional services such as training to subject operators;

(ii) copies of each consumer complaint related to each subject operator's violation of a safe harbor program's guidelines;

(iii) an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section;

(iv) a description of each disciplinary action taken against any subject operator under paragraph (b)(3) of this section, as well as a description of the process for determining whether a subject operator is subject to discipline; and

(v) a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(3);

(2) Promptly respond to Commission requests for additional information;

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section; and

(4) No later than July 21, 2025, publicly post on each of the approved safe harbor program's websites and online services a list of all current subject operators and, for each such operator, list each certified website or online service. Approved safe harbor programs shall update this list every six months thereafter to reflect any changes to the approved safe harbor programs' subject operators or their applicable websites and online services.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Review of self-regulatory program guidelines.* No later than April 22, 2028, and every three years thereafter, approved safe harbor programs shall submit to the Commission a report detailing the safe harbor program's technological capabilities and

mechanisms for assessing subject operators' fitness for membership in the safe harbor program.

(g) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs shall, by October 22, 2025, submit proposed modifications to their guidelines.

(h) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the

operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3) of this section.

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

(b) *Support for the internal operations of the website or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for the internal operations of the website or

online service. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for the internal operations of the website or online service, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

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

By direction of the Commission.

April J. Tabor,
Secretary.

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Part III

The President

Proclamation 10918—Unleashing American Commercial Fishing in the Pacific

Proclamation 10919—250th Anniversary of the Battles of Lexington and Concord

Executive Order 14276—Restoring American Seafood Competitiveness

Presidential Documents

Title 3—

Proclamation 10918 of April 17, 2025

The President

Unleashing American Commercial Fishing in the Pacific

By the President of the United States of America

A Proclamation

The Pacific Remote Islands Marine National Monument (PRIMNM) was established by Proclamation 8336 of January 6, 2009 (Establishment of the Pacific Remote Islands Marine National Monument), and then further expanded by Proclamation 9173 of September 25, 2014 (Pacific Remote Islands Marine National Monument Expansion). Under these monument proclamations, over 400,000 square miles in the Pacific Ocean were appropriated and withdrawn from all forms of entry, location, selection, sale, leasing, or other disposition under the public land laws for care and management by the Federal Government.

The PRIMNM was established to protect and preserve the lands and marine environment around Wake, Baker, Howland, and Jarvis Islands; Johnston and Palmyra Atolls; Kingman Reef; and the historic and scientific objects therein. These objects include fish, birds, marine mammals, coral, and the general biodiversity of the ecosystems encompassed by the PRIMNM.

As part of the management of the PRIMNM, commercial fishing is currently prohibited within its boundaries. As explained herein, following further consideration of the nature of the objects identified in Proclamations 8336 and 9173 and the protection of those objects already provided by relevant law, I find that appropriately managed commercial fishing would not put the objects of scientific and historic interest that the PRIMNM protects at risk.

With respect to fish in particular, fisheries in the region are effectively managed by the National Marine Fisheries Service and the Western Pacific Regional Fishery Management Council. Management of the PRIMNM is doing little to guard fish populations against overfishing as tunas and other pelagic species found within the boundaries of the PRIMNM are migratory in nature, and do not permanently reside within the PRIMNM.

As a result of the prohibitions on commercial fishing, American fishing fleets have lost access to nearly half of the United States' Exclusive Economic Zone in the Pacific Islands. This has driven American fishermen to fish further offshore in international waters to compete against poorly regulated and highly subsidized foreign fleets. This disadvantages honest United States commercial fishermen and is detrimental for United States territories like American Samoa, whose private sector economy is over 80 percent dependent on the fishing industry.

Proclamations 8336 and 9173 do not list recreational fishing as a threat to local fish populations within the PRIMNM. A host of Federal protections exist under current laws and agency management designations to protect the area's natural resources, vulnerable marine species, and unique habitats, such as coral and seamount ecosystems.

These laws include the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the Endangered Species Act of 1973 (Endangered Species Act) (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703–712), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), the Refuge Recreation Act (16 U.S.C.

460k *et seq.*), the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*), the Oil Pollution Act of 1990 (Oil Pollution Act) (33 U.S.C. 2701 *et seq.*), and Title I of the Marine Protection, Research, and Sanctuaries Act (Ocean Dumping Act), 33 U.S.C. 1401 *et seq.* For example, the Endangered Species Act generally prohibits the taking of listed fish and wildlife species, and also generally ensures that Federal actions, including fisheries management, are not likely to jeopardize the continued existence of any such species nor adversely modify designated critical habitats. Numerous other statutes, including the Clean Water Act, the Oil Pollution Act, and the Ocean Dumping Act, address both land-based and ocean-based sources of pollution and help ensure that water quality conditions support the conservation values of the Pacific Remote Island ecosystems.

Therefore, I find that appropriately managed commercial fishing would not put objects of scientific and historic interest within the PRIMNM at risk.

After further consideration of the nature of the objects identified in Proclamations 8336 and 9173 and the protection of those objects already provided by the Magnuson-Stevens Fishery Conservation and Management Act and other relevant laws, I find that a prohibition on commercial fishing is not, at this time, necessary for the proper care and management of the PRIMNM or the objects of historic or scientific interest therein.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including section 320301 of title 54, United States Code (Antiquities Act), hereby proclaim that:

(a) All language under the section entitled “Management of the Marine National Monument” in Proclamation 9173 is deleted and replaced with the following:

“Nothing in this proclamation shall change the management of the Pacific Remote Islands Marine National Monument as specified in Proclamation 8336. The Secretary of the Interior, in consultation with the Secretary of Commerce, shall have primary responsibility for management of the Monument Expansion pursuant to applicable legal authorities. The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, and in consultation with the Secretary of the Interior, shall within the Monument Expansion have primary responsibility with respect to fishery-related activities regulated pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and any other applicable legal authorities. The Secretary of Commerce and the Secretary of the Interior shall not allow or permit any appropriation, injury, destruction, or removal of any object of the Monument Expansion except as provided for by this proclamation as modified by the Proclamation of April 17, 2025 (Unleashing American Commercial Fishing in the Pacific).

Between 50 to 200 nautical miles from the landward boundaries of the Monument, the Secretary of Commerce shall not prohibit commercial fishing within the boundaries of the Monument and the Monument Expansion in those areas where the Monument and Monument Expansion is coterminous with the Exclusive Economic Zone of the United States. The implementation of any regulation of commercial fishing within the Monument and the Monument Expansion shall be done in coordination with the Secretary of Defense. Only United States flagged vessels shall be allowed to commercially fish within the boundaries of the Monument and the Monument Expansion, except that permits may be issued to foreign flagged vessels to transship fish harvested by United States fishermen.

The Secretary of Commerce and the Secretary of the Interior shall take appropriate action pursuant to their respective authorities under the Antiquities Act; the Magnuson-Stevens Fishery Conservation and Management Act; and such other authorities as may be available to implement this proclamation, to regulate fisheries, and to ensure proper care and management of the Monument Expansion.

The United States shall continue to preserve the freedom of the seas (i.e., all of the rights, freedoms, and lawful uses of the sea recognized in international law and enjoyed by all nations, including the conduct of military activities, exercises, and surveys in or over the Exclusive Economic Zone of the United States), and to protect the training, readiness, and global mobility of the United States Armed Forces as United States national interests that are essential to the peace and prosperity of civilized nations.

The Secretary of Defense shall continue to manage Wake Island and Johnston Atoll as specified in Proclamation 8336.”.

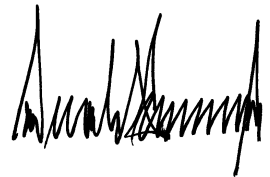
(b) The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall expeditiously publish new proposed rules in the *Federal Register* to amend or repeal all burdensome regulations that restrict commercial fishing in the PRIMNM.

Nothing in this proclamation shall be construed to revoke, modify, or affect any withdrawal, reservation, or appropriation, other than the one created by Proclamations 8336 and 9173.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamations 8336 and 9173, except as explicitly provided in this proclamation.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

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



Presidential Documents

Proclamation 10919 of April 17, 2025

250th Anniversary of the Battles of Lexington and Concord

By the President of the United States of America

A Proclamation

Two and a half centuries ago, a small band of minutemen answered the call of freedom in the legendary Battles of Lexington and Concord, an epic tale of American strength and the first major armed conflict of the Revolutionary War. We honor the memories, remember the sacrifices, and summon the courage of every hero of liberty who gallantly shed his blood for the cause of independence on April 19, 1775.

After years of intensifying frictions and escalating hostility between the British Crown and the American Colonies, all avenues to peace and diplomacy had been exhausted, and it became clear to the patriots that war was inevitable. Following the Boston Massacre, the oppressive Intolerable Acts, and the lasting grievance of taxation without representation, the colonists began organizing militias as a final recourse in defense of their right to self-government.

The British regime's reign of tyranny reached a breaking point when, in his fearless midnight ride from Boston, Massachusetts, Paul Revere announced the news that the Redcoats were marching to Concord, Massachusetts, to arrest Colonial leaders and seize American arms. By the time they reached Lexington at dawn, the British encountered 77 intrepid American minutemen, led by Captain John Parker, boldly standing their ground in defense of their independence. The surprised British fired a volley, mortally wounding eight American patriots—the very first American soldiers to lay down their lives for our emerging Nation.

The British ambush at Lexington became known as the “shot heard 'round the world,” prompting thousands of brave young men to leave behind their homes and livelihoods to fight for our freedom on the frontlines of the American Revolution—commencing the greatest fight for liberty in the history of the world.

Later that morning, the Redcoats arrived at Concord to find and set fire to patriot military supplies. At the sight of rising smoke from atop a lofty hill, the colonists believed the Redcoats were burning the town, provoking them to advance to the North Bridge. As Captain Isaac Davis, whose company stood at the front of the column, said of his soldiers gearing up to take on the Redcoats, “I haven't a man who is afraid to go.”

As 400 daring militiamen descended down Punkatasset Hill toward the North Bridge, the startled British opened fire, killing 49 Americans, including Captain Davis. “Fire, fellow soldiers, for God's sake, fire!” shouted Major John Buttrick of the Concord militia at the sound of the discharging muskets—sending the British running back to Boston in retreat in a resounding victory for Colonial forces. For the next 12 miles, the patriots relentlessly pursued the Redcoats, ambushing them from behind trees, walls, and other cover. As one British soldier is said to have recalled, the Americans “fought like bears, and I would as soon storm hell as fight them again.”

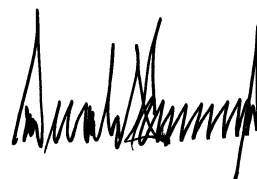
April 19, 1775, stands to this day as a seminal milestone in our Nation's righteous crusade for liberty and independence. On this day 250 years ago, with the fire of freedom blazing in their souls, an extraordinary army

of American minutemen defeated one of the mightiest armies on the face of the earth and laid the foundation for America's ultimate triumph over tyranny.

Two and a half centuries later, their fortitude remains our inheritance, their resolve remains our birthright, and their unwavering loyalty to God and country remains the duty of every American patriot. As we approach the 250th anniversary of our Nation's independence next year, we honor the valiant men who fought in defense of their sacred right to self-government, we renew our pledge to restore our republic to all of its greatness and glory, and we commit to rebuilding a country and a culture that inspires pride in our past and faith in our future.

NOW, THEREFORE, I, DONALD J. TRUMP, 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 April 19, 2025, as a day in commemoration of the 250th anniversary of the Battles of Lexington and Concord and the beginning of the American Revolutionary War.

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



Presidential Documents

Executive Order 14276 of April 17, 2025

Restoring American Seafood Competitiveness

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Background.* The United States controls one of the largest and most abundant ocean resources in the world, with over 4 million square miles of prime fishing grounds. With this vast resource and centuries of hard work from American fishermen, our Nation has the greatest seafood in the world.

Most American fish stocks are healthy and have viable markets. Despite these opportunities, seafood is one of the most heavily regulated sectors in the United States. Federal overregulation has restricted fishermen from productively harvesting American seafood including through restrictive catch limits, selling our fishing grounds to foreign offshore wind companies, inaccurate and outdated fisheries data, and delayed adoption of modern technology.

The United States should be the world's dominant seafood leader. But in addition to overregulation, unfair trade practices have put our seafood markets at a competitive disadvantage. Nearly 90 percent of seafood on our shelves is now imported, and the seafood trade deficit stands at over \$20 billion. The erosion of American seafood competitiveness at the hands of unfair foreign trade practices must end.

Sec. 2. *Purpose.* The United States must address unfair trade practices, eliminate unsafe imports, level the unfair playing field that has benefited foreign fishing companies, promote ethical sourcing, reduce regulatory burdens, and ensure the integrity of the seafood supply chain. Previously, I signed Executive Order 13921 of May 7, 2020 (Promoting American Seafood Competitiveness and Economic Growth). That successful order—which remains in effect—enhanced the competitiveness of United States seafood, streamlined regulations, supported maritime jobs and coastal economies, and improved data collection. During the past 4 years, our fishermen were once again crushed under the pressure of unnecessary regulations and unfavorable policies. It is vital that we now build upon our previous hard work with new, additional measures to promote domestic fishing.

Sec. 3. *Policy.* It is the policy of the United States to promote the productive harvest of our seafood resources; unburden our commercial fishermen from costly and inefficient regulation; combat illegal, unreported, and unregulated (IUU) fishing; and protect our seafood markets from the unfair trade practices of foreign nations.

Sec. 4. *A New Era of Seafood Policy.* (a) The Secretary of Commerce, in consultation with the Secretary of Health and Human Services and with input from the United States fishing industry, shall immediately consider suspending, revising, or rescinding regulations that overly burden America's commercial fishing, aquaculture, and fish processing industries at the fishery-specific level. Within 30 days of the date of this order, the Secretary of Commerce shall identify the most heavily overregulated fisheries requiring action and take appropriate action to reduce the regulatory burden on them, in cooperation with the Regional Fishery Management Councils, interagency partners, and through public-private partnerships, as appropriate. This process shall include the following actions:

- (i) The Secretary of Commerce shall request that each Regional Fishery Management Council, within 180 days of the date of this order, provide the Secretary of Commerce with updates to their recommendations submitted pursuant to Executive Order 13921, to reduce burdens on domestic fishing and to increase production. Building upon the earlier goals, identified actions should stabilize markets, improve access, enhance economic profitability, and prevent closures. The Regional Fishery Management Councils will commit to a work plan and a schedule for implementation to ensure these actions are prioritized.
- (ii) The Secretary of Commerce shall solicit direct public comments, including from fishing industry members, technology experts, marine scientists, and other relevant parties, for innovative ideas to improve fisheries management and science within the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*); and other applicable laws.
- (iii) The Secretary of Commerce shall pursue additional direct public engagement to ensure executive departments and agencies (agencies) are focusing core fisheries management and science functions to directly support priority needs that strengthen our Nation's seafood supply chain.
- (b) Upon completion of the process described in subsection (a) of this section, the Secretary of Commerce shall consider updating the Department of Commerce's contribution to the Unified Regulatory Agenda. The Secretary of Commerce shall resume submission of annual reports to the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality pursuant to these activities as described in Executive Order 13921.
- (c) The Secretary of Commerce shall direct the National Marine Fisheries Service to incorporate less expensive and more reliable technologies and cooperative research programs into fishery assessments conducted pursuant to 16 U.S.C. 1867. As soon as practicable, the Secretary of Commerce shall expand exempted fishing permit programs to promote fishing opportunities nationwide. Further, the Secretary of Commerce shall take all appropriate action to modernize data collection and analytical practices that will improve the responsiveness of fisheries management to real-time ocean conditions.
- (d) The Secretary of Commerce, in consultation with the Secretary of Agriculture, shall develop and implement an America First Seafood Strategy to promote production, marketing, sale, and export of United States fishery and aquaculture products and strengthen domestic processing capacity. This program shall accelerate the Department of Agriculture's efforts to educate American consumers about the health benefits of seafood and increase seafood purchases in nutrition programs.
- (e) Within 60 days of the date of this order, the Secretary of Commerce and the United States Trade Representative, in consultation with members of the Interagency Seafood Trade Task Force, shall assess seafood competitiveness issues and jointly develop a comprehensive seafood trade strategy. The strategy shall be based upon the Seafood Trade Strategy of November 3, 2020, that improves access to foreign markets and addresses unfair trade practices—including IUU fishing and unjustified non-tariff barriers—while ensuring a fair and competitive domestic market for United States seafood producers.
- (f) The United States Trade Representative shall examine the relevant trade practices of major seafood-producing nations, including with regard to IUU fishing and the use of forced labor in the seafood supply chain, and consider appropriate responses, including pursuing solutions through negotiations or trade enforcement authorities, such as under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

(g) The Secretary of Commerce, in consultation with the Secretary of Health and Human Services, the Secretary of Homeland Security, and other relevant agencies, shall immediately consider revising or rescinding recent expansions of the Seafood Import Monitoring Program to unnecessary species and further improve the program to more effectively target high-risk shipments from nations that routinely violate international fishery regulations. The Secretary of Commerce, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall use cost savings to improve thorough checks at United States ports to prevent IUU seafood from entering the market. The Secretary of Commerce shall further consider options to use improved technology to identify foreign fishery-related violations.

(h) Within 180 days of the date of this order, the Secretary of Commerce, in consultation with the Secretary of the Interior, shall review all existing marine national monuments and provide recommendations to the President of any that should be opened to commercial fishing. In making these recommendations, the Secretary of Commerce will consider whether the opening of the monuments to commercial fishing would be consistent with the preservation of the historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest originally identified in the proclamations establishing the marine national monuments.

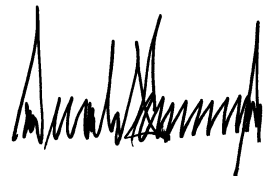
Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
April 17, 2025.

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