FEDERAL REGISTER

Vol. 87 Monday

No. 180 September 19, 2022

Pages 57137–57366

OFFICE OF THE FEDERAL REGISTER

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Presidential Documents

Title 3—

The President

Proclamation 10446 of September 14, 2022

National Hispanic Heritage Month, 2022

By the President of the United States of America

A Proclamation

Hispanic heritage holds an indelible place in the heart and soul of our Nation, and National Hispanic Heritage Month reminds us that the American identity is a fabric of diverse traditions and stories woven together. Since the beginning, our country has drawn strength and insights from Hispanic writers, scientists, soldiers, doctors, entrepreneurs, academics, and leaders in labor and government. Our culture has been enriched by the rhythms, art, literature, and creativity of Hispanic peoples. And our deepest values have been informed by the love of family and faith that is at the core of so many Hispanic communities. All of these contributions help us realize the promise of America for all Americans.

During National Hispanic Heritage Month, we reaffirm that diversity is one of our country's greatest strengths. We also acknowledge the Hispanic leaders who have stayed in the struggle for equal justice to ensure that everyone in this Nation can contribute their talents and have the opportunity to thrive.

My Administration is committed to the success of Hispanic communities. Since coming to office, we have provided billions of dollars in loans, including to Hispanic-owned small businesses, and are working to increase the share of Government contracts going to underserved businesses by 50 percent. We have helped students, including Hispanic students, earn postsecondary degrees by providing over $10 billion to community colleges and approximately $11 billion to Hispanic-Serving Institutions. My Administration has sent billions of dollars in emergency financial aid grants directly to students and has increased the maximum Pell Grant by the largest amount in over a decade. Additionally, my Administration is providing up to $20,000 in debt relief as part of a comprehensive effort to address the burden of growing college costs. This action will have a significant impact on Hispanic borrowers, given that among Hispanic undergraduate borrowers, 65 percent receive Pell Grants. We have also strengthened rental assistance for families facing eviction and bolstered community health centers that predominately serve Hispanic patients and other patients of color. Our American Rescue Plan expanded the Child Tax Credit for 2021, providing critical relief to millions of working families and helping drive a historic reduction in Hispanic child poverty.

As we look ahead, we will continue to build a fair, humane, and orderly immigration system and fight to protect the rights of Deferred Action for Childhood Arrivals (DACA) recipients and others who call this country home. That means continuing to support a pathway to citizenship for those with temporary protected status as well as farm workers and other essential workers. It means keeping alive the torch of liberty that has led generations of immigrants to this land seeking new opportunities and a better future. We will also work to strengthen our partnerships with allies across Latin America.

Additionally, we are committed to reflecting the full talents of our Nation through our own Administration. I am proud to have appointed Secretary

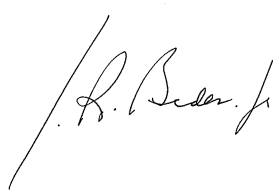
of Health and Human Services Xavier Becerra, Secretary of Homeland Security Alejandro Mayorkas, Secretary of Education Miguel Cardona, and Small Business Administrator Isabel Guzman, as well as Hispanic staff at every level of the Federal Government.

This month, we carry on the important work of honoring Hispanic heritage. Let us give thanks to the many generations of Hispanic leaders who have helped build this country and continue to fight for equality and justice. Let us pledge to invest in the next generation of Hispanic men and women who hold the destiny of our Nation in their hands.

In recognition of the achievements of the Hispanic community, the Congress, by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15 through October 15, 2022, as National Hispanic Heritage Month. I call upon all Americans to observe this month with appropriate ceremonies, activities, and programs that celebrate Hispanic heritage and recognize the impact Hispanic peoples have had on our Nation.

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



[FR Doc. 2022–20325
Filed 9–16–22; 8:45 am]
Billing code 3395–F2–P

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1156; Project Identifier MCAI–2021–01024–T; Amendment 39–22175; AD 2022–19–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A310 series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness tasks are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness tasks, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 4, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 4, 2022.

The FAA must receive comments on this AD by November 3, 2022.

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

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

AD Docket

You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1156; 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 street address for Docket Operations is listed above.

Material Incorporated by Reference

- For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1156; Project Identifier MCAI–2021–01024–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this final rule, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this final rule. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0205, dated September 14, 2021 (EASA AD 2021–0205) (referred to after this as the MCAI), to correct an unsafe condition on all Airbus SAS Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. The MCAI states that new or more restrictive airworthiness limitation tasks related to nose and center fuselage and engine mount maintenance are necessary. The MCAI also states that not accomplishing the tasks could result in fatigue cracking, damage, or corrosion in principal structural elements.

EASA AD 2021–0205 specifies that it requires tasks (limitations) already in Airbus A310 Airworthiness Limitations

Section (ALS), Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated December 14, 2018, that is required by EASA AD 2019–0091 (which corresponds to FAA AD 2019–20–06, Amendment 39–19759 (84 FR 55859, October 18, 2019) (AD 2019–20–06)), and that incorporation of EASA AD 2021–0205 invalidates (terminates) prior instructions for those tasks. This AD therefore terminates the limitations for the corresponding tasks, as required by paragraph (g) of AD 2019–20–06.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2022–1156.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2021–0205. This service information specifies new or more restrictive airworthiness tasks for airplane structures (nose and center fuselage, and engine mount). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness tasks, which are specified in EASA AD 2021–0205 described previously, as incorporated by reference. Any differences with EASA AD 2021–0205 are identified as exceptions in the regulatory text of this AD.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (k)(1) of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021–0205 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2021–0205 through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0205 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0205. Service information required by EASA AD 2021–0205 for compliance will be available at regulations.gov by searching for and locating Docket No. FAA–2022–1156 after this final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. For any affected airplane that may be imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has

determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–19–06 Airbus SAS: Amendment 39–22175; Docket No. FAA–2022–1156; Project Identifier MCAI–2021–01024–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 4, 2022.

(b) Affected ADs

This AD affects AD 2019–20–06, Amendment 39–19759 (84 FR 55859, October 18, 2019) (AD 2019–20–06).

(c) Applicability

This AD applies to all Airbus SAS Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness tasks are necessary. The FAA is issuing this AD to address fatigue cracking, damage, or corrosion in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the fuselage.

(f) Compliance

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

(g) Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0205, dated September 14, 2021 (EASA AD 2021–0205).

(h) Exceptions to EASA AD 2021–0205

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2021–0205 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2021–0205 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2021–0205 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2021–0205, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraph (4) of EASA AD 2021–0205 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2021–0205 does not apply to this AD.

(i) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0205.

(j) Terminating Action for AD 2019–20–06

Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2019–20–06, for the tasks identified in the service information referenced in EASA AD 2021–0205 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0205, dated September 14, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0205, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational

Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on September 2, 2022.

Christina Underwood,

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

[FR Doc. 2022–20146 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 22–23]

RIN 1515–AE75

Extension and Amendment of Import Restrictions on Archaeological and Ethnological Materials From Mali

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension and amendment of import restrictions on certain categories of archaeological and ethnological material from the Republic of Mali (Mali) to fulfill the terms of the new agreement, titled ''Agreement Between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Mali.'' The Designated List, which was last described in CBP Dec. 17–12, is amended in this document to reflect additional categories of archaeological material found throughout the entirety of Mali and additional categories of ethnological material associated with religious activities, ceremonies, or rites, and enforcement of import restrictions is being extended for an additional five years by this final rule.

DATES: Effective on September 15, 2022.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *otrrculturalproperty@cbp.dhs.gov.* For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945–7064, *1USGBranch@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.,* which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Republic of Mali (Mali) on September 19, 1997, concerning the imposition of import restrictions on archaeological material from Mali (the 1997 Agreement).[1] The 1997 Agreement included among the materials covered by the restrictions, archaeological material from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali, then subject to the emergency restrictions imposed by the former U.S. Customs Service (U.S. Customs and Border Protection's (CBP) predecessor) in Treasury Decision (T.D.) 93–74 (58 FR 49428 (September 23, 1993)). These emergency import restrictions were imposed pursuant to 19 U.S.C. 2603(c) and 19 CFR 12.104g(b) and effective for a period of five years.

On September 23, 1997, the former U.S. Customs Service published T.D. 97–80 in the **Federal Register** (62 FR 49594), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which an agreement enters into force with respect to the United States. This period may be extended for additional periods of no more than five years if it is determined that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. *See* 19 CFR 12.104g(a).

Since the initial final rule was published on September 23, 1997, the import restrictions were subsequently extended and/or amended four (4) times. First, on September 20, 2002, the former U.S. Customs Service published T.D. 02–55 in the **Federal Register** (67 FR 59159) to extend the import restrictions for an additional five-year period.

Second, on September 19, 2007, CBP published CBP Decision (Dec.) 07–77 in the **Federal Register** (72 FR 53414), to extend the import restrictions for an additional five-year period and to impose import restrictions on new subcategories of objects throughout Mali from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth century.

Third, on September 19, 2012, CBP published CBP Dec. 12–14 in the **Federal Register** (77 FR 58020), to extend the import restrictions for an additional five-year period.

Fourth and lastly, on September 19, 2017, CBP published CBP Dec. 17–12 in the **Federal Register** (82 FR 43692), to extend the import restrictions for an additional five-year period and to impose import restrictions on certain categories of ethnological material, specifically, manuscripts dating between the twelfth and twentieth centuries, in paper.

On January 6, 2022, the United States Department of State proposed in the **Federal Register** (87 FR 791) to extend and amend the agreement between the United States and Mali concerning the import restrictions on certain categories of archaeological and ethnological material from Mali. On April 27, 2022, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that: (1) the cultural heritage of Mali continues to be in jeopardy from pillage of certain archaeological and ethnological material currently covered and that the import restrictions should be extended for an additional five years; and (2) the cultural heritage of Mali is in jeopardy from pillage of additional categories of archaeological material found throughout the entirety of Mali and additional categories of ethnological material associated with religious activities, ceremonies, or rites, and that import restrictions should be imposed on such additional categories. Pursuant to the new agreement, the existing import restrictions will remain in effect for an additional five years through September 13, 2027, along with the imposition of additional import

[1] The 1997 Agreement was entered into following the emergency imposition of import restrictions on archaeological objects from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali. The emergency restrictions were imposed by the former U.S. Customs Service in Treasury Decision (T.D.) 93–74 and were published in the **Federal Register** (58 FR 49428) on September 23, 1993. The 1997 Agreement replaced the emergency restrictions.

restrictions on new categories of archaeological and ethnological material mentioned above and added to the Designated List, which will also be effective for a five-year period through September 13, 2027.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions and amending the Designated List of cultural property described in CBP Dec. 17–12 with the addition of categories of archaeological material including, but not limited to, objects of ceramic, leather, metal, stone, glass, textiles, and wood, and certain additional categories of ethnological material associated with religious activities, ceremonies, or rites of traditional African or Islamic cultures or religions; architectural elements; and funerary objects; all at least 100 years old. The restrictions on the importation of archaeological material and ethnological material continue to be in effect through September 13, 2027. Importation of such materials from Mali continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: *https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions* by selecting ''Mali'' from the list.

Designated List of Archaeological and Ethnological Material From Mali

This Designated List, amended as set forth in this document, includes archaeological material that originates in Mali, ranging in date from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth-century A.D. The Designated List is amended to include additional categories of archaeological material found throughout the entirety of Mali. These categories include, but are not limited to, objects of ceramic, leather, metal, stone, glass, textiles, and wood. The Designated List also includes certain categories of ethnological material, namely, manuscripts dating between the twelfth and twentieth centuries A.D., in paper, and is amended to include new categories of ethnological material associated with religious activities, ceremonies, or rites of traditional African or Islamic cultures or religions; architectural elements; and funerary objects; all at least 100 years old.

The list set forth below is representative only. Any dimensions are approximate.

Archaeological Material

Includes objects dating from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth-century A.D.

I. Ceramics/Terracotta/Fired Clay

The best-known types and sites include, but are not limited to, Djenne´-Djeno or Jenne, Bankoni, Essouk-Tadmekka, Guimbala, Banamba, Bougouni, Bura, Gao, Kidal, Talohos, and Teghaza.

A. Figures/Statues

1. Anthropomorphic figures, often incised, impressed and with added motifs, such as scarification marks and serpentine patterns on their bodies, often depicting horsemen or individuals sitting, squatting, kneeling, embracing, or in a position of repose, arms elongated the length of the body or crossed over the chest, with the head tipped backwards. Includes terracotta masks. (H: 5 to 50 cm.)

2. Zoomorphic figures, often depicting a snake motif on statuettes or on the belly of globular vases. Sometimes the serpent is coiled in an independent form. A horse motif is common but is usually mounted. Includes quadrupeds. (H: 5 to 40 cm.)

B. Common Vessels

1. Funerary jars, ochre in color, often stamped with chevrons. (H: 50 to 82 cm.)

2. Globular vases often stamped with chevrons and serpentine forms. (H: under 10 cm.)

3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head.

4. Ritual pottery of the Tellem culture, decorated with a characteristic plaited roulette.

a. Pots made on a convex mold built up by coiling.

b. Hemispherical pots made on three or four legs or feet resting on a stand.

5. Kitchen pottery of the Tellem culture with the paddle-and-anvil technique decorated with impressions from woven mats.

6. Vessels and containers often decorated with stamps, combs, incised linear decorations, and/or geometric forms. May have some surface treatment such as slip or a burnished finish.

7. Jars often with long, funnel-shaped neck and a flared rim. May be decorated with wide parallel incisions, grooves, or fluting. Jars often have surface treatment that is a combination of red slip with white or black paint. Typically associated with the Gao Saneye region.

8. Glazed ceramic vessels, containers, and lamps often decorated with bright colors such as red, green, turquoise, yellow, and/or black. Types have been recovered at Essouk-Tadmeka.

9. Terracotta crucibles, which may have vitrified residues in a blueish color used in craft production for melting copper.

10. Bed supports or frames that may be decorated with stamps, combs, incised linear decorations, and/or geometric forms. May have some surface treatment such as slip or a burnished finish.

11. Bottle stoppers made in terracotta. May be decorated with a zoomorphic figure such as a ram or rooster head. (H: approximately 20 cm.)

C. Jewelry

Terracotta beads in different shapes such as tapered, oval, cylindrical, segmented, elongated, and others. (H: typically, between 2 cm. to 8 cm.)

II. Leather

Objects of leather found in Tellem funerary caves of the Bandiagara Escarpment or other archaeological sites across Mali include, but are not limited to:

A. Sandals often decorated and furnished with a leather ankle protection.

B. Boots profusely painted with geometric designs.

C. Plaited bracelets.

D. Knife-sheaths.

E. Loinskins.

F. Bags.

III. Metal

Objects of copper, bronze, iron, and gold from Mali include, but are not limited to:

A. Copper and Copper Alloy (Such as Bronze)

1. Figures/Statues.

a. Anthropomorphic figures, including equestrian figures and kneeling figures. (Some are miniatures no taller than 5 centimeters; others range from 15 to 76 cm.)

b. Zoomorphic figures, such as the bull and the snake.

2. Bells (H: 10 to 12 cm.) and finger bells (H: 5 to 8 cm.).

3. Jewelry and items of personal adornment that include, but are not limited to, bracelets, pendants, finger rings, amulets, amulet holders, belts, brooches, buckles, buttons, charms, hair ornaments, hairpins, necklaces, ornaments, pectoral ornaments, rosettes, staffs, and others. Well-known motifs include bull's heads, snakes, and antelopes.

B. Iron

1. Figures/Statues.
a. Anthropomorphic figures. (H: 12 to 76 cm.)
b. Zoomorphic figures, sometimes representing a serpent or a quadruped animal. (H: 12 to 76 cm.)
2. Headrests of the Tellem culture.
3. Ring-bells or finger-bells of the Tellem culture.
4. Bracelets and armlets of the Tellem culture.
5. Hairpins, twisted and voluted, of the Tellem culture.
6. Tools and weapons that include knives, swords, hooks, harpoons, weights, axes, scrapers, trowels, and other tools.

C. Gold

Jewelry and items of personal adornment including, but not limited to, amulets, amulet holders, bracelets, belts, brooches, buckles, buttons, charms, hair ornaments, hairpins, necklaces, ornaments, pectoral ornaments, pendants, rings, rosettes, staffs, and others.

IV. Stone

Objects of stone from Mali include, but are not limited to:
A. Beads in carnelian (faceted) and other types of stone.
B. Quartz lip plugs.
C. Funerary stelae (headstones) inscribed in Arabic.
D. Chipped stone lithics from the Paleolithic and later eras including axes, knives, scrapers, arrowheads, and cores.
E. Ground stone from the Neolithic and later eras including axes, adzes, pestles, grinders, and bracelets.
F. Small carved statuary and figurines.
G. Rock art that is incised, engraved, pecked, and/or that displays painted drawings on natural rock surfaces. May have inscriptions in Arabic.
H. Megaliths, monoliths, or funerary stelae that may be carved, ground, and/or pecked into a bell shape. May have incised geometric decorations. Often in shaped sandstone or laterite. Heights vary, but typically range from 45 centimeters to 150 centimeters.

V. Glass

A. Beads

A variety of glass beads have been recovered at archaeological sites in Mali. Glass beads typically come in cylindrical, oval, segmented, elongated or stretched pearl shapes. Beads are made with single (blue, red, white, green, black) or multiple colors. Beads may be brightly colored hues of blue, green, red, turquoise, yellow, and/or white. Beads typically range from 5 mm. to 3 cm.

B. Vessels

Vessel types may be conventional shapes and include small jars, bowls, goblets, spouted vessels, candle holders, perfume jars, and lamps. Ancient examples may be engraved and/or colorless or blue, green, yellow, or orange, while those from the Islamic period may include animal, floral, and/or geometric motifs.

VI. Textiles

Textile objects, or fragments thereof, have been recovered in the Tellem funerary caves of the Bandiagara Escarpment and other archaeological sites across Mali and include, but are not limited to:

A. Cotton

1. Tunics.
2. Coifs.
3. Blankets.

B. Vegetable Fiber (e.g., Skirts, Aprons, and Belts Made of Twisted and Intricately Plaited Vegetable Fiber)

C. Wool (e.g., Blankets)

VII. Wood

Objects of wood may be found archaeologically (in funerary caves of the Tellem or Dogon peoples in the Bandiagara Escarpment, for example) and the following are representative examples of wood objects usually found:

A. Figures/Statues

1. Anthropomorphic figures—usually with abstract body and arms raised standing on a platform, sometimes kneeling. (H: 25 to 61 cm.)
2. Zoomorphic figures—depicting horses and other animals. (H: 25 to 61 cm.)

B. Headrests

C. Household Utensils

1. Bowls.
2. Spoons—carved and decorated.

D. Agricultural/Hunting Implements

1. Hoes and axes—with either a socketed or tanged shafting without iron blades.
2. Bows—with a notch and a hole at one end and a hole at the other with twisted, untanned leather straps for the ''string''.
3. Arrows, quivers.
4. Knife sheaths.

E. Musical Instruments

1. Flutes with end blown, bi-toned.
2. Harps.
3. Drums.

Ethnological Material

I. Manuscripts

Manuscripts and portions thereof from the Mali Empire, Songhai Empire, pre-Colonial, and French Colonial periods of Mali (twelfth to early twentieth centuries A.D.), including but not limited to Qur'ans and other religious texts, letters, treatises, doctrines, essays or other such papers spanning the subjects of astronomy, law, Islam, philosophy, mathematics, governance, medicine, slavery, commerce, poetry, and literature, either as single leaves or bound as a book (or ''codex''), and written in Arabic using the Kufic, Hijazi, Maghribi, Saharan, Sudani, Suqi, Nashk, or Ajami scripts written on paper.

II. Funerary Markers

Includes tombstones and burial markers incised with Arabic writing and script. Shapes vary but include square or baguette-shapes. Primarily in laterite, marble, or quartz. Approximate dimensions 20 centimeters to 120 centimeters high. Approximate dates: A.D. 1100–1920.

III. Wooden Objects

A. Ancestor Figurines

Includes carved wooden figurines often carved in high relief with elongated forms and limbs. Forms may be abstract and stylized. Typically associated with the Bamana, Dogon, Minianka, Senufo, or Soninke. Approximate dates: A.D. 1200–1920.

B. Architectural Materials

Includes locks, shutters, and panels carved from wood in civic and community buildings, found primarily in the Dogon culture area.

C. Ritual Vessels

Includes wooden carved arks and containers, often known as *Aduno Koro* used for ceremonies and religious activities, primarily found in the Dogon culture area. May have carvings of humans, horses, lizards, and/or other designs.

IV. Masks and Headdresses

Includes types typically made from brass/bronze, coconut shell, iron, ivory, leather, raffia, wood, plant fibers, quills, animal horns, or a combination of materials. They can be carved and adorned with decorative and symbolic designs. Beads, bells, and/or shells can be attached. They can be sculpted and decorated to represent human, animal, and composite forms (for example, a

horse and its rider). Masks may be encrusted with layers of clay, kaolin, ochre, soil, and/or sediment. Masks and headdresses were typically created in three forms: (1) helmet-style; (2) facemasks; and (3) headcrests (worn on the top of the head). Masks and headdresses included are typically associated with religious activities and/or ceremonies, including the various secret societies of the Mande (*e.g.,* Komo, Dojos, or the brotherhood of hunters) and communities of Mali, including, theBamana, Bobo, Bozo, Dogon, Malinké, Minianka, or Senufo. Approximate dates ofA.D. 1200–1920.

V. Textiles

Includes beaded and adorned garments such as diviner's bags, hunting shirts with protective amulets typically crafted out of cotton and leather. Textiles are typically associated with religious activities and/or ceremonies, including the various secret societies of the Mande (*e.g.,* Komo, Dojos, or the brotherhood of hunters) and communities of Mali, including theBamana, Bobo, Bozo, Dogon, Malinké, Minianka, Peuhl or Fulani, or Senufo. Approximate dates ofA.D. 1200–1920.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Mali to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
*	* * * * * *	*
Mali	Archaeological material from Mali from the Paleolithic Era (Stone Age) to approximately the mid-eighteenth century, and ethnological materials dating between the twelfth and twentieth centuries.	CBP Dec. 22–23.
*	* * * * * *	*

* * * * *

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade U.S. Customs and Border Protection.

Approved:

Thomas C. West, Jr.,

Deputy Assistant Secretary of the Treasury for Tax Policy.

[FR Doc. 2022–20314 Filed 9–15–22; 4:15 pm]

BILLING CODE 9111–14–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 269

[Docket ID: DOD–2016–OS–0045]

RIN 0790–AL50

Civil Monetary Penalty Inflation Adjustment

AGENCY: Office of the Under Secretary of Defense (Comptroller), Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is issuing this final rule to adjust each of its statutory civil monetary penalties (CMP) to account for inflation. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), requires the head of each agency to adjust for inflation its CMP levels in effect as of November 2, 2015, under a revised methodology that was effective for 2016 and for each year thereafter.

DATES: This rule is effective September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Dzenana Dzanic, 703–571–1652.

SUPPLEMENTARY INFORMATION:

Background Information

The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, codified at 28 U.S.C. 2461,

note, as amended, requires agencies to annually adjust the level of CMPs for inflation to improve their effectiveness and maintain their deterrent effect. Section 2461 requires that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency must adjust each CMP within its jurisdiction by the inflation adjustment set forth therein. The inflation adjustment is determined by increasing the maximum CMP or the range of minimum and maximum CMPs, as applicable, for each CMP by the cost-of-living adjustment, rounded to the nearest multiple of $1. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (CPI) for the month of October preceding the date of the adjustment, exceeds the CPI for the month of October in the previous calendar year.

The initial catch up adjustments for inflation to the Department of Defense's CMPs were published as an interim final rule in the **Federal Register** on May 26, 2016 (81 FR 33389–33391) and became effective on that date. The interim final rule was published as a final rule without change on September 12, 2016 (81 FR 62629–62631), effective that date. The revised methodology for agencies for 2017 and each year thereafter provides for the improvement of the effectiveness of CMPs and to maintain their deterrent effect. The Department of Defense is adjusting the level of all civil monetary penalties under its jurisdiction by the Office of Management and Budget (OMB) directed cost-of-living adjustment multiplier for 2022 of 1.06222 prescribed in OMB Memorandum M–22–07, ''Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.'' The Department of Defense's 2022 adjustments for inflation to CMPs apply only to those CMPs, including those whose associated violation predated such adjustment, which are assessed by the Department of Defense after the effective date of the new CMP level.

Statement of Authority and Costs and Benefits

Pursuant to 5 U.S.C. 553(b)B, there is good cause to issue this rule without prior public notice or opportunity for public comment because it would be impracticable and unnecessary. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 2461) requires agencies, effective 2017, to make annual adjustments for inflation to CMPs notwithstanding section 553 of title 5, United States Code. Additionally, the methodology used, effective 2017, for adjusting CMPs for inflation is established in statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department of Defense is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity to comment are not required for this rule. For the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

Further, there are no significant costs associated with the regulatory revisions that would impose any mandates on the Department of Defense, Federal, State or local governments, or the private sector. Accordingly, prior public notice and an opportunity for public comment are not required for this rule. The benefit of this rule is the Department of Defense anticipates that civil monetary penalty collections may increase in the future due to new penalty authorities and other changes in this rule. However, it is difficult to accurately predict the extent of any increase, if any, due to a variety of factors, such as budget and staff resources, the number and quality of civil penalty referrals or leads, and the length of time needed to investigate and resolve a case.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

These Executive Orders direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). These Executive Orders also emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated ''not significant'', under section 3(f) of Executive Order 12866. Accordingly, this rule has not been reviewed by the OMB under these requirements.

Congressional Review Act, 5 U.S.C. 804(2)

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* 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. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the rule is published in the **Federal Register**, whichever is later. This rule is not a major rule, as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act (2 U.S.C. Chapter 25)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule the mandates of which require spending in any year of $100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

The Under Secretary of Defense (Comptroller) certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

The Paperwork Reduction Act was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local and tribal governments; and other persons resulting from the collection of information by or for the federal government. The Act requires agencies obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons. This rule does not impose reporting or recordkeeping requirements on the public.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments''

It has been determined that this rule will not have a substantial effect on Indian tribal governments. This rule does not impose substantial direct compliance costs on one or more Indian tribes, preempt tribal law, or effect the distribution of power and responsibilities between the federal government and Indian tribes.

List of Subjects in 32 CFR Part 269

Administrative practice and procedure, Penalties.

Accordingly, 32 CFR part 269 is amended as follows.

PART 269—[AMENDED]

■ 1. The authority citation for part 269 continues to read as follows:

Authority: 28 U.S.C. 2461 note.

■ 2. In § 269.4, revise paragraph (d) to read as follows:

§ 269.4 Cost of living adjustments of civil monetary penalties.

* * * * *

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Department are adjusted for inflation as follows:

TABLE 1 TO PARAGRAPH (d)

United States Code	Civil monetary penalty description	Maximum penalty amount as of 2021	New adjusted maximum penalty amount
National Defense Authorization Act for FY 2005, 10 U.S.C. 113, note.	Unauthorized Activities Directed at or Possession of Sunken Military Craft.	136,400	144,887.01
10 U.S.C. 1094(c)(1)	Unlawful Provision of Health Care	11,977	12,722.32
10 U.S.C. 1102(k)	Wrongful Disclosure—Medical Records:		
	First Offense	7,082	7,522.71
	Subsequent Offense	47,214	50,152.10
10 U.S.C. 2674(c)(2)	Violation of the Pentagon Reservation Operation and Parking of Motor Vehicles Rules and Regulations.	1,951	2,072.63
31 U.S.C. 3802(a)(1)	Violation Involving False Claim	11,803	12,537.48
31 U.S.C. 3802(a)(2)	Violation Involving False Statement	11,803	12,537.48
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(1)	False claims	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(1)	Claims submitted with a false certification of physician license.	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(2)	Claims presented by excluded party	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(2); (b)(2)(ii).	Employing or contracting with an excluded individual	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(1)	Pattern of claims for medically unnecessary services/ supplies.	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(2)	Ordering or prescribing while excluded	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(5)	Known retention of an overpayment	21,112.64	22,426.26
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(4)	Making or using a false record or statement that is material to a false or fraudulent claim.	105,563.18	112,131.32
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(6)	Failure to grant timely access to OIG for audits, investigations, evaluations, or other statutory functions of OIG.	31,669.97	33,640.47
42 U.S.C. 1320a–7a(a); 32 CFR 200.210(a)(3)	Making false statements, omissions, misrepresentations in an enrollment application.	105,563.18	112,131.32
42 U.S.C. 1320a–7a(a); 32 CFR 200.310(a)	Unlawfully offering, paying, soliciting, or receiving remuneration to induce or in return for the referral of business in violation of 1128B(b) of the Social Security Act.	105,563.18	112,131.32

Dated: September 13, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20154 Filed 9–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2022–0360]

Drawbridge Operation Regulation; Back Bay of Biloxi, Biloxi, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from how the CSX Transportation railroad drawbridge across the Back Bay of Biloxi, mile 0.4, Biloxi, MS will be operated. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama. The Coast Guard is seeking comments from the public regarding these proposed changes.

DATES: This deviation is effective from 7 a.m. September 19, 2022 until March 20, 2023.

Comments and relate material must reach the Coast Guard on or before November 18, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0360 using Federal Decision

Making Portal at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION:** See section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email Douglas Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief at (504) 671–2128 or *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

The CSX Transportation railroad drawbridge crosses the Back Bay of Biloxi, mile 0.4, Biloxi, MS. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama. This bridge has a 14-foot vertical clearance at mean high water, an unlimited vertical clearance when in the open to vessel position and a 132-foot horizontal clearance. The bridge operates according to 33 CFR 117.5.

CSX Transportation has requested to operate this bridge remotely from their railroad terminal in Mobile, AL. CSX has installed a remote operation system at the bridge and a remote control center, located in Mobile, AL. At the bridge, CSX has installed infrared cameras, closed circuit cameras and TVs, communication systems and information technology systems on the bridge that allow an operator from Mobile to monitor and control the bridge. This waterway is used primarily by recreational boats and small towing vessels and opens to vessels approximately 6 times per day.

The Coast Guard will evaluate the impact of this test on vessels by analyzing CSX bridge tender logs and public comments.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the test deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

II. 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–2022–0360 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

View material in the docket. To view documents mentioned in this deviation 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. We review all comments received, but we will only post comments that address the topic of this deviation. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published of any posting or updates to the docket.

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 in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Dated: September 13, 2022.

Douglas Blakemore,

Chief, Bridge Administration Branch, U.S. Coast Guard, Eighth Coast Guard District.

[FR Doc. 2022–20176 Filed 9–16–22; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–248; RM–11910-; DA 22–919; FR ID 103525]

Television Broadcasting Services Staunton, Virginia

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On June 15, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* in response to a petition for rulemaking filed by VPM Media Corporation (VPM or Petitioner), the licensee of WVPT, channel *11, Staunton, Virginia, requesting the substitution of channel *15 for channel *11 at Staunton in the Table of TV Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel *15 for channel *11 at Staunton.

DATES: Effective September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 86 FR 34695 on June 30, 2021. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *15. No other comments were filed.

We find that the public interest would be served by substituting channel *15 for channel *11 at Staunton, Virginia . We believe the public interest would be served by substituting channel *15 for channel *11 at Staunton, Virginia. As the Petitioner notes, the challenges of digital reception are well-documented and the Commission has recognized the deleterious effects of manmade noise on the reception of digital VHF signals, including VHF channel propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and nearby electrical devices to cause interference are exacerbated by rugged terrain. The proposed channel *15 facilities will result in a small loss area when compared to WVPT's existing service area, largely due to the deep null required for the proposed WVPT–1 site on channel *15 to protect the NRAO and SGRS (formerly NRRO). However, the Station will continue to serve this area by operating from its current WVPT–3 site as a translator on either channel *11 (its current licensed channel) or channel *12 (its current

temporary channel). Furthermore, a staff analysis confirms that the change in channel will result in a gain of 34,790 new viewers that previously did not have access to WVPT, and a loss of noncommercial educational service to 477 persons, which is *de minimis.*

WVPT is located within the National Radio Quiet Zone (NRQZ), an area of approximately 13,000 square miles created to minimize possible harmful interference at the National Radio Astronomy Observatory (NRAO) site located at Green Bank, West Virginia, and the Naval Radio Research Observatory (NRRO) site at Sugar Grove, West Virginia. The Commission's rules requires that the NRAO be notified, in writing, of any proposed construction and operation of a new or modified station at a permanent fixed location in the Quiet Zone, including the technical details of the proposed operation. Petitioner amended its Petition for Rulemaking on August 29, 2022 to provide a Letter of Concurrence, dated August 12, 2022, from the National Radio Quiet Zone (NRQZ) confirming that neither the NRAO or the Sugar Grove Research Station (SGRS, formerly the NRRO) object to this frequency assignment subject to continued coordination.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 21–248; RM–11910; DA 22–919, adopted September 1, 2022, and released September 1, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the Table of Allotments, under Virginia, by revising the entry for Staunton to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
VIRGINIA	
* * * * *	
Staunton	*15
* * * * *	

[FR Doc. 2022–19883 Filed 9–16–22; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 87, No. 180
Monday, September 19, 2022

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1165; Project Identifier MCAI–2022–00700–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–12–11, which applies to all Airbus SAS Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes; Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2020–12–11 requires revising the airplane flight manual (AFM) and applicable corresponding operational procedures to limit the use of speed brakes in certain airplane configurations, as specified in a European Union Aviation Safety Agency (EASA) AD. This AD was prompted by a determination that, for certain airplanes, updated flight guidance (FG) 3G standard software for the flight management and guidance computer (FMGC) has been developed to address the unsafe condition. This proposed AD would continue to require the actions in AD 2020–12–11 and would require, for certain airplanes, installing updated FG 3G standard software, and would prohibit the installation of affected FG standards, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 3, 2022.

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

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

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* 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. The mandatory continuing airworthiness information (MCAI) is also available in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1165.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1165; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Manuel Hernandez, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5256; fax: 562–627–5210; email: *Manuel.F.Hernandez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1165; Project Identifier MCAI–2022–00700–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *Vladimir.Ulyanov@faa.gov.*

Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–12–11, Amendment 39–19920 (85 FR 41177, July 9, 2020) (AD 2020–12–11), for all Airbus SAS Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes; Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2020–12–11 requires revising the AFM and applicable corresponding operational procedures to limit the use of speed brakes in certain airplane configurations. The FAA issued AD 2020–12–11 to address certain airplane configurations, which could result in auto-pilot disconnection and high angle-of-attack, and consequent increased workload for the flightcrew during a critical phase of flight and possible loss of control of the airplane.

Actions Since AD 2020–12–11 Was Issued

Since the FAA issued AD 2020–12–11, for certain airplanes, updated FG 3G standard software for the FMGC has been developed to address the unsafe condition.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0096, dated May 31, 2022 (EASA AD 2022–0096) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes; Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

This proposed AD was prompted by a report of a non-stabilized approach followed by an automatic go-around, which led to an airplane pitch-up attitude and resulted in an auto-pilot disconnection; and a determination that, for certain airplanes, updated FG 3G standard software for the FMGC has been developed. The FAA is proposing this AD to address certain airplane configurations that could result in auto-pilot disconnection and high angle-of-attack, and consequent increased workload for the flightcrew during a critical phase of flight and possible loss of control of the airplane. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2020–12–11, this proposed AD would retain all of the requirements of AD 2020–12–11. Those requirements are referenced in EASA AD 2022–0096, which, in turn, is referenced in paragraph (g) of this proposed AD.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0096 specifies procedures for revising the AFM to limit the use of speed brakes in certain landing conditions, and for certain airplanes, updating the FG 3G standard software for the FMGC and prohibiting the installation of affected FG standards.

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

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2020–12–11. This proposed AD would require accomplishing the actions specified in EASA AD 2022–0096 described previously.

EASA AD 2022–0096 requires operators to ''inform all flight crews'' of revisions to the AFM, and thereafter to ''operate the aeroplane accordingly.'' However, this proposed AD does not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require that operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this proposed AD to operate the airplane according to the revised AFM would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0096 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0096 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0096 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0096. Service information required by EASA AD 2022–0096 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1165 after the FAA final rule is published.

Interim Action

The FAA considers this proposed AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this proposed AD affects 693 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–12–11	1 work-hour × $85 per hour = $85	$0	$85	$58,905.
Software update	Up to 5 work-hours × $85 per hour = $425	Up to $570	Up to $995	Up to $689,535.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–12–11, Amendment 39–19920 (85 FR 41177, July 9, 2020); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–1165; Project Identifier MCAI–2022–00700–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 3, 2022.

(b) Affected ADs

This AD replaces AD 2020–12–11, Amendment 39–19920 (85 FR 41177, July 9, 2020).

(c) Applicability

This AD applies to all Airbus SAS Model airplanes identified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model A319–111, –112, –113, –114, –115, –151N, and –153N airplanes.

(2) Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(3) Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Unsafe Condition

This AD was prompted by a report of a non-stabilized approach followed by an automatic go-around, which led to an airplane pitch-up attitude and resulted in an auto-pilot disconnection; and a determination that, for certain airplanes, updated flight guidance (FG) 3G standard software for the flight management and guidance computer (FMGC) is necessary. The FAA is issuing this AD to address certain airplane configurations that could result in auto-pilot disconnection and high angle-of-attack, and consequent increased workload for the flightcrew during a critical phase of flight and possible loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0096, dated May 31, 2022 (EASA AD 2022–0096).

(h) Exceptions to EASA AD 2022–0096

(1) Where EASA AD 2022–0096 refers to ''the effective date of EASA AD 2020–0118,'' this AD requires using July 24, 2020 (the effective date of AD 2020–12–11).

(2) Where EASA AD 2022–0096 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2022–0096 specifies to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(4) The ''Remarks'' section of EASA AD 2022–0096 does not apply to this AD.

(i) Additional FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted

methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For EASA AD 2022–0096, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.* 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. This material may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1165.

(2) For more information about this AD, contact Manuel Hernandez, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5256; fax: 562–627–5210; email: *Manuel.F.Hernandez@faa.gov.*

Issued on September 13, 2022.

Christina Underwood,

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

[FR Doc. 2022–20090 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1166; Project Identifier MCAI–2022–00407–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–200, A330–200 Freighter, A330–300, A330–800, A330–900, A340–200, and A340–300 series airplanes. This proposed AD was prompted by a determination that certain landing gear parts have been manufactured with improper material or using a deviating manufacturing process. This proposed AD would require replacing each affected part with a serviceable part, and for certain airplanes, re-assessing any previously repaired main landing gear (MLG) sliding piston, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. This proposed AD would also limit the installation of affected parts under certain conditions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 3, 2022.

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

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

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* 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 in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1166.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1166; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1166; Project Identifier MCAI–2022–00407–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0049, dated March 21, 2022 (EASA AD 2022–0049) (also referred to as the MCAI), to correct an unsafe condition for all

Airbus SAS Model A330–201, A330–202, A330–203, A330–223, A330–223F, A330–243, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, A330–343, A330–743L, A330–841, A330–941, A340–211, A340–212, A340–213, A340–311, A340–312, and A340–313 airplanes. Model A330–743L airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that certain landing gear parts have been manufactured with improper material or using a deviating manufacturing process. Further analysis determined these parts cannot be operated until the applicable life limit, as published in the applicable Airworthiness Limitations Section. The FAA is proposing this AD to address possible nose landing gear (NLG) or MLG structural fatigue failure and subsequent collapse, which could result in damage to the airplane and injury to occupants. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0049 specifies procedures for replacing each affected part with a serviceable part before exceeding the applicable revised life limit, and, for airplanes with a previously repaired MLG sliding piston, re-assessing the repaired part, which involves obtaining and following instructions from the FAA, EASA, or Airbus SAS's EASA Design Organization Approval (DOA).

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

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0049, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would also limit the installation of affected parts under certain conditions.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0049 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0049 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0049 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0049. Service information required by EASA AD 2022–0049 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1166 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD would affect 128 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 49 work-hours × $85 per hour = $4,165 (per MLG).	Up to $692,323 (per MLG)	Up to $696,489 (per MLG)	Up to $89,150,592.
Up to 11 work-hours × $85 per hour = $935 (NLG).	Up to $260,410	Up to $261,346	Up to $33,452,288.

* The FAA notes that not every MLG or NLG will need to be replaced on every airplane and that operators may have serviceable parts in stock, thereby reducing the costs on U.S. operators. Depending on the flight hours and landings on the landing gear, the FAA estimates that the replacement period for all affected MLG and NLG will be more than two years. Additionally, the FAA has received no definitive data on which to base the cost estimates for the re-assessment actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2022–1166; Project Identifier MCAI–2022–00407–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 3, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (7) of this AD, certificated in any category.

(1) Model A330–201, –202, –203, –223, –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes.

(5) Model A330–941 airplanes.

(6) Model A340–211, –212, and –213 airplanes.

(7) Model A340–311, –312, and –313 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a determination that certain landing gear parts have been manufactured with improper material or using a deviating manufacturing processes. The FAA is issuing this AD to address possible nose landing gear (NLG) or main landing gear (MLG) structural fatigue failure and subsequent collapse, which could result in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0049, dated March 21, 2022 (EASA AD 2022–0049).

(h) Exceptions to EASA AD 2022–0049

(1) Where the affected part and serviceable part definitions in EASA AD 2022–0049 refer to ''the SB,'' replace the text ''the SB'' with ''Airbus Service Bulletin A330–32–3302, dated January 18, 2022; or Airbus Service Bulletin A340–4321, dated January 18, 2022; as applicable.''

(2) Where EASA AD 2022–0049 refers to its effective date, this AD requires using the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2022–0049 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For EASA AD 2022–0049, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.* 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. This material may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1166.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on September 13, 2022.

Christina Underwood,

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

[FR Doc. 2022–20089 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1054; Project Identifier AD–2022–00278–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–18–05, which applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2017–18–05 requires repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. Since the FAA issued AD 2017–18–05, it has been determined that adding repetitive ultrasonic testing (UT) inspections of the fuse pin of the wing landing gear beam end fitting for any cracking and the option for repetitive replacement of certain corrosion-resistant (stainless) steel (CRES) fuse pins and steel alloy fuse pins is necessary to address the

unsafe condition. This proposed AD would continue to require the actions in AD 2017–18–05 and would also require repetitive replacement of certain fuse pins at the wing landing gear beam end fitting, and repetitive inspections of the fuse pin for any cracking and applicable on-condition actions. This proposed AD would also revise the applicability by adding airplanes. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 3, 2022.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *www.myboeingfleet.com.* You may view this service information 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 *www.regulations.gov* by searching for and locating Docket No. FAA–2022–1054.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–1054; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Stefanie Roesli, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3964; email: *Stefanie.N.Roesli@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1054; Project Identifier AD–2022–00278–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Stefanie Roesli, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3964; email: *Stefanie.N.Roesli@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2017–18–05; Amendment 39–19014 (82 FR 41331, August 31, 2017) (AD 2017–18–05), for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes. AD 2017–18–05 was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. AD 2017–18–05 requires repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. The agency issued AD 2017–18–05 to detect and correct cracking in the fuse pin of the wing landing gear beam end fitting. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

Actions Since AD 2017–18–05 Was Issued

Since the FAA issued AD 2017–18–05, it has been determined that adding repetitive UT inspections of the fuse pin of the wing landing gear beam end fitting for any cracking and the option for repetitive replacement of certain CRES fuse pins and steel alloy fuse pins is necessary to address the unsafe condition.

In addition, Model 747–8F and 747–8 series airplanes have been added to the applicability. Analysis showed that Model 747–8F and 747–8 series airplanes have a similar fuse pin in the same location as on Model 747–400 series airplanes, and these fuse pins are susceptible to fatigue cracks on the inner and outer surfaces.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022. This service information specifies procedures for optional repetitive replacement of certain steel alloy fuse pins or CRES fuse pins with new or serviceable fuse pins, at the wing landing gear beam end fitting; and repetitive magnetic particle inspections, or repetitive surface high frequency eddy current (HFEC) and UT testing inspections, of the fuse pin of the wing landing gear beam end fitting for any cracking and corrosion and applicable on-condition actions. On-condition actions includes replacing with steel alloy or CRES fuse pins, and doing magnetic particle, surface HFEC,

and UT testing inspections, and replacing cracked fuse pins.

This service information 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.

Proposed AD Requirements in This NPRM

Although this proposed AD does not explicitly restate the requirements of AD 2017–18–05, this proposed AD would retain all of the requirements of AD 2017–18–05. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. This proposed AD would add airplanes to the applicability. This proposed AD would also require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022, described previously.

For information on the procedures and compliance times, see this service information at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–1054.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 207 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Fuse pin replacement [1] (retained actions from AD 2017–18–05).	Up to 46 work–hours × $85 per hour = $3,910 per replacement cycle.	Up to $15,150 ..	Up to $19,060 per replacement cycle.	Up to $3,945,420 per replacement cycle.
Magnetic particle inspection [1] (retained actions from AD 2017–18–05).	Up to 48 work–hours × $85 per hour = $4,080 per inspection cycle.	$0	Up to $4,080 per inspection cycle.	Up to $844,560 per inspection cycle.
Surface inspection [1] (retained actions from AD 2017–18–05).	Up to 10 work–hours × $85 per hour = $850 per inspection cycle.	$0	Up to $850 per inspection cycle.	Up to $175,950 per inspection cycle.
CRES fuse pin replacement [1] (new proposed action).	Up to 46 work–hours × $85 per hour = $3,910 per replacement cycle.	$9,007	Up to $12,917 per replacement cycle.	Up to $2,673,819 per replacement cycle.
Steel alloy fuse pin replacement[1] (new proposed action).	Up to 46 work–hours × $85 per hour = $3,910 per replacement cycle.	$9,693	Up to $13,603 per replacement cycle.	Up to $2,815,821 per replacement cycle.
Surface HFEC and UT inspections[1] (new proposed action).	Up to 11 work–hours × $85 per hour = $935 per inspection cycle.	$0	Up to $935 per inspection cycle.	Up to $193,545 per inspection cycle.

[1] Operators may choose which action they want to use.

The FAA estimates the following costs to do any necessary replacements and inspections that would be required based on the results of the proposed inspections. The FAA has no way of determining the number of aircraft that might need these replacements and inspections:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
CRES fuse pin replacement	46 work-hours × $85 per hour = $3,910	$9,007	$12,917
Steel alloy fuse pin replacement	46 work-hours × $85 per hour = $3,910	9,693	13,603
Magnetic particle inspection	48 work-hours × $85 per hour = $4,080	0	4,080
Surface HFEC and UT inspections	11 work-hours × $85 per hour = $935	0	935

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–18–05; Amendment 39–19014 (82 FR 41331, August 31, 2017), and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2022–1054; Project Identifier AD–2022–00278–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by November 3, 2022.

(b) Affected ADs

This AD replaces AD 2017–18–05; Amendment 39–19014 (82 FR 41331, August 31, 2017) (AD 2017–18–05).

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, 747SP, 747–8F, and 747–8 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting, and the determination that repetitive ultrasonic testing inspections of the fuse pin for any cracking and optional repetitive replacement of certain CRES and steel alloy fuse pins is necessary to address the unsafe condition. The FAA is issuing this AD to detect and correct cracking in the fuse pin of the wing landing gear beam end fitting. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022, use the phrase ''the original issue date of this service bulletin,'' this AD requires using the date of October 5, 2017 (the effective date of AD 2017–18–05).

(2) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Service Bulletin 747–57A2360, Revision 1, dated February 9, 2022, use the phrase ''the Revision 1 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) Except as specified by paragraph (h) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

(1) For more information about this AD, contact Stefanie Roesli, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3964; email: *Stefanie.N.Roesli@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *www.myboeingfleet.com.* You may view this referenced service information 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.

Issued on August 12, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–19960 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1117; Airspace Docket No. 20–AGL–31]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Delphi, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Delphi, IN. The FAA is proposing this action to support new public instrument procedures.

DATES: Comments must be received on or before November 3, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–1117/Airspace Docket No. 20–AGL–31 at the beginning of your comments. You

may also submit comments through the internet at *www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface at Delphi Municipal Airport, Delphi, IN, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–1117/Airspace Docket No. 20–AGL–31.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Delphi Municipal Airport, Delphi, IN.

This action supports new public instrument procedures.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

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

* * * * *

AGL IN E5 Delphi, IN [Establish]

Delphi Municipal Airport, IN
(Lat. 40°32′27″ N, long. 86°40′53″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Delphi Municipal Airport.

Issued in Fort Worth, Texas, on September 12, 2022.

Martin A. Skinner,

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

[FR Doc. 2022–19937 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1031; Airspace Docket No. 22–ANM–1]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Brookings Airport, Brookings, OR

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: Comments must be received on or before November 3, 2022.

ADDRESSES: Send comments on this proposal to the U.S. DOT, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify ''FAA Docket No. FAA–2022–1031; Airspace Docket No. 22–ANM–1,'' at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Gerald DeVore II, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–1031; Airspace Docket No. 22–ANM–1.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

Class E airspace beginning at 700 feet above the surface should be established at Brookings Airport to contain departing aircraft until reaching 1,200 feet above the surface, and arriving aircraft below 1,500 feet above the surface. The proposed airspace is centered on the Brookings Airport reference point, with a 6.4- nautical mile (NM) radius, excluding the portion northeast of the airport, as circling is not authorized there. A 6.4-mile radius is needed due to rising terrain north through southeast of the airport, clockwise.

The Class E5 airspace designation is published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace

designation listed in this document will be published subsequently in FAA Order JO 7400.11, which is published annually and becomes effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

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

* * * * *

ANM OR E5 Brookings, OR [New]

Brookings Airport, OR
(Lat. 42°04′26″ N, long. 124°17′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the airport beginning at the 127° bearing to the 340° bearing, thence to the point of beginning.

Issued in Des Moines, Washington, on September 12, 2022.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–20082 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0318; FRL–10004–01–R9]

Air Plan Approval; California; San Diego Air Pollution Control District; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act (CAA or ''Act''), the Environmental Protection Agency (EPA) is proposing full approval of revisions to the San Diego County Air Pollution Control District (SDCAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOC) from architectural coating operations. We are proposing a full approval of the amended SDCAPCD and SJVUAPCD architectural coatings rules because they meet all the applicable requirements. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before October 19, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0318 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3024 or by email at *Lazarus.arnold@epa.gov.*

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

Table of Contents

I. The State's Submittals

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted/amended/revised	Submitted
SDCAPCD	67.0.1	Architectural Coatings	2/10/2021 (effective for state law purposes on 1/1/2022).	4/20/2021, as an attachment to a letter dated 4/16/2021.
SJVUAPCD	4601	Architectural Coatings	4/16/2020 (effective upon adoption but the new or revised VOC content limits were effective 1/1/2022).	4/23/2020, as an attachment to a letter of the same date.

The submittal for SDCAPCD Rule 67.0.1 became complete by operation of law on October 20, 2021. On June 29, 2020, the EPA determined that the submittal for SJVUAPCD Rule 4601 met the completeness criteria in 40 CFR part 51, appendix V.[1]

B. Are there other versions of these rules?

We approved an earlier version of SDCAPCD Rule 67.0.1 into the SIP on October 4, 2016 (81 FR 68320). The SDCAPCD adopted revisions to Rule 67.0.1 on February 10, 2021, and the revisions became effective as a matter of state law on January 1, 2022. CARB submitted the amended rule to the EPA on April 20, 2021, as an attachment to a letter dated April 16, 2021. If we take final action to approve the February 10, 2021 version of Rule 67.0.1, it will replace the previously-approved version of the rule in the SDCAPCD portion of the applicable California SIP.

We approved an earlier version of SJVUPACD Rule 4601 into the SIP on November 8, 2011 (76 FR 69135). The SJVUAPCD adopted revisions to Rule 4601 on April 16, 2020 (effective upon adoption), and CARB submitted the amended rule to us on April 23, 2020, as an attachment to a letter of the same date. If we take final action to approve the April 16, 2020 version of Rule 4601, it will replace the previously-approved version of the rule in the SJVUAPCD portion of the applicable California SIP.

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

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Architectural coatings are coatings that are applied to stationary structures and their accessories. They include house paints, stains, industrial maintenance coatings, traffic coatings, and many other products. VOCs are emitted from the coatings during application and curing, and from the associated solvents used for thinning and clean-up.

SDCAPCD Rule 67.0.1 and SJVUAPCD Rule 4601 regulate VOC emissions from architectural coatings. The rules were updated to conform to CARB's Suggested Control Measures (SCM) for Architectural Coatings, May 2019. More specifically, to conform with CARB's 2019 update of the SCM for architectural coatings, SDCAPCD and SJVUAPCD added certain new categories of coatings, tightened VOC limits for certain other categories of coatings, added new limits for colorants, updated test methods, and clarified and tightened certain definitions and administrative requirements. SDCAPCD estimates that aligning Rule 67.0.1 with the CARB 2019 SCM for architectural coatings will reduce VOC emissions by approximately 0.22 tons per day (tpd) in San Diego County.[2] SJVUAPCD estimates that aligning Rule 4601 with the CARB 2019 SCM will reduce VOC emissions in San Joaquin Valley by approximately 0.30 tpd.[3]

Both rules were also amended to include provisions to address contingency measure requirements for nonattainment areas with respect to ozone national ambient air quality standards (NAAQS). With respect to contingency provisions, the air districts amended their respective architectural coatings rules to include new sections that would remove the rules' small container exemptions (SCE) (*i.e.,* one liter or less) for certain types of coatings within 60 days of the EPA's determination that the area failed to meet a reasonable further progress (RFP) milestone or to attain the ozone national ambient air quality standards (NAAQS) by the applicable attainment date. As originally submitted, the contingency provision in the SJVUAPCD architectural coatings rule (section 4.3 of Rule 4601) included language that was inconsistent with the requirements for contingency measures in CAA sections 172(c)(9) and 182(c)(9) and inconsistent with the intent of the SJVUAPCD's Board in adopting the provision. However, the SJVUAPCD has subsequently made an administrative correction to the rule text to clarify the contingency measure provision consistent with the SJVUAPCD's Board's intent and has submitted the revised rule to the EPA to replace the earlier submitted version.[4] For this proposed action, we are basing our evaluation on the SJVUAPCD architectural coatings rule as corrected.

SDCAPCD estimates that removing the SCE for certain coatings will reduce VOC emissions by approximately 0.72 tons per day (tpd) in San Diego County.[5] SJVUAPCD estimates that removing the SCE for certain coatings will reduce VOC emissions in San Joaquin Valley by approximately 0.65 tpd.[6] The EPA's technical support documents (TSDs) have more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). We are also evaluating whether the rules meet the requirements for contingency measures specified in CAA sections 172(c)(9) and 182(c)(9).

[1] Letter from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Richard W. Corey, Executive Officer, CARB, dated June 29, 2020.

[2] SDCAPCD, Agenda Item, February 10, 2021, Subject: Noticed Public Hearing—Adoption of Amendments to Rule 67.0.1—Architectural Coatings (Districts: All), Attachment C, Incremental Cost-Effectiveness Analysis, Proposed Amended Rule 67.0.1—Architectural Coatings, page C–1.

[3] SJVUAPCD, Final Draft Staff Report, Proposed Amendments to Rule 4601 (Architectural Coatings) April 16, 2020, pages 13–14.

[4] Letter from Sheraz Gill, Deputy Air Pollution Control Officer, SJVUAPCD, to Doris Lo, Manager, EPA Region IX, dated August 5, 2022. CARB submitted the corrected version of the rule to EPA electronically on August 11, 2022, to replace to earlier version of the rule.

[5] SDCAPCD, 2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County (October 2020), Attachment O (Contingency Measures for San Diego County), page O–1.

[6] SJVUAPCD, Final Draft Staff Report, Proposed Amendments to Rule 4601 (Architectural Coatings) April 16, 2020, pages 12–13.

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). San Diego County and San Joaquin Valley have been designated as Severe or Extreme nonattainment areas for the 2008 and 2015 8-hour ozone National Ambient Air Quality Standards (see 40 CFR 81.305).[7] Because there is no relevant EPA CTG document for architectural coatings and because there are no major architectural coating sources within San Diego County or San Joaquin Valley, architectural coatings are not subject to RACT requirements. However, as nonattainment areas for ozone, San Diego County and San Joaquin Valley are subject to the requirement to implement all reasonably available control measures (RACM) as needed to attain the 2008 and 2015 ozone NAAQS by the applicable attainment dates. Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

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

4. National Volatile Organic Compound Emission Standards for Architectural Coatings, 40 CFR 59, Subpart D.

5. California Air Resources Board (CARB) Suggested Control Measure for Architectural Coatings, May 2019.

B. Do the rules meet the evaluation criteria?

We have evaluated the enforceability of submitted SDCAPCD Rule 67.0.1 and SJVUAPCD Rule 4601 with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting, and have concluded that both rules continue to be enforceable for the purposes of CAA section 110(a)(2)(A).

We have also determined that the submitted rules implement RACM-level controls for this particular area source because the VOC content limits are more stringent than the corresponding federal requirements in Table 1 to Subpart D of 40 CFR part 59, ''Content Limits for Architectural Coatings,'' and are consistent with CARB's 2019 SCM.

Third, we have found that, because the submitted rules tighten VOC content limits for certain coating categories and restrict certain existing exemptions, they would not interfere with any applicable requirement concerning attainment or reasonable further progress (RFP) or any other requirement of the CAA, and as such, may be approved under CAA sections 110(l) and 193.

Lastly, we have reviewed the specific new provisions in submitted SDCAPCD Rule 67.0.1 (paragraph (b)(6)) and submitted SJVUAPCD Rule 4601 (section 4.3) that are intended to address contingency measure requirements for ozone nonattainment areas. As noted previously, the contingency measure in both rules is the removal of the SCE for certain coating categories within 60 days if the EPA makes certain final determinations.

Under the CAA, ozone nonattainment areas classified under subpart 2 as ''Serious'' or above must include in their SIPs contingency measures consistent with sections 172(c)(9) and 182(c)(9). CAA section 172(c)(9) requires states with nonattainment areas to provide for the implementation of specific measures to be undertaken if the area fails to make RFP or to attain the NAAQS by the applicable attainment date. Such measures must be included in the SIP as contingency measures to take effect in any such case without further action by the state or the EPA. Section 182(c)(9) requires states to provide contingency measures in the event that an ozone nonattainment area fails to meet any applicable RFP milestone.

Contingency measures are additional controls or measures to be implemented in the event the area fails to make RFP or to attain the NAAQS by the attainment date. Contingency measures must be designed so as to be implemented prospectively; already-implemented control measures may not serve as contingency measures even if they provide emissions reductions beyond those needed for any other CAA purpose.[8] The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[9]

Neither the CAA nor the EPA's implementing regulations establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but the 2008 Ozone SIP Requirements Rule (SRR) reiterates the EPA's guidance recommendation that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, thus amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.[10] In a decision published in August 2021 in the *AIR* v. *EPA* case, the U.S. Court of Appeals for the Ninth Circuit remanded the EPA's approval of ozone contingency measures for the San Joaquin Valley and held that, under EPA's current guidance, the surplus emissions reductions from already-implemented measures cannot be relied upon to justify the approval of a contingency measure that would achieve far less than one year's worth of RFP as sufficient by itself to meet the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9) for the nonattainment area.[11]

Based on our review of the submitted rules in light of the requirements for contingency measures summarized above, we find that the contingency measure in paragraph (b)(6) of submitted SCDAPCD Rule 67.0.1 meets the applicable requirements for such measures in CAA sections 172(c)(9) and 182(c)(9) because the removal of the SCE for certain coating categories is not required as RACT or RACM or for any other CAA purpose; paragraph (b)(6) includes an appropriate triggering mechanism (*i.e.,* EPA final

[7] San Joaquin Valley is also designated as Moderate nonattainment for the 2012 $PM_{2.5}$ NAAQS and Serious nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS and is thus subject to the requirement to implement reasonably available control measures (RACM) and best available control measures (BACM). However, VOC emissions do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS. See 85 FR 17382, at 17394 (March 27, 2020) (proposed approval of state's precursor demonstration for the 2006 $PM_{2.5}$ NAAQS in San Joaquin Valley), finalized at 85 FR 44192 (July 22, 2020); and 86 FR 49100, at 49109 (September 1, 2021) (proposed approval of state's precursor demonstration for the 2012 $PM_{2.5}$ NAAQS in San Joaquin Valley).Thus, submitted SJVUAPCD Rule 4601 does not need to meet the requirements for RACM or BACM with respect to the $PM_{2.5}$ NAAQS

[8] See *Bahr* v. *EPA,* 836 F.3d 1218, at 1235–1237 (9th Cir. 2016).

[9] See 70 FR 71612 (November 29, 2005); see also 2008 Ozone SRR, 80 FR 12264 at 12285 (March 6, 2015).

[10] 80 FR 12264 at 12285 (March 6, 2015).

[11] *Association of Irritated Residents* v. *EPA,* 10 F.4th 937 (9th Cir. 2021) (''AIR v. EPA'' or ''AIR'').

determinations of failures to meet an RFP milestone or to attain the NAAQS by the applicable attainment dates); paragraph (b)(6) specifies a schedule for implementation (*i.e.,* the SCE for the subject coatings expires 60 days after EPA final determination); and paragraph (b)(6) is designed to take effect (once triggered) without further significant action by the District, CARB or the EPA.

We have conducted a similar review of section 4.3 of submitted SJVUAPCD Rule 4601 and find that it meets the applicable requirements for contingency measures in CAA section 172(c)(9) and 182(c)(9). That is, we find that removal of the SCE as provided in section 4.3 of submitted SJVUAPCD Rule 4601 is not otherwise required under the CAA and thus is eligible as a contingency measure and that section 4.3 specifies an appropriate schedule for implementation (*i.e.,* 60 days from EPA final rulemaking) and is designed to take effect (once triggered) without further significant action by the District, CARB or the EPA.

Lastly, we have reviewed the Districts' estimate of the emissions reductions that can be expected if the contingency measure provisions (paragraph (b)(6) of submitted SDCAPCD Rule 67.0.1 and section 4.3 of submitted SJVUAPCD Rule 4601) are triggered and find the estimates to be reasonable and adequately documented. The emissions reductions associated with the contingency measure provisions can be taken into account by the EPA when determining whether the State and Districts have fully met the requirements for San Diego County and the San Joaquin Valley with respect to the contingency measure requirements under CAA sections 172(c)(9) and 182(c)(9). The EPA expects to make the determinations with respect to the area-wide contingency measure SIP requirements in separate rulemakings.

The TSDs have more information on our evaluation of the two submitted architectural coatings rules.

C. What are the rule deficiencies?

We have not identified any deficiencies that would prevent approval of the two amended architectural coatings rules.

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

The TSDs include the EPA's recommendations for the next time the local agencies modify the rules.

E. Proposed Action and Public Comment

Pursuant to section 110(k)(3) of the Act, and for the reasons given above, the EPA is proposing a full approval of submitted SDCAPCD Rule 67.0.1 and SJVUAPCD Rule 4601. For both submitted rules, our proposed action is based on our finding that the non-contingency-related amendments meet all applicable CAA requirements. With respect to the contingency measure provisions in the submitted rules, our proposed action is based on our finding that the provisions have the necessary attributes of contingency measures under the CAA. Thus, we are approving the provisions as contingency measures for the two areas for the 2008 ozone NAAQS.

We are not making any determination at this time as to whether these individual contingency measures are sufficient in themselves for their respective nonattainment areas to fully comply with the contingency measure requirements under CAA sections 172(c)(9) and 182(c)(9). We will be taking action on the contingency measure SIP elements for these areas in separate rulemakings and will be taking into account the emissions reductions associated with the contingency provisions in the submitted rules at that time. Regardless of whether the contingency measure SIP elements are subsequently approved or disapproved, we find that the contingency provisions in the submitted rules strengthen the SIP for their respective nonattainment areas. We will accept comments from the public on this proposal until October 19, 2022.

If finalized as proposed, this action would incorporate the submitted architectural coatings rules into the SIP and the submitted rules would replace the corresponding existing SIP versions of the rules in the California SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SDCAPCD Rule 67.0.1 and SJVUAPCD Rule 4601, which regulate VOC emissions from architectural coatings. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- The state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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

List of Subjects in 40 CFR Part 52

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

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

Dated: September 12, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–20135 Filed 9–16–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[WC Docket No. 19–308; DA No. 22–925; FR ID 103840]

Pleading Cycle Established for Petition for Reconsideration Filed by Sonic Telecom, LLC

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: In this document, the Wireline Competition Bureau establishes a pleading cycle for the Petition for Reconsideration (Petition) filed by Sonic Telecom, LLC of portions of the *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services Report and Order.*

DATES: Oppositions to the Petition must be filed on or before October 4, 2022. Replies to an opposition must be filed on or before September 29, 2022.

ADDRESSES: All pleadings are to reference WC Docket No. 19–308. Oppositions and replies may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.

- *Electronic Filers:* Oppositions and replies may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People With Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Megan Danner, Competition Policy Division, Wireline Competition Bureau, at *Megan.Danner@fcc.gov,* or (202) 418–1151.

SUPPLEMENTARY INFORMATION: On October 27, 2020, the Commission adopted *the Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services Report and Order* (*Report and Order*). On February 8, 2021, Sonic Telecom, LLC (Sonic) filed a petition for reconsideration of portions of the *Report and Order.*

Filing Requirements. Pursuant to the Commission's rules, oppositions to the Petitions for Reconsideration must be filed no later than October 4, 2022, and replies to oppositions must be filed no later than October 14, 2022. Oppositions and replies may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Oppositions and replies may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304, 35 FCC Rcd 2788 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Ex Parte Rules. This proceeding shall continue to be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Pamela Arluk,

Division Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2022–20153 Filed 9–16–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 8, 51, and 52

[FAR Case 2022–007; Docket No. FAR–2022–0004, Sequence No. 1]

RIN 9000–AO44

Federal Acquisition Regulation: Removal of FAR Subpart 8.5, Acquisition of Helium

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the statutory expiration of the Federal Helium System in accordance with the Helium Stewardship Act of 2013.

DATES: Interested parties should submit comments to the Regulatory Secretariat Division at the address shown below on or before November 18, 2022 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments in response to FAR Case 2022–007 to *https://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2022–007''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2022–007.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2022–007'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FAR Case 2022–007'' in all correspondence related to this case. All comments received will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or by email at *michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAR Case 2022–007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to implement the final disposition of the Federal Helium System in accordance with the Helium Stewardship Act of 2013 (Pub. L. 113–40), which required the disposal of the Federal Helium System by September 30, 2021. The Act required the Department of the Interior (DOI), through the Director of the Bureau of Land Management (BLM), to begin offering helium for auction or sale on an annual basis. Under the Federal In-Kind Program, Federal agencies are required to purchase all of their refined helium from private suppliers who, in turn, are required to purchase an equivalent amount of crude helium from the Federal Helium Reserve.

On April 16, 2020, the BLM announced the process and timeline for disposal of the remaining helium and helium assets to meet the September 30, 2021, statutory deadline. Excess helium and helium assets remaining after September 30, 2021, were transferred to GSA, in accordance with the statutory disposal process. Federal In-Kind users have access to helium until September 30, 2022, while GSA completes the disposal process; afterward, Federal In-Kind users will be required to seek new sources of helium on the open market.

DoD, GSA, and NASA understand that DOI plans to remove the Federal Helium Program requirements from 43 CFR part 3195.

II. Discussion and Analysis

This rule proposes to delete FAR subpart 8.5, Acquisition of Helium, and the contract clause at FAR 52.208–8, Required Sources for Helium and Helium Usage Data, in their entirety. The direction is no longer needed in the FAR because the Government's operation of the Federal Helium System ended as of September 30, 2021, and access to the Federal In-Kind Program will end on September 30, 2022. As a result, Federal agencies will be able to procure helium on the open market.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule removes FAR clause 52.208–8, Required Sources for Helium and Helium Usage Data; FAR subpart 8.5, Acquisition of Helium; and other associated language in FAR parts 1, 8, and 51. This rule does not impose any new requirements on contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services.

IV. Expected Impact of the Rule

This proposed rule is not expected to have a significant impact on the Government or industry because the operation of the Federal Helium Reserve ceased on September 30, 2021, and agencies were notified that the Federal In-Kind Program would end on September 30, 2022. Agencies will be able to procure helium on the open market as they do for other requirements.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not anticipated to be a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the rule removes the procedures and reporting requirements for the procurement of helium. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the statutory expiration of the Federal Helium System in accordance with the Helium Stewardship Act of 2013 (Pub. L. 113–40). The Helium Stewardship Act required the disposal of the Federal Helium System by September 30, 2021. The Federal In-Kind Program will end a year later, on September 30, 2022. The Department of the Interior, Bureau of Land Management, announced on April 16, 2020, the process and timeline for disposal of the remaining helium and helium assets.

The objective of the rule is to remove the Federal Helium System requirements from the FAR to comply with the statutory direction. The legal basis for the rule is the Helium Stewardship Act of 2013.

This rule applies to all solicitations and contracts for the procurement of helium. The rule removes all of the procedures and reporting requirements associated with helium procurements currently in the FAR. The rule is not expected to impact a significant number of entities.

According to data from the Bureau of Land Management, there were approximately 7 remaining entities participating in the Federal In-Kind Program in calendar year 2020. Data obtained from the System for Award Management as of June 14, 2022, indicates that none of those 7 entities are small.

The proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities. Rather, this rule removes current reporting and compliance requirements for small entities.

DoD, GSA, and NASA understand that DOI plans to remove the Federal Helium Program requirements from 43 CFR part 3195.

There are no available alternatives to the proposed rule to accomplish the desired objective.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2022–007), in correspondence.

VIII. Paperwork Reduction Act

This rule removes the information collection requirements associated with the clause at FAR 52.208–8, Required Sources for Helium and Helium Usage Data, currently approved under OMB Control Number 9000–0113, entitled ''Acquisition of Helium''. Accordingly, GSA submitted, and OMB approved, the following reduction of the annual reporting burden and OMB inventory of hours under OMB Control Number 9000–0113 as follows:

Respondents: 26.
Responses per respondent: 1.
Total annual responses: 26.
Hours per response: 1.
Total response burden hours: 26.

List of Subjects in 48 CFR Parts 1, 8, 51, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 8, 51, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 8, 51, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. In section 1.106 amend the table by removing FAR segment ''8.5'' and the corresponding OMB Control Number ''9000–0113''.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.003 [Amended]

■ 3. Amend section 8.003 by removing paragraph (e).

Subpart 8.5 [Removed and Reserved]

■ 4. Remove and reserve subpart 8.5, consisting of sections 8.500 through 8.505.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

51.102 [Amended]

■ 5. Amend section 51.102 by—

■ a. Removing from the end of paragraph (c)(3) ''20420;'' and adding ''20420; or'' in its place;

■ b. Removing paragraph (c)(4);

■ c. Redesignating paragraph (c)(5) as paragraph (c)(4);

■ d. Removing from the newly redesignated paragraph (c)(4) the words ''(1) through(4) above'' and adding the words ''paragraphs (c)(1) through (3) of this section'' in its place;

■ e. Removing from the end of paragraph (e)(3)(i) the word ''DoD;'' and adding the words ''DoD; and'' in its place;

■ f. Removing from the end of paragraph (e)(3)(ii) the word ''and''; and

■ g. Removing paragraph (e)(3)(iii).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208–8 [Removed and Reserved]

■ 6. Remove and reserve section 52.208–8.

[FR Doc. 2022–19642 Filed 9–16–22; 8:45 am]
BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 87, No. 180
Monday, September 19, 2022

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 19, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.

OMB Control Number: 0524–0036.

Summary of Collection: Section 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) require that a plan of work must be submitted by each institution and approved by the National Institute of Food and Agriculture (NIFA) before formula funds may be provided to the 1862 and 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and project targeted to address these issues using the NIFA formula funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

NIFA is requesting to continue to collect an update to the 5-Year Plan of Work which began with the Fiscal Year 2007, and as a result no longer needs to collect the initial 5-Year Plan. Also, as required by the Food Conservation and Energy Act of 2008 (FCEA) (Pub. L.110–246, sec. 7505), NIFA is working with the university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements.

Need and Use of the Information: Institutions are required to annually report to NIFA the following: (1) the actions taken to seek stakeholder input to encourage their participation; (2) a brief statement of the process used by the recipient institution to identify individuals or groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. NIFA uses the information to provide feedback to the institutions on their Plans of Work and Annual Reports of Accomplishments and Results in order for institutions to improve the conduct and the delivery of their programs.

Failure to comply with the requirements may result in the withholding of a recipient institution's formula funds and redistribution of its share of formula funds to other eligible institutions.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 24,300.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–20134 Filed 9–16–22; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0052]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Irradiation Phytosanitary Treatment of Imported Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, Department of Agriculture (USDA).

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with regulations for the use of irradiation as a phytosanitary treatment of imported fruits and vegetables.

DATES: We will consider all comments that we receive on or before November 18, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Enter APHIS–2022–0052 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2022–0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket

may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations for the use of irradiation as a phytosanitary treatment of imported fruits and vegetables, contact Mr. David Begley, National Policy Manager for Treatments, PPQ, APHIS, 4700 River Road, Room 4D–04B, Riverdale, MD 20737; (470) 426–2412; *david.begley@usda.gov.* For information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Irradiation Phytosanitary Treatment of Imported Fruits and Vegetables.

OMB Control Number: 0579–0155.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is authorized, among other things, to regulate the importation of plants, plant products (including fruits and vegetables), and other articles to prevent the introduction of plant pests, diseases, and noxious weeds into the United States.

Regulations governing the importation of fruits and vegetables are set out in 7 CFR part 319. In accordance with the regulations, some fruits and vegetables from certain regions of the world must be treated for insect pests in order to be eligible for entry into the United States.

The regulations in 7 CFR part 305, among other things, provide for the use of irradiation as a phytosanitary treatment for some fruits and vegetables imported into the United States. Irradiation provides protection against all insect pests, including fruit flies, the mango seed weevil, and others. Irradiation treatment may be used as an alternative to other approved treatments for pests in fruits and vegetables, such as fumigation, cold treatment, heat treatment, and other techniques.

The regulations concerning irradiation involve the collection of information, such as a compliance agreement, operational work plans (cooperative agreements), dosimetry agreement at the irradiation facility, request for dosimetry device approval, 30-day notification, labeling and packaging, recordkeeping, request for certification and inspection of facility, irradiation treatment workplan, facility preclearance workplan, trust fund agreement, phytosanitary certificate, and denial and withdrawal of certification.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.001 hours per response.

Respondents: National plant protection organizations of exporting countries, irradiation facility operators, and U.S. importers of fruits and vegetables.

Estimated annual number of respondents: 86.

Estimated annual number of responses per respondent: 71,334.

Estimated annual number of responses: 6,134,715.

Estimated total annual burden on respondents: 6,902 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 14th day of September 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–20199 Filed 9–16–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2022–0023]

Notice of Request To Renew an Approved Information Collection: Modernization of Swine Slaughter Inspection

AGENCY: Food Safety and Inspection Service, Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding swine slaughter inspection. The approval for this information collection will expire on January 31, 2023. FSIS is making no changes to the information collection.

DATES: Submit comments on or before November 18, 2022.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2022–0023. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 205–0495 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Modernization of Swine Slaughter Inspection.

OMB Number: 0583–0171.

Type of Request: Request to renew an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*). This statute mandates that FSIS protect the public by verifying that meat products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the approved information collection regarding swine slaughter inspection. The approval for this information collection will expire on January 31, 2023. FSIS is making no changes to the information collection.

FSIS requires that all swine slaughter establishments operating under the New Swine Slaughter Inspection System (NSIS) monitor their systems through microbial testing and recordkeeping. Swine slaughter establishments operating under NSIS must also maintain records to document the total number of animals and carcasses sorted and removed per day and the reasons for their removal. Swine Slaughter establishments may record their disposition data on FSIS Form 6200–3, Establishment Sorting Record, or provide the same information as requested on the form electronically if it is submitted in a format approved by FSIS.

FSIS also requires that each establishment operating under the NSIS submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of burden: The public reporting burden for this collection of information is estimated to average .048 hours per response.

Estimated total number of respondents: 84.

Estimated annual number of responses: 91,078.

Estimated total annual burden on respondents: 4,348 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Constituent Update is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992.

Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.* USDA is an equal opportunity provider, employer, and lender.

Paul Kiecker,

Administrator.

[FR Doc. 2022–20151 Filed 9–16–22; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Forest Service

[Docket No. NRCS–2022–0011]

Notice of Intent To Prepare an Environmental Impact Statement for the Clear Branch Dam Rehabilitation Project, Hood River County, Oregon

AGENCY: Natural Resources Conservation Service and Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Oregon State Office, as Lead Federal Agency, in partnership with the Forest Service—Mount Hood National Forest (Forest Service, Cooperating Agency), and the Middle Fork Irrigation District (Project Sponsor, Owner, Operator), announces its intent to prepare an EIS for the Clear Branch Dam Rehabilitation Project (Rehabilitation Project) in the proximity of Parkdale, unincorporated Hood River County, Oregon. The purpose of the Rehabilitation Project is to provide a clean dependable water supply for the Upper Hood River valley in Hood River County, Oregon, as authorized in the 1962 Middle Fork Hood River Watershed Work Plan. There is a need to rehabilitate Clear Branch Dam to meet current dam safety and environmental compliance standards for NRCS, the Forest Service, the Federal Energy Regulatory Commission (FERC), and other regulatory agencies. NRCS is requesting comments to identify significant issues and potential alternatives, information, and analyses relevant to the proposed action from all interested individuals, Tribes, and Federal and State Agencies.

DATES: We will consider comments that we receive by October 19, 2022. Comments received after the 30-day comment period will be considered to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. Please specify the docket ID NRCS–2022–0011. You may submit your comments through the methods below:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID NRCS–22–0009. Follow the instructions for submitting comments; or
- *Mail or Hand Delivery:* Ed Salminen, Project Manager, Watershed Professionals Network (WPN), P.O. Box 8, Parkdale, OR 97041.

FOR FURTHER INFORMATION CONTACT: Molly Dawson; telephone: (503) 414–3234; email: *Molly.Dawson@usda.gov.* In addition, for questions related to submitting comments via WPN: Ed Salminen; telephone: (541) 490–6644; email: *contact@clearbranchdam.com;* or the project website at: *clearbranchdam.com.* Persons with disabilities who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The Rehabilitation Project would be implemented as agricultural water management, as authorized under sections 3 and 4 of Public Law 83–566. The primary purpose of the Rehabilitation Project is to provide a clean dependable water supply for the Upper Hood River valley in Hood River County, Oregon, as authorized in the 1962 Middle Fork Hood River Watershed Work Plan. An assessment of Clear Branch Dam was performed by NRCS and the Project Sponsor in 2015 to evaluate the condition of the dam. Results of the assessment indicated that modifications to Clear Branch Dam are needed to extend its service life. To meet the purpose of providing a clean dependable water supply, there is a need to rehabilitate Clear Branch Dam to meet current dam safety and environmental compliance standards for NRCS, the Forest Service, FERC, and other regulatory agencies. Action to rehabilitate the dam is necessary because the dam reached the end of its original service life and requires structural modifications to extend its service life another 50 to 100 years. The need for watershed planning is established and implementation of management actions are authorized under Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. 1001–1009), as amended, and Public Law 78–534, the Flood Control Act of 1944 (33 U.S.C. 702b–1). Further context for the need for watershed planning is provided below.

A Watershed Work Plan for Middle Fork Hood River Watershed in Hood River County, Oregon was authorized by the Soil Conservation Service, the predecessor to NRCS, and its partners in 1962, under the authority of the Watershed Protection and Flood Prevention Act. The primary objective of the Rehabilitation Project is to provide a clean dependable water supply and improved water distribution system for the irrigation of 8,000 acres; this objective was accomplished with the construction of a reservoir on Clear Branch of the Middle Fork Hood River in 1968, named Clear Branch Dam. The dam is owned and operated by the Middle Fork Irrigation District. Today, the reservoir behind Clear Branch Dam provides water to 404 users to irrigate 6,362 acres in the Upper Hood River valley.

In 2016, NRCS, the Forest Service, and the Project Sponsor initiated scoping for an Environmental Assessment for the rehabilitation of Clear Branch Dam. A public scoping meeting was conducted on August 15, 2016, in Parkdale, Oregon.

Since scoping for the Environmental Assessment (EA) was completed in 2016, NRCS, the Forest Service, and the Project Sponsor have completed additional investigations and studies to evaluate the condition of the dam. As a result of the new information obtained during the EA process, the rehabilitation needed is more extensive than anticipated during scoping in 2016. Estimated federal funds required for the construction of the proposed action may exceed $25 million and the proposed action will therefore require congressional approval per the 2018 Agriculture Appropriations Act amended funding threshold. In accordance with 7 CFR 650.7(a)(2), an EIS is required for projects requiring congressional approval.

Preliminary Proposed Action and Alternatives

The 1962 Middle Fork Hood River Watershed Work Plan would be updated to include an EIS that would analyze alternative ways to meet the Rehabilitation Project's purpose and need. At least three Action Alternatives will be evaluated to meet the purpose and need of the Rehabilitation Project. A No Action Alternative will also be considered.

Alternative 1 (Proposed Action)—Structural Rehabilitation. This alternative would structurally rehabilitate the dam to meet current dam safety and environmental compliance standards of NRCS, the Forest Service, FERC, and other regulatory agencies. Structural rehabilitation includes measures to address flood conveyance, seepage, seismic hazards, fish passage, and water quality improvements.

Alternative 2—Decommission. Decommissioning the dam would consist of breaching the dam to allow for flood conveyance, restoring Clear Branch and Pinnacle Creek within the reservoir footprint, and the constructing

of run-of river irrigation diversions to continue irrigation water supply.

Alternative 3—Nonstructural Rehabilitation. This alternative would relocate or floodproof at-risk dwellings in the downstream breach inundation area. The downstream breach inundation area extends from the base of Clear Branch Dam to the mouth of the Hood River confluence with the Columbia River. This zone includes 4 homes, 2 apartments or hotels, 23 commercial buildings, 4 bridges, Highway 30, Interstate 84, the Union Pacific railroad, and the Mount Hood Railroad.

Alternative 4—No Action. Taking no action would consist of activities carried out if no federal action or funding were provided. In the absence of federal funding, the Project Sponsor would implement the structural dam rehabilitation alternative (Alternative 3) using alternate funding and likely extended timetable for completion.

Summary of Expected Impacts

Initial agency scoping of this federally assisted action indicates that the Rehabilitation Project may cause significant impacts on the environment. Ron Alvarado, NRCS Oregon State Conservationist, has determined that the preparation of an EIS is needed for this Rehabilitation Project. This EIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650.

Species listed under the Endangered Species Act (ESA)may be affected by the proposed action. The reservoir behind the dam is designated as critical habitat for bull trout (*Salvelinus confluentus*). The Middle Fork Hood River sub-basin supports spring Chinook Salmon (*Oncorhynchus tshawytscha*), winter steelhead trout (*Oncorhynchus mykiss*), bull trout, and cutthroat trout (*Oncorhynchus clarkii*). Winter steelhead and bull trout are listed as threatened under ESA and critical habitat for both of these species is designated in the Middle Fork Hood River sub-basin. Critical habitat for the Lower Columbia River Chinook Salmon Evolutionarily Significant Unit is designated in the Middle Fork Hood River sub-basin. Critical habitat for the Northern Spotted Owl (*Strix occidentalis caurina*) is mapped near the confluences of Clear Branch, Pinnacle Creek, Coe Branch, and Eliot Branch. U.S. Forest Service Road 2840 accesses the dam and the Laurance Lake recreation facilities. Some alternatives may involve excavation, grading, surveying, limited closure, blocking, or detouring traffic in the right of way during construction.

Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- *CWA Section 404 Permit.* CWA Implementation of the proposed federal action may require a Clean Water Act (CWA) section 404 permit from the U.S. Army Corps of Engineers;
- *CWA Section 401 Permit.* The Rehabilitation Project may also require water quality certification under section 401 of CWA;
- *U.S. Fish and Wildlife Service* ESA section 7 Consultation;
- *National Marine Fisheries Service* ESA section 7 Consultation;
- *Forest Service Special Use Permit;* and
- *County Permit.* Implementation of the proposed federal action may require permit from Hood River County.

Schedule of Decision-Making Process

A Draft EIS (DEIS) will be prepared and circulated for review and comment by agencies, Tribes, section 106 consulting parties, and the public for at least 45 days per 40 CFR 1503.1, 1502.20, 1506.11, and 1502.17, and 7 CFR 650.13. The DEIS is anticipated to be published in the **Federal Register** in 2023, approximately 16 months after publication of this NOI. A Final EIS is anticipated to be published within 6 months of completion of the public comment period for the DEIS.

NRCS, in cooperation with the Forest Service, will decide whether to implement one of the alternatives as evaluated in the EIS. Since the Rehabilitation Project is located on National Forest System (NFS) lands, the Forest Service's decision will include whether to authorize construction on NFS lands and whether to issue a new or amended special use permit for continuing to operate Clear Branch Dam on NFS lands. The Forest Service may also issue a decision associated with conformance with the Mt. Hood Land and Resource Management Plan, as amended by the Northwest Forest Plan. An NRCS Record of Decision (ROD) will be completed after the required 30-day waiting period and a Forest Service ROD will be completed after the pre-decisional administrative review process (36 CFR part 218 or 36 CFR part 219) has concluded. The responsible federal official and decision maker for the NRCS is Ron Alvarado, Oregon State Conservationist. The responsible federal official and decision maker for the Forest Service is Meta Loftsgaarden, Mt Hood National Forest Supervisor.

Public Scoping Process

Public scoping meetings will be held to present the Rehabilitation Project and develop the scope of the draft EIS. A preliminary public scoping meeting for an EA was conducted on August 15, 2016, in Parkdale, Oregon. The date, time, and location for a public scoping meeting for the Environmental Impact Statement is:

- *Date:* Tuesday, October 4, 2022;
- *Time:* 5 p.m. to 7 p.m. Pacific time;
- *Location:* Zoom (virtual) and Parkdale Rural Fire Protection District Office at 4895 Baseline Dr., Mt Hood, Parkdale. OR 97041;
- *Register at: clearbranchdam.com.*

Comments received, including the names and addresses of those who comment, will be part of the public record. Scoping meeting presentation materials are available on the project website: *clearbranchdam.com.*

Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies, Tribes, section 106 consulting parties, and individuals who have special expertise, legal jurisdiction, or interest in the Rehabilitation Project to provide comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

NRCS will coordinate the scoping process as provided in 36 CFR 800.2(d)(3) and 800.8 (54 U.S.C. 306108) to help fulfill the National Historic Preservation Act (NHPA), as amended review process. The information about historic and cultural resources within the area potentially affected by the proposed project will assist NRCS in identifying and evaluating impacts to such resources in the context of both NEPA and NHPA.

NRCS will consult with Native American tribes on a government-to-government basis in accordance with 36 CFR 800.2 and 800.3, Executive Order 13175, and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources and historic properties, will be given due consideration.

Authorities

This document is published pursuant to the NEPA regulations regarding publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)).

Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended, (Pub. L. 83–566) and the Flood Control Act of 1944 (Pub. L. 78–534).

Federal Assistance Programs

The title and number of the Federal assistance programs as found in the Assistance Listing [1] (formerly referred to as the Catalog of Federal Domestic Assistance) to which this document applies are 10.904 Watershed Protection and Flood Prevention and 10.916 Watershed Rehabilitation.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, 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, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and TTY) or (844) 433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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Ronald Alvarado,

Oregon State Conservationist,Natural Resources Conservation Service.

Meta Loftsgaarden,

Mt. Hood National Forest Supervisor, U.S. Forest Service.

[FR Doc. 2022–20164 Filed 9–16–22; 8:45 am]

BILLING CODE 3410–16–P

[1] See *https://sam.gov/content/assistance-listings.*

DEPARTMENT OF COMMERCE

International Trade Administration

For Inspiration and Recognition of Science and Technology (FIRST), et. al; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). On August 16, 2022, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. *See Application(s) for Duty-Free Entry of Scientific Instruments, 87 FR 50289–90, August 16, 2022 (Notice).* We received no public comments.

Docket Number: 22–001. Applicant: For Inspiration and Recognition of Science and Technology (FIRST), 200 Bedford Street, Manchester, NH 03101. Instrument: Dual Band 1.17 Gbps Access Point. Manufacturer: Open Mesh Inc., China. Intended Use: According to the applicant, the FIRST Robotics Competition (FRC) (EIN 22–2990908) requires wireless radio communication between student teams' driver controls and their home-build robots. It is crucial that FRC be able to manage the wireless traffic (for safety and team experience reasons). FRC mandates a specific radio (Datto's OM5P–AN, obsolete, or OM5P–AC models, both are dual band 1.17 Gbps access points) with custom firmware which optimizes the radio for the competition use case. This transaction is to secure the radios needed for educational robotic kits for the 2020 season (4,400) air-freighted to meet 2020 season deadlines) and the 2021 season (4,336 shipped via ocean). The applicant certifies that there will not be any use of the foreign instrument by or for the primary benefit of any commercial (for-profit) entity with 5 years after entry of the foreign instrument into the United States customs territory.

Docket Number: 22–002. Applicant: University of California, Riverside, 900 University Avenue, Riverside, CA 92521. Instrument: Customs Pulsed Laser Deposit & Molecular-Beam Epitaxy (PLD/MBE) deposition system. Manufacturer: BEIJING PERFECT TECHNOLOGY CO., LTD., Beijing, China. Intended Use: According to the applicant, the instrument is intended to be used for research purposes for experimental condenses matter physics, spin transport, quantum transport, and spin-dependent physics, graphene, 2D layers, heterostructures, and nanoscale devices, magnetic insulators, heterostructures and interfaces, energy related materials science research.

Docket Number: 22–003. Applicant: University of Chicago Argonne LLC, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL (U.S.A.), 60439–4873. Instrument: High Heat Load Exit Mask Assemblies. Manufacturer: Strumenti Scientific CINEL S.R.L., Italy. Intended Use: According to the applicant, these components will be used to assemble the new high heat load front ends for the Advanced Photon Source upgrade. The front end consists of a series of components that connect the storage ring to the user beamline to deliver a photon beam that will be used as a three-dimensional X-ray microscope for experimental purposes. The materials/phenomena that are studied vary widely from material properties analysis, protein mapping for pharmaceutical companies, X-ray imaging and chemical

composition determination. These components will be used exclusively for scientific research for a minimum of 5 years at Argonne National Laboratory. The properties of the materials studied include but are not limited to grain structure, grain boundary and interstitial defects, and morphology. These properties are not only studied at ambient environments but also under high pressure, temperature, stress and strain.

Docket Number: 22–004. Applicant: UChicago Argonne LLC, Operatory of Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL (U.S.A.) 60439–4873. Instrument: High Energy Monochromators. Manufacturer: Strumenti Scientific CINEL S.R.L., Italy. Intended Use: According to the applicant, these instruments will be used on new beamlines for the Advanced Photon Source upgrade. The monochromators are bandpass optical filters, that allow only a narrow band of wavelengths of X-rays to pass. This is critical for the needs of the beamline's experimental purposes. The materials/phenomena that are studied vary widely from material properties analysis, protein mapping for pharmaceutical companies, X-ray imaging and chemical composition determination. These components will be used exclusively for scientific research for a minimum of 5 years at Argonne National Laboratory. The properties of the materials studied include but are not limited to grain structure, grain boundary and interstitial defects, and morphology. These properties are not only studied at ambient environments but also under high pressure, temperature, stress and strain.

Docket Number: 22–005. Applicant: Cornell University, School of Civil and Environmental Engineering, Hollister Hall (2046), Room #220, 527 College Avenue, Ithaca, NY 14853–3501, USA. Instrument: Semi-automatic single cell sorter. Manufacturer: Hooke Instruments, Ltd., P.R. China. Intended Use: According to the applicant, the research will involve identifying and obtaining novel single cells based on metabolic traits that cannot be identified with simple label/staining, and in addition, we would like to obtain live cells for further culturing and investigation. We are interested in novel and non-culturable organisms/cells that possess combined traits of desire that can be detected using Raman micro-spectroscopy fingerprinting. This unique label-free and ejection-based cell sorter is the only one known that will enable the applicant to eject the single live cell (pre-identified with non-invasive, non-damaging Raman) in complicated bioprocess/environmental (soil water) samples into collectors and then allow us to study them.

Dated: September 14, 2022.

Richard Herring,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2022–20209 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicles and Light Truck Tires From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of June 3, 2022, in which Commerce announced the amended final results of the 2015–2016 administrative review of the antidumping duty (AD) order on certain passenger vehicle and light truck tires (passenger tires), following a final decision by the U.S. Court of International Trade which was not in harmony with the underlying final results of that review. In that notice, Commerce incorrectly labeled the headers of two tables setting forth the weighted-average dumping margins applicable in the amended final results as ''Producer/Exporter,'' instead of labeling them as ''Exporter.'' In addition, Commerce incorrectly separated certain entities in the first table, instead of listing them together. We are correcting these inadvertent errors with this notice, as described below.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3797.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of June 3, 2022, in FR Doc 2022–11939, on pages 33718 and 33719, in the first column of each table, correct the header from ''Producer/Exporter'' to ''Exporter.'' In addition, on page 33719, in the first column of the first table, correct the list of entities by combining Sailun Jinyu Group Co., Ltd.; Sailun Jinyu Group (Hong Kong) Co., Limited; Shandong Jinyu Industrial Co., Ltd.; Sailun Tire International Corp.; Seatex International Inc.; Dynamic Tire Corp.; and Husky Tire Corp. together, rather than on separate lines.

Background

On June 3, 2022, Commerce published in the **Federal Register** the amended final results of the 2015–2016 administrative review of the order on passenger tires from the People's Republic of China.[1] We incorrectly labeled the headers in two tables setting forth the weighted-average dumping margins determined in that review as ''Producer/Exporter,'' instead of ''Exporter.'' In addition, we incorrectly separated certain entities in the first table, instead of listing them together as determined in the underlying investigation.[2] The corrected tables are below:

[1] *See Certain Passenger Vehicles and Light Truck Tires from the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results,* 87 FR 33717 (June 3, 2022); *see also Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 11690 (March 16, 2018).

[2] The entities that were incorrectly separated are: Sailun Jinyu Group Co., Ltd.; Sailun Jinyu Group (Hong Kong) Co., Limited; Shandong Jinyu Industrial Co., Ltd.; Sailun Tire International Corp.; Seatex International Inc.; Dynamic Tire Corp.; and Husky Tire Corp. *See Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part,* 80 FR 34893 (June 18, 2015).

Exporter	Final results: weighted-average dumping margin (percent)	Second final remand: weighted-average dumping margin (percent)
Qingdao Sentury Tire Co., Ltd./Sentury Tire USA Inc./Sentury (Hong Kong) Trading Co., Limited	4.41	[3] 1.27
Actyon Tyre Resources Co., Limited	2.96	1.45
Shandong Anchi Tyres Co., Ltd	2.96	1.45
Briway Tire Co., Ltd	2.96	1.45
Shandong Changfeng Tyres Co., Ltd	2.96	1.45
Qingdao Crown Chemical Co., Ltd	2.96	1.45
Crown International Corporation	2.96	1.45
Qingzhou Detai International Trading Co., Ltd	2.96	1.45
Shandong Duratti Rubber Corporation Co., Ltd	2.96	1.45
Shouguang Firemax Tyre Co., Ltd	2.96	1.45
Fleming Limited	2.96	1.45
Qingdao Fullrun Tyre Corp., Ltd	2.96	1.45
Qingdao Fullrun Tyre Tech Corp., Ltd	2.96	1.45
Guangrao Taihua International Trade Co., Ltd	2.96	1.45
Shandong Guofeng Rubber Plastics Co., Ltd	2.96	1.45
Hankook Tire China Co., Ltd	2.96	1.45
Haohua Orient International Trade Ltd	2.96	1.45
Shandong Hengyu Science & Technology Co., Ltd	2.96	1.45
Hongkong Tiancheng Investment & Trading Co., Limited	2.96	1.45
Hongtyre Group Co	2.96	1.45
Jiangsu Hankook Tire Co., Ltd	2.96	1.45
Jinyu International Holding Co., Limited	2.96	1.45
Qingdao Jinhaoyang International Co., Ltd	2.96	1.45
Jilin Jixing Tire Co., Ltd	2.96	1.45
Kenda Rubber (China) Co., Ltd	2.96	1.45
Qingdao Keter International Co., Limited	2.96	1.45
Koryo International Industrial Limited	2.96	1.45
Kumho Tire Co., Inc	2.96	1.45
Qingdao Lakesea Tyre Co., Ltd	2.96	1.45
Liaoning Permanent Tyre Co., Ltd	2.96	1.45
Shandong Longyue Rubber Co., Ltd	2.96	1.45
Macho Tire Corporation Limited	2.96	1.45
Maxon Int'l Co., Limited	2.96	1.45
Mayrun Tyre (Hong Kong) Limited	2.96	1.45
Qingdao Nama Industrial Co., Ltd	2.96	1.45
Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd	2.96	1.45
Shandong New Continent Tire Co., Ltd	2.96	1.45
Qingdao Odyking Tyre Co., Ltd	2.96	1.45
Prinx Chengshan (Shandong) Tire Co., Ltd	2.96	1.45
Riversun Industry Limited	2.96	1.45
Roadclaw Tyre (Hong Kong) Limited	2.96	1.45
Safe & Well (HK) International Trading Limited	2.96	1.45
Sailun Jinyu Group Co., Ltd.;[4] Sailun Jinyu Group (Hong Kong) Co., Limited;[5] Shandong Jinyu Industrial Co., Ltd.;[6] Sailun Tire International Corp.; Seatex International Inc.; Dynamic Tire Corp.; Husky Tire Corp	2.96	1.45
Shandong Province Sanli Tire Manufactured Co., Ltd	2.96	1.45
Shandong Linglong Tyre Co., Ltd	2.96	1.45
Shandong Yonking Rubber Co., Ltd	2.96	1.45
Shandong Shuangwang Rubber Co., Ltd	2.96	1.45
Shengtai Group Co., Ltd	2.96	1.45
Techking Tires Limited	2.96	1.45
Triangle Tyre Co., Ltd	2.96	1.45
Tyrechamp Group Co., Limited	2.96	1.45
Shandong Wanda Boto Tyre Co., Ltd	2.96	1.45
Windforce Tyre Co., Limited	2.96	1.45
Winrun Tyre Co., Ltd	2.96	1.45
Weihai Zhongwei Rubber Co., Ltd	2.96	1.45
Shandong Zhongyi Rubber Co., Ltd	2.96	1.45
Zhaoqing Junhong Co., Ltd	2.96	1.45

[3] *See* Memorandum, ''Final Results of Redetermination Pursuant to Second Remand of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Analysis Memorandum for Qingdao Sentury Tire Co., Ltd.,'' dated February 26, 2021.

[4] Sailun Group Co., Ltd. is the successor-in-interest to Sailun Jinyu Group Co. Ltd. for purposes of AD cash deposits and liabilities. *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Changed Circumstances Reviews,* 85 FR 14638 (March 13, 2020).

[5] Sailun Group (Hong Kong) Co., Limited is the successor-in-interest to Sailun Jinyu Group (Hong Kong) Co., Limited for purposes of AD cash deposits and liabilities. *Id.*

[6] Sailun (Dongying) Tire Co., Ltd. is the successor-in-interest to Shangong Jinyu Industrial Co., Ltd. for purposes of AD cash deposits and liabilities. *Id.*

Exporter	Final results: weighted-average dumping margin (percent)	Third final remand: weighted-average dumping margin (percent) (applicable to the period January 27, 2015, through October 19, 2015)
Pirelli Tyre Co., Ltd	76.46	[7] 1.45

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i) of the Tariff Act of 1930, as amended.

Dated: September 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–20207 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–815]

Oil Country Tubular Goods From Ukraine: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that sales of oil country tubular goods (OCTG) from Ukraine were made at less than normal value during the period of review (POR) July 1, 2020, through June 30, 2021. We invite interested parties to comment on these preliminary results.

DATES: Applicable September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 2019, Commerce published in the **Federal Register** the antidumping duty order on OCTG from Ukraine.[1] On July 1, 2021, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* on OCTG from Ukraine for the POR July 1, 2020, through June 30, 2021.[2] On September 7, 2021, based on timely requests for review, Commerce initiated an administrative review of the *Order.*[3] The domestic interested parties are: Maverick Tube Corporation; Tenaris Bay City, Inc.; IPSCO Tubulars Inc.; and United States Steel Corporation. This review covers the sole mandatory respondent, Interpipe.[4]

On April 13, 2022, we extended the deadline for the preliminary results of this review by 61 days in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[5] On June 27, 2022, Commerce further extended the deadline for the preliminary results by an additional 59 days.[6] For details regarding the events that occurred subsequent to the initiation of the review, *see* the Preliminary Decision Memorandum.[7] A list of topics discussed in the Preliminary Decision Memorandum is included in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The merchandise under review is certain OCTG from Ukraine, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the *Order* also covers OCTG coupling stock. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Constructed export price has been calculated in accordance with section 772 of the Act and normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

[1] *See Termination of the Suspension Agreement on Certain Oil Country Tubular Goods from Ukraine, Rescission of Administrative Review, and Issuance of Antidumping Duty Order,* 84 FR 33918 (July 16, 2019) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 86 FR 35065 (July 1, 2021).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 50034 (September 7, 2021).

[4] In the most recent administrative review of this proceeding, we treated the following companies as a single entity: Interpipe Europe S.A.; Interpipe Ukraine LLC; PJSC Interpipe Niznedneprovsky Tube Rolling Plant; LLC Interpipe Niko Tube (collectively, Interpipe). *See Oil Country Tubular Goods from Ukraine: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 43522 (August 9, 2021), and accompanying Preliminary Decision Memorandum, at ''Affiliation and Collapsing,'' unchanged in *Oil Country Tubular Goods from Ukraine: Final Results of Antidumping Duty Administrative Review; 2019–2020,* 87 FR 7801 (February 10, 2022), and accompanying Issues and Decision Memorandum.

[5] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review, 2020–2021,'' dated April 13, 2022.

[6] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review, 2020–2021,'' dated June 27, 2022.

[7] *See* Memorandum, ''Final Results of Redetermination Pursuant to Second Remand of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Calculation Memorandum for Separate Rate Companies,'' dated February 26, 2021.

[7] *See* Memorandum, ''Decision Memorandum for Preliminary Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Ukraine,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margin exists for the period July 1, 2020, through June 30, 2021:

Producer and/or exporter	Weighted-average dumping margin (percent)
Interpipe Europe S.A./Interpipe Ukraine LLC/PJSC Interpipe Niznedneprovsky Tube Rolling Plant/LLC Interpipe Niko Tube	1.59

Disclosure

Commerce will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs, or other written comments, may be submitted to the Assistant Secretary for Enforcement and Compliance through ACCESS no later than seven days after the date on which the final verification report is issued in this proceeding.[8] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[9] Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS [10] and must be served on interested parties.[11] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days of the date of publication of this notice.[13] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[14] Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case and rebuttal briefs, within 120 days of publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Verification

On December 16, 2021, the domestic interested parties requested, pursuant to 19 CFR 351.307(b)(1)(v), that Commerce conduct verification of the questionnaire responses submitted in this administrative review.[15] As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination for Interpipe.

Assessment Rates

Upon issuing the final results of this review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[16] If the weighted-average dumping margin for Interpipe (*i.e.,* the sole individually-examined respondent in this review) is not zero or *de minimis* (*i.e.,* greater than or equal to 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the POR to each importer and the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Where an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of the review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[17] If Interpipe's weighted-average dumping margin is zero or *de minimis* in the final results of the review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [18]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Interpipe for which the producer did not know its merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate (*i.e.,* 7.47 percent) [19] if there is no rate for the intermediate company (or companies) involved in the transaction.[20]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments

[8] *See* 19 CFR 351.309(c).

[9] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect)'').

[10] *See* 19 CFR 351.309(c)(2) and (d)(2); *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See* 19 CFR 351.303(f).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[13] *See* 19 CFR 351.310(c).

[14] *See* 19 CFR 351.310(d).

[15] *See* Domestic Interested Parties' Letter, ''Oil Country Tubular Goods from Ukraine: Request for On-Site Verification,'' dated December 16, 2021.

[16] *See* 19 CFR 351.212(b)(1).

[17] *See* 19 CFR 351.106(c)(2).

[18] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[19] *See Order,* 84 FR at 33919.

[20] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Interpipe will be equal to the weighted-average dumping margin established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (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 in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or in the less-than-fair-value investigation (LTFV) but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 7.47 percent, the rate established in the LTFV investigation of this proceeding.[21] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a 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 occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2).

Dated: September 9, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–20169 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–DS–P

[21] *See Order,* 84 FR at 33919.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–809]

Certain Hot-Rolled Steel Flat Products From Australia: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

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

SUMMARY: On August 30, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *BlueScope Steel LTD.* v. *United States,* Court No. 19–00057, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the administrative review of the antidumping duty (AD) order on certain hot-rolled steel flat products (hot-rolled steel) from Australia covering the period March 22, 2016, through September 30, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to BlueScope Steel Ltd. (BSL) and its affiliate BlueScope Steel (AIS) Pty (collectively, BlueScope).

DATES: Applicable September 9, 2022.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon, 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) 482–6274.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 2019, Commerce published its *Final Results* in the 2016–2017 AD administrative review of hot-rolled steel from Australia.[1] Commerce applied facts otherwise available, with an adverse inference, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act) to BlueScope because it provided deficient responses and failed to provide information in the manner and form requested, thereby significantly impeding the administrative review and failed to cooperate to the best of its ability with Commerce's request for information. BlueScope appealed Commerce's *Final Results.* On November 30, 2021, the CIT remanded the *Final Results* to Commerce to reexamine the record in this case, as well as the use of facts available with respect to BlueScope.[2]

In its remand redetermination, issued in April 2022, Commerce reevaluated the information on the record and issued a supplemental questionnaire to BlueScope identifying the deficiencies in its previous responses. Based on BlueScope's supplemental response, we recalculated the period of review weighted-average dumping margin for BlueScope consistent with record evidence.[3] The CIT sustained Commerce's *Final Redetermination*.[4]

Timken Notice

In its decision in *Timken,*[5] as clarified by *Diamond Sawblades,*[6] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of a court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's August 30, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to BlueScope as follows:

[1] *See Certain Hot-Rolled Steel Flat Products from Australia: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 18241 (April 30, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See BlueScope Steel Ltd.* v. *United States,* 548 F. Supp. 3d 1351 at 1369 (CIT 2021).

[3] *See Final Results of Redetermination Pursuant to Court Remand, BlueScope Steel LTD.* v. *United States,* Court No. 19–00057, Slip Op. 21–160, dated April 12, 2022, available at *https://access.trade.gov/Resources/remands/21-160.pdf* (*Final Redetermination*).

[4] *See BlueScope Steel Ltd.* v. *United States,* Court No. 19–00057, Slip Op. 22–102 (CIT August 30, 2022).

[5] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[6] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Exporter/producer	Weighted-average dumping margin (percent)
BlueScope Steel (AIS) Pty Ltd., BlueScope Steel Ltd., and BlueScope Steel Distribution Pty Ltd	4.95

Cash Deposit Requirements

Because BlueScope has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by a CIT order from liquidating entries that: were (a) produced and/or exported by BlueScope Steel Ltd. and BlueScope Steel (AIS) Pty Ltd.; (b) subject to the *Final Results;* and (c) entered, or withdrawn from warehouse for consumption, on or after March 22, 2016, up to and including September 30, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by BSL and BlueScope Steel (AIS) Pty Ltd. in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis.* Where an import-specific *ad valorem* assessment rate is zero or *de minimis,*[7] we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 13, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–20208 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See* 19 CFR 351.106(c)(2).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Comment of the Interagency Working Group on Ocean Acidification (IWG–OA)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public comment.

SUMMARY: This notice announces the Draft Strategic Plan for Federal Research and Monitoring of Ocean Acidification is available for public comment. Developed by the Interagency Working Group on Ocean Acidification of the National Science and Technology Council's Subcommittee on Ocean Science and Technology, this Draft Strategic Plan presents an updated vision for how to move Federal agencies toward a better understanding of the process of ocean acidification, its effects on marine ecosystems, and the steps that could be taken to adapt marine resource management to account for it.

DATES: Comments must be received on or before November 12, 2022.

ADDRESSES: A copy of the Draft Strategic Plan may be downloaded or viewed on the internet at: *https://oceanacidification.noaa.gov/FederalStrategicPlan.aspx.* You are encouraged to use the comment form spreadsheet provided on the same website to submit your comments. However, comments will also be accepted in word, pdf, or email body. Please submit public comments via email to *courtney.cochran@noaa.gov* with the subject line ''Public Comment on Draft OA Strategic Plan.'' No business proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this request. Please be aware that comments submitted may be posted on a federal website or otherwise released publicly. Clearly indicate which section, page number, and line number, if applicable, submitted comments pertain to. All comments must be provided in English. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Courtney Cochran, Executive Secretary, Interagency Working Group on Ocean Acidification (Phone Number: 937–903–3112) (Email: *courtney.cochran@noaa.gov*).

SUPPLEMENTARY INFORMATION: The development of this Strategic Plan (Plan) was directed by section 12404(c) and guided by section 12405 of the Federal Ocean Acidification Research And Monitoring Act of 2009, 33 U.S.C. 3701–3708, and (FOARAM Act). The Plan is intended to guide ''Federal research and monitoring on ocean acidification that will provide for an assessment of the impacts of ocean acidification on marine organisms and marine ecosystems and the development of adaption and mitigation strategies to conserve marine organisms and marine ecosystems.''

This Plan builds on the first Strategic Plan for Federal Research and Monitoring of Ocean Acidification, released in 2014. The present document serves as the required 5-year update and revision to this 2014 document. The 2014 Strategic Plan and this new Strategic Plan focus on the seven priority themes identified in the FOARAM Act: (1) monitoring; (2) research; (3) modeling; (4) technology development; (5) socioeconomic impacts; (6) education, outreach, and engagement strategies; and (7) data management and integration. The new Strategic Plan is organized around these themes and details multiple objectives under each as well as actions to support the objectives. Many of the objectives and actions listed in this Strategic Plan are interconnected, reflecting the interdisciplinary nature of ocean acidification research and transdisciplinary Federal activities on it. For each action, it is indicated whether the action is new, revised, or the same as the action in the 2014 Strategic Plan. Information on federal spending on ocean acidification monitoring and research activities will be included in the final version of the plan; there is currently placeholder text, as public comment is not accepted on this portion of the plan.

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–20215 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting and Listening Session for Developing the National Ocean Service Strategic Plan

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service (NOS) is currently developing a new strategic plan. NOS will hold a public meeting to solicit early input to inform the development of this plan.

DATES: The virtual public meeting will be held on Tuesday, September 27, 2022, from 3–4:30 p.m. eastern daylight time (EDT). NOAA may end the meeting before 4:30 p.m. EDT if all participants have concluded their oral comments.

ADDRESSES: The meeting will be held virtually using Adobe Connect. Participants may also join the meeting by phone using this toll-free number: 877–462–2185 with a passcode of 9687178. To register for the meeting please use this link *https://noaabroadcast.adobeconnect.com/e31ixeyt0hw6/event/registration.html.*

To provide oral comment during the virtual listening session, please sign up prior to the meeting by selecting the option to speak when you pre-register, or by contacting Michelle Rome by email at *Michelle.Rome@noaa.gov* or phone at 240–533–0669. Please indicate what topic(s) you would like to comment on, including: ''*Conserve, Restore, Connect,*'' ''*Diversity, Equity, Inclusion, Justice, and Accessibility,*'' ''*Coastal Resilience,*'' ''*New Blue Economy,*'' and ''*Other Input.*'' Participants may also sign-up to speak during the meeting. However, priority will be given to participants who pre-register to speak.

The meeting is accessible to people with disabilities. Closed captioning will be available. Requests for other auxiliary aids should be sent to *Michelle.Rome@noaa.gov* or by phone at 240–533–0669 by September 21, 2022.

Please note that the meeting will not be recorded. However, public comments, including any associated names, will be captured in the minutes of the meeting, will be maintained by the NOS as part of its administrative record, and may be subject to public release pursuant to the Freedom of Information Act. By signing up to provide a comment, you agree that these communications, including your name and comment, will be maintained as described here.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Rome, Executive Officer, NOS Assistant Administrator's Office, by email at *Michelle.Rome@noaa.gov* or phone at 240–533–0669.

SUPPLEMENTARY INFORMATION: NOS is developing a new strategic plan for 2024–2029. The strategic plan will define a future course as NOS continues to play a critical role in filling important needs for our national and coastal communities, including tackling the climate crisis, understanding and reversing declining ecosystem functions, and meeting the ever-expanding needs for authoritative environmental information.

This new plan also represents an opportunity for NOS to refresh our priorities, track our progress toward our goals, and align with the Department of Commerce (DOC) and NOAA strategic plans. Connecting these efforts, both across the agency and with partners, will allow us to achieve a greater impact through collaboration and information sharing.

We are seeking early input from the public as we begin to develop and define our long-term goals, objectives, and opportunities. In addition, we welcome your views on how external partnerships can help us better achieve our mission within NOS. Please consider the four priorities below and bring your ideas to the NOS Strategic Planning Listening Session on September 27, 2022. Participants are encouraged to sign-up to speak prior to the meeting by selecting the option to speak when you pre-register through this link *https://noaabroadcast.adobeconnect.com/e31ixeyt0hw6/event/registration.html,* or by contacting Michelle Rome by email at *michelle.rome@noaa.gov* or phone at 240–533–0669.

Conserve, Restore, Connect: America's ocean and coasts are facing significant and increasing pressures from human activity and climate change. NOS would like to hear your ideas on what is most needed to mitigate stressors, enhance degraded ecosystems, restore lost benefits, and provide value-added products and services that facilitate sustainable use, especially within marine protected areas. How can NOS data, observations, and scientific expertise be best utilized to achieve these aims? We'd also like to hear from you on how conserving and restoring ecosystems can address the causes and effects of the climate crisis.

Diversity, Equity, Inclusion, Justice, and Accessibility: Diversity, equity, inclusion, justice and accessibility are fundamental principles that underpin NOS values and how we conduct our mission, guiding our actions today and into the future. To ensure our mission benefits more communities across the nation and serves all people fairly and responsibly, NOS is interested in hearing your thoughts on how we can improve our efforts to equitably provide our data, products, and services. We'd also like your thoughts on how we can better leverage the various expertise and abilities of our external partners and additional organizations to attract, recruit and retain a diverse, highly-capable workforce, especially for future mission needs.

Coastal Resilience: U.S. coastal States, territories, communities, economies, and ecosystems are facing an array of event-based and long-term coastal hazards, including the impacts of changing water levels, land subsidence, marine debris, oil and chemical spills, harmful algal blooms, ocean acidification, and marine heat waves. Risk-informed decision making requires accurate and authoritative data, observations, modeling, mapping, and services that quantify and clearly communicate the drivers of coastal flood risk. NOS addresses this need by providing equitable access to actionable, authoritative data, products, and services relevant to coastal conditions and change that helps communities plan for both the near- and long-term resilience and adaptation of the nation's coasts in a changing climate. How can NOS coastal and ocean data, modeling, predictions, training, grants, tools, services, and products better support communities to prepare for increased near and long-term threats? How can we help ensure the equitable delivery of resilience information and resources to historically underserved communities?

New Blue Economy: NOS envisions a sustainable and equitable ocean and coastal economy that optimizes advances in science and technology to create value-added, data-driven economic opportunities and solutions to pressing societal needs. The New Blue Economy is focused on applying science and technology, especially the vast amounts of data and information they yield, to catalyze public and private sector innovation. By promoting U.S. development of new and improved data-derived products and services, NOS hopes to ensure that the nation has access to better tools to inform decision making across all Blue Economy sectors.

How can NOS better support and accelerate the growth of the New Blue Economy? How can NOS support efforts to ensure there is a diverse and available talent pool and workforce that is essential to the success of the New Blue Economy?

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–20212 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC352]

International Whaling Commission; 68th Meeting; Announcement of Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice announces the date, time, and location of the public meeting being held, in a hybrid format, prior to the 68th meeting of the International Whaling Commission (IWC). The meeting is open to U.S. citizens only.

DATES: The public meeting will be held September 27, 2022 at 1 p.m. EDT.

ADDRESSES: The meeting will be held in a hybrid format. In-person attendees will join the meeting at the Silver Spring Civic Center, 1 Veterans Pl, Silver Spring, MD 20910. Virtual attendees can register to attend the public meeting by registering at the following link: *https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?RGID=r45c98c107d00773a8d62670ff3f302f7.*

FOR FURTHER INFORMATION CONTACT: Madison Harris, *Madison.Harris@noaa.gov* or 202–480–4592.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is responsible for implementing the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. IWC Commissioner has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. The U.S. IWC Commissioner is staffed by the Department of Commerce and assisted by the Department of State, the Marine Mammal Commission, and other U.S. Government agencies.

Additional information about the IWC meeting, including a draft agenda for the meeting, is posted on the IWC Secretariat's website at *https://iwc.int/events-and-workshops/iwc68.*

NOAA will hold a public meeting to discuss the tentative U.S. positions for the October 2022 IWC meeting in Portorož, Slovenia. Any U.S. citizen with an identifiable interest in U.S. whale conservation and management policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at the meeting and to determine the appropriateness of that person's participation. In particular, persons who represent foreign interests may not attend. Persons deemed by NOAA to be ineligible to attend will be asked to leave the meeting. These measures are necessary to limit statements to those conveying U.S. interests.

The September 27, 2022, meeting will be held at 1 p.m. EDT in a hybrid format. In-person attendees can join the meeting in the Fenton Room of the Silver Spring Civic Center, 1 Veterans Pl, Silver Spring, MD 20910. Persons may also attend virtually. Meeting access and conferencing platform information will be sent to those who register. To participate virtually, interested persons must register in advance via the following link: *https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?RGID=r45c98c107d00773a8d62670ff3f302f7.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Madison Harris, *Madison.Harris@noaa.gov* or 202–480–4592, by September 21, 2022.

Dated: September 14, 2022.

Alexa Cole,

Director, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service.

[FR Doc. 2022–20203 Filed 9–16–22; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2022–0063]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau or CFPB) is requesting to extend the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''Home Mortgage Disclosure Act (Regulation C)'' approved under OMB Control Number 3170–0008.

DATES: Written comments are encouraged and must be received on or before November 18, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2022–0063 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, PRA Officer, at (202) 841–0544, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Home Mortgage Disclosure Act (Regulation C).

OMB Control Number: 3170–0008.

Type of Review: Extension of a currently approved information collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 136.

Estimated Total Annual Burden Hours: 1,472,000.

Abstract: The Home Mortgage Disclosure Act (HMDA) requires certain depository institutions and for-profit, non-depository institutions to collect, report, and disclose data about originations and purchases of mortgage loans. Additionally, these institutions must report mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). The Bureau's Regulation C (12 CFR part 1003) implements HMDA. The purpose of the information collection is:

- To help determine whether financial institutions are serving the housing needs of their communities;
- To assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and
- To assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

The information collection will also assist the Bureau's examiners (and examiners of other Federal supervisory agencies) in determining whether the financial institutions they supervise comply with applicable provisions of HMDA.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2022–20205 Filed 9–16–22; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2022–0062]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau or CFPB) is requesting to extend the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''Generic Information Collection Plan for Studies of Consumers Using Controlled Trials in Field and Economic Laboratory Settings'' approved under OMB Control Number 3170–0048.

DATES: Written comments are encouraged and must be received on or before November 18, 2022 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2022–0062 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, PRA Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for Studies of Consumers Using Controlled Trials in Field and Economic Laboratory Settings.

OMB Control Number: 3170–0048.

Type of Review: Extension of a currently approved information collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 44,150.

Estimated Total Annual Burden Hours: 33,100.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau is tasked with researching, analyzing, and reporting on topics relating to the Bureau's mission including developments in markets for consumer financial products and services, consumer awareness, and consumer behavior. Under this generic information collection plan, the Bureau collects data through controlled trials in field and economic laboratory settings. This research is used for developmental and informative purposes to increase the Bureau's understanding of consumer credit markets and household financial decision-making. Basic research projects will be submitted under this clearance.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2022–20204 Filed 9–16–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2022–HQ–0016]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

DATES: Consideration will be given to all comments received by November 18, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of the Army, Army Safety Office, Chief of Staff, DACS–SF, 9351 Hall Rd., Fort Belvoir, VA 22060, ATTN: Mr. Timothy Mikulski at (703) 697–1321.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Permit for Non-Army Agency Radiation Sources on Army Land; OMB Control Number 0702–0109.

Needs and Uses: The information collection requirement is necessary to regulate the use, storage, or possession of radiation sources by non-Army agencies (including their civilian contractors) on an Army installation. The non-Army applicant will apply by letter, email or facsimile with supporting documentation to the garrison commander through the appropriate tenant commander or garrison director.

The Army radiation permit application will specify the effective date and duration for the Army radiation permit and describe the purposes for which the Army radiation permit is being sought. The application will include identification of the trained operating personnel who will be responsible for implementation of the activities authorized by the permit and a summary of their professional qualifications; the point-of-contact name and phone number for the application; the applicant's radiation safety Standing Operating Procedures; storage provisions when the radiation source is not in use; and procedures for notifying the installation of reportable incidents/accidents.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions; State, Local, or Tribal Government.

Annual Burden Hours: 470.

Number of Respondents: 235.

Responses per Respondent: 1.

Annual Responses: 235.

Average Burden per Response: 2 hours.

Frequency: On occasion.

Dated: September 13, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20156 Filed 9–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0113]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on collections using similar methods, we are seeking comment on the following Generic Information Collection Request: ''Qualitative and Quantitative Data Collection on Independent Review Commission Recommendation Evaluation'' for approval under the Paperwork Reduction Act. This notice announces our intent to submit this collection to OMB for approval and solicits comment on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by November 18, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05, Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Qualitative and Quantitative Data Collection on Independent Review Commission Recommendation Evaluation; OMB Control Number 0704–HIRC.

Needs and Uses: This information collection activity provides a means to

garner DoD-wide quantitative and qualitative data in support of the implementation and evaluation of the Secretary of Defense approved Independent Review Commission's (IRC) 82 recommendations. These information collections will be conducted by the OUSD (P&R), Office of General Counsel, Military Departments, Military Services, and/or National Guard Bureau (hereafter referred to as DoD). DoD will collect quantitative and qualitative data through data calls, surveys, interviews, site visits and other validated methods. Information collection efforts will align to the four IRC Lines of Effort (LOE): LOE 1—Accountability; LOE 2—Prevention; LOE 3: Climate and Culture; and, LOE 4: Victim Care and Support.

Affected Public: Individuals or households.

Annual Burden Hours: 45,000.

Number of Respondents: 45,000.

Responses per Respondent: 2.

Annual Responses: 90,000.

Average Burden per Response: 30 minutes.

Frequency: Annually.

Dated: September 13, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20158 Filed 9–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Expansion of the Department of Defense and Department of Veterans Affairs Hearing Aid Ordering Model to Private Sector Care for Active Duty Service Members Receiving Care Through the Supplemental Health Care Program

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense (DoD).

ACTION: Notice of demonstration project.

SUMMARY: The Acting Assistant Secretary of Defense for Health Affairs (ASD(HA)) issues this notice of demonstration to authorize the Defense Health Agency (DHA) to expand the DoD and Department of Veterans Affairs (VA) Hearing Aid Program (HAP) utilized throughout the Military Health System to a limited segment of the private sector care network of the TRICARE Managed Care Support Contractors (MCSCs). The intent is to replicate, to the fullest extent possible, the VA's Community Care Network model for delivery of prescribed hearing aids and associated devices to Veterans, for Active Duty Service Members (ADSMs) receiving care through the Supplemental Health Care Program (SHCP) in designated states, as well as to qualifying Prime Active Duty Family Members (ADFMs) diagnosed with profound hearing loss. This demonstration will be effective for the period of two years and conducted in three tiered phases: Phase One covers ADSMs in the state of California from January 1, 2023 until the completion of the demonstration; Phase Two covers ADSMs in the state of Texas from January 1, 2024 until the completion of the demonstration; and Phase Three covers qualifying Prime ADFMs in the states of California and Texas from July 1, 2024 through completion of the demonstration. These changes are intended to standardize the hearing aid ordering process and reduce the cost variability for hearing aids and associated devices prescribed for treatment under TRICARE by private sector care providers in network.

DATES: This demonstration has an effective and implementation date of the January 1, 2023. The demonstration authority will remain in effect until December 31, 2024, unless terminated or extended by the DoD via a subsequent **Federal Register** Notice. Phase One (ADSM in California) has a target effective date of care delivery of January 1, 2023. Phase Two (ADSM in Texas) has a target effective date of care delivery of January 1, 2024. Phase Three (qualifying Prime ADFM in California and Texas) has a target effective date of care of July 1, 2024. If the Acting ASD(HA), in collaboration with VA leadership, determines it would be appropriate to make expansion of the DoD–VA HAP permanent, the Acting ASD(HA) will follow-up with interim and final rulemaking, if required.

FOR FURTHER INFORMATION CONTACT:

Amy Boudin-George, AuD, CCC–A, Defense Health Agency, (210) 215–9200, *amy.n.boudin.civ@mail.mil.*

Joe Mirrow, Defense Health Agency, (571) 217–9470, *joe.b.mirrow.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

A. Executive Summary

This notice is to advise all parties of a DHA demonstration project under the authority of Title 10, United States Code (U.S.C.), Section 1092, entitled ''TRICARE Expansion of the Department of Defense and Department of Veterans Affairs Hearing Aid Procurement Model to Private Sector Care for Active Duty Service Members Receiving Care through the Supplemental Health Care Program and qualifying Prime Active Duty Family Members.'' The demonstration will monitor whether cost variability can be decreased and efficiency increased using the DoD–VA HAP in the TRICARE MCSCs private sector care networks. The DoD Hearing Center of Excellence (HCE), in collaboration with the TRICARE Health Plan (THP) and the VA's Denver Logistics Center (DLC) and Central Audiology Office, will conduct and evaluate a demonstration of the use of the VA National Hearing Aid and Wireless Systems contract for the purchase of hearing aids and associated devices prescribed for ADSMs and qualifying Prime ADFMs seen by private sector care network audiologists in designated states. The proposed demonstration will help DHA assess whether use of these contracts will impact access to care, improve efficiency to care completion, decrease billing errors to increase cost avoidance for TRICARE and its beneficiaries, and improve patient experience in quality of care.

The demonstration will develop and evaluate a system for TRICARE MCSCs private sector care network audiologists to request hearing aids for ADSMs and qualifying ADFMs through a centralized audiology team supported by the DoD HCE. The devices will be ordered through the VA Remote Order Entry System (ROES), purchased from the VA via a DHA Military Interdepartmental Purchase Request (MIPR), and delivered to the prescribing audiologist's practice for fitting and dispensing to the beneficiary. This demonstration will integrate the Military and civilian health care systems per Section 705(c) of the National Defense Authorization Act for Fiscal Year 2017. Conducted under the purview of the DHA, it will be administered through the MCSCs (Health Net Federal Services (HNFS) and Humana Government Business (HGB), Inc. at time of publication) in three phases, applicable to ADSM beneficiaries receiving care authorized under the SHCP and qualifying Prime ADFMs. The DoD HCE will measure several outcome metrics, including but not limited to:

- Access to care for ADSMs and Prime ADFMs impact, positive or negative, by delivering care through this model, which will be measured through appointment data and shifts in number of providers available in demonstration states (ADSMs in California, Phase One; ADSMs in California and Texas, Phase Two, and qualifying ADFMs in California and Texas, Phase Three) vs. similarly sized non-demonstration states

(Texas and Florida, Phase One; Florida, Phase Two, Florida; Phase Three).

Cost effectiveness will be measured by comparing:

- Financial costs incurred to THP for ADSMs and Prime ADFMs receiving audiology care in states excluded from Phases One, Two, and Three of the demonstration, to the cost incurred using this model, based on procedural coding and reimbursement data.
- Financial costs incurred to the VA under this model. The source of additional costs, opportunities for mitigation, and options for cost sharing between the Departments will be evaluated.
- Efficiency and convenience of the ordering system through the HCE centralized team and the VA DLC, by measuring the days elapsed between hearing aid evaluation visits, as billed, and the dispensing of hearing aids, as billed, in demonstration states vs non-demonstration states.

Patient satisfaction will be evaluated to determine positive or negative impacts of this program. Metrics will be based on patient questionnaire data through the Joint Outpatient Experience Survey (JOES) in Phase One, Two, and Three demonstration states compared to the JOES in non-demonstration states.

B. Background

Hearing aids and associated devices for ADSMs seen at military medical treatment facilities (MTFs) are more economically procured through interagency collaboration between the DoD HCE and the VA DLC. For ADSMs and qualifying Prime ADFMs receiving private sector care, audiologists order hearing aids and associated devices for these TRICARE beneficiaries directly from companies at a significant markup over the VA contract price.

The purchase of the same devices for ADSMs treated at MTFs has been economically achieved through collaboration between the DoD HCE and VA per DoD policy established in 2013 to formalize the DoD–VA hearing aid procurement collaboration originating in the mid-1990s. In October 2014, the DoD issued policy authorizing referral of ADSMs to network audiologists when the ADSM either resides outside the catchment area or the specific audiology service is unavailable at their assigned MTF. Private sector care network audiologists prescribe and order hearing aid devices and accessories, when indicated for treatment, for their ADSM and qualifying ADFM patients, directly from companies at a significant markup over the VA contract price. In April 2018, the Office of the Secretary of Defense Chief Management Officer-led Reform Management Group endorsed exploration of a DoD–VA hearing aid procurement expansion initiative as a component of the Acting ASD (HA) approved THP Reform Implementation Plan.

C. Authority

Use of TRICARE private sector care providers for ADSMs is authorized by 10 U.S.C. 1074(c) (1), as implemented by 32 CFR 199.16 through the SHCP. Subject to special rules specified in 32 CFR 199.16(d) or waivers authorized in paragraph 199.16(f), neither of which apply to DoD providing hearing aids through the VA ROES, ADSM hearing aids are currently provided by TRICARE private sector care providers and reimbursed under the SHCP. Hearing aids for qualifying Prime ADFMs are currently provided by TRICARE private sector care providers and reimbursed under 32 CFR 199.4(e)(24). Authority under 10 U.S.C. 1092 will have to be exercised to authorize this hearing aid pilot as a demonstration to test the efficient and economical delivery of hearing aids through the TRICARE private sector care program.

D. Description

The two-year demonstration will be conducted in three phases (Phase One and Two expanding annually; Phase Three six months after commencement of Phase Two) for ADSMs and qualifying Prime ADFMs meeting the criteria for profound hearing loss according to TRICARE law and policy to receive hearing aids and associated devices through private sector care audiologists in network in the state of California (Phase One), followed by the addition of ADSMs in the state of Texas (Phase Two), and qualifying Prime ADFMs in both states in Phase Three. Mandatory participation in utilizing the procedures established with TRICARE MCSCs will be required of all private sector care network audiologists prescribing hearing aids and associated devices for ADSMs and Prime ADFMs during the timeframe of this demonstration, in accordance with the provider's geographical area of state licensure during the applicable phase. It will require no changes to the manner in which audiology services, hearing aids, and their associated accessories are delivered to the beneficiary. Approximately one-third of the audiology private sector care network providers in the states of California and Texas bundle the cost of a hearing aid and related services, while two-thirds bill for the hearing aid devices, and separately bill for the related services (*e.g.,* hearing aid dispensing, fitting, and programming). Under this demonstration the providers will not be responsible for the cost of the hearing aids and associated devices that are a TRICARE benefit under the SHCP for ADSM beneficiaries, and special benefit for Prime ADFMs under 32 CFR 199.4(e)(24); therefore, those who bundle their care episodes will be required to unbundle their billing. The contract changes will apply to the audiologists in the HNFS and HGB TRICARE networks. The MCSCs will provide education to, and receive acknowledgement of acceptance by, all network audiologists regarding process and reimbursement differences prior to the effective implementation date of each phase of the demonstration.

Through the current process for ordering and reimbursement, the audiologist orders the prescribed hearing aids and associated accessories (hereafter referred to as ''devices'') directly through the device manufacturer and delivers the hearing aids to the ADSM or ADFM. The audiologist then bills HGB or HNFS a bundled fee that includes a markup for the devices and the estimated cost of services that will be required over the life of the hearing aid (*e.g.,* follow-up visits, repairs). Through the DoD–VA HAP demonstration, the devices will be ordered by the dispensing audiologist through audiologists at the HCE, to the DLC, which processes all VA contract orders for these devices. During this demonstration, the HCE audiologists will use the existing centralized MIPR within DHA to commit funds to the order in the ROES. The devices will then be delivered directly to the dispensing audiologist's practice in order to dispense to the beneficiary and continue follow-up care. HGB and HNFS will continue to reimburse the in-network audiologists for all covered benefits for eligible ADSMs and Prime ADFMs. For all hearing aid services, prescribed Common Procedural Terminology (CPT) code will be provided for use by the audiologists to ensure appropriate reimbursement for the services rendered. Health care received within the demonstration will match the current TRICARE PRIME benefit for ADSMs authorized through the SHCP, and Prime ADFMs authorized in the Prime benefit.

E. Communications

The DHA will proactively educate audiologists, beneficiaries, and other stakeholders about this change through the TRICARE MCSCs. Provider engagement will commence following the publication of this notice. Materials will explain the demonstration benefit

and the process changes to the network audiologists and beneficiaries as applicable.

F. Evaluation

This demonstration will assist the DHA in determining the program's future course of action based on an in-depth analysis. This will include at a minimum: determination if the use of the existing VA hearing aid purchase contract by DoD is an effective approach for ADSMs and qualifying Prime ADFMs who receive hearing aid services in the TRICARE network; measurement of the program's effectiveness in reducing cost variation; the maintenance of access to care; Defense Health Program cost avoidance, with measured cost increases for the VA; and subjective quality of care assessment from patient feedback. Monthly reports and a full analysis of the demonstration outcomes will be conducted throughout and for each phase of the demonstration to monitor the access to care, financial costs incurred, and program effectiveness.

Costs and performance will be analyzed by the DoD HCE and compared to previous periods of the demonstration. Additionally, to measure overall impact, the California and Texas markets will be compared to markets of similar size, such as Florida, taking into account previously fluctuating trends in all three markets with regard to the number of network audiologists, financial costs incurred, and number of ADSM and Prime ADFM patients fit with these devices.

Access to care will be measured using encounter data, showing the time between the hearing aid evaluation and the dispensing of the devices to the patient, as billed through CPT Codes, comparing the average time per patient in California and Texas to average time per patient in the non-demonstration states of Texas and Florida (Phase One), and Florida (Phases Two and Three). Cost effectiveness will be measured by comparing: (1) financial costs incurred to DHP for ADSMs receiving audiology care in states excluded from Phases One, and Two, and ADFM in states excluded from Phase Three of the demonstration, to the cost incurred using this model, based on procedural coding and reimbursement data, and; (2) financial costs incurred to the VA under this model. The source of additional costs, opportunities for mitigation, and options for cost sharing between the Departments will be evaluated. Program effectiveness will be measured by the established workflow for the receipt of orders by the HCE audiologists, the continued service of the contracted audiologists (*i.e.,* audiologists elected to continue as network audiologists even after implementation of this process), time between ordering and dispensing the device, and decrease in costs of billed devices. Quality of care will be assessed through patient satisfaction data from the JOES.

The DHA Director reserves the right to terminate the demonstration early if the enrollment, cost, or quality do not support continuation of the demonstration. Based on the success of this program within MTFs and the VA Community Care Network, DHA will seek regulatory action to implement the program in the TRICARE private sector program concurrent with the demonstration. If the demonstration is successful, the DHA Director may recommend extension of the demonstration pending regulatory action. If regulatory action is successful and accomplished prior to the demonstration completion, the DHA Director reserves the right to terminate the demonstration and implement the program throughout the TRICARE private sector program.

G. Reimbursement

Under this demonstration the providers will not be responsible for the cost of the hearing aids and associated devices that are a TRICARE benefit under the SHCP for ADSM beneficiaries and Prime benefit for qualifying Prime ADFMs; therefore, those who bundle their care episodes will be required to unbundle their billing. The contract changes will apply to the audiologists in MCSC TRICARE networks in the demonstration states. MCSCs will continue to reimburse the in-network audiologists for all covered benefits for eligible ADSMs and qualifying Prime ADFMs. For all hearing aid services, prescribed CPT codes will be provided for use by the audiologists to ensure appropriate reimbursement for the services rendered.

H. Implementation

The demonstration is effective January 1, 2023, continuing for a duration of two years: Phase One (ADSM in California) has a target effective date of care delivery of January 1, 2023; Phase Two (ADSM in Texas) has a target effective date of care delivery of January 1, 2024; and Phase Three (ADFMs in California and Texas) has a target date of delivery of care of July 1, 2024. If successful, the Director, DHA, may recommend extension of the demonstration until appropriate necessary action has been taken to implement the program in the TRICARE private sector care program.

Dated: September 13, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20149 Filed 9–16–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0112]

Proposed Collection; Comment Request

AGENCY: The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition and Sustainment announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

DATES: Consideration will be given to all comments received by November 18, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public

viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Contract Management Agency, 14501 George Carter Way, 2nd Floor, Chantilly, VA 20151, ATTN: Procurement Center, or call Ms. Samantha Johnson at 703–692–9986.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Application for Priority Rating for Production or Construction Equipment; DD Form 691; OMB Control Number 0704–0055.

Needs and Uses: Executive Order 12919 delegates authority to DoD to require certain contracts and orders relating to approved Defense Programs to be accepted and performed on a preferential basis. This program helps contractors acquire industrial equipment in a timely manner, thereby facilitating development and support of weapons systems and other important Defense Programs.

Affected Public: Business or other For-Profit; Not-for-Profit Institutions.

Annual Burden Hours: 610.

Number of Respondents: 610.

Responses per Respondent: 1.

Annual Responses: 610.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: September 13, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–20157 Filed 9–16–22; 8:45 am]

BILLING CODE 5001–06–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act notice; notice of public meeting agenda.

SUMMARY: U.S. Election Assistance Commission and National Institute of Standards and Technology to hold a virtual workshop on ''The Path to End to End (E2E) Protocols for Voting Systems.''

DATES: Thursday, October 6, 1:00–5:00 p.m. Eastern and Friday, October 7, 2022, 1–5 p.m. Eastern.

ADDRESSES: Virtual via Webex.

The official meeting is open to the public. Registration for the event is available at the following link: *https://www.nccoe.nist.gov/get-involved/attend-events/path-end-end-e2e-protocols-voting-systems.*

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual workshop in partnership with the National Institute of Standards and Technology (NIST) on ''The Path to End to End (E2E) Protocols for Voting Systems.''

Agenda: The EAC, in collaboration with NIST, is initiating a process to publicly solicit, evaluate, and approve protocols used in end to end (E2E) cryptographically verifiable voting systems for conformance to the recently revised Voluntary Voting System Guidelines, Version 2.0 (VVSG 2.0). During this two-day virtual workshop, multiple panel groups will discuss the plan and further develop the protocol requirements and evaluation criteria.

Panels will include state and local election officials, representatives from federal agencies, staff from voting system manufacturers and voting system test labs, and subject matter experts. Topics addressed in these panels include integrity and voter confidence, security, accessibility and human factor considerations, and testing and implementation of E2E in voting systems. There will also be a keynote address on E2E in voting systems.

The workshop is open to the public but registration is required so that webinar connection details can be shared with attendees. Questions about registration can be directed to *e2einfo@eac.gov.*

The full agenda will be posted in advance on the EAC website: *https://www.eac.gov/events/2022/10/06/path-end-end-e2e-protocols-voting-systems* and at *https://www.nccoe.nist.gov/get-involved/attend-events/path-end-end-e2e-protocols-voting-systems.*

Following the event, a recording will be posted on the EAC's website: *https://www.eac.gov/events/2022/10/06/path-end-end-e2e-protocols-voting-systems.*

Background: On February 10, 2021, the EAC Commissioners unanimously approved the most recent iteration of federal voting system standards, VVSG 2.0.

Principle 9, ''Auditable,'' of VVSG 2.0 states that voting systems must be auditable and enable evidence-based elections. This principle is supported by the concept of software independence (SI), meaning that an undetected error or fault in the voting system's software is not capable of causing an undetectable change in election results. The VVSG 2.0 requirements specify that E2E cryptographic protocols used in voting systems must be evaluated and approved through a public process established by the EAC, prior to the E2E verifiable voting system being submitted to the EAC's Testing and Certification Program. This workshop is to discuss further development of requirements and evaluation criteria for the public E2E protocol evaluation process.

Status: This meeting will be open to the public.

Camden Kelliher,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2022–20366 Filed 9–15–22; 4:15 pm]

BILLING CODE 6820–KF–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: CP22–508–000.

Applicants: Wyoming Interstate Company, L.L.C.

Description: Submit Abbreviated Joint Application for a Certificate of Public Convenience and Necessity and Related Authorizations.

Filed Date: 09/08/22.

Accession Number: 20220908–5092.

Comment Date: 5 p.m. ET 9/29/22.

Docket Numbers: PR22–63–000.

Applicants: Worsham-Steed Gas Storage, LLC.

Description: § 284.123 Rate Filing: Notice of Non-Material Change in Ownership to be effective N/A.

Filed Date: 9/12/22.

Accession Number: 20220912–5144.

Comments/Protest Due: 5 p.m. ET 10/3/22.

Docket Numbers: PR22–64–000.

Applicants: Hill-Lake Gas Storage, LLC.

Description: § 284.123 Rate Filing: Notice of Non-Material Change in Ownership to be effective N/A.

Filed Date: 9/12/22.

Accession Number: 20220912–5146.

Comments/Protest Due: 5 p.m. ET 10/3/22.

Docket Numbers: PR22–65–000.
Applicants: Midland-Permian Pipeline LLC.
Description: § 284.123 Rate Filing: Midland-Permian Pipeline LLC Statement of Operating Conditions to be effective 9/14/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5149.
Comments/Protest Due: 5 p.m. ET 10/3/22.

Docket Numbers: RP22–1208–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Change to Posting of Available Firm Capacity to be effective 10/12/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5038.
Comment Date: 5 p.m. ET 9/26/22.

Docket Numbers: RP22–1209–000.
Applicants: Tres Palacios Gas Storage LLC.
Description: Annual Penalty Disbursement Report of Tres Palacios Gas Storage LLC.
Filed Date: 9/12/22.
Accession Number: 20220912–5083.
Comment Date: 5 p.m. ET 9/26/22.

Docket Numbers: RP22–1210–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: § 4(d) Rate Filing: Housekeeping Terminated Filed Agreements to be effective 10/12/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5092.
Comment Date: 5 p.m. ET 9/26/22.

Docket Numbers: RP22–1211–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Shell Sep 22) to be effective 9/13/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5093.
Comment Date: 5 p.m. ET 9/26/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20180 Filed 9–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC22–119–000.
Applicants: Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy New York Corp., Just Energy Pennsylvania Corp., Just Energy Texas I Corp., Just Energy Solutions Inc., Just Energy Limited, Hudson Energy Services, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Evergy Kansas Central, Inc., et al.
Filed Date: 9/12/22.
Accession Number: 20220912–5211.
Comment Date: 5 p.m. ET 10/3/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–220–000.
Applicants: Fall River Solar, LLC.
Description: Fall River Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/13/22.
Accession Number: 20220913–5052.
Comment Date: 5 p.m. ET 10/4/22.

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

Docket Numbers: ER10–2374–016; ER17–2059–011.
Applicants: Puget Sound Energy, Inc., Puget Sound Energy, Inc.
Description: Supplement to June 30, 2022 Triennial Market Power Analysis for the Northwest Region of Puget Sound Energy, Inc.
Filed Date: 9/8/22.
Accession Number: 20220908–5080.
Comment Date: 5 p.m. ET 9/29/22.

Docket Numbers: ER22–2154–001.
Applicants: New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Long Island Lighting Company d/b/a LIPA.
Description: Compliance filing: New York Independent System Operator, Inc. submits tariff filing per 35: Compliance Filing to Address Technical Corrections for NYTOs Rate Sch 19 to be effective 8/22/2022.
Filed Date: 9/13/22.
Accession Number: 20220913–5073.
Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2421–000; ER22–2423–000; ER22–2427–000; ER22–2425–000; ER22–2426–000; ER22–2428–000; ER22–2424–000; ER22–2422–000.
Applicants: SR Turkey Creek, LLC, SR Bell Buckle, LLC, SR McKellar Lessee, LLC, SR McKellar, LLC, SR Clay, LLC, SR Cedar Springs, LLC, SR DeSoto I Lessee, LLC, SR DeSoto I, LLC.
Description: Supplement to July 19, 2022, SR Desoto I, LLC, et al. tariff filing.
Filed Date: 9/12/22.
Accession Number: 20220912–5214.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2691–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Report Filing: 2022–09–09_Supplemental for MISO-Union Electric SSR Agreement for Rush Island to be effective N/A.
Filed Date: 9/9/22.
Accession Number: 20220909–5155.
Comment Date: 5 p.m. ET 9/19/22.

Docket Numbers: ER22–2692–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Report Filing: 2022–09–09_Supplemental Filing for Schedule 43K Rush Island SSR Cost Allocation to be effective N/A.
Filed Date: 9/9/22.
Accession Number: 20220909–5146.
Comment Date: 5 p.m. ET 9/19/22.

Docket Numbers: ER22–2838–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 4011 Panhandle Solar & Ponderosa Wind II & OG&E SNUFCA to be effective 11/12/2022.
Filed Date: 9/13/22.
Accession Number: 20220913–5032.
Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2839–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 6605; Queue No. AB1–056 to be effective 8/15/2022.
Filed Date: 9/13/22.
Accession Number: 20220913–5057.
Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2840–000.
Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 393, Amendment No. 1 to be effective 9/14/2022.

Filed Date: 9/13/22.

Accession Number: 20220913–5070.

Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2841–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 267 to be effective 11/14/2022.

Filed Date: 9/13/22.

Accession Number: 20220913–5096.

Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2842–000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: Tariff Amendment: Notice of Cancellation of Service Agreement with Wolverine to be effective 8/31/2022.

Filed Date: 9/13/22.

Accession Number: 20220913–5106.

Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2843–000.

Applicants: New Covert Generating Company, LLC.

Description: Tariff Amendment: Notice of Cancellation of Rate Schedule and Request for Waivers to be effective 12/31/9998.

Filed Date: 9/13/22.

Accession Number: 20220913–5125.

Comment Date: 5 p.m. ET 10/4/22.

Docket Numbers: ER22–2844–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEF-Revisions to Joint Open Access Transmission Tariff to be effective 12/31/9998.

Filed Date: 9/13/22.

Accession Number: 20220913–5132.

Comment Date: 5 p.m. ET 10/4/22.

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

Docket Numbers: ES22–65–000; ES22–66–000; ES22–67–000; ES22–68–000.

Applicants: Evergy Kansas Central, Inc., Evergy Kansas South, Inc., Evergy Metro, Inc., Evergy Missouri West, Inc., Evergy Kansas Central, Inc., Evergy Kansas South, Inc., Evergy Metro, Inc., Evergy Missouri West, Inc., Evergy Kansas Central, Inc., Evergy Kansas South, Inc., Evergy Metro, Inc., Evergy Missouri West, Inc., Evergy Kansas Central, Inc., Evergy Kansas South, Inc., Evergy Metro, Inc., Evergy Missouri West, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Evergy Kansas Central, Inc.

Filed Date: 9/12/22.

Accession Number: 20220912–5212.

Comment Date: 5 p.m. ET 10/3/22.

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 or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 13, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20179 Filed 9–16–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Rate Order No. WAPA–204

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order concerning Boulder Canyon Project formula rates for electric service and fiscal year 2023 base charge and rates.

SUMMARY: The Deputy Secretary confirmed, approved, and placed into effect on an interim basis the Boulder Canyon Project (BCP) formula rates for electric service in Rate Schedule BCP–F11 and the fiscal year (FY) 2023 base charge and rates under Rate Schedule BCP–F11. The existing formula rates under Rate Schedule BCP–F10 and the current base charge and rates expire on September 30, 2022. Rate Schedule BCP–F11 does not change the formula rates, which are set forth in the governing terms of the BCP Electric Service Contract (ESC). While the formula rates remain unchanged, the FY 2023 base charge for BCP electric service decreased 0.8 percent from $67.4 million in FY 2022 to $66.8 million in FY 2023.

DATES: The BCP formula rates under Rate Schedule BCP–F11 are effective the first day of the first billing period beginning on or after October 1, 2022, and will remain in effect through September 30, 2027. The BCP FY 2023 base charge and rates will be effective October 1, 2022, and remain in effect through September 30, 2023. Based upon the governing terms of the existing BCP ESC, the Deputy Secretary has provisionally approved the BCP formula rates for electric service in Rate Schedule BCP–F11 and the FY 2023 base charge and rates for BCP under Rate Schedule BCP–F11, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

FOR FURTHER INFORMATION CONTACT: Jack D. Murray, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, Arizona 85005–6457, or Tina Ramsey, Rates Manager, Desert Southwest Region, Western Area Power Administration, (602) 605–2565, or email: *dswpwrkrk@wapa.gov.*

SUPPLEMENTARY INFORMATION: On June 6, 2018, FERC confirmed and approved Rate Schedule BCP–F10, under Rate Order No. WAPA–178, on a final basis through September 30, 2022.[1] Western Area Power Administration (WAPA) published a **Federal Register** notice (Proposed FRN) on April 13, 2022 (87 FR 21881), proposing to renew the existing formula rates for electric service as Rate Schedule BCP–F11 and to calculate the FY 2023 base charge and rates under Rate Schedule BCP–F11. The Proposed FRN also initiated a public consultation and comment period and set forth the date and location of the public information and public comment forums.

Consistent with the formulas set forth in the BCP ESC, WAPA is renewing the formula rates for electric service as Rate Schedule BCP–F11, which would be effective October 1, 2022, through September 30, 2027, pending confirmation and approval by FERC on a final basis or until superseded. The formula rates will continue to provide sufficient revenue to recover all annual costs, including interest expense. Rate Schedule BCP–F11 and the BCP ESC require WAPA to calculate the annual base charge and rates for the next fiscal year before October 1 of each year based on formulas that are set for a five-year period.

[1] Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF18–1–000, 163 FERC ¶ 62,154 (2018).

Legal Authority

WAPA is establishing rates for BCP electric service in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This provision transferred to, and vested in, the Secretary of Energy certain functions of the Secretary of the Interior, along with the power marketing functions of Bureau of Reclamation. Those functions include actions that specifically apply to the BCP.

Pursuant to the BCP ESC, the renewed rate formula under Rate Schedule BCP–F11 and calculated base charge and rates for FY 2023 shall become effective, provisionally, upon approval by the Deputy Secretary of Energy subject to final approval by FERC. Under the DOE Organization Act, the Secretary of Energy holds plenary authority over DOE affairs with respect to the Power Marketing Administrations, and the Secretary of Energy may therefore exercise the Deputy Secretary's contractual authority in this context. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. Based upon the governing terms of the existing BCP ESC, the Deputy Secretary will approve the formula rates and the FY 2023 base charge and rates for BCP electric service. This rate action is issued under the Delegation Order and DOE's procedures for public participation in rate adjustments set forth at 10 CFR parts 903 and 904.[2]

Following review of WAPA's proposal, I hereby confirm, approve and place Rate Order No. WAPA–204, which provides the formula rates for BCP electric service and calculates the base charge and rates for FY 2023, into effect on an interim basis. WAPA will submit Rate Order No. WAPA–204 to FERC for confirmation and approval on a final basis.

Department of Energy

Deputy Secretary

In the Matter of: Western Area Power Administration, Desert Southwest Region, Rate Adjustment for the Boulder Canyon Project Formula Rates for Electric Service Rate Order No. WAPA–204

Order Confirming, Approving and Placing the Boulder Canyon Project Formula Rates for Electric Service Into Effect on an Interim Basis and Calculation of Fiscal Year 2023 Base Charge and Rates

The Boulder Canyon Project (BCP) formula rates for electric service and fiscal year (FY) 2023 base charge and rates are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).[1] This provision transferred to, and vested in, the Secretary of Energy certain functions of the Secretary of the Interior, along with the power marketing functions of the Bureau of Reclamation (Reclamation). Those functions include actions that specifically apply to the BCP.

Pursuant to the BCP Electric Service Contract (ESC), the renewed rate formula under Rate Schedule BCP–F11 and calculated base charge and rates for FY 2023 shall become effective, provisionally, upon approval by the Deputy Secretary of Energy subject to final approval by the Federal Energy Regulatory Commission (FERC). Under the DOE Organization Act, the Secretary of Energy holds plenary authority over DOE affairs with respect to the Power Marketing Administrations, and the Secretary of Energy may therefore exercise the Deputy Secretary's contractual authority in this context. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Administrator of Western Area Power Administration (WAPA); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. This Rate Order is issued under the Delegation Order and DOE's procedures for public participation in rate adjustments set forth at 10 CFR parts 903 and 904, subject to final approval by FERC.

Effective Date

Rate Schedule BCP–F11 will take effect on October 1, 2022, and will remain in effect through September 30, 2027, and the BCP FY 2023 base charge and rates will be effective October 1, 2022, and remain in effect through September 30, 2023, pending confirmation and approval by FERC on a final basis or until superseded.

Public Notice and Comment

The notice of the proposed renewal of formula rates in Rate Schedule BCP–F11 and the proposed FY 2023 base charge and rates for electric service were published consistent with procedures set forth in 10 CFR part 903 and 10 CFR part 904. Following are the steps WAPA took to involve contractors and other interested parties in the rate process:

1. On April 13, 2022, a **Federal Register** notice (87 FR 21881) (Proposed FRN) announced the proposed renewal of the formula rates and the proposed FY 2023 base charge and rates and launched the 90-day public consultation and comment period.

2. On April 13, 2022, WAPA notified contractors and interested parties of the proposed rates and provided a copy of the published Proposed FRN.

3. On May 13, 2022, WAPA held a public information forum (PIF) via video conference. Reclamation and WAPA's representatives explained the proposed formula rates for electric service and the proposed FY 2023 base charge and rates and answered questions.

4. On June 8, 2022, WAPA posted responses to questions from the PIF about Renewable Energy Certificates (RECs) and to a letter received with additional questions and comments about RECs.

5. On June 13, 2022, WAPA held a public comment forum (PCF) via video conference to provide an opportunity for contractors and other interested parties to comment for the record.

6. WAPA provided a website that contains important dates, correspondence, presentations, comments, responses, FRNs, and other information about this rate process. The BCP website is located at *www.wapa.gov/regions/DSW/Rates/Pages/boulder-canyon-rates.aspx.*

7. During the 90-day consultation and comment period, which ended on July 12, 2022, WAPA received four oral comments and four written comments. WAPA's responses to comments received prior to the PCF were posted on the BCP website. WAPA's responses to comments received during or after the PCF are included below. All comments have been considered in the preparation of this Rate Order.

Oral comments were received from the following organizations:
Augustine Tribe of Cahuilla Indians

[1] This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

[2] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

City of Boulder City, Nevada
Colorado River Commission of Nevada
Law Firm of Clark Hill (representing: Pinal County Electrical District Number Six; Electrical District Number Seven of Maricopa County, Arizona; Maricopa County Municipal Water Conservation District Number One; Roosevelt Irrigation District; and Buckeye Water Conservation and Drainage District)

Written comments were received from the following organizations, some of which submitted comments jointly:

Augustine Tribe of Cahuilla Indians
Arizona Municipal Power User's Association
Arizona Power Authority
Irrigation and Electrical Districts Association of Arizona
Law Firm of Clark Hill (representing: Pinal County Electrical District Number Six; Electrical District Number Seven of Maricopa County, Arizona; Maricopa County Municipal Water Conservation District Number One; Roosevelt Irrigation District; and Buckeye Water Conservation and Drainage District)

Comments

The comments received during or after the PCF have been paraphrased herein, where appropriate, without compromising the meaning of the comments.

Comment: Commenter (1) thanked Reclamation and WAPA for participation in the BCP Engineering and Operations Committee (E&OC), (2) agreed with additional consultation at future E&OC meetings to address drought impacts, and (3) stated the drought analysis developed by Reclamation and WAPA has helped to forecast and understand the drought impacts to hydropower customers of Federal projects in the Lower Colorado River Basin.

Response: Reclamation and WAPA appreciate the positive feedback and will continue to work with customers as hydrological conditions change. To help the contractors with future planning specific to BCP, an E&OC work group will be formed to study the impacts of the continuing drought.

Comment: Commenters stated they understood from the posted PIF responses that REC revenue projections for FY 2023 will be removed from the FY 2023 rates and supported this interim solution. They encouraged consultation with contractors on future treatment of REC revenues.

Response: This is correct; the $800,000 projection for REC revenue previously included in the proposed FY 2023 base charge calculation has been removed. WAPA will work with the contractors and discuss options to directly provide benefits to those contractors who do not claim their RECs.

Comment: Commenter (1) thanked Reclamation and WAPA for the opportunity to participate in developing the work plans and budget for the BCP and for the reduction in the base charge for FY 2023, (2) commended Reclamation and WAPA and the committees involved that support the goals in the BCP Implementation Agreement between Reclamation, WAPA, and the contractors, and (3) was appreciative that a work group is being established for contingency planning related to the drought.

Response: Reclamation and WAPA appreciate the comment and will continue to work collaboratively with the contractors on contingency planning for the drought, provide information as it is available, and continue to ensure rates are the lowest possible consistent with sound business principles.

Comment: Commenter stated the drought impact analysis has helped to provide an understanding of the water restrictions in response to the ongoing drought and the resulting generation impacts. Commenter agrees with having additional consultation at future E&OC meetings to address the continuing drought and its impact to the future base charge and rates.

Response: Reclamation and WAPA will continue to work with contractors on the impacts of the ongoing drought and a work group will be formed to study the impacts as hydrological conditions change.

Background on Formula Rates and Base Charge and Rates

Hoover Dam,[2] authorized by the Boulder Canyon Project Act of 1928 (45 Stat. 1057, December 21, 1928), sits on the Colorado River along the Arizona-Nevada border. The Hoover Dam power plant has 19 generating units (two for plant use) and an installed capacity of 2,078.8 megawatts (4,800 kilowatts for plant use). In collaboration with Reclamation, WAPA markets and delivers hydropower from the Hoover Dam power plant through high-voltage transmission lines and substations to Arizona, Southern California, and Southern Nevada.

The base charge recovers an annual revenue requirement that includes projected costs for investment repayment, interest, operations, maintenance, replacements, payments to States, and Hoover Dam visitor services. Non-power revenue projections from water sales, the Hoover Dam visitor center, ancillary services, and late fees help offset the projected costs. Hoover Dam power contractors are billed a percentage of the base charge in proportion to their power allocation. Unit rates are calculated for comparative purposes but are not used to determine the charges for service.

COMPARISON OF BASE CHARGE AND RATES

	FY 2022	FY 2023	Amount change	Percent change
Base Charge ($)	$67,355,778	$66,798,560	($557,218)	(0.8)
Composite Rate (mills/kWh)	20.63	22.43	1.80	8.7
Energy Rate (mills/kWh)	10.32	11.22	0.90	8.7
Capacity Rate ($/kW-Mo)	$2.03	$2.17	$0.14	6.9

While the formula rates remain unchanged, the FY 2023 base charge for BCP electric service is decreasing from $67.4 million in FY 2022 to $66.8 million in FY 2023, a 0.8-percent decrease. Working together, Reclamation and WAPA conducted a mid-year review to lessen the financial impact of the drought to the rates and reduced costs by $2.1 million from the initial proposal in the Proposed FRN.

Reclamation's FY 2023 budget is increasing $2.9 million from $81.7 million to $84.7 million, a 3.6-percent

[2] Hoover Dam was known as Boulder Dam from 1933 to 1947, but was renamed Hoover Dam by an April 30, 1947, joint resolution of Congress. *See* Act of April 30, 1947, H.J. Res. 140, ch. 46, 61 Stat. 56–57.

increase from FY 2022. Reflected in this budget, operations and maintenance (O&M) costs are increasing $3.4 million primarily due to a higher overhead rate for salaries attributed to a reorganization and increased staffing needs to improve cybersecurity; an increase in services for IT support and equipment; trash disposal contract costs; fabrication of elevator doors; ammunition for security forces; and anticipated costs for the Workman's Compensation Program. Visitor services costs are increasing $490,000 due to higher projected contract costs for janitorial, memorabilia, ticketing, and trash disposal services. The increase for Reclamation is offset by a $1.1 million decrease in replacement costs primarily due to Reclamation's effort to level extraordinary maintenance project expenses. This results in reduced annual costs for the control center renovation project and the replacement of the A9 wicket gates, visitors center escalator, and wastewater treatment facility.

WAPA's FY 2023 budget is decreasing $438,000 from $9.2 million to $8.7 million, a 4.8-percent decrease from FY 2022. Reflected in this budget, WAPA's O&M costs are decreasing by $842,000 due to a shift from O&M to capital work. The decreasing O&M costs are offset primarily by a $380,000 increase in WAPA's replacement budget for breaker and relay replacements in the Mead Substation 69-kilovolt yard.

Costs for Reclamation and WAPA are offset by a slight increase of $68,000 in non-power revenue projections, due to a higher estimate for ancillary services revenues. Prior-year carryover is projected to be $5.6 million, a $3 million increase from FY 2022. This increase in carryover primarily is due to the $1.8 million reduction of FY 2022 O&M costs made during the mid-year review and the addition of $1 million in non-power revenues from the FY 2022 sale of RECs from FY 2021 and earlier years. The sale of these RECs occurred prior to contractors expressing a preference for a different treatment of revenue from RECs.

Although the base charge is decreasing by 0.8 percent, the rates calculated for comparative purposes are increasing 6.9 percent and 8.7 percent due to reduced energy and capacity from the ongoing drought in the Colorado River Basin. Reclamation and WAPA will continue to work collaboratively to lessen the impact of the drought in future years.

Certification of Rates

WAPA's Administrator certified that the formula rates for BCP electric service under Rate Schedule BCP–F11 result in the lowest possible rates consistent with sound business principles, and the calculated FY 2023 base charge and rates under Rate Schedule BCP–F11 are the lowest possible rates consistent with sound business principles. The formula rates and base charge and rates were developed following administrative policies and applicable laws.

Availability of Information

Information about this rate adjustment, including studies, comments, letters, memorandums, and other supporting materials that were used to develop the formula rates for electric service and the base charge and rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, located at 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents are also available on WAPA's BCP website at *www.wapa.gov/regions/DSW/Rates/Pages/boulder-canyon-rates.aspx.*

Ratemaking Procedure Requirements

Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR 1021.410: B4.3 (Electric power marketing rate changes) and B4.4 (Power marketing services and activities).[3] Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment. Specifically, WAPA has determined that this rulemaking is consistent with activities identified in B4, Categorical Exclusions Applicable to Specific Agency Actions (*see* 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA's website at *www.wapa.gov/regions/DSW/Environment/Pages/environment.aspx.*

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

[3] The determination was done in compliance with NEPA (42 U.S.C. 4321–4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

Submission to the Federal Energy Regulatory Commission

The BCP formula rates for electric service in Rate Schedule BCP–F11 and the FY 2023 base charge and rates under Rate Schedule BCP–F11 herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, the BCP formula rates for electric service in Rate Schedule BCP–F11 and the FY 2023 base charge and rates under Rate Schedule BCP–F11. The rates will remain in effect on an interim basis until: (1) FERC confirms and approves them on a final basis; (2) subsequent rates are confirmed and approved; or (3) such rates are superseded.

Signing Authority

This document of the Department of Energy was signed on September 12, 2022, by David M. Turk, Deputy Secretary, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 14, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

Rate Schedule BCP–F11
(Supersedes Rate Schedule BCP–F10)

United States Department of Energy

Western Area Power Administration

Desert Southwest Region

Boulder Canyon Project

Schedule of Rates for Electric Service

(Approved Under Rate Order No. WAPA–204)

Effective

The first day of the first full billing period beginning on or after October 1,

2022, and extending through September 30, 2027, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the marketing area serviced by the Boulder Canyon Project.

Applicable

To power supplied by the Boulder Canyon Project through one meter, at one point of delivery, unless otherwise provided by contract.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Base Charge

The charge paid by each contractor for their allocated capacity and firm energy based on the annual revenue requirement. The base charge shall be composed of a capacity component and an energy component:

Capacity Charge: Each month WAPA shall bill each contractor for a capacity charge equal to one-twelfth (1/12) of the capacity dollars multiplied by each contractor's contingent capacity percentage as provided by contract.

Energy Charge: Each month WAPA shall bill each contractor for an energy charge equal to that period's monthly energy ratio, multiplied by the contractor's energy dollars as provided by contract.

Forecast Rates

Energy: Shall be equal to the annual energy dollars divided by the lesser of the total master schedule energy or 4,501 megawatt-hours. This rate is applied to excess energy, unauthorized overruns, and water pump energy.

Capacity: Shall be equal to the annual capacity dollars divided by 2,074 megawatt-hours. This rate is applied to unauthorized overruns.

Calculated Energy Rate

Within ninety (90) days after the end of the fiscal year, an energy rate shall be calculated. For any rate year in which energy deemed delivered is greater than 4,501 megawatt-hours, WAPA shall apply the calculated energy rate to each contractor's energy deemed delivered to determine the contractor's actual energy charge. A credit or debit shall be established for each contractor based on the difference between the contractor's energy dollars and the contractor's actual energy charge, to be applied in the month following the calculation or as soon as possible thereafter.

Lower Colorado River Basin Development Fund (Contribution Charge)

The Contribution Charge is 4.5 mills for each kilowatt-hour measured or scheduled to an Arizona purchaser and 2.5 mills for each kilowatt-hour measured or scheduled to a California or Nevada purchaser, except for purchased power.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of contractual power obligations, such overrun shall be billed at ten (10) times the forecast energy rate and forecast capacity rate. The Contribution Charge shall also be applied to each kilowatt hour of overrun.

Adjustments

None.

[FR Doc. 2022–20189 Filed 9–16–22; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2020–0031; FRL–10096–01–OECA]

Proposed Information Collection Request; Comment Request; Proposed Information Collection Request; Comment Request; State Review Framework

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Proposed Information Collection Request; Comment Request; State Review Framework'' (EPA ICR No. 2185.08, OMB Control No. 2020–0031 to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2023. 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.

DATES: Comments must be submitted on or before November 18, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2020–0031, online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460 and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Dave Hoffman, Office of Enforcement and Compliance Assurance, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–0725; email address: *Hoffman.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register**

notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The State Review Framework is an oversight tool designed to assess state performance in enforcement and compliance assurance. The Framework's goal is to evaluate state performance by examining existing data to provide a consistent level of oversight and develop a uniform mechanism by which EPA Regions, working collaboratively with their states, can ensure state environmental agencies consistently implement the national compliance and enforcement program to meet agreed-upon goals. Furthermore, the Framework is designed to foster dialogue on enforcement and compliance performance between states to enhance relationships and increase feedback, which will in turn lead to consistent program management and improved environmental results. This request will allow OECA to review and collect information from state and local agency enforcement and compliance files, to support the State Review Framework implementation from FY 2024 to FY 2027. It will also allow EPA to make inquiries to assess the State Review Framework process, including consistency achieved among the EPA Regions and states, resources required to conduct reviews, and overall effectiveness of the program.

Form Numbers: None.

Respondents/affected entities: States, localities, and territories.

Respondent's obligation to respond: Required as part of program authorization under the Clean Water, Clean Air, Safe Drinking Water and Resource Conservation and Recovery Acts.

Estimated number of respondents: 213 (total).

Frequency of response: Once every 5 years.

Total estimated burden: 12,993 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $546,729 (per year).

Changes in Estimates: There is an increase in total estimated response burden hours from 218 to 305 per respondent due to the addition of the safe drinking water act enforcement review pilot, which wasn't captured in the previous ICR. This pilot isn't formally part of the SRF, but the agency believes this ICR is an appropriate forum to collect input, due to their similarities in workload and purpose. At the conclusion of the pilot, the agency will review the program and if necessary, revise this ICR. In addition, there is an increase in the number of respondents from 54 to 213 due to inclusion of all media (CAA, CWA, RCRA and SDWA) for 50 states and 4 territories, and 14 local air districts. Previous ICR's included a single response for each state/territory, whereas this ICR utilized a different methodology to capture the burden more accurately. The burden estimates for CAA, CWA and RCRA are unchanged.

John Dombrowski,

Director, Office of Compliance.

[FR Doc. 2022–20173 Filed 9–16–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0708; FRL–10097–01–OAR]

Proposed Information Collection Request; Comment Request; National Refrigerant Recycling and Emissions Reduction Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''National Refrigerant Recycling and Emissions Reduction Program'' (EPA ICR No. 1626.18, OMB Control No. 2060–0256) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2023. 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.

DATES: Comments must be submitted on or before November 18, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2022–0708, online using *www.regulations.gov* (our preferred method), by email to: *a-and-r-docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert Burchard, Stratospheric Protection Division, Office of Atmospheric Programs, (6205A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9126; email address: *burchard.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Section 608 of the Clean Air Act (CAA), also known as the National Recycling and Emission Reduction Program (the Program), directs the Environmental Protection Agency (EPA) to issue regulations governing the use of ozone-depleting substances (ODS), including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs),

during the maintenance, service, repair, or disposal of air-conditioning and refrigeration appliances. Section 608 also prohibits knowingly venting or releasing ozone-depleting and substitute refrigerants in the course of maintaining, servicing, repairing, or disposing of appliances or industrial process refrigeration except for de minimis releases associated with good faith attempts to recycle or recover refrigerants. The regulations require persons servicing refrigeration and air-conditioning appliances to follow certain service practices that reduce emissions of refrigerants. The regulations also establish certification programs for technicians, recovery/recycling equipment, and refrigerant reclamation. In addition, EPA requires that refrigerants contained in appliances be removed prior to disposal of the appliances and that all refrigeration and air-conditioning appliances be provided with a servicing aperture that facilitates recovery of the refrigerant. The Agency requires that substantial refrigerant leaks in appliances containing ozone-depleting refrigerant be repaired when they are discovered.

Form Numbers: 5900–404, 5900–405, 5900–407.

Respondents/affected entities: Entities required to comply with reporting and recordkeeping requirements include technicians; technician certification programs; refrigerant wholesalers; refrigerant reclaimers; refrigerant recovery equipment certification programs; certain refrigeration and air-conditioning equipment owners and/or operators; and other establishments that perform refrigerant removal, service, or disposal.

Respondent's obligation to respond: Mandatory (40 CFR part 82, subpart F).

Estimated number of respondents: 572,727.

Frequency of response: The frequency of responses varies from once a year to daily.

Total estimated burden: 425,514 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $31,432,946 (per year), There are no estimated annualized capital or operation and maintenance costs associated with the reporting or recordkeeping requirements.

Changes in Estimates: There is a decrease of 47,837 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to adjusted respondent estimates for appliance leak repair and retrofit or retirement plan extension requests based on recently available industry data and reported activity.

Cynthia A. Newberg,

Director, Stratospheric Protection Division.

[FR Doc. 2022–20172 Filed 9–16–22; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Performance Review Board—Appointment of Members

AGENCY: U.S. Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of performance review board appointments.

SUMMARY: This notice announces the appointment of those individuals who have been selected to serve as members of the Performance Review Board (PRB). The PRB is comprised of a Chairperson and career senior executives that meet annually to review and evaluate performance appraisal documents. The PRB provides a written recommendation to the appointing authority for final approval of each SES and SL performance rating, performance-based pay adjustment, and performance award. The PRB is advised by the Office of the Chief Human Capital Officer, Office of Legal Counsel, and Office for Civil Rights, Diversity and Inclusion to ensure compliance with laws and regulations. Designated members will serve a 12-month term.

DATES: The board membership is applicable beginning on November 1, 2022.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Pierre, Chief Operating Officer, EEOC, 131 M Street NE, Washington, DC 20507, (202) 291–3260.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the names and position of the EEOC PRB members are set forth below:

Mr. Kevin Richardson, Chair, Chief Human Capital Officer, EEOC

Mr. Thomas Colclough, Director, Field Management Programs, EEOC

Mr. Carlton Hadden, Director, Office of Federal Operations, EEOC

Ms. Elisa Krobot, Chief Financial Officer, EEOC

Mr. Christopher Lage, Deputy General Counsel, EEOC

Ms. Pierrette McIntire, Deputy Chief Information Officer, EEOC

Mr. Richard Toscano, Director, Equal Employment Opportunity Staff, U.S. Department of Justice

By the direction of the Commission.

Shelita R. Aldrich,

Director, Operations Services Division.

[FR Doc. 2022–20140 Filed 9–16–22; 8:45 am]

BILLING CODE 6570–01–P

GENERAL SERVICES ADMINISTRATION

[Notice MVAC–2022–01; Docket No. 2022–0002; Sequence No. 23]

Notice of Request for Information on Photovoltaic Systems

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice; request for information (RFI).

SUMMARY: The General Services Administration (GSA) is seeking information from industry on the availability of domestically manufactured solar photovoltaic (PV) panels and components and feasibility of requiring the use of such PV panels and components for future projects.

DATES: Interested parties should submit comments to the address shown below on or before November 18, 2022.

ADDRESSES: Comments to the RFI must be provided in writing. Interested parties are to submit their written comments electronically to *https://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''RFI Photovoltaic Systems''. Select the link ''Comment Now'' that corresponds with the RFI and follow the instructions provided on the screen. Please include your name, company name (if any), and ''RFI Photovoltaic Systems'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

You are not required to answer all of the questions in the RFI, but the more information we receive, the better GSA's understanding of the domestically manufactured solar panel and/or components market.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Torberntsson, Procurement Analyst, at *gsarpolicy@gsa.gov,* for

clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755 or *gsaregsec@gsa.gov.* Please cite RFI Photovoltaic Systems.

SUPPLEMENTARY INFORMATION:

Purpose

To obtain relevant information from domestic commercial PV panel and system component manufacturers and resellers, PV panel purchasers and installers, and renewable electricity providers, including small businesses.

The information received will help GSA develop a procurement strategy, to potentially include a procurement standard for use in future solicitations where the use of PV panels and components are required.

GSA intends to use the information generated from this Request for Information (RFI) in support of the goals expressed in section 203 of Executive Order (E.O.) 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability (December 8, 2021), as well as the White House Fact Sheet, titled President Biden Takes Bold Executive Action to Spur Domestic Clean Energy Manufacturing (June 6, 2022).

GSA seeks to learn more from industry regarding the use of domestically manufactured PV panels and components in contract types including: Power Purchase Agreements (PPA), Energy Savings Performance Contracts (ESPC), Utility Energy Service Contracts (UESC), solar array development contracts, and other acquisition vehicles depending on future need. This RFI is also being issued in anticipation of future projects that may be funded by the Inflation Reduction Act (IRA) (Pub. L. 117–169). GSA is particularly interested in the impacts of this initiative on underserved or disadvantaged communities.

This RFI is for general fact-gathering purposes. Interested parties will not be reimbursed for any costs related to providing information in response to this RFI. The Government does not intend to award a contract on the basis of this RFI.

Requested Information From Industry

In submitting your response, please number your answers with which question you are answering, for example: Requested Information Specific to Manufacturing 2(a)(i).

For purposes of organizing the data received, please provide the following information in your response:

- What is your company or organization name, point of contact, telephone number, and email address?
- What is the nature of your company or organization?
  - Are you a solar panel or component provider, manufacturer, re-seller, or retailer (for residential, commercial, or utility scale); developer, utility company, or other (specify)?
  - Describe your business in a few sentences, to include how long your company or organization has provided these services.
- What is your company or organization's primary North American Industry Classification System (NAICS) code?
  - The NAICS code for photovoltaic cell manufacturing is 334413, Semiconductor and Related Device Manufacturing. If you operate under a different NAICS code for other elements of this RFI please provide your primary NAICS code.
- With your primary NAICS code in mind, what is your company's size status, is your company a large or small business?
  - As defined by the Small Business Administration, the size standard to qualify as a small business for NAICS code 334413 is fewer than 1,250 employees.
  - What, if any, small business socio-economic categories apply to your business, such as Small Disadvantaged Business, Woman-Owned Small Business, Veteran-Owned Small Business, Service-Disabled Veteran-Owned, or Historically Underutilized Business Zone?

Requested Information Specific to Manufacturing

1. Is your company an established PV panel or component manufacturer (defined for the purposes of the RFI as the panel or component being in commercial production for 2 or more years)?

2. Does your company or organization manufacture PV panels or system components for the arrays domestically?

a. If yes, please provide a brief description to include the place of manufacture and where in the supply chain your product falls, *i.e.,* do you manufacture a component or assemble the final panel system or components?

i. What is your company's production capacity of domestically manufactured solar panels?

ii. Are you anticipating an increase or decrease in production capacity in the next 10-year timeframe? Why or why not?

b. From which countries do you or your suppliers source the majority of the raw materials for the PV panels or components?

i. Please provide the countries of origin for each major component if purchased outside of the U.S.

ii. Please describe current traceability tools and how effective they are.

iii. Has your due diligence in monitoring your supply chain changed as a direct result of the Uyghur Forced Labor Prevention Act (UFLPA)? Is implementation of the UFLPA a help or hindrance to domestic manufacturing?

iv. Do you have capacity to trace and certify that your products meet the component test for manufactured goods of 55% called out in the Infrastructure Investment and Jobs Act (IJA) and 55%, incrementally increasing to 75% over time, for federal procurements?

v. With recent legislative changes, are there now more mechanisms to trace the country of origin for the components? Please describe.

3. Has your company experienced availability, quality, workability, or durability challenges with PV panels and/or components?

a. Have you seen any differences in the availability, quality, workability, or durability between PV panels manufactured foreignly or domestically?

b. Are there good examples of quality assurance and quality control procedures/programs for PV panels or components that you trust?

4. If your company has been in panel/component commercial production for fewer than two years, please disclose which part of the domestic PV supply chain your company will support.

5. It is our understanding that there are primarily two types of panels commercially available: crystalline silicon and tellurium. Is your firm developing or close to commercializing new panel technology outside of these two types?

6. Please provide as many details as you can in response to the questions listed below:

a. What is the rated wattage of your PV panels?

b. What is the efficiency rating of your PV panels?

c. What is the weight of your PV panels?

d. What type of warranty do you offer for your PV panels?

e. What is the product warranty period for your PV panels?

f. What is the power warranty after 25 years of operation?

g. Do you have embodied carbon product declarations (EPDs) for the panels that you produce or sell? If yes, how is this calculated and are shipping logistics included?

h. Do you perceive a difference in efficiency expectations between

residential, commercial, and utility-scale PV panels, and if yes what is the difference?

7. What steps would be needed to increase circularity (or recyclability) in the PV manufacturing sector?

a. What are roadblocks to circularity/recyclability in the PV industry and are those barriers alleviated with federal subsidies?

b. Describe your recycling process for PV panels or its components (if any). What technology is needed in order to improve on recycling?

Requested Information Specific to Installers

8. Is your company or organization taking action to source domestically manufactured PV panels and/or components?

a. If yes, what actions are you taking and why are you taking those actions?

9. Other than the price, are there other obstacles to sourcing domestically made PV panels and/or components?

a. Are there obstacles to identifying skilled labor to complete the installations?

10. Has your company or organization experienced availability, quality, workability, or durability challenges with PV panels and/or components?

a. Have you seen any differences between foreign and domestic products for PV panels and system components?

Requested Information Specific to Developers

11. If you are a developer who anticipates construction of new solar generation facilities in the next five years, what barriers can you identify to using domestically manufactured PV panels and/or components?

a. Are there state laws or regulations preventing energy providers from requiring domestically made PV panels and components?

12. What opportunities, if present, would encourage use of domestically manufactured PV panels and/or components for such generation facilities?

a. Is your company aware of any disruptive technologies that could render current PV panels and/or components, or system designs outdated or incompatible with existing systems?

Requested Information on Market Availability

13. What are the technical, economic, logistical, or regulatory obstacles that exist to domestically manufacturing PV panels or purchasing renewable energy as a commodity? Does the IRA resolve any of these obstacles for your company?

14. How will the IRA and potentially more federal opportunities for use of domestically manufactured PV panels or components help you expand or increase your rate of growth? Are there other initiatives or factors that impede or spur growth in this area? How will the IRA impact the purchase of power versus the PV systems themselves?

15. If you are not a manufacturer, to what extent do you acquire PV panels systems or components from domestic sources? Do you expect your purchasing behavior will change as a result of federal subsidies?

Requested Information on Acquisition Practices

16. What would be the likely impacts of the Government requiring in its procurements that solar energy under such contracts be generated using domestically manufactured PV panels or components?

a. What are the risks/downsides?

b. What are the opportunities/upsides?

c. If you are a developer, would such a requirement change your willingness to participate in future federal opportunities?

17. Other than establishing a requirement, what steps could the Government take to use federal acquisition to leverage domestic PV panel or component manufacturing?

18. If the Government were to pursue developing a procurement standard for domestically manufactured PV panels or components, what key elements should be contained in that standard to encourage domestic manufacturing?

19. What components in PV panels would be difficult to source domestically?

a. Do different components in PV panels need different timeframes for being domestically sourced without difficulty?

20. There is an Electronic Product Environmental Assessment Tool (EPEAT) ecolabel for PV panels and inverters. Please share your company's plan/timeline to get your PV panels EPEAT registered.

a. What percentage of the components of your EPEAT registered solar panels do you anticipate would be domestically sourced?

b. How does your company ensure that your solar supply chain does not utilize forced labor? Will your company's supply chain be impacted by the recently passed Uyghur Forced Labor Prevention Act?

c. What steps can the Government take to further protect your supply chain from forced labor concerns?

d. If the EPEAT criteria for PV panels and/or components were updated to address forced labor within the supply chain, what approach would you recommend be taken in the new criteria?

21. If there is anything else that you want the Government to consider in encouraging domestic manufacturing of PV panels and components, please address.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2022–20138 Filed 9–16–22; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Single Source Notice of Funding Opportunity: Comprehensive Patient Reported Survey for Mental and Behavioral Health

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of funding opportunity.

SUMMARY: This notice announces the issuance of the August 26, 2022 single source funding opportunity titled ''Comprehensive Patient Reported Survey for Mental and Behavioral Health'' available solely to Virginia Commonwealth University (as host institution to The Larry A. Green Center) to support research and development of a patient-provider-payer survey tool that will assist in facilitating the integration of patient care delivery and enable CMS in improving the patient experience, decrease patient and provider burden and improve healthcare operational and administrative efficiencies.

DATES: The budget and project period of the award will be 36 months from the date of award. The tentative award date is September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Rena McClain, (410) 786–3975.

SUPPLEMENTARY INFORMATION:

I. Background

CMS, through the Office of Burden Reduction and Health Informatics (OBRHI), seeks to partner with VCU in the development of a collaborative survey tool that will bring together the perspectives of patients, providers, and payors to understand their experiences

across the range of health services they receive over time, also known as the healthcare continuum- specifically in mental and behavioral health services. In alignment with HHS' commitment to addressing the nation's behavioral health crises and strengthening mental health of all Americans, CMS anticipates the development and implementation of this survey will represent an opportunity to use new research methods to advance healthcare beyond its current separation of mind, body, and specialty. The right tool can enable all health outcomes—physical, behavioral, emotional, psychological, cultural, and social—by directing attention to those things patients and clinicians find most important about their care.

Summarized below are the high-level key goals/aims of this project.

- Environmental mapping to discover those questions that will yield feedback essential to understanding the patient experience across the healthcare continuum.
- Identification of elements of care most meaningful to stakeholders through crowd-sourcing.
- Facilitated collaborative workgroup(s) and listening sessions.
- Rigorous and multimodal testing of the designed survey.
- National survey distribution in the manner(s) in which CMS designates.
- Post-survey evaluation and reporting of incoming response data.
- Peer-reviewed publication(s) and conference presentations based on survey findings.
- Application for endorsement from the National Quality Forum (NQF) and the Measures Application Partnership (MAP).

II. Provisions of the Notice

CMS is anticipating approximately a total of $3,280,362 will be available to VCU for this cooperative agreement, pending availability of funds. VCU may use grant funds for a variety of planning, development, testing, and implementation objectives related to a collaborative patient-provider-payer survey tool that will assist in facilitating the integration of the patient care behavioral and mental health survey delivery. This includes but is not limited to hiring or contracting with professionals or firms to complete the work.

Pending an acceptable application and budget, CMS recommends awarding a single source cooperative agreement to VCU (as host institution to The Larry A. Green Center). As the developer of the Person-Centered Primary Care Measure (PCPCM), The Larry A. Green Center is uniquely positioned to provide this support to CMS. The PCPCM is a survey-based measure that asks patients to assess their personal experience of care using the pillars of primary care—comprehensiveness, first contact access, coordination, and continuity—as guideposts. While the PCPCM measure will not be utilized for this survey tool, the methodology and partnerships used in the PCPCMs creation are the foundation for the survey tool as evidenced by the following:

- Robust stakeholder engagement that incorporated the expertise of over 1,000 individuals and 40 organizations.
- Combined digital and social theory methods to crowd-source information among stakeholder groups.
- Demonstrated experience in improving accountability while reducing burden and cost for users-using a design process that listened to end users and enabled learning to ask the right questions. The process allowed The Larry A. Green Center to then develop the best solutions to those questions and apply systemic constraints so the best solution can be operational and pragmatic.

To date, there are no other surveys that take into consideration patients, providers, and payors as a whole. As a result of their endorsed PCPCM tool, expertise, capability to facilitate relationships with groups not often known to work together, and proven track record for success, The Larry A. Green Center (through VCU as the host institution and legal applicant) is the only organization suitable to complete the task at hand.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–20170 Filed 9–16–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the U.S. Department of Health and Human Services (HHS) is modifying an existing system of records, system number 09–80–0361, titled ''OPRE Research and Evaluation Project Records,'' that is maintained by the Administration for Children and Families (ACF), Office of Planning, Research & Evaluation (OPRE). The system of records covers any individually identifiable records about individuals that are retrieved by a personal identifier to conduct OPRE research, evaluation, and data projects that study how to improve the economic and social well-being of children and families and/or increase the effectiveness and efficiency of programs inside and outside ACF working towards that goal. Subject individuals include individuals considered for inclusion or included in an OPRE Project; individuals who provide information about those considered or selected for an OPRE Project; and individuals whose information is in a pre-existing dataset evaluated or analyzed as part of an OPRE Project.

DATES: The modified system of records is applicable October 19, 2022, subject to a 30-day period in which to comment on the new and revised routine uses. Submit any comments by October 19, 2022.

ADDRESSES: The public should submit written comments by mail or email addressed to: Anita Alford, Senior Official for Privacy, Administration for Children and Families, 330 C St. SW, Washington, DC 20201, or *anita.alford@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about the modified system of records may be submitted by email or telephone to Emily Schmitt at *Emily.Schmitt@acf.hhs.gov* or (202) 401–5786.

SUPPLEMENTARY INFORMATION:

I. Background on System of Records 09–80–0361, OPRE Research and Evaluation Project Records

The system of records covers individually identifiable records about individuals that are retrieved by a personal identifier to conduct OPRE research, evaluation, and data projects that study how to improve the economic and social well-being of children and families and/or increase the effectiveness and efficiency of programs inside and outside ACF working towards that goal (OPRE Projects). While the results of these studies are generally deidentified and made publicly available, the process of collecting and analyzing the information may, in some instances, require retrieving identifiable records about individuals by personal identifier (for example, to combine or de-duplicate data about the same individual collected at different times or from different sources). The majority of OPRE Projects are conducted without directly retrieving records by personal identifier, so do not involve Privacy Act records.

II. Modifications Made to the System of Records

The updated System of Records Notice (SORN) published in this notice includes the following modifications:

- The SORN has been reformatted to comply with current format requirements in OMB Circular A–108, issued December 23, 2016. The Circular changed the order and headings of certain SORN sections and added a ''SORN History'' section.
- The ''System Location'' and ''System Manager(s)'' sections have been updated with current addresses, and the System Manager(s) section now includes an email address.
- The ''Authorities'' section no longer cites 42 U.S.C. 7103 and 42 U.S.C. 9858 *et seq.* and the Consolidated Appropriations Act of 2008, and now cites the following in addition to the other previously cited authorities. Some of the newly cited statutes specifically identify when ACF should provide a service or evaluate an activity. The other statutes give ACF the authority to distribute funds; recipients must report information about the individuals assisted via those funds to ACF, which is then used in one or more OPRE Projects.
  - 22 U.S.C. 7104 and 7105 (authorizes the HHS Secretary to provide grants to help victims of human trafficking and educate individuals about human trafficking).
  - 34 U.S.C. 11243 (authorizes the HHS Secretary to carry out research, evaluation, demonstration, and service projects to increase knowledge concerning, and to improve services for, runaway youth and homeless youth);
  - 42 U.S.C. 5105 (authorizes the HHS Secretary to fund a continuous program of research on how to better protect children from child abuse or neglect and improve the well-being of victims of child abuse or neglect);
  - 42 U.S.C. 9844 (authorizes the HHS Secretary, directly or through grants or contracts, to carry out research, demonstrations, and evaluation activities to improve Head Start programs);
  - 42 U.S.C. 10404 (authorizes the HHS Secretary to coordinate Departmental programs to prevent family violence, domestic violence, or dating violence);
  - 42 U.S.C. 1397 *et seq.* (discusses the administration of the Block Grants to States for Social Services and research connected to those grants);
  - 42 U.S.C. subchapter II–B (authorized Child Care and Development Block Grants in fiscal years (FYs) 2015 through 2020 to fund state child care programs; data funded in prior FYs still exists);
  - 42 U.S.C. subchapter V (authorizes the HHS Secretary to support special projects of regional and national significance and research regarding maternal and child health); and
  - Executive Order (E.O.) 9397 as amended by E.O. 13478 (addresses use of personal identifiers).
- The ''Purpose(s)'' section has been revised to add a description of types of OPRE Projects, which are listed as a. through g., and to omit an unnecessary statement that the procedures for collecting information about research subjects in OPRE Projects are reviewed, as appropriate, by Institutional Review Boards and are subject to HHS regulations on research with human subjects, including requirements for informed consent.
- The ''Categories of Individuals'' section has been clarified and expanded. Instead of stating that information is about research ''participants'' and may include information about family members of program participants and service recipients, it encompasses program clients, individuals (such as family members) who provide information about program clients, and sole practitioners who provide services to program clients; and it makes clear that information about them may be from a pre-existing dataset used in an OPRE Project, not necessarily newly collected specifically for the OPRE Project.
- The ''Categories of Records'' section includes some revised and additional examples of data elements that may be contained in the records; *i.e.:*
  - ''Email address'' has been added to the examples of contact information.
  - In the examples of sociodemographic information, ''date of birth'' has been changed to ''age''; ''citizenship'' has been removed; and the following have been added: tribal affiliation, gender, sexuality, language preferences and proficiencies, responses to assessments and collections (*e.g.,* surveys and interviews), photographs, voice and video recordings and transcripts, bio-specimens, correspondences, and administrative records.
  - In examples of other information, ''income'' has been changed to ''finances''; ''pre-school Head start participation'' has been broadened to ''other governmental services''; and the following have been added: education; living situation, sexual history, mental and physical health and well-being, criminal activities, risky behaviors (*e.g.,* illicit drug use), family dynamics (*e.g.,* beliefs), and disabilities.
- The ''Record Source Categories'' section has been reworded but not substantively changed.
- The ''Routine Uses'' section includes the following updates:
  - The introduction omits this statement: ''In addition, contractors may be restricted by contract from making a disclosure allowed as a routine use or by law without the consent of HHS, of the data subject, or both, unless the disclosure is required by law.''
  - Three existing routine uses have been revised, as follows:
    - Routine use 2, which authorizes disclosures incident to requesting information, has been revised to change ''information'' to ''records'' and to change ''research or evaluation'' to ''OPRE Project.''
    - Routine use 4, which authorizes disclosures to the Department of Justice or in proceedings, has been revised to omit a statement about compatibility with the original collection purpose, which is redundant because it repeats part of the definition of a routine use.
    - Routine use 5, which previously authorized disclosures to HHS contractors, has been revised to include HHS grantees and to add, as a condition of disclosure, that the contractor or grantee must be required by the terms of the contract or grant to comply with the Privacy Act.
  - One routine use has been deleted (numbered as 6 in the existing SORN); it authorized disclosures to claims examiners, investigators, arbitrators,

etc., at other agencies (including the Office of Personnel Management, Office of Special Counsel, Merit System Protection Board, Federal Labor Relations Authority, Equal Opportunity Commission, and Office of Government Ethics) in administrative grievance, claim, complaint, and appeal cases filed by employees. In the unlikely event that an employee's work, with or responsibility for, records in this system of records were to become an issue in such a case, it should not be necessary to use identifiable records from this system of records for investigation, discovery, evidentiary, settlement, or other purposes in the case.

○ Two new routine uses have been added (numbered as 9 and 10) authorizing disclosures for research that will not impact the record subject and disclosures so that an organization that serves an individual under a federal contract may access information about its services to continue serving the individual.

• A section headed ''Disclosure to Consumer Reporting Agencies'' has been removed as unnecessary, because the section merely confirmed that such disclosures are not made from this system of records.

• The ''Storage'' section previously stated that, depending on the project, records ''may be stored on paper or other hard copy, computers, and networks,'' and now states that records ''are stored in paper and electronic form.''

• The ''Retrieval'' section has been reworded but not substantively changed.

• The ''Retention'' section no longer states that identifiers are removed once the analysis is complete. Instead, it now states that a disposition schedule is pending approval by the National Archives and Records Administration (NARA), which proposes that the records be cutoff upon completion of final report or termination of evaluation and be destroyed 5 years after cutoff; and that ACF/OPRE will continue to retain the records indefinitely until the schedule is approved by NARA.

• The ''Safeguards'' section, which previously stated that contractors and other record keepers are required to maintain ''appropriate'' administrative, technical, and physical safeguards and that records are ''secured in compliance with Federal requirements'' now describes particular administrative, technical, or physical safeguards that are used to protect the records from unauthorized access.

• The ''Record Access Procedures,'' ''Contesting Record Procedures,'' and ''Notification Procedures'' sections have been revised to state that access, amendment, and notification requests ''must'' (instead of ''should'') be in writing and contain identity verification information; to no longer require that requests include ''Social Security Number '' (SSN); and to specify how the requester's identity may be verified (*i.e.,* by a notarized signature or a statement signed under penalty of perjury) instead of stating that verification of identity would be ''as described in the Department's Privacy Act regulations.''

Because some of these changes are significant, HHS provided advance notice of the modified system of records to the Office of Management and Budget and Congress as required by 5 U.S.C. 552a(r) and OMB Circular A–108.

Emily P. Dennis,

Acting Deputy Assistant Secretary for Planning, Research, and Evaluation, Administration for Children & Families.

SYSTEM NAME AND NUMBER:

OPRE Research and Evaluation Project Records, 09–80–0361.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

OPRE, ACF, HHS, 330 C St. SW, Washington, DC 20201. A list of contractor sites where system records are maintained is available upon request to the System Manager.

SYSTEM MANAGER(S):

Executive Officer, OPRE, ACF, HHS, 330 C St. SW, Washington, DC 20201, *dataq@acf.hhs.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 7104 and 7105 (authorizes the Secretary to provide grants to help victims of human trafficking and educate individuals about human trafficking); 34 U.S.C. 11243 (authorizes the HHS Secretary to carry out research, evaluation, demonstration, and service projects to increase knowledge concerning, and to improve services for, runaway youth and homeless youth); 42 U.S.C. 613 (authorizes the HHS Secretary to conduct research on the effects of temporary assistance to needy families programs and related programs); 42 U.S.C. 628b (authorizes the HHS Secretary to fund a national study about child abuse and neglect); 42 U.S.C. 1310 (authorizes the HHS Secretary to fund research and demonstration projects connected to Social Security Act funded programs); 42 U.S.C. 5105 (authorizes the HHS Secretary to fund a continuous program of research on how to better protect children from child abuse or neglect and improve the well-being of victims of child abuse or neglect); 42 U.S.C. 9836 (authorizes the HHS Secretary to convene an expert panel to develop a Designation Renewal System for Head Start agencies); 42 U.S.C. 9844 (authorizes the HHS Secretary, directly or through grants or contracts, to carry out research, demonstrations, and evaluation activities to improve Head Start programs); 42 U.S.C. 10404 (authorizes the HHS Secretary to coordinate Departmental programs to prevent family violence, domestic violence, or dating violence); 42 U.S.C. 1397 *et seq.* (discusses the administration of block grants to states for social services and research connected to those grants); 42 U.S.C. subchapter II–B (authorized child care and development block grants in fiscal years (FYs) 2015 through 2020 to fund state child care programs; data funded in prior FYs still exists); 42 U.S.C. subchapter V (authorizes the HHS Secretary to support special projects of regional and national significance and research regarding maternal and child health); 42 U.S.C. 1310 (authorizes the HHS Secretary to fund through grants and contracts the conduct of research and demonstration projects regarding the prevention and reduction of welfare dependency); and Executive Order 9397, as amended by Executive Order 13478 (addresses use of personal identifiers).

PURPOSE(S) OF THE SYSTEM:

The records in this system of records are used for the purpose of conducting OPRE research, evaluation, and data projects that study how to improve the economic and social well-being of children and families and/or increase the effectiveness and efficiency of programs inside and outside ACF working towards that goal (OPRE Projects). Each OPRE Project may involve:

(a) the analysis of data from various sources;

(b) the collection of data through surveys, focus groups, interviews, and other methods;

(c) the provision of technical assistance to organizations;

(d) the evaluation of programs and services;

(e) the provision of services to populations and evaluating their outcomes;

(f) data and capacity building within ACF; and

(g) other research, evaluation, and data related activities.

This work may be supported or accomplished by federal staff or by

contractors, vendors, grantees, and other partners.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records contains records about the following categories of individuals:

(a) Individuals who are considered for inclusion or are included in an OPRE Project (*e.g.,* service recipients, individuals providing services);

(b) Individuals who provide information about those considered or selected for an OPRE Project (*e.g.,* parents and other relatives, case managers, program managers, alternate points of contact); and

(c) Individuals whose information is in a pre-existing dataset evaluated or analyzed as part of an OPRE Project. This includes administrative datasets created while operating programs such as Temporary Assistance for Needy Families or Head Start.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained about a specific individual will depend on which OPRE Project the individual was considered for or included in and the individual's role in the project. An OPRE Project may collect the individual's identifying information and contact information (name, address(es), telephone number(s), email address(es), SSN); sociodemographic characteristics (*e.g.,* age, race, ethnicity, tribal affiliation, gender, sexuality); language preferences and proficiencies; responses to assessments and collections (*e.g.,* surveys and interviews); photographs; voice and video recordings and transcripts; bio-specimens; correspondences; identifiers specific to the applicable project or series of projects in which the individual was involved; and administrative records. It may also collect records about an individual's current and prior finances; education; employment; living situation; sexual history; mental and physical health and well-being; criminal activities; risky behaviors (*e.g.,* illicit drug use); family dynamics (*e.g.,* marriage, relationships, and beliefs); disabilities; service utilization; other characteristics; experiences with child welfare and other governmental services; and experiences relevant to ACF's programs.

RECORD SOURCE CATEGORIES:

The sources of records in the system may include: the record subject; HHS; other governmental agencies (federal, state, tribal, and local) and their agents; ACF contractors and grantees; research institutions, foundations, and similar organizations; publicly available documents; commercial sources; individuals who know the record subject (*e.g.,* relatives, case managers, service providers, and neighbors); and other third parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act, under which ACF may release information from the system of records without the record subject's consent.

Each proposed disclosure under these routine uses will be evaluated to ensure it is legally permissible and appropriate. If a OPRE Project received a certificate of confidentiality, these routine uses will not authorize a disclosure barred by the terms of the certificate.

(1) Disclosure for Law Enforcement Purpose

Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity. However, because this is a research and evaluation system, no information will be disclosed for use in any investigation, prosecution, or other action targeted against any individual who is the subject of the record.

(2) Disclosure Incident to Requesting Records

Records may be disclosed (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of records requested), to any source from which additional records are requested when necessary to obtain records relevant to the OPRE Project being conducted.

(3) Disclosure to Congressional Office

Information may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the request of the individual.

(4) Disclosure to Department of Justice or in Proceedings

Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before HHS is authorized to appear, when (a) HHS, or any component thereof; or (b) any employee of HHS in his or her official capacity; or (c) any employee of HHS in his or her individual capacity where the Department of Justice or HHS has agreed to represent the employee; or (d) the United States, if HHS determines that litigation is likely to affect HHS or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or HHS is deemed by HHS to be relevant and necessary to the litigation.

(5) Disclosure to Contractors and Grantees

Records may be disclosed to a contractor or grantee that (a) is performing or working on a contract or grant for HHS, (b) needs to access the records in the performance of their duties or activities for HHS, and (c) is required by the terms of the contract or grant to comply with the Privacy Act.

(6) Disclosure in Connection with Litigation

Information may be disclosed in connection with litigation or settlement discussions regarding claims by or against HHS, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under 5 U.S.C. 552a(b)(11).

(7) Disclosure in the Event of a Security Breach Experienced by HHS

To appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records; (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(8) Disclosure in the Event of a Security Breach Experienced by Another Agency or Entity

To another federal agency or federal entity, when HHS determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

(9) Disclosure for Research Purposes

Records may be disclosed for a research, evaluation, or data purpose if HHS:

(A) Determines that the use and disclosure does not violate the laws or policies under which the record was collected;

(B) Determines that the purpose cannot be reasonably accomplished unless individually identifiable information is provided;

(C) Determines that the purpose warrants any privacy risk to the individual caused by the disclosure;

(D) Determines that the disclosure will not directly affect the rights, privileges, or benefits of a particular individual.

(E) Requires the recipient to:

1. Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

2. Destroy the individually identifiable information as soon as reasonable for that project;

3. Not reuse or redisclose the information except:

(a) in an emergency circumstances affecting the health or safety of an individual,

(b) to another research, evaluation, or data project with written authorization from HHS,

(c) for an audit related to the project, if the individually identifiable information is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) when required by law; and

4. Provide HHS a written statement that they understand and will abide by these requirements.

(10) Disclosure to Continue Services

Records about the services an individual received from a grantee as part of an OPRE Project may be shared with that grantee, or successor organizations, to continue serving that individual.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in paper and electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the subject individual's name, SSN, or another personal identifier contained in the records.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

A disposition schedule, DAA–0292–2020–0005, is pending approval by NARA, which proposes at Item 1.3 that the records (background materials for creation of studies and reports) be cut off at the end of the calendar year in which the report is published and destroyed 5 years after cut-off. ACF/OPRE will continue to retain the records indefinitely until the schedule is approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All record keepers are required to maintain appropriate administrative, technical, and physical safeguards to protect the records from unauthorized access. Administrative controls include training individuals who have access to the records how to handle them appropriately, incident response plans, and limiting access to individuals who need to know the information. Technical controls include the use of antivirus software, vulnerability patching, multi-factor authentication when required, and storing electronic records in encrypted form. Physical controls include storing hard copy records and computer terminals used to access electronic records in physically locked locations when not in use.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about them in this system of records must submit a written access request to the System Manager identified in the ''System Manager(s)'' section of this SORN, in accordance with the Department's Privacy Act implementation regulations in 45 CFR. The request must contain the requester's full name, contact information (*i.e.,* telephone number and/or email address, and current mailing address), and sufficient identifying particulars contained in the records to enable the System Manager to distinguish between records on subject individuals with the same name. In addition, to verify the requester's identity, the request must be signed by the requester, and the signature must be notarized or the request must include the requester's written certification that the requester is the person the requester claims to be and that he/she understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend a record about them in this system of records must submit a written amendment request to the System Manager identified in the ''System Manager(s)'' section of this SORN, in accordance with the Department's Privacy Act implementation regulations in 45 CFR. An amendment request must include verification of the requester's identity in the same manner required for an access request and must reasonably identify the record and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains records about them must submit a written notification request to the System Manager identified in the ''System Manager(s)'' section of this SORN, in accordance with the Department's Privacy Act implementation regulations in 45 CFR and verify their identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 17893 (April 2, 2015), 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2022–20139 Filed 9–16–22; 8:45 am]

BILLING CODE 4184–79–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–P–0068]

Determination That ENDEP (Amitriptyline Hydrochloride) Oral Concentrate, 40 Milligrams/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that ENDEP (amitriptyline hydrochloride) oral concentrate, 40 milligrams (mg)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Kaetochi Okemgbo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224,

Silver Spring, MD 20993–0002, 301–796–1546, *Kaetochi.Okemgbo@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, is the subject of ANDA 085749, held by Hoffman-La Roche Inc., and initially approved on December 23, 1977. ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, is indicated for relief of symptoms of depression.

Hoffman-La Roche Inc. has never marketed ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL. ANDA 085749 is listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Hyman, Phelps & McNamara, P.C., submitted a citizen petition dated January 11, 2022 (Docket No. FDA–2022–P–0068), under 21 CFR 10.30, requesting that the Agency determine whether ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to ENDEP (amitriptyline hydrochloride) oral concentrate, 40 mg/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: September 14, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20195 Filed 9–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6395]

Request for Applications for New Members of the Clinical Trials Transformation Initiative/Food and Drug Administration Patient Engagement Collaborative

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for applications.

SUMMARY: The Food and Drug Administration (FDA or Agency), in collaboration with the Clinical Trials Transformation Initiative (CTTI), is requesting applications from patient advocates interested in participating on the Patient Engagement Collaborative (PEC). The PEC is an ongoing, collaborative forum coordinated through the Office of Patient Affairs, Office of Clinical Policy and Programs (OCPP), Office of the Commissioner at FDA, and is hosted by CTTI. Through the PEC, the patient community and regulators are able to discuss an array of topics regarding increasing meaningful patient engagement with diverse populations in medical product development and regulatory discussions at FDA. The activities of the PEC may include, but are not limited to, providing diverse perspectives on topics such as systematic patient engagement, transparency, and communication; providing considerations for implementing new strategies to enhance patient engagement at FDA; and proposing new models of collaboration in which patient and patient advocate perspectives are incorporated into general medical product development and regulatory processes.

DATES: Applications can be submitted starting at 11:59 p.m. eastern time on September 19, 2022. This announcement is open to receive a maximum of 75 applications. Applications will be accepted until 11:59 p.m. eastern time on October 19, 2022 or until 75 applications are received, whichever happens first.

ADDRESSES: All applications should be submitted to FDA's Office of Patient Affairs in OCPP. The preferred application method is via the online submission system provided by CTTI, available at *https://duke.qualtrics.com/jfe/form/SV_5nI1VVWVOaD59ky.* For those applicants unable to submit an application electronically, please call FDA's Office of Patient Affairs at 301–796–8460 to arrange for mail or delivery

service submission. Only complete applications, as described under section IV of this document, will be considered.

FOR FURTHER INFORMATION CONTACT: Wendy Slavit, Office of the Commissioner, Office of Clinical Policy and Programs, Office of Patient Affairs, Food and Drug Administration, 301–796–8460, *PatientEngagementCollaborative@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The CTTI is a public-private partnership cofounded by FDA and Duke University whose mission is to develop and drive adoption of practices that will increase the quality and efficiency of clinical trials. FDA and CTTI have long involved patients and considered patient perspectives in their work. Furthering the engagement of diverse patients as valued partners across the medical product research and development continuum requires an open forum for patients and regulators to discuss and exchange ideas.

The PEC is an ongoing, collaborative forum in which the patient community and regulators discuss an array of topics regarding increasing patient engagement in medical product development and regulatory discussions at FDA. The PEC is a joint endeavor between FDA and CTTI. The activities of the PEC may inform relevant FDA and CTTI activities. The PEC is not intended to advise or otherwise direct the activities of either organization, and membership will not constitute employment by either organization.

The Food and Drug Administration Safety and Innovation Act (Pub. L. 112–14), section 1137, entitled ''Patient Participation in Medical Product Discussions,'' added section 569C to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–8c). This provision directs the Secretary of Health and Human Services to ''develop and implement strategies to solicit the views of patients during the medical product development process and consider the perspectives of patients during regulatory discussions.'' On November 4, 2014, FDA issued a **Federal Register** notice establishing a docket (FDA–2014–N–1698) for public commenters to submit information related to FDA's implementation of this provision. Upon review of the comments received, one common theme, among others, included establishing an external group to provide input on patient engagement strategies across FDA's Centers. After considering the comments, FDA formed the PEC in 2018 to discuss a variety of patient engagement topics. This group is consistent with additional legislation subsequently enacted in section 3001 of the 21st Century Cures Act (Pub. L. 114–255) and section 605 of the FDA Reauthorization Act of 2017 (Pub. L. 115–52), further supporting tools for fostering patient participation in the regulatory process.

The PEC currently has 16 members. To help ensure continuity in its activities and organizational knowledge, the PEC maintains staggered membership terms. As of fall 2022, eight members will complete a term and up to eight new members will be selected. The purpose of this notice is to announce that the application process for up to eight new members of the PEC is now open, and to invite and encourage applications by the submission deadline for appropriately qualified individuals.

II. Criteria for Membership

The PEC includes up to 16 diverse representatives of the patient community. Eight members from the previous application process will remain on the PEC. The current application process is to select up to eight new PEC members. Selected members will include the following: (1) patients who have personal disease experience; (2) caregivers who support patients, such as a parent, child, partner, other family member, or friend, and who have personal disease experience through this caregiver role; and/or (3) representatives of patient groups who, through their role in the patient group, have direct or indirect disease experience. Please note that for purposes of this activity, the term ''caregiver'' is not intended to include individuals who are engaged in caregiving as healthcare professionals; and the term ''patient group'' is used herein to encompass patient advocacy organizations, disease advocacy organizations, voluntary health agencies, nonprofit research foundations, and public health organizations. The ultimate goal of the application and selection process is to identify individuals who can represent a collective patient voice for their patient community.

Selection criteria include the applicant's potential to meaningfully contribute to the activities of the PEC, ability to represent and express the patient voice for their constituency, ability to work in a constructive manner with involved stakeholders, and understanding of the clinical research enterprise. Consideration will also be given to ensuring the PEC includes diverse perspectives and experiences, including but not limited to sociodemographic factors (such as age, gender, ethnicity, education level, income) and disease experience. PEC members are required to be residents of the United States and must be 18 years of age or older.

Financial and other conflicts of interest will not necessarily make applicants ineligible for membership in the PEC. However, applicants cannot be direct employees of the medical product development industry or a currently registered lobbyist for an FDA-regulated industry.

III. Responsibilities and Expectations

Participation as a PEC member is voluntary. Working meetings of the PEC will typically be held two to four times per year, either in person (in the Washington, DC area) or virtually (teleconference or webinar). Given the ongoing COVID–19 pandemic, meetings will be conducted virtually and may resume in-person when it is safe to do so. Additional meetings may be organized as needed, and currently include monthly, 1-hour teleconferences.

Reasonable accommodations will be made for members with special needs for travel or for participation in a meeting. Applications for PEC membership are encouraged from individuals of all ages, sexes, genders, sexual orientations, racial and ethnic groups, education levels, income levels, and those with and without disabilities. Travel support will be provided as applicable.

To help ensure continuity in its activities and organizational knowledge, the PEC will maintain staggered membership terms for patient community representatives. Membership terms for new members will be 2-year appointments. Members may serve up to two terms, with the possibility of extensions.

Additional responsibilities and expectations are set forth in the PEC Framework, which should be reviewed prior to submitting an application, and is available at *https://ctti-clinicaltrials.org/wp-content/uploads/2021/07/patient_engagement_collaborative_framework_-_revised_25jan2021.pdf.*

IV. Application Process

Any interested person may apply for membership on the PEC. To apply, go to *https://duke.qualtrics.com/jfe/form/SV_5nI1VVWVOaD59ky.* The application is completed online and includes questions to help determine eligibility for the PEC, demographic and other background questions, and four brief

essay questions. Many of the demographic questions are optional. The brief essay questions, to be answered in 500 characters or fewer (including spaces), are as follows:

- Please explain why you would have an outstanding ability to represent and express the patient voice for the disease area(s) you selected above.
- Please give a few examples of experiences that demonstrate your outstanding ability to work across or interact with stakeholders in the medical product development and regulatory processes.
- Please explain how you have established an understanding of the medical product development and regulatory processes.
- Please tell us why you are interested in becoming a member of the PEC and how you would be able to contribute.

Completing the application also involves submitting: (1) A current one-page résumé or bio that summarizes your patient advocacy experience and related activities (PDF format required) and (2) A one-page letter of endorsement from a patient group with which the applicant has worked closely on activities that are relevant to the PEC (PDF format required). Please note, only the application and the two documents specified above will be reviewed. Your completed application form, résumé or bio, and letter of endorsement should all be submitted at the same time.

The résumé or bio must provide examples and descriptions of relevant activities and experiences related to the applicant's qualifications for PEC membership. The letter of endorsement should emphasize information relevant to the criteria for membership described above. This letter must be from and written by someone other than yourself. The letter may address topics such as the applicant's involvement in patient advocacy activities, experiences that stimulated an interest in participating in discussions about patient engagement in medical product development and regulatory decision processes, and other information that may be helpful in evaluating the applicant's qualifications as a potential member of the PEC.

Applications will be accepted until 11:59 p.m. eastern time on October 19, 2022 or until 75 applications are received, whichever happens first. Only complete applications will be considered.

The application review period will take a minimum of 2 months after 11:59 p.m. eastern time on October 19, 2022.

Additional information may be needed from some applicants during the review period, including information relevant to understanding potential sources of conflict of interest, in which case applicants will be contacted directly. All applicants (both those selected for PEC membership and those who are not selected) will be notified of the final application decision no later than the end of the 2022 calendar year.

Dated: September 12, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20221 Filed 9–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2109]

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Cardiovascular and Renal Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on November 16, 2022, from 9:30 a.m. to 5 p.m. eastern time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–2109. The docket will close on November 15, 2022. Either electronic or written comments on this public meeting must be submitted by November 15, 2022. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. eastern time at the end of November 15, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before November 1, 2022, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is canceled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–2109 for ''Cardiovascular and Renal Drugs Advisory Committee;

Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–2855, Fax: 301–847–8533, email: *CRDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committee will discuss new drug application 213931, for tenapanor hydrochloride tablets, submitted by Ardelyx, Inc., for the control of serum phosphorus levels in adults with chronic kidney disease on dialysis. The committee will be asked to comment on whether the size of the treatment effect on serum phosphorus is clinically meaningful and whether tenapanor's benefits outweigh its risks.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before November 1, 2022, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. eastern time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 24, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 25, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 12, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20198 Filed 9–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3065]

Agency Information Collection Activities; Proposed Collection; Comment Request; Tobacco Products; Required Warnings for Cigarette Packages and Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the

Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information entitled, ''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements.''

DATES: Either electronic or written comments on the collection of information must be submitted by November 18, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. eastern time at the end of November 18, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–3065 for ''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Tobacco Products; Required Warnings for Cigarette Packages and Advertisements—21 CFR Part 1141

OMB Control Number 0910–0877—Extension

This information collection supports FDA regulations and guidance. Tobacco products are generally governed by chapter IX of the Federal Food, Drug, and Cosmetic Act (sections 900 through 920) (21 U.S.C. 387 through 21 U.S.C. 387t).

On March 18, 2020, FDA issued a final rule establishing new cigarette health warnings for cigarette packages and advertisements entitled ''Tobacco

Products; Required Warnings for Cigarette Packages and Advertisements'' (85 FR 15638; *https://www.federalregister.gov/d/2020-05223*). The final rule implements a provision of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) that requires FDA to issue regulations requiring color graphics depicting the negative health consequences of smoking to accompany new textual warning label statements. The Tobacco Control Act amends the Federal Cigarette Labeling and Advertising Act of 1965 (FCLAA) (15 U.S.C. 1333) to require each cigarette package and advertisement to bear one of the new required warnings. The final rule specifies the 11 new textual warning label statements and accompanying color graphics.

Section 1141.10(g) (21 CFR 1141.10(g) and section 4(c) of the FCLAA sets forth the specific marketing requirements relating to the random and equal display and distribution of required warnings on cigarette packaging and quarterly rotation of required warnings in alternating sequence in cigarette advertising and requires the submission of plans outlining how the cigarette packaging and advertising will comply with such requirements. FDA must review and approve cigarette plans in advance of any person displaying or distributing cigarette packages or advertisements for products that are required to carry the required warnings, and a record of the FDA-approved plan must be established and maintained by the tobacco product manufacturer.

To implement these statutory and regulatory requirements, cigarette plans will be reviewed by FDA upon submission by respondents. FDA published a guidance document on July 9, 2021, entitled ''Submission of Plans for Cigarette Packages and Cigarette Advertisements'' which describes cigarette plans information, format and submission (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/submission-plans-cigarette-packages-and-cigarette-advertisements-revised*).

Pursuant to section 201(b) of the Tobacco Control Act, FDA finalized the ''Required Warnings for Cigarette Packages and Advertisements'' rule with an effective date of June 18, 2021, 15 months after the date of publication. On April 3, 2020, the final rule was challenged in the U.S. District Court for the Eastern District of Texas.[1] The effective date of the final rule has been delayed in accordance with orders issued by the U.S. District Court for the Eastern District of Texas. Visit FDA's website at *https://www.fda.gov/tobacco-products/labeling-and-warning-statements-tobacco-products/cigarette-labeling-and-health-warning-requirements* for updates regarding the effective date of the rule and related timelines, including the recommended date for submitting cigarette plans for FDA review.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Part 1141 and activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Original Submission (Initial Plan)	59	1	59	150	8,850
Supplement	30	1	30	75	2,250
Total					11,100

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates are based on FDA's experience with information collections for other tobacco product plans (*i.e.,* smokeless, OMB control number 0910–0671 and cigars, OMB control number 0910–0768) and 2017 Treasury Alcohol and Tobacco Tax and Trade Bureau data.

FDA estimates 59 entities are affected. We estimate these 59 entities will submit initial plans, and it will take an average of 150 hours per respondent to prepare and submit a plan for packaging and advertising for a total of 8,850 hours. We estimate that about half of respondents will submit a supplement. If a supplement to an approved plan is submitted, FDA estimates it will take half the time per response. We estimate receiving 30 supplements at 75 hours per response for a total of 2,250 hours. FDA estimates that the total hours for submitting initial plans and supplements will be 11,100.

Section 1141.10(g)(4) establishes that each tobacco product manufacturer required to randomly and equally display and distribute warnings on cigarette packages or quarterly rotate warnings in cigarette advertisements in accordance with an FDA-approved plan under section 4 of the FCLAA and part 1141 must maintain a copy of the FDA-approved plan (approved under § 1141.10(g)(3)). This copy of such FDA-approved plan must be available for inspection and copying by officers or employees of FDA. This subsection requires that the FDA-approved plan must be retained while in effect and for a period of not less than 4 years from the date it was last in effect.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Part 1141 and activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Original Submission (Initial Plan) Records	59	1.5	89	3	267
Total					267

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[1] *R.J. Reynolds Tobacco Co. et al.* v. *United States Food and Drug Administration et al.,* No. 6:20–cv–00176 (E.D. Tex. filed April 3, 2020).

FDA estimates that 59 recordkeepers will keep a total of about 89 records at 3 hours per record for a total of 267 hours. As stated previously, these estimates are based on FDA's experience with information collections for other tobacco product plans (*i.e.,* smokeless, OMB control number 0910–0671 and cigars, OMB control number 0910–0768). Based on our estimates for the submission of one-time, initial plans and supplements (*i.e.,* that all respondents will submit one-time, initial plans and about half of respondents will submit supplements to FDA-approved plans), we estimate that each recordkeeper will keep an average of 1.5 records.

FDA concludes that the required warnings for cigarette packages and cigarette advertisements in § 1141.10 are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA (44 U.S.C. 3501–3521). Rather, these labeling statements are a ''public disclosure'' of information originally supplied by the Federal Government to the recipient for the purpose of ''disclosure to the public'' (5 CFR 1320.3(c)(2)).

Since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: September 14, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–20196 Filed 9–16–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Hypertension Summit

AGENCY: Office on Women's Health (OWH), Office of the Assistant Secretary for Health (OASH), Department of Health and Human Services (HHS).

ACTION: Notice of event.

SUMMARY: The U.S. Department of Health and Human Services' Office on Women's Health (OWH) is providing notice of a virtual Hypertension Summit focused on innovations and evidence to bridge practice gaps in the field of hypertension treatment and prevention. The purpose of the Hypertension Summit is to exchange information about this topic and seek input on an individual basis from: patients who have benefited from innovative approaches to treating hypertension; subject matter experts; Phase 1 awardees of the HHS Hypertension Innovator Award Competition; and members of OWH's Self-Measured Blood Pressure Program (SMBP). This Hypertension Summit will highlight research from the Women's Health Initiative that impacts heart health and women's health. This Hypertension Summit is open to the public. Individuals interested in attending this Hypertension Summit must register to attend as instructed below.

DATES: OWH will host the Hypertension Summit on October 19, 2022, during the 3rd annual observance of National Women's Blood Pressure Awareness Week (NWBPAW), October 16–22, 2022.

ADDRESSES: The Hypertension Summit will be held virtually.

FOR FURTHER INFORMATION CONTACT: Contact Jeff Ventura at *Womenshealth@hhs.gov* or 202–690–7650 or go to *https://www.womenshealth.gov/hypertensionsummit* for more information.

SUPPLEMENTARY INFORMATION:

Meeting Accessibility: The Hypertension Summit will be held virtually.

All attendees must register to receive the virtual conference information for the Hypertension Summit.

For more information on how to register to attend, please visit *https://www.zoomgov.com/webinar/register/WN_Z33WazyITyaeP29xVmyIKw.*

Background: The HHS Office on Women's Health (OWH) is charged with providing expert advice and consultation to the Secretary concerning scientific, legal, ethical, and policy issues related to women's health. OWH establishes short-range and long-range goals within the Department and coordinates on activities within the Department that relate to disease prevention, health promotion, service delivery, research, and public and health care professional education, for issues of particular concern to women throughout their lifespan. OWH monitors the Department's activities regarding women's health and identifies needs regarding the coordination of activities. OWH is also responsible for facilitating the exchange of information through the National Women's Health Information Center. Additionally, OWH coordinates efforts to promote women's health programs and policies with the private sector. National Women's Blood Pressure Awareness Week (NWBPAW) is an observance that focuses on evidence to address practice gaps and to improve women's health outcomes related to hypertension.

The Hypertension Summit will occur during NWBPAW and will emphasize the importance of blood pressure control. The Hypertension Summit will facilitate the exchange information and seek input on an individual basis from: patients, who have benefited from innovative approaches to treating hypertension; subject matter experts; Phase 1 awardees of the HHS Hypertension Innovator Award Competition; and members of OWH's Self-Measured Blood Pressure Program (SMBP).

Topics covered during the Hypertension Summit: The agenda will be made up of several panels and presentations focusing on the innovations and evidence to bridge practice gaps in the field of hypertension treatment and prevention. Topics may include, but are not limited to, innovations and evidence to bridge practice gaps in the field of hypertension, self-measured blood pressure, telehealth, technology, health equity, hypertension in pregnancy and/or postpartum, home-based care, and health team integration.

The Hypertension Summit is open to the public. Information regarding the start and end times and any updates to agenda topics will be available at *https://www.womenshealth.gov/hypertensionsummit* closer to the date of the Hypertension Summit.

Procedures for Attendance: https://www.zoomgov.com/webinar/register/WN_Z33WazyITyaeP29xVmyIKw.

Dated: September 12, 2022.

Dorothy Fink,

Deputy Assistant Secretary for Women's Health, Office of the Assistant Secretary for Health.

[FR Doc. 2022–20214 Filed 9–16–22; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) 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; Member Conflict: Radiation Therapeutics and Biology.

Date: October 12, 2022.

Time: 1 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: October 17–18, 2022.

Time: 9:30 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christopher Payne, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 2208, Bethesda, MD 20892, 301–402–3702, *christopher.payne@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.

Date: October 18–19, 2022.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jordan M. Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 451–0293, *jordan.moore@nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Science of Implementation in Health and Healthcare Study Section.

Date: October 18–19, 2022.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wenjuan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, Bethesda, MD 20892, (301) 480–8667, *wangw22@mail.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Basic Biology of Blood, Heart and Vasculature Study Section.

Date: October 20–21, 2022.

Time: 9 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aisha Lanette Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3527, *aisha.walker@nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; Developmental Therapeutics Study Section.

Date: October 20–21, 2022.

Time: 9:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maureen Shuh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4097, *maureen.shuh@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: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20219 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel RC2 on Intestinal Biology.

Date: October 18, 2022.

Time: 3:30 p.m. to 5:45 p.m.

Agenda: To review and evaluate grant applications.

Place: NIDDK–Review Branch, Democracy 2, 6707 Democracy Blvd., Suite 7017, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Maria E. Davila–Bloom, Ph.D. Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637 *davila-bloomm@extra.niddk.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst,Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20217 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Literature Selection Technical Review Committee, October 27–28, 2022, 9:30 a.m. to 5:00 p.m., which was published in the **Federal Register** on July 1, 2022, 87 FR 126, Page 39538.

This meeting will be amended to change the meeting time from 9:30 a.m.–5:00 p.m. to 10:00 a.m.–4:00 p.m. on both days. An open session is added from 10:00–11:20 a.m. on October 28, 2022.

The open session of the meeting will be virtual. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Dianne Babski, Associate Director, Division of Library Operations, National Library of Medicine at *babskid@mail.nih.gov.* The open session will be videocast and can be accessed from the NIH Videocasting website (NIH VideoCast—LSTRC Meeting).

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20225 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee on Research on Women's Health, October 20, 2021, 9 a.m. to October 21, 2021, 4:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting) which was published in the **Federal Register** on July 26, 2021, FR Doc 2021–15865, 86 FR 40066.

The meeting notice is amended after the fact to change the two-day meeting to a one-day meeting. The meeting was held on October 21, 2021, from 9:30 a.m. to 4:35 p.m. The meeting was open to the public.

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20222 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the Pediatrics Study Section.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Biobehavioral and Behavioral Sciences Study Section.

Date: October 24, 2022.

Closed: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2127B, Bethesda, MD 20892 (Video Assisted Meeting).

Contact Person: Chi-Tso Chiu, Ph.D., Scientific Review Officer, Scientific Review Branch (SRB), Eunice Kennedy Shriver National Institute of Child Health & Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2127B, Bethesda, MD 20817, (301) 435–7486, *chiuc@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/org/der/srb,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: September 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20183 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: October 11, 2022.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Lindsey M. Pujanandez, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20852, (240) 627–3206, *lindsey.pujanandez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS.)

Dated: September 13, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20147 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 6, 2022, 10:00 a.m. to 6:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on September 12, 2022, V 7#175 Page 55826, FR Doc No.2022–19603.

This meeting is being amended to change the meeting date from October 6, 2022, to October 5, 2022. The meeting time and location remains the same. The meeting is closed to the public.

Dated: September 13, 2022.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20181 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Molecular Neurogenetics Study Section, October 13, 2022, 8:30 a.m. to October 14, 2022, 7:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on September 12, 2022, 87 FR 55826, Doc 2022–19603.

This notice is being amended to change the start time from 8:30 a.m. to 9:00 a.m. The meeting is closed to the public.

Dated: September 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20178 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Molecular Mechanisms and Aging.

Date: October 11, 2022.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS.)

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20220 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Clinical Trial Planning Grants (R34); NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44); NIAID Clinical Trial Implementation Cooperative Agreement (U01).

Date: October 18, 2022.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20852, 240–669–2075, *richard.kostriken@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS.)

Dated: September 13, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20148 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Non-coding RNAs and AD, R21.

Date: November 7, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20241 Filed 9–16–22; 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 10(d) 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: Population Sciences and Epidemiology Integrated Review Group Kidney Endocrine and Digestive Disorders Study Section.

Date: October 13–14, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven M Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480–8665, *frenksm@mail.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group Clinical Translational Imaging Science Study Section.

Date: October 20–21, 2022.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Eleni Apostolos Liapi, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 867–5309, *eleni.liapi@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Learning, Memory and Decision Neuroscience Study Section.

Date: October 20–21, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8515, *janzr2@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group Adult Psychopathology and Disorders of Aging Study Section.

Date: October 20–21, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group Acute Neural Injury and Epilepsy Study Section.

Date: October 20–21, 2022.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group Maximizing Investigators' Research Award B Study Section.

Date: October 20–21, 2022.

Time: 9:30 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7846, Bethesda, MD 20892, (301) 827–5263, *sudha.veeraraghavan@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Auditory System Study Section.

Date: October 20–21, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian H Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 13, 2022.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20182 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group Training and Workforce Development Study Section—D Review of U–RISE and MARC Applications.

Date: October 20–21, 2022.

Time: 10:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Science, Natcher Bldg. 45, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tracy Koretsky, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3An.12F, Bethesda, MD 20892, 301 594 2886, *tracy.koretsky@nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nigms.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS).

Dated: September 14, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20218 Filed 9–16–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2018]

Proposed Flood Hazard Determinations for Winneshiek County, Iowa and Incorporated Areas

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Winneshiek County, Iowa and Incorporated Areas.

DATES: This withdrawal is effective September 19, 2022.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–2018, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On March 27, 2020, FEMA published a proposed notice at 85 FR 17338, proposing flood hazard determinations for Winneshiek County, Iowa and Incorporated Areas. FEMA is withdrawing the proposed notice.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–20160 Filed 9–16–22; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2022–0027; OMB No. 1660–NW153]

Agency Information Collection Activities: Proposed Collection; Comment Request; State, Tribe, and Territory Disaster Case Management Federal Award

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of new collection and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a new information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning information collected during the request by a State, Tribal, or territorial government for a Disaster Case Management (DCM) Federal award following a major disaster declaration.

DATES: Comments must be submitted on or before November 18, 2022.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2022–0027. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID, and will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Rebekah Kennedy, Team Lead, Community Services Section, Individual Assistance Division, at (202) 701–8228 or *rebekah.kennedy@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12148, as amended by Executive Order 12673 and Executive Order 13286, the President of the United States has delegated to the Department of Homeland Security (DHS), including FEMA, the authority to provide case management services as stated in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5189d. Under the Stafford Act, FEMA may provide DCM services directly to survivors through financial assistance to State, Indian tribal, or territorial government agencies. DCM services include identifying and addressing disaster-caused unmet needs of survivors through identification of, and referrals to, available resources. A disaster-caused unmet need is an un-resourced item, support, or assistance that has been assessed and verified as necessary for a survivor to recover from a disaster. This may include food, clothing, shelter, first aid, emotional and spiritual care, household items, home repair, or rebuilding.

When a State, Tribe, or territory (STT) applies for, requests a modification of, or appeals a FEMA determination for DCM Federal funding, the STT will utilize the respective forms to illustrate the need, why it is beyond the STT capacity to provide case management services itself, and how the STT will provide services to all populations in need. Additionally, the STT will be required to use the OMB-approved Standard Form 424 form family when applying for Federal funding.

To supplement their request, the STT will also submit a funding request using the budget form. The information gathered within these forms in the collection tool is used to determine the STT's need for DCM Federal funding and how they anticipate providing services to survivors.

Once awarded, the STT will use the monthly reporting collection tool to provide aggregate data on the services provided to survivors. The information gathered within this form helps FEMA assess the success of the program and ensure that all survivors in need of services are able to receive them and that the case managers are assisting survivors in finding resources that meet their disaster-caused unmet needs.

Collection of Information

Title: State, Tribe, and Territory Disaster Case Management Federal Award.

Type of Information Collection: New information collection.

OMB Number: 1660–NW153.

FEMA Forms: DCM Federal Award Application, FF–104–FY–22–204; DCM Federal Award Modification Request, FF–104–FY–22–206; DCM Federal Award Request for Appeal, FF–104–FY–22–207; DCM Federal Award Monthly Reporting, FF–104–FY–22–208; and DCM Federal Award Budget Workbook, FF–104–FY–22–209.

Abstract: This collection tool will primarily be used as a guide to support state, tribal, and territorial governments (STTs) when applying, requesting a modification, or appealing a FEMA determination for Disaster Case Management Federal funding to supplement and expand their existing capacity. In extraordinary circumstances, the STT may request that FEMA provide an opportunity for a local government agency or qualified private organization to apply for the DCM Federal Award directly. Once awarded, the STT will utilize the monthly reporting form to report aggregate data about the performance of their program. All information collected within these forms will be submitted to FEMA by the STT.

When applying for the STT DCM Federal award, the STT will respond to the questions within the application form, developing an overall assessment that details activities that have occurred since the start of the disaster; what resources and capabilities are currently available or anticipated to be available; and what the estimated population to serve is. The STT will also outline the implementation of their program by detailing their service delivery and work plans.

If the STT is awarded an STT DCM Federal award, the STT may need to modify their initial award. In doing so, the STT will utilize the Request for Modification collection instrument to answer questions that will assist them in justifying the need to request additional time or funding to further support the implementation of their program.

If the STT chooses to appeal a determination made by FEMA, the STT will outline the purpose for their submission and provide new, justifying information that was not included in their initial or modification request by using the Request to Appeal collection instrument.

For each of the three forms mentioned above, the STT may also need to request initial or supplemental funding by using the Budget Workbook. This collection instrument enables the STT to outline line items that are necessary to implement the program, including personnel, travel, supplies, and contractual items among others. The STT can use this workbook to detail the request at all levels in program implementation so that it can calculate the total amount of funding needed.

Once awarded, the STT will report aggregate data on all aspects of program implementation, including staffing, caseloads, survivor/client needs, and the types of referrals being made, as well as challenges faced during the month and best practices/lessons learned. This information assists FEMA in confirming the effectiveness of the program, providing technical assistance to ensure all survivors are able to receive DCM services, and to continuously evolve programmatic implementation through the collection of best practices/lessons learned. For the purpose of this publication, ''State'' in the *Affected Public* below includes the fifty States, all Territories, and the District of Columbia.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 55.

Estimated Number of Responses: 209.

Estimated Total Annual Burden Hours: 577.

Estimated Total Annual Respondent Cost: $43,962.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $127,827.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–20165 Filed 9–16–22; 8:45 am]

BILLING CODE 9111–24–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7060–N–07]

60-Day Notice of Proposed Information Collection: 2023 American Housing Survey; OMB Control No.: 2528–0017

AGENCY: Office of the Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 18, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–5000; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: 2023 American Housing Survey.

OMB Approval Number: 2528–0017.

Type of Request: Revision of a currently approved collection.

Form Number: N/A.

Description of the Need for the Information and Proposed Use: The purpose of the American Housing Survey (AHS) is to supply the public with detailed and timely information about housing quality, housing costs, and neighborhood assets, in support of effective housing policy, programs, and markets. Title 12, United States Code, sections 1701Z–1, 1701Z–2(g), and 1710Z–10a mandates the collection of this information.

Like the previous surveys, the 2023 AHS will collect ''core'' data on subjects, such as the amount and types of changes in the housing inventory, the physical condition of the housing inventory, the characteristics of the occupants, housing costs for owners and renters, the persons eligible for and beneficiaries of assisted housing, remodeling and repair frequency, reasons for moving, the number and characteristics of vacancies, and characteristics of resident's neighborhood. In addition to the ''core'' data, HUD plans to collect supplemental data on potential health and safety hazards in the home, difficulties affording housing costs, including forced moves and temporary housing situations, urbanization of the neighborhood, sexual orientation and gender, parent's country of birth and previous home ownership, housing characteristics that increase heat vulnerability, and experience and consequences of power outages.

The AHS national longitudinal sample consists of approximately 96,000 housing units, and includes oversample from the largest 15 metropolitan areas and approximately 12,000 HUD-assisted housing units. In addition to the national longitudinal sample, HUD plans to conduct 10 additional metropolitan area longitudinal samples, each with approximately 3,000 housing units (for a total of 32,535 metropolitan area housing units). The 10 additional metropolitan area longitudinal samples were last surveyed in 2019. Around 7 percent of all interviews will be reinterviewed for the purpose of interviewer quality control (for a total of 8,997 housing units).

To help reduce respondent burden on households in the longitudinal sample, the 2023 AHS will make use of dependent interviewing techniques, which will decrease the number of questions asked. Policy analysts, program managers, budget analysts, and Congressional staff use AHS data to advise executive and legislative branches about housing conditions and the suitability of public policy initiatives. Academic researchers and private organizations also use AHS data in efforts of specific interest and concern to their respective communities.

The Department of Housing and Urban Development (HUD) needs the AHS data for the following two reasons:

1. With the data, policy analysts can monitor the interaction among housing needs, demand and supply, as well as changes in housing conditions and costs, to aid in the development of housing policies and the design of housing programs appropriate for different target groups, such as first-time home buyers and the elderly.

2. With the data, HUD can evaluate, monitor, and design HUD programs to improve efficiency and effectiveness.

Members of affected public: Households.

Estimated number of respondents: 137,532.

Estimated time per response: 30.477 minutes.

Frequency of response: One time every two years.

Estimated total annual burden hours: 69,859.

Estimated total annual cost: The only cost to respondents is that of their time. The total estimated cost is $69,000,000.

Respondent's obligation: Voluntary.

Legal authority: The collection of information is conducted under title 12, United States Code, section 1701z and section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Occupied Interviews	87,404.00	1.00	87,404.00	.77	67,301.00	$0.00	$0.00
Vacant Interviews	12,853.00	1.00	12,853.00	.08	1,028.00	0.00	0.00
Non-interviews	24,422.00	1.00	24,422.00	.00	0.00	0.00	0.00
Ineligible	3,856.00	1.00	3,856.00	.00	0.00	0.00	0.00
Subtotal	128,535.00	1.00	128,535.00	.00	.00	0.00	0.00
Reinterviews	8,997.00	1.00	8,997.00	.17	1,530.00	0.00	0.00
Total	137,532.00		137,532.00		69,859.00		

B. Solicitation of Public Comment

This notice solicits comments from members of the public and affected parties concerning the collection of information described in section A on the following:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. The accuracy of the agency's estimate of the burden of the proposed collection of information;

3. Ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35 and title 42 U.S.C. 5424 note, title 13 U.S.C. 8(b), and title 12, U.S.C. 1701z–1.

Solomon J. Greene,

Principal Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2022–20224 Filed 9–16–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–33]

60-Day Notice of Proposed Information Collection: Owner's Certification With HUD Tenant Eligibility and Rent Procedures, OMB Control No: 2502–0182

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 18, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Applications for Housing Assistance Payments; Special Claims Processing.

OMB Approval Number: 2502–0182.

OMB Expiration Date: January 31, 2020.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Number: HUD 52670–A part 5, HUD–52671–C, HUD 52671–A, HUD–52671–D, 52670–A–PART–1, HUD 52671–B, HUD–52670, HUD 52670–A-part 3, HUD–52670–A part 4, HUD 52670–A Part 2.

Description of the need for the information and proposed use: The Department needs to collect this information in order to establish an applicant's eligibility for admittance to subsidized housing, specify which eligible applicants may be given priority over others, and prohibit racial discrimination in conjunction with selection of tenants and unit assignments. The Department must specify tenant eligibility requirements as well as how tenants' incomes, rents and assistance must be verified and computed so as to prevent the Department from making improper payments to owners on behalf of assisted tenants. The Department also must provide annual reports to Congress and the public on the race/ethnicity and gender composition of subsidy program beneficiaries. This information is essential to maintain a standard of fair practices in assigning tenants to HUD Multifamily properties.

HUD must specify tenant eligibility requirements as well as how tenants' incomes, rents and assistance must be verified and computed so as to prevent HUD from making improper payments to owners on behalf of assisted tenants. These information collections are essential to ensure the reduction of improper payments standard in providing $13 billion in rental assistance to low-income families in HUD Multifamily properties.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal Government and State, Local or Tribal Government.

Estimated Number of Respondents: 27,938.

Estimated Number of Responses: 334,958.

Frequency of Response: 1.

Average Hours per Response: 4.25.

Total Estimated Burden: 581,486.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Nathan A. Shultz,

Chief of Staff (Acting), Office of Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2022–20226 Filed 9–16–22; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Semiconductor Devices, Mobile Devices Containing The Same, and Components Thereof, DN 3641;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the

Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Daedalus Prime LLC on September 13, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of regarding certain semiconductor devices, mobile devices containing the same, and components thereof. The complainant names as respondents: Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Taiwan Semiconductor Manufacturing Company Limited of Taiwan and TSMC North America of San Jose, CA. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondent's alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3641'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 13, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–20166 Filed 9–16–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled Certain Integrated Circuits, Mobile Devices Containing the Same, and Components Thereof, DN 3640; the Commission is soliciting comments on

any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Daedalus Prime LLC on September 13, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of regarding certain integrated circuits, mobile devices containing the same, and components thereof. The complainant names as respondents: Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; and Qualcomm Inc. of San Diego, CA. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondent's alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3640'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 13, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–20162 Filed 9–16–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Raised Garden Beds and Components Thereof, DN 3639;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Vego Garden, Inc. on September 13, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of regarding certain raised garden beds and components thereof. The complainant names as respondents: Huizhou Green Giant Technology Co., Ltd. of China; Utopban International Trading Co., Ltd., d/b/a Vegega of Rosemead, CA; Kinghood International Logistics Inc. of Corona, CA; Utopban Limited of Hong Kong; The Hydro Source Inc., d/b/a Forever Garden Beds of El Monte, CA; VegHerb, LLC, d/b/a Frame It All of Cary, NC; and Quanzhou Jieliya Trading Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondent's alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3639'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Issued: September 13, 2022.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2022–20163 Filed 9–16–22; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Appellate Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Appellate Rules; notice of cancellation of open hearing.

SUMMARY: The following public hearing on proposed amendments to the Federal Rules of Appellate Procedure has been canceled: Appellate Rules Hearing on October 13, 2022. The announcement for this hearing was previously published in the **Federal Register** on August 5, 2022.

DATES: October 13, 2022.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: September 14, 2022.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2022–20175 Filed 9–16–22; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Civil Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Civil Rules; notice of cancellation of open hearing.

SUMMARY: The following public hearing on proposed amendments to the Federal Rules of Civil Procedure has been canceled: Civil Rules Hearing on October 12, 2022. The announcement for this hearing was previously published in the **Federal Register** on August 5, 2022.

DATES: October 12, 2022.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: September 14, 2022.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2022–20174 Filed 9–16–22; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sony Honda Mobility Inc.

Notice is hereby given that, on August 24, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Honda Motor Co., Ltd., on behalf of its joint venture with Sony Group Corporation, to be incorporated as Sony Honda Mobility Inc. (''Sony Honda Mobility''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Sony Group Corp, Tokyo, JAPAN; and Honda Motor Co., Ltd., Tokyo, JAPAN. The general area of Sony Honda Mobility's planned activity is the development and production of high-value-added electric vehicles, as well as components and advanced mobility services software and technologies for integration into vehicles.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–20229 Filed 9–16–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0102]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: National Prisoner Statistics Program

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Statistics, Office of Justice Programs, Department of Justice (DOJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 18, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact E. Ann Carson, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *elizabeth.carson@usdoj.gov;* telephone: 202–616–3496).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

Type of Information Collection: Extension of a Currently Approved Collection.

The Title of the Form/Collection: National Prisoner Statistics program. The collection includes the following parts: Summary of Sentenced Population Movement, Prison Population Report—U.S. Territories.

The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form numbers for the questionnaire are NPS–1B (Summary of Sentenced Population Movement) and NPS–1B(T) (Prisoner Population Report—U.S. Territories). The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

Affected public who will be asked or required to respond, as well as a brief abstract: For the NPS–1B form, 51 central reporters (one from each state and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories:

(a) As of December 31, the number of male and female inmates within their custody and under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates;

(b) The number of inmates housed in privately operated facilities, county or other local authority correctional facilities, or in other state or Federal facilities on December 31;

(c) Prison admission information in the calendar year for the following categories: new court commitments, parole violators, other conditional release violators returned, transfers from other jurisdictions, AWOLs and escapees returned, and returns from appeal and bond;

(d) Prison release information in the calendar year for the following categories: expirations of sentence, commutations, other conditional releases, probations, supervised mandatory releases, paroles, other conditional releases, deaths by cause, AWOLs, escapes, transfers to other jurisdictions, and releases to appeal or bond;

(e) Number of inmates under jurisdiction on December 31 by race and Hispanic origin;

(f) Number of inmates under physical custody on December 31 classified as non-citizens; U.S. citizens; and unsentenced inmates;

(g) Number of inmates under physical custody on December 31 who are citizens of the U.S. with maximum sentences of more than one year, one year or less; and unsentenced inmates;

(h) The source of U.S. citizenship data;

(i) Testing of incoming inmates for HIV; and HIV infection and AIDS cases on December 31; and

(j) The aggregated rated, operational, and/or design capacities, by sex, of the state/BOP's correctional facilities at year-end.

For the NPS–1B(T) form, five central reporters from the U.S. Territories and Commonwealths of Guam, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, and American Samoa will be asked to provide information for the following categories for the calendar year just ended, and, if available, for the previous calendar year:

(a) As of December 31, the number of male and female inmates within their custody and under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and an assessment of the completeness of these counts (complete, partial, or estimated)

(b) The number of inmates under jurisdiction on December 31 but in the custody of facilities operated by other jurisdictions' authorities solely to reduce prison overcrowding;

(c) Number of inmates under jurisdiction on December 31 by race and Hispanic origin;

(d) The aggregated rated, operational, and/or design capacities, by sex, of the territory's/Commonwealth's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: Data collection conducted in 2023, 2024, and 2025 (collecting prison data from 2022, 2023, and 2024, respectively) will require each of the 51 respondents to spend an average of 6.5 total hours to respond to the NPS–1B form. 5 respondents, each taking an average of 2 hours to respond to the NPS–1B(T) form. The burden estimates are based on feedback from respondents, and the burden remains the same as the previous clearance.

An estimate of the total public burden (in hours) associated with the collection: There is an estimated 1,025 total burden hours associated with this collection for the three years of data collection, or approximately 341.5 hours for each year.

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 13, 2022.

Robert Houser,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2022–20159 Filed 9–16–22; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Respirable Coal Mine Dust Samplings

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 19, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of

automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Chronic exposure to respirable coal mine dust causes lung diseases including coal workers' pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis, known collectively as ''black lung.'' MSHA's standards in 30 CFR parts 70, 71, and 90 require each mine operator of an underground coal mine, surface coal mine, and surface work areas of an underground coal mine, and each coal mine operator who employs a part 90 miner, to protect miners from exposure to excessive respirable coal mine dust levels. Parts 70 and 71 require coal mine operators to continuously maintain the average concentration of respirable coal mine dust in the mine atmosphere where miners normally work or travel at or below 1.5 milligrams per cubic meter (mg/m^3). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 23, 2022 (87 FR 31261).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–MSHA.

Title of Collection: Respirable Coal Mine Dust Sampling.

OMB Control Number: 1219–0011.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 676.

Total Estimated Number of Responses: 995,102.

Total Estimated Annual Time Burden: 58,259 hours.

Total Estimated Annual Other Costs Burden: $29,835.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–20190 Filed 9–16–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Renewal of the Bureau of Labor Statistics Technical Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Technical Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures.

The Committee functions solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Providing comments on papers and presentations developed by BLS research and program staff. The comments will address the technical soundness of the research and whether it reflects best practices in the relevant fields.

b. Identifying research projects that can address technical problems with BLS statistics.

c. Participating in discussions regarding areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee consists of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are experts in economics, statistics, data science, and survey design. They are prominent experts in their fields and recognized for their professional achievements and objectivity.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–5025, email: *Fieldhouse.Lisa@bls.gov.*

Signed at Washington, DC, this 13th day of September 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–20193 Filed 9–16–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Data Users Advisory Committee; Renewal of the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Data Users Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor

Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 20 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–5025, email: *Fieldhouse.Lisa@bls.gov.*

Signed at Washington, DC, this 13th day of September 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–20192 Filed 9–16–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Claim for Schedule Award (CA–9)

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed collection: ''Claim for Schedule Award (CA–9).'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by November 18, 2022.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA). The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) under statutes 5 U.S.C. 8101 *et seq.* Congress gave the Secretary of Labor authority to prescribe rules and regulations necessary for the administration and enforcement of the FECA. 5 U.S.C. 8149. The FECA requires the United States to provide compensation to individuals who sustain an injury while in the course of federal employment. 5 U.S.C. 8102. Part of the compensation Congress provided for federal employees is for scheduled impairments. 5 U.S.C. 8107. The Secretary is proposing a new schedule award filing process (with the implementation of a new form, CA–9, Claim for Schedule Impairment) to more efficiently collect the information necessary to support a claim for a scheduled impairment when an injured employee has sustained permanent impairment to a member or function of the body pursuant to the FECA under Section 8107.

Information collected on Form CA–9 provides OWCP with the statutory requirements for permanent impairment claims and must be used to claim compensation for impairment to a body part covered under the schedule established by 5 U.S.C. 8107. In the vast majority of cases whereby permanent impairment is claimed, a claimant continues to be employed by the federal government. In those cases, the Form CA–9 is completed by a federal employee and their supervisor, therefore not affecting the public, as contemplated under the PRA. *See* 5 CFR 1320.3(c)(3). The Form CA–9 is required of a member of the public on rare occasions, such as when compensation is claimed after the claimant's federal employment has been terminated. It is estimated that no more than 775 of these forms are required of members of the public through the course of a year. Therefore, this request for clearance by OMB only pertains to a small percentage of the overall use of this particular form.

This information collection is subject to the PRA. A federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration and be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Number 1240–0NEW. Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including 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.

Agency: DOL–Office of Workers' Compensation Programs.

Type of Review: New information collection.

Title of Collection: Claim for Schedule Award.

Form: CA–9.

OMB Control Number: 1240–0NEW.

Affected Public: Individuals or households.

Estimated Number of Respondents: 775.

Frequency: On occasion.

Total Estimated Annual Responses: 775.

Estimated Average Time per Response: 0.5 hours.

Estimated Total Annual Burden Hours: 388 hours.

Total Estimated Annual Other Cost Burden: 0.00.

Authority: 44 U.S.C. 3506(c)(2)(A).

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2022–20186 Filed 9–16–22; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Site visit review of a Materials Innovation Platform on Automating the Synthesis of Rationally Designed Glycomaterials (GlycoMIP) by the NSF Division of Materials Research (DMR). (#1203)

Date and Time: October 25, 2022; 8:45 a.m.–6 p.m.; October 26, 2022; 8:45 a.m.–3 p.m.

Place: Steger Hall, Virginia Polytechnic Institute and State University, 1015 Life Sciences Circle, Blacksburg, VA 24061.

Type of Meeting: Part open.

Contact Person: Z. Charles Ying, Program Director, Division of Materials Research, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, Telephone (703) 292–8428.

Purpose of Meeting: Site visit to provide advice and recommendations concerning further support of the GlycoMIP at Virginia Polytechnic Institute and State University.

Agenda

Tuesday, October 25, 2022

8:45 a.m.–9:15 a.m. Closed—Executive Session
9:15 a.m.–11:30 a.m. Open—Review of GlycoMIP
11:30 a.m.–12:30 p.m. Closed—Executive Session
12:30 p.m.–4:00 p.m. Open—Review of GlycoMIP
4:00 p.m.–6:00 p.m. Closed—Executive Session

Wednesday, October 26, 2022

8:45 a.m.–3:00 p.m. Closed—Executive Session

Reason for Closing: Topics to be discussed and evaluated during the site review will include information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C.552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–20216 Filed 9–16–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–409 and 72–046; EA–19–077; NRC–2019–0110]

In the Matter of LaCrosseSolutions, LLC; La Crosse Boiling Water Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct transfer of license; extending effectiveness of order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order to extend the effectiveness of a September 24, 2019, order, which approved the direct transfer of Possession Only License No. DPR–45 for the La Crosse Boiling Water Reactor from the current holder, LaCrosse*Solutions,* LLC, to Dairyland Power Cooperative and approved a conforming license amendment, for 3 months beyond its current September 24, 2022, expiration date.

DATES: The order was issued on September 9, 2022, and was effective upon issuance.

ADDRESSES: Please refer to Docket ID NRC–2019–0110 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0110. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the For **FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The request for extending the effectiveness of the transfer order is available in ADAMS under Accession No. ML22230A801. The order extending the effectiveness of the approval of the transfer of license and conforming amendment is available in ADAMS under Accession No. ML22235A794.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone:

301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: September 13, 2022.

For the Nuclear Regulatory Commission.

Shaun M. Anderson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium, Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Order Extending the Effectiveness of the Approval of the Transfer of License and Conforming Amendment

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0110]

In the Matter of LaCrosse*Solutions*, LLC; La Crosse Boiling Water Reactor EA–19–077; Docket Nos. 50–409 and 72–046; License No. DPR–45; Order Extending the Effectiveness of the Approval of the Transfer of License and Conforming Amendment

I

LaCrosse*Solutions,* LLC is the holder of the U.S. Nuclear Regulatory Commission (NRC, the Commission) Possession Only License No. DPR–45, with respect to the possession, maintenance, and decommissioning of the La Crosse Boiling Water Reactor (LACBWR). Operation of the LACBWR is no longer authorized under this license. The LACBWR facility is located in Vernon County, Wisconsin.

II

By Order dated September 24, 2019 (Transfer Order), the Commission consented to the transfer of the LACBWR license to Dairyland Power Cooperative and approved a conforming license amendment in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.80, ''Transfer of licenses,'' and 10 CFR 50.90, ''Application for amendment of license, construction permit, or early site permit.'' By its terms, the Transfer Order becomes null and void if the license transfer is not completed within 1 year unless, upon application and for good cause shown, the Commission extends the Transfer Order's September 24, 2020, expiration date. By letter dated June 24, 2020, LaCrosse*Solutions,* LLC submitted a request to extend the effectiveness of the Transfer Order by 6 months. By Order dated September 1, 2020 (First Extension Order), the Commission extended the Transfer Order's expiration date to March 24, 2021. By letter dated February 2, 2021, LaCrosse*Solutions,* LLC submitted a request to extend the effectiveness of the Transfer Order by an additional 6 months. By Order dated March 9, 2021 (Second Extension Order), the Commission extended the Transfer Order's expiration date to September 24, 2021. Subsequently, by letter dated August 17, 2021, LaCrosse*Solutions,* LLC submitted a request to extend the effectiveness of the Transfer Order by an additional 12 months. By Order dated August 30, 2021 (Third Extension Order), the Commission extended the Transfer Order's expiration date to September 24, 2022.

III

By letter dated August 16, 2022, LaCrosse*Solutions,* LLC submitted a request to extend the effectiveness of the Transfer Order by an additional 3 months, until December 24, 2022. As stated in the letter, the extension would allow LaCrosse*Solutions,* LLC sufficient time to complete decommissioning activities. LaCrosse*Solutions,* LLC further stated that responses to NRC staff requests for additional information (RAIs) regarding the LACBWR Final Status Survey Final Reports (FSSRs) and their associated Release Records are currently under final review by the NRC staff. The letter noted that, based on the current status of the NRC review, it is anticipated that additional time will be needed to finalize the safety evaluation report and approve revised FSSRs.

Based on the above, the NRC has determined that LaCrosse*Solutions,* LLC has shown good cause for extending the effectiveness of the Transfer Order by an additional 3 months, as requested.

IV

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; Title 42 of the United States Code Sections 2201(b), 2201(i), and 2234; and the Commission's regulations at 10 CFR 50.80, *it is hereby ordered* that the expiration date of the Transfer Order, as extended by the First, Second, and Third Extension Orders, is further extended until December 24, 2022. If the subject license transfer from LaCrosse*Solutions,* LLC to Dairyland Power Cooperative is not completed by December 24, 2022, the Transfer Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

Dated this 9th of September 2022.

For the Nuclear Regulatory Commission.

John W. Lubinski,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–20155 Filed 9–16–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

699th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on October 5–7, 2022. The Committee will be conducting meetings that will include some Members being physically present at the NRC while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via MSTeams or via phone at 301–576–2978, passcode 935143749#. A more detailed agenda including the MSTeams link may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the MSTeams link forwarded to you, please contact the Designated Federal Officer as follows: *Quynh.Nguyen@nrc.gov* or *Lawrence.Burkhart@nrc.gov.*

Wednesday, October 5, 2022

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: SECY Paper on Fusion Energy Systems Regulatory Framework (Open)—The Committee will have presentations and discussion with representatives from the NRC staff regarding the subject topic.

10:30 a.m.–11:30 a.m.: Committee Deliberation on SECY Paper on Fusion Energy Systems Regulatory Framework (Open)—The Committee will deliberate regarding the subject topic.

1:00 p.m.–3:00 p.m.: NuScale Topical Report, ''Methodology for Establishing the Technical Basis for Plume Exposure Emergency Planning Zones,'' Revision 2 (Open/Closed)—The Committee will have presentations and discussion with representatives from the NRC staff and NuScale regarding the subject topic. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

3:00 p.m.–4:00 p.m.: Committee Deliberation on NuScale Topical Report,

''*Methodology for Establishing the Technical Basis for Plume Exposure Emergency Planning Zones,*'' *Revision 2* (Open/Closed)—The Committee will deliberate regarding the subject topic. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

4:00 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Thursday, October 6, 2022

8:30 a.m.–11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations/Preparation of Reports/SHINE Memoranda Review and Deliberation (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports as determined by the Chairman. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.] [NOTE: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]

1:30 p.m.–3:00 p.m.: Research Briefing on Materials Harvesting (Open)—The Committee will have presentations and discussion with representatives from the NRC staff regarding the subject topic.

3:00 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, October 7, 2022

8:30 a.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (DFO) (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least one day before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Dated: September 14, 2022.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2022–20232 Filed 9–16–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2021–68; MC2022–105 and CP2022–109]

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:* September 21, 2022.

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

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent

[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).

with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2021–68; *Filing Title:* USPS Notice of Amendment to Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8, Filed Under Seal; *Filing Acceptance Date:* September 13, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 21, 2022.

2. *Docket No(s).:* MC2022–105 and CP2022–109; *Filing Title:* USPS Request to Add Priority Mail Contract 761 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 13, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 21, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–20213 Filed 9–16–22; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 12 p.m. on Thursday, September 22, 2022.

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 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: September 15, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–20310 Filed 9–15–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95760; File No. SR–NYSEARCA–2022–59]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

September 13, 2022.

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 on September 1, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to amend the Retail Tiers. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to amend the Retail Tiers. The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP Holders to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective September 1, 2022.

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

broader forms that are most important to investors and listed companies.'' [3]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [4] Indeed, equity trading is currently dispersed across 16 exchanges,[5] numerous alternative trading systems,[6] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.[7] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.[8]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. The competition for Retail Orders [9] is even more stark, particularly as it relates to exchange versus off-exchange venues.

The Exchange thus needs to compete in the first instance with non-exchange venues for Retail Order flow, and with the 15 other exchange venues for that Retail Order flow that is not directed off-exchange. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits, particularly as they relate to competing for Retail Order flow, because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

To respond to this competitive environment, the Exchange has established a number of Retail Tiers, which are designed to provide an incentive for ETP Holders to route Retail Orders to the Exchange by providing higher credits for adding liquidity correlated to an ETP Holder's higher trading volume in Retail Orders on the Exchange. Under three of these four tiers, ETP Holders also do not pay a fee when such Retail Orders have a time-in-force of Day that remove liquidity from the Exchange.

Proposed Rule Change

The proposed rule change is designed to be available to all ETP Holders on the Exchange and is intended to provide ETP Holders an opportunity to receive enhanced rebates by quoting and trading more on the Exchange.

The Exchange currently provides tiered credits for Retail Orders that provide liquidity on the Exchange. Specifically, Section VI. Tier Rates—Round Lots and Odd Lots (Per Share Price $1.00 or Above), provides a base Retail Order Tier credit of $0.0033 per share for Adding. Additionally, the Exchange has established Retail Order Step-Up Tier 1, Retail Order Step-Up Tier 2 and Retail Order Step-Up Tier 3 that provide a credit of $0.0038 per share, $0.0035 per share, and $0.0036 per share, respectively, for Adding.[10] The Retail Tiers are designed to encourage ETP Holders that provide displayed liquidity in Retail Orders on the Exchange to increase that order flow, which would benefit all ETP Holders by providing greater execution opportunities on the Exchange. In order to provide an incentive for ETP Holders to direct providing displayed Retail Order flow to the Exchange, the credits increase in the various tiers based on increased levels of volume directed to the Exchange.

As described in greater detail below, the Exchange proposes to amend the requirements and the associated per share credit payable under the current pricing tiers applicable to Retail Orders that provide liquidity in Tape A, Tape B and Tape C securities.

Currently, to qualify for the Retail Order Tier, an ETP Holder must have Retail Adding ADV of 0.15% or more of CADV. ETP Holders that meet the current Retail Order Tier requirement are eligible to earn a credit of $0.0033 per share for Retail Orders that add liquidity in Tape A, B and C securities.

The Exchange proposes the following changes to the current pricing tier:

- Rename the Retail Order Tier to Retail Tier 3;
- Modify the requirement to qualify for the renamed tier; and
- Increase the credit applicable to the renamed tier.

More specifically, to qualify for proposed Retail Tier 3, an ETP Holder must execute Retail Orders with a time-in-force of Day that add or remove liquidity equal to 0.10% of CADV. ETP Holders that meet the proposed Retail Tier 3 requirement would be eligible to earn an increased credit of $0.0034 per share for Retail Orders that add liquidity in Tape A, B and C securities.

Next, to qualify for current Retail Order Step-Up Tier 1, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is an increase of 0.40% or more of CADV above its April 2018 ADV taken as a percentage of CADV and have Adding ADV of 1.00% or more of CADV. Alternatively, in addition to providing an ADV of 1.00% or more of CADV, an ETP Holder can qualify for the current fees and credits by executing an ADV of 55 million shares of Retail Orders with a time-in-force of Day that add or remove liquidity. ETP Holders that meet the current Retail Order Step-Up Tier 1 requirement are eligible to earn a credit of $0.0038 per share for Retail Orders that add liquidity in Tape A, B and C securities.[11] Under the Retail Order Step-Up Tier 1, the Exchange also does not charge a fee for Retail Removing with a time-in-force of Day.

The Exchange proposes the following changes to the current pricing tier:

[3] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[4] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[5] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share.* See generally *https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[6] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[7] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/.*

[8] *See id.*

[9] A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR–NYSEArca–2012–77).

[10] *See* Retail Tiers table under Section VI. Tier Rates—Round Lots and Odd Lots (Per Share Price $1.00 or Above).

[11] Pursuant to footnote (d) under Retail Tiers, ETP Holders that qualify for Retail Order Step-Up Tier 1 are subject to the following rates in Tape C: ($0.0035) for Adding displayed liquidity; $0.0027 for Removing; and Additional ($0.0002) for Adding non-displayed liquidity. *See* Fee Schedule. With this proposed rule change, the Exchange proposes to rename Retail Order Step-Up Tier 1 to Retail Tier 1 in footnote (d) under the Retail Tiers table.

• Rename Retail Order Step-Up Tier 1 to Retail Tier 1; and

• Modify the percentage requirement to qualify for the renamed tier.

More specifically, to qualify for proposed Retail Tier 1, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is 0.50% or more of CADV and have Adding ADV of 1.00% or more of CADV. ETP Holders may also alternatively qualify for proposed Retail Tier 1 by executing an ADV of 55 million shares of Retail Orders with a time-in-force of Day that add or remove liquidity and have Adding ADV of 1.00% or more of CADV.[12] With this proposed rule change, to qualify for proposed Retail Tier 1, ETP Holders would no longer be required to 'step-up' above their April 2018 CADV and would instead qualify for the proposed tier by meeting the amended volume requirement during the billing month. ETP Holders that meet the proposed Retail Tier 1 requirement will continue to be eligible to earn a credit of $0.0038 per share for Retail Orders that add liquidity in Tape A, B and C securities. The Exchange is not proposing any change to the level of the credit payable under proposed Retail Tier 1. ETP Holders that qualify for the proposed Retail Tier 1 would also not be a charged a fee for Retail Orders with a time-in-force of Day that remove liquidity.[13]

Next, to qualify for current Retail Order Step-Up Tier 2, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is an increase of 0.10% or more of CADV above its April 2018 ADV taken as a percentage of CADV. ETP Holders that meet the current Retail Order Step-Up Tier 2 requirement are eligible to earn a credit of $0.0035 per share for Retail Orders that add liquidity in Tape A, B and C securities.

The Exchange proposes the following changes to the current pricing tier:

• Rename Retail Order Step-Up Tier 2 to Retail Step-Up Tier; and

• Modify the requirement to qualify for the renamed tier.

More specifically, to qualify for proposed Retail Step-Up Tier, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is an increase of 0.075% or more of CADV above its April 2018 ADV taken as a percentage of CADV. ETP Holders that meet the proposed Retail Step-Up Tier requirement will continue to be eligible to earn a credit of $0.0035 per share for Retail Orders that add liquidity in Tape A, B and C securities. The Exchange is not proposing any change to the level of the credit payable under proposed Retail Step-Up Tier. ETP Holders that qualify for the proposed Retail Step-Up Tier would also not be charged a fee for Retail Orders with a time-in-force of Day that remove liquidity.[14]

Finally, to qualify for current Retail Order Step-Up Tier 3, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is an increase of 0.20% or more of CADV above its April 2018 ADV taken as a percentage of CADV. ETP Holders that meet the current Retail Order Step-Up Tier 3 requirement are eligible to earn a credit of $0.0036 per share for Retail Orders that add liquidity in Tape A, B and C securities.

The Exchange proposes the following changes to the current pricing tier:

• Rename Retail Order Step-Up Tier 3 to Retail Tier 2; and

• Modify the requirement to qualify for the renamed tier.

More specifically, to qualify for proposed Retail Tier 2, an ETP Holder must execute an ADV of Retail Orders with a time-in-force of Day that add or remove liquidity that is 0.20% or more of CADV. With this proposed rule change, ETP Holders would no longer be required to 'step-up' above their April 2018 CADV and would instead qualify for the proposed tier by meeting the volume requirement during the billing month. ETP Holders that meet the proposed Retail Tier 2 requirement will continue to be eligible to earn a credit of $0.0036 per share for Retail Orders that add liquidity in Tape A, B and C securities. ETP Holders that qualify for proposed Retail Tier 2 would also not be charged a fee for Retail Orders with a time-in-force of Day that remove liquidity.[15]

With this proposed rule change, the Exchange proposes to reformat the credits payable under the Retail Tiers such that the tier that pays the highest credit would appear at the top of the table followed by the tier that pays the second highest credit, then the tier that pays the lowest credit, followed by the tier that requires ETP Holders to 'step-up' from their baseline CADV. Accordingly, the Retail Tiers table would appear as follows:

Tier	Credit for retail adding
Retail Tier 1	$0.0038 (Tape A, Tape B and Tape C).
Retail Tier 2	0.0036 (Tape A, Tape B and Tape C).
Retail Tier 3	0.0034 (Tape A, Tape B and Tape C).
Retail Step-Up Tier	0.0035 (Tape A, Tape B and Tape C).

The purpose of the proposed rule change is to encourage greater participation from ETP Holders and promote additional liquidity in Retail Orders. The Exchange notes that the current Retail Tiers have been underutilized by ETP Holders. The Exchange believes that modifying the requirement of the existing tiers should incentivize ETP Holders to direct more of their Retail Orders to the Exchange and thus qualify for the credits payable under the Retail Tiers. As described above, ETP Holders with liquidity-providing orders have a choice of where to send those orders. The Exchange believes that the proposed amendment to the volume requirement and credit payable for Retail Orders could lead to more ETP Holders choosing to route their liquidity-providing Retail Orders to the Exchange rather than to a competing exchange.

The Exchange does not know how much Retail Order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holders sending more of their Retail Orders to the Exchange to qualify for the proposed Retail Order credits. The Exchange cannot predict with certainty how many ETP Holders would avail themselves of this opportunity, but additional liquidity-providing Retail Orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

[12] To streamline the Fee Schedule, the Exchange proposes a non-substantive change to delete the words ''of Retail Orders with a time-in-force of Day that add or remove'' from the proposed Retail Tier 1 table because these words are repetitive as they currently appear in the heading for that column under Minimum Requirement of CADV.

[13] Pursuant to footnote (e) under Retail Tiers, ETP Holders that qualify for current Retail Order Step-Up Tier 1, Retail Order Step-Up Tier 2 and Retail Order Step-Up Tier 3 are not charged a fee or provided a credit for Retail Orders where each side of the executed order (1) shares the same MPID and (2) is a Retail Order with a time-in-force of Day. *See* Fee Schedule. With this proposed rule change, the Exchange proposes to rename Retail Order Step-Up Tier 1 to Retail Tier 1, Retail Order Step-Up Tier 2 as Retail Step-Up Tier and Retail Order Step-Up Tier 3 as Retail Tier 2 in footnote (e) under the Retail Tiers table.

[14] *See id.*

[15] *See id.*

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

As noted above, the competition for Retail Order flow is stark given the amount of retail limit orders that are routed to non-exchange venues. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. This competition is particularly acute for non-marketable, or limit, retail orders, *i.e.,* retail orders that can provide liquidity on an exchange. That competition is even more fierce for retail limit orders that provide *displayed* liquidity on an exchange. With respect to such orders, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees, particularly as they relate to competing for retail orders. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

In particular, the Exchange believes that the proposed modification of the volume requirement to qualify for the proposed Retail Tiers is reasonable because it is designed to encourage greater participation from ETP Holders and promote additional liquidity in Retail Orders. The Exchange believes it is reasonable to require ETP Holders to meet the applicable volume threshold to qualify for the Retail Tier credits, which the Exchange proposes to increase to encourage ETP Holders to direct more of their liquidity-providing Retail Orders to the Exchange. Further, the proposed change is reasonable as it would allow ETP Holders additional opportunities to qualify for the credit payable under the various pricing tiers. The Exchange believes it is reasonable to modify two of the existing three Retail Tiers, from a 'step-up,' to a straight volume requirement, without significantly modifying the volume requirement to qualify for each of the proposed Retail Tiers. The Exchange believes it is reasonable to replace the 'step-up' tiers to 'straight' tiers as the revised criteria would allow ETP Holders that may have been unable to meet the existing requirement to reach the proposed volume requirement more easily, particularly when there has been an overall decline of Retail Orders as a percentage of total volume in the equity markets, and yet sustained high consolidated daily volumes.

The Exchange believes that the proposal represents a reasonable effort to provide enhanced order execution opportunities for ETP Holders. All ETP Holders would benefit from the greater amounts of liquidity on the Exchange, which would represent a wider range of execution opportunities. The Exchange notes that market participants are free to shift their order flow to competing venues if they believe other markets offer more favorable fees and credits.

The Exchange believes the proposed change is also reasonable because the increased credits proposed herein would continue to encourage ETP Holders to send Retail Orders to the Exchange to qualify for the proposed pricing tiers. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting Retail Order flow that provides displayed liquidity on an exchange. The Exchange believes it is reasonable to continue to provide credits for adding liquidity, in general, and higher credits for Retail Orders that provide displayed liquidity if an ETP Holder meets the amended requirement for the Retail Tiers.

Further, given the competitive market for attracting Retail Orders, the Exchange notes that with this proposed rule change, the Exchange's pricing for Retail Orders would be comparable, and in some cases, higher, to credits currently in place on other exchanges that the Exchange competes with for order flow. For example, the Nasdaq Stock Market LLC (''Nasdaq'') provides its members with a credit of $0.0033 per share if such member has an 85% add to total volume (adding and removing) ratio during a billing month.[19] Cboe BZX Exchange, Inc. (''BZX'') provides its members with a credit of $0.0032 per share for retail orders that add liquidity to that market.[20] In addition, Cboe EDGX Exchange, Inc. ('EDGX'') provides its members with a credit of $0.0037 per share for retail orders that add liquidity to that market if an EDGX member adds liquidity in Retail Orders of 0.45% of CADV or more and a credit of $0.0034 per share for retail orders that add liquidity to that market if an EDGX member adds liquidity in Retail Orders of 0.35% of CADV or more.[21]

The Exchange believes the proposed change is also reasonable because it is designed to attract higher volumes of Retail Orders transacted on the Exchange by ETP Holders which would benefit all market participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange.

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposed Fee Change Is an Equitable Allocation of Fees and Credits

The Exchange believes that the proposed rule change to modify the requirement and credit payable under the proposed Retail Tiers equitably allocates fees and credits among its market participants because it is reasonably related to the value of the Exchange's market quality associated with higher volume in Retail Orders. The Exchange believes that pricing is just one of the factors that ETP Holders consider when determining where to direct their order flow. Among other

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See supra* note 3.

[19] *See* Nasdaq Price List, Rebate to Add Displayed Designated Retail Liquidity, at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[20] *See* BZX Fee Schedule, Fee Codes and Associated Fees, at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[21] *See* EDGX Fee Schedule, Fee Codes and Associated Fees, at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/.*

things, factors such as execution quality, fill rates, and volatility, are important and deterministic to ETP Holders in deciding where to send their order flow.

Further, the Exchange notes that, with this proposed rule change, the difference between the highest credit provided for Retail Orders, $0.0038 per share, as proposed, and the credit for Retail Orders that do not qualify for any Retail Order pricing tiers, $0.0032 per share, is $0.0006, or 15%, which the Exchange believes is relatively small given the heightened requirements that ETP Holders must meet to qualify for the higher credit. Similarly, with this proposed rule change, the difference in the highest credit for Retail Orders, $0.0038 per share under proposed Retail Tier 1 and the credit provided for Retail Orders to those ETP Holders qualifying for Retail Tier 3, $0.0034 per share, would only be $0.0004 per share, or 11%. Therefore, the Exchange believes the proposed amendment to the proposed Retail Tiers is equitably allocated and provides credits that are reasonably related to the value to the Exchange's market quality associated with higher volumes.

Finally, the Exchange believes that the proposed amendment to the Retail Tiers is equitable because the magnitude of the proposed credits is not unreasonably high relative to credits paid by other exchanges for orders that provide additional liquidity in Retail Orders.[22] The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more Retail Orders to the Exchange, thereby improving market-wide quality and price discovery.

The Exchange believes that the proposed rule change equitably allocates its fees and credits because maintaining the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change to modify the requirement and credit payable under the proposed Retail Tiers is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal does not permit unfair discrimination because the proposal would be applied to all similarly situated ETP Holders and all ETP Holders would be similarly subject to the proposed volume requirement to qualify for the proposed modified Retail Tiers. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees. The Exchange further believes that the proposed changes would not permit unfair discrimination among ETP Holders because the general and tiered rates are available equally to all ETP Holders.

As described above, in today's competitive marketplace, order flow providers have a choice of where to direct liquidity-providing order flow, and the Exchange believes the proposed modification of the requirement and the credit payable under the proposed Retail Tiers will incentivize greater number of ETP Holders to direct their order flow to the Exchange. Lastly, the submission of Retail Orders is optional for ETP Holders in that they could choose whether to submit Retail Orders and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[23] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [24]

Intramarket Competition. The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The proposed change is designed to attract Retail Orders to the Exchange. The Exchange believes that amending criteria of established tiers and associated credits would incentivize market participants to direct liquidity adding retail order flow to the Exchange, bringing with it additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency would benefit all market participants on the Exchange by enhancing market quality and would continue to encourage ETP Holders to send their orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem. Additionally, the proposed changes would apply to all ETP Holders equally in that all ETP Holders would be eligible for the proposed Retail Tiers, have a reasonable opportunity to meet each tier's criteria and would all receive the proposed credit if such criteria is met.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their

[22] *See supra* notes 19–21.

[23] 15 U.S.C. 78f(b)(8).

[24] *See supra* note 3.

order routing practices, the Exchange does not believe this proposed fee change would impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [25] of the Act and subparagraph (f)(2) of Rule 19b–4 [26] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [27] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2022–59 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–NYSEARCA–2022–59. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–59, and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20145 Filed 9–16–22; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95761; File No. SR–NYSE–2022–42]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

September 13, 2022.

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 September 1, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) increase the credit for orders designated as ''retail'' that add liquidity to the Exchange, and (2) amend the requirements for charges that remove liquidity from the Exchange. The Exchange proposes to implement the fee changes effective September 1, 2022. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend it Price List to (1) increase the credit for orders designated as ''retail'' that add liquidity to the Exchange, and (2) amend the requirements for charges that remove liquidity from the Exchange.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing and liquidity-removing orders by offering further incentives for member organizations to send additional liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective September 1, 2022.

Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [4]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [5] Indeed, cash equity trading is currently dispersed across 16 exchanges,[6] numerous alternative trading systems,[7] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 17% market share.[8] Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 12%.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which the firm routes order flow. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

In response to this competitive environment, the Exchange has established incentives for member organizations who submit orders that provide liquidity on the Exchange. The Exchange has also established incentives for member organizations to remove liquidity from the Exchange. As detailed below, the proposed higher credits and revised requirements are intended to attract additional order flow to a public exchange and increase the quality of order execution on the Exchange's marketplace, which benefits all market participants.

Proposed Rule Change

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange currently provides a $0.0030 per share credit for all orders, other than MPL and Non-Display Reserve Orders,[10] with a ''retail'' modifier [11] (''Retail Order'') that add liquidity to the Exchange. Similarly, the Exchange currently provides a $0.0030 per share for Supplementary Liquidity Providers (''SLPs'') adding liquidity to the NYSE with Retail Orders in securities with a per share price of $1.00 or more.[12] Finally, the Exchange offers a $0.0030 per share rebate for executions in Retail Orders that add liquidity to the Exchange in Tape B and C securities.

The Exchange proposes to increase the credit for Retail Orders that add liquidity to the Exchange to $0.0032 per share, from the current level of $0.0030 per share. The Exchange proposes this change in part because it would be consistent with the applicable rate on other marketplaces. For instance, the base credit for retail orders adding liquidity on Cboe BZX and Cboe EDGX is $0.0032 per share.[13] The Exchange's affiliates NYSE American LLC and NYSE Arca Equities also similarly offers the same non-tiered credit of $0.0032 per share for retail orders adding liquidity.[14]

In addition, the proposed change is intended to encourage greater participation from member organizations and to promote additional liquidity in Retail Orders. The competition for retail order flow between exchanges and off-exchange venues is fierce, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes that the proposed increase credit for orders that add liquidity to the Exchange could lead to more member organizations choosing to route their Retail Orders to the Exchange for execution rather than to a competing exchange.

The Exchange, however, does not know how much Retail Order flow member organizations choose to route to other exchanges or to off-exchange venues. Without having a view of member organization's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organizations sending more Retail Orders to the Exchange. The Exchange cannot predict with certainty how many

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[6] *See* Cboe U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share.* See generally *https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share/.*

[9] *See id.*

[10] The Exchange proposes the non-substantive, clarifying change of adding a comma following ''Non-Display Reserve orders'' in this section of the Price List.

[11] ''Retail modifier'' is defined in Rule 7.31(i)(6).

[12] The Exchange proposes a second non-substantive clarifying change in this section of the Price List to replace the obsolete phrase ''designated as 'retail' (*i.e.,* orders that satisfy the Retail Modifier requirements of Rule 13'' following ''order'' with the phrase ''with a Retail Modifier''.

[13] *See* Cboe BZX Price List at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/* and Cboe EDGX Price List at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/.*

[14] *See* NYSE American Equities Price List at *https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf;* NYSE Arca Equities Price List at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.*

member organizations would avail themselves of this opportunity, but additional Retail Orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed rule change is designed to be available to all member organizations on the Exchange and is intended to provide member organizations a greater incentive to direct more of their Retail Orders to the Exchange.

The Exchange does not propose any changes to its Retail Order rates.

Charges for Removing Liquidity

Currently, the Exchange offers a fee of $0.00295 for Tape A securities and $0.00285 for Tape B and C securities for non-Floor broker transactions where the member organization has an average daily volume (''ADV'') that adds liquidity to the Exchange during the billing month (''Adding ADV''),[15] excluding liquidity added by a DMM, that is at least 250,000 ADV on the NYSE in Tape A securities. The Exchange proposes to delete this tier and its related fees in their entirety.

In addition, the Exchange currently offers a fee of $0.00290 in Tape A securities and a fee of $0.00285 for Tape B and C securities for non-Floor broker transactions if the member organization has an Adding ADV, excluding liquidity added by a DMM, that is at least 3,500,000 ADV on the NYSE in Tape A securities. The Exchange proposes to lower the Tape A ADV requirement from the current 3,500,000 ADV on the NYSE in Tape A securities to 2,000,000 ADV on the NYSE in Tape A securities. The current fees would remain unchanged. Member organizations that do not qualify for the current fee based on the proposed lower ADV requirement receive the $0.0030 base remove rate for all tapes.

The Exchange believes that the proposed changes, taken together, will incentivize submission of additional liquidity in Tape A, B and Tape C securities to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. The Exchange believes that 5 or more member organizations that don't qualify today could qualify for the tiered rates if the volume requirement is lowered based on their current trading profile on the Exchange and if they choose to direct order flow to the NYSE. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Member organizations can choose from any one of the 16 currently operating registered exchanges, and numerous off-exchange venues, to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange by adjusting the incentives for all market participants to send additional order flow to a public exchange and increase the quality of order execution on the Exchange's market, which benefits all market participants.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that the proposed increase to the credit for Retail Orders that add liquidity to the Exchange is reasonable. The Exchange operates in a fiercely competitive environment, particularly with regard to retail orders. As noted above, several of the Exchange's competitors offer base credits for retail orders adding liquidity that are higher (*i.e.,* $0.0032 credit per share) than the Exchange's current credit ($0.0030 credit per share). The Exchange believes that this proposal to increase its credit for Retail Orders adding liquidity to the Exchange represents a reasonable attempt to attract additional Retail Orders to the Exchange, thereby increasing liquidity on the Exchange, to the benefit of all market participants. In addition, the Exchange believes that attracting higher volumes of Retail Orders to be transacted on the Exchange by member organizations would benefit all market participants by offering greater price discovery and an increased opportunity to trade on the Exchange.

Without having a view of member organization activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization sending more of Retail Orders to the Exchange, nor can the Exchange predict with certainty how many member organizations would avail themselves of the opportunity presented by the revised credit. Additional Retail Orders on the Exchange would benefit all market participants because they would

[15] The terms ''ADV'' and ''CADV'' are defined in footnote * of the Price List.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See* Regulation NMS, *supra* note 4, 70 FR at 37499.

provide greater execution opportunities on the Exchange.

Charges for Removing Liquidity

The Exchange believes that the proposal to delete certain fees, and lowering the ADV requirement, for transactions that remove liquidity from the Exchange in Tape A, B and C securities are reasonable. The purpose of these changes is to encourage additional liquidity on the Exchange because market participants benefit from the greater amounts of displayed liquidity present on a public exchange. The Exchange believes that the proposed lower ADV requirement will incentivize additional liquidity to a public exchange to qualify for lower fees for removing liquidity in Tape A, B and Tape C securities, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The proposal is thus reasonable because all member organizations would benefit from such increased levels of liquidity.

Non-Substantive Changes

Finally, the Exchange believes the proposed non-substantive clarifying and conforming changes described above [19] are reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency on the Price List, thereby reducing potential confusion.

The Proposed Change Is an Equitable Allocation of Fees and Credits

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that its proposal to increase the credit available for Retail Orders that add liquidity to the exchange equitably allocates its fees among market participants because all member organizations that participate on the Exchange may qualify for the proposed credit if they elect to send their Retail Orders to the Exchange and properly designate them as Retail Orders.

The Exchange further believes that the proposed change is equitable because it is reasonably related to the value to the Exchange's market quality associated with higher volume in Retail Orders. The Exchange believes that increasing the credit available for orders designated as Retail Orders would attract additional order flow and liquidity to the Exchange, thereby contributing to price discovery on the Exchange and benefiting investors generally.

The Exchange believes that the proposed rule change is equitable because maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

Charges for Removing Liquidity

The Exchange believes that, for the reasons discussed above, the proposed changes taken together, will incentivize member organizations to send additional adding liquidity to achieve lower fees when removing liquidity in Tape A, B and Tape C securities from the Exchange, thereby increasing the number of orders that are executed on the Exchange, promoting price discovery and transparency and enhancing order execution opportunities and improving overall liquidity on a public exchange. The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated member organizations that remove liquidity in Tape A, B or Tape C securities. As previously noted, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. As noted above, the Exchange believes that additional member organizations could qualify for the tiered rates if the volume requirement is lowered based on their current trading profile on the Exchange and if they choose to direct order flow to the NYSE. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange in order to qualify for the new tier.

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believe that the proposed rule is not unfairly discriminatory, for the following reasons.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that its proposal to increase the credit for Retail Orders that add liquidity to the Exchange is not unfairly discriminatory because it would apply to all member organizations on an equal and non-discriminatory basis, and all similarly-situated member organizations would earn the same credits and pay the same fees for Retail Orders executed on the Exchange. In addition, the submission of Retail Orders is optional for member organizations in that they could choose whether to submit Retail Orders to the Exchange and, if they do, they can choose the extent of their activity in this regard.

The Exchange believes that the proposed change is not unfairly discriminatory because maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

Charges for Removing Liquidity

The Exchange believes that the proposed changes the charges for member organizations that remove liquidity in all three tapes will, taken together, incentivize submission of additional liquidity in Tape A, B and Tape C securities to a public exchange to qualify for the fees for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The proposal does not permit unfair discrimination because the new ADV requirement for removing liquidity in Tape A, B and C securities would be applied to all similarly situated member organizations and other market participants, who would all be eligible for the same credit on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. The Exchange

[19] *See* notes 10 & 12, *supra.*

believes it is not unfairly discriminatory to provide lower fees for removing liquidity as the proposed fee and credits would be provided on an equal basis to all member organizations that remove liquidity by meeting the tiered requirements. Further, the Exchange believes the proposed fee would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape A, B and C securities. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. As noted, the proposed change also is not unfairly discriminatory because it would be consistent with the applicable rate on other marketplaces.

In addition, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[20] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed fee change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery, and transparency and enhancing order execution opportunities for market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [21]

Intramarket Competition. The Exchange believes the proposed change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to attract additional orders to the Exchange. The Exchange believes that the proposed changes would incentivize market participants to direct their orders to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage member organizations to send orders, thereby contributing towards a robust and well-balanced market ecosystem. The current and proposed fees and credits would be available to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2022–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2022–42. 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

[20] 15 U.S.C. 78f(b)(8).

[21] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–42 and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20150 Filed 9–16–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95754; File No. SR–MEMX–2022–25]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MEMX Rule 11.15, Clearly Erroneous Executions

September 13, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on [insert date], MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to extend the current pilot program related to amend MEMX Rule 11.15, Clearly Erroneous Executions. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend MEMX Rule 11.15, Clearly Erroneous Executions. On September 1, 2022, the Commission approved the proposal of Cboe BZX Exchange, Inc. (''BZX''), to adopt on a permanent basis the pilot program for Clearly Erroneous Executions in BZX Rule 11.17.[5] Based on the BZX Approval, the Exchange proposes: (1) make the current clearly erroneous pilot program permanent; and (2) limit the circumstances where clearly erroneous review would continue to be available during Regular Trading Hours,[6] when the LULD Plan to Address Extraordinary Market Volatility (the ''LULD Plan'')[7] already provides similar protections for trades occurring at prices that may be deemed erroneous. The Exchange believes that these changes are appropriate as the LULD Plan has been approved by the Commission on a permanent basis,[8] and in light of amendments to the LULD Plan, including changes to the applicable Price Bands[9] around the open and close of trading. Further, the proposed rule change is based on and substantively identical to BZX Rule 11.17. The only differences between proposed MEMX Rule 11.15 and BZX Rule 11.17 relate to different terms to define trading sessions (*i.e.,* the Exchange uses the terms Pre-Market Session and Post-Market Session whereas BZX uses the terms Early Trading Session, Pre-Opening Session and After Hours Trading Session), minor language differences for clarity, and the omission of language related to halt auctions for securities listed on the Exchange, as the Exchange does not list any securities or conduct halt auctions while BZX does.

Proposal To Make the Clearly Erroneous Pilot Permanent

On May 4, 2020, the Commission approved MEMX's Form 1 Application to register as a national securities exchange with rules including, on a pilot basis, MEMX Rule 11.15.[10] Rule 11.15, among other things (i) provides for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduces the ability of the Exchange to deviate from objective standards set forth in the rule. The rule further provides that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security, and before such a trading halt has officially ended according to the primary listing market.[11]

When it originally approved the clearly erroneous pilot, the Commission explained that the changes were ''being

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 95658 (September 1, 2022) (SR–CboeBZX–2022–037) (''BZX Approval'').

[6] The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4 p.m. eastern time. *See* MEMX Rule 1.5(bb).

[7] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[8] *See* Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (''Notice''); 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631) (''Amendment Eighteen'').

[9] ''Price Bands'' refers to the term provided in Section V of the LULD Plan.

[10] *See* Securities Exchange Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020).

[11] *See* MEMX Rule 11.15.

implemented on a pilot basis so that the Commission and the Exchanges can monitor the effects of the pilot on the markets and investors, and consider appropriate adjustments, as necessary.'' [12] In the 12 years since that time, national securities exchanges have gained considerable experience in the operation of the rule, as amended on a pilot basis. Based on that experience, the Exchange believes that the program should be allowed to continue on a permanent basis so that equities market participants and investors can benefit from the increased certainty provided by the amended rule.

The clearly erroneous pilot was implemented following a severe disruption in the U.S. equities markets on May 6, 2010 (''Flash Crash'') to ''provide greater transparency and certainty to the process of breaking trades.'' [13] Largely, the pilot reduced the discretion of the Exchange, other national securities exchanges, and Financial Industry Regulatory Authority (''FINRA'') to deviate from the objective standards in their respective rules when dealing with potentially erroneous transactions. The pilot has thus helped afford greater certainty to Members and investors about when trades will be deemed erroneous pursuant to self-regulatory organization (''SRO'') rules and has provided a more transparent process for conducting such reviews. The Exchange proposes to make the current pilot permanent so that market participants can continue to benefit from the increased certainty afforded by the current rule.

Amendments to the Clearly Erroneous Rules

When the Participants to the LULD Plan filed to introduce the Limit Up-Limit Down (''LULD'') mechanism, itself a response to the Flash Crash, a handful of commenters noted the potential discordance between the clearly erroneous rules and the Price Bands used to limit the price at which trades would be permitted to be executed pursuant to the LULD Plan. For example, two commenters requested that the clearly erroneous rules be amended so the presumption would be that trades executed within the Price Bands would not be not subject to review.[14] While the Participants acknowledged that the potential to prevent clearly erroneous executions would be a ''key benefit'' of the LULD Plan, the Participants decided not to amend the clearly erroneous rules at that time.[15] In the years since, industry feedback has continued to reflect a desire to eliminate the discordance between the LULD mechanism and the clearly erroneous rules so that market participants would have more certainty that trades executed with the Price Bands would stand. For example, the Equity Market Structure Advisory Committee (''EMSAC'') Market Quality Subcommittee included in its April 19, 2016, status report a preliminary recommendation that clearly erroneous rules be amended to conform to the Price Bands—*i.e.,* ''any trade that takes place within the band would stand and not be broken and trades outside the LU/LD bands would be eligible for the consideration of the Clearly Erroneous rules.'' [16]

The Exchange believes that it is important for there to be some mechanism to ensure that investors' orders are either not executed at clearly erroneous prices or are subsequently busted as needed to maintain a fair and orderly market. At the same time, the Exchange believes that the LULD Plan, as amended, would provide sufficient protection for trades executed during Regular Trading Hours. Indeed, the LULD mechanism could be considered to offer superior protection as it prevents potentially erroneous trades from being executed in the first instance. After gaining experience with the LULD Plan, the Exchange now believes that it is appropriate to largely eliminate clearly erroneous review during Regular Trading Hours when Price Bands are in effect. Thus, as proposed, trades executed within the Price Bands would stand, barring one of a handful of identified scenarios where such review may still be necessary for the protection of investors. The Exchange believes that this change would be beneficial for the U.S. equities markets as it would ensure that trades executed within the Price Bands are subject to clearly erroneous review in only rare circumstances, resulting in greater certainty for Members and investors.

The current LULD mechanism for addressing extraordinary market volatility is available solely during Regular Trading Hours. Thus, trades during the Exchange's Pre-Market Session [17] or Post-Market Session [18] would not benefit from this protection and could ultimately be executed at prices that may be considered erroneous. For this reason, the Exchange proposes that transactions executed during the Pre-Market Session or Post-Market Session would continue to be reviewable as clearly erroneous. Continued availability of the clearly erroneous rule during pre- and post-market trading sessions would therefore ensure that investors have appropriate recourse when erroneous trades are executed outside of the hours where similar protection can be provided by the LULD Plan. Further, the proposal is designed to eliminate the potential discordance between clearly erroneous review and LULD Price Bands, which does not exist outside of Regular Trading Hours because the LULD Plan is not in effect. Thus, the Exchange believes that it is appropriate to continue to allow transactions to be eligible for clearly erroneous review if executed outside of Regular Trading Hours.

On the other hand, there would be much more limited potential to request that a transaction be reviewed as potentially erroneous during Regular Trading Hours. With the introduction of the LULD mechanism in 2013, clearly erroneous trades are largely prevented by the requirement that trades be executed within the Price Bands. In addition, in 2019, Amendment Eighteen to the LULD Plan eliminated double-wide Price Bands: (1) at the Open, and (2) at the Close for Tier 2 NMS Stocks 2 with a Reference Price above $3.00.[19] Due to these changes, the Exchange believes that the Price Bands would provide sufficient protection to investor orders such that clearly erroneous review would no longer be necessary during Regular Trading Hours. As the Participants to the LULD Plan explained in Amendment Eighteen: ''Broadly, the Limit Up-Limit Down mechanism prevents trades from happening at prices where one party to the trade would be considered 'aggrieved,' and thus could be viewed as an appropriate mechanism to supplant clearly erroneous rules.'' While the Participants also expressed concern that the Price Bands might be too wide to afford meaningful protection around the open and close of trading, amendments to the LULD Plan adopted in Amendment

[12] *See e.g.,* Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR–BATS–2010–016).

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (n. 33505).

[15] *Id.*

[16] *See* EMSAC Market Quality Subcommittee, Recommendations for Rulemaking on Issues of Market Quality (November 29, 2016), available at *https://www.sec.gov/spotlight/emsac/emsac-recommendations-rulemaking-market-quality.pdf.*

[17] The term ''Pre-Market Session'' means the time between 7 a.m. and 9:30 a.m. eastern time. *See* MEMX Rule 1.5(x).

[18] The term ''Post-Market Session'' means the time between 4 p.m. and 5 p.m. eastern time. *See* MEMX Rule 1.5(w).

[19] *See* Amendment Eighteen, supra note 8.

Eighteen narrowed Price Bands at these times in a manner that the Exchange believes is sufficient to ensure that investors' orders would be appropriately protected in the absence of clearly erroneous review. The Exchange therefore believes that it is appropriate to rely on the LULD mechanism as the primary means of preventing clearly erroneous trades during Regular Trading Hours.

At the same time, the Exchange is cognizant that there may be limited circumstances where clearly erroneous review may continue to be appropriate, even during Regular Trading Hours. Thus, the Exchange proposes to amend its clearly erroneous rules to enumerate the specific circumstances where such review would remain available during the course of Regular Trading Hours, as follows. All transactions that fall outside of these specific enumerated exceptions would be ineligible for clearly erroneous review.

First, pursuant to proposed paragraph (c)(1)(A), a transaction executed during Regular Trading Hours would continue to be eligible for clearly erroneous review if the transaction is not subject to the LULD Plan. In such case, the Numerical Guidelines set forth in paragraph (c)(2) of Rule 11.15 will be applicable to such NMS Stock. While the majority of securities traded on the Exchange would be subject to the LULD Plan, certain equity securities, such as rights and warrants, are explicitly excluded from the provisions of the LULD Plan and would therefore be eligible for clearly erroneous review instead.[20] Similarly, there are instances, such as the opening auction on the primary listing market,[21] where transactions are not ordinarily subject to the LULD Plan, or circumstances where a transaction that ordinarily would have been subject to the LULD Plan is not—due, for example, to some issue with processing the Price Bands. These transactions would continue to be eligible for clearly erroneous review, effectively ensuring that such review remains available as a backstop when the LULD Plan would not prevent executions from occurring at erroneous prices in the first instance.

Second, investors would also continue to be able to request review of transactions that resulted from certain systems issues pursuant to proposed paragraph (c)(1)(B). This limited exception would help to ensure that trades that should not have been executed would continue to be subject to clearly erroneous review. Specifically, as proposed, transactions executed during Regular Trading Hours would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(B) if the transaction is the result of an Exchange technology or systems issue that results in the transaction occurring outside of the applicable LULD Price Bands pursuant to Rule 11.15(g). A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d) of this Rule, by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (''Percentage Parameters'').

Third, the Exchange proposes to narrowly allow for the review of transactions during Regular Trading Hours when the Reference Price, described in proposed paragraph (d), is determined to be erroneous by an Officer of the Exchange. Specifically, a transaction executed during Regular Trading Hours would be eligible for clearly erroneous review pursuant to proposed paragraph (c)(1)(C) if the transaction involved, in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to the LULD Plan and resumes trading without an auction,[22] a Reference Price that is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. In such circumstances, the Exchange may use a different Reference Price pursuant to proposed paragraph (d)(2) of this Rule. A transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the new Reference Price, described in paragraph (d)(2) below, by an amount that equals or exceeds the applicable Numerical Guidelines or Percentage Parameters, as applicable depending on whether the security is subject to the LULD Plan. Specifically, the Percentage Parameters would apply to all transactions except those in an NMS Stock that is not subject to the LULD Plan, as described in paragraph (c)(1)(A).

In the context of a corporate action or a new issue, there may be instances where the security's Reference Price is later determined by the Exchange to be erroneous (*e.g.,* because of a bad first trade for a new issue), and subsequent LULD Price Bands are calculated from that incorrect Reference Price. In determining whether the Reference Price is erroneous in such instances, the Exchange would generally look to see if such Reference Price clearly deviated from the theoretical value of the security. In such cases, the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing.[23] In the foregoing instances, the theoretical value of the security would be used as the new Reference Price when applying the Percentage Parameters under the LULD Plan (or Numerical Guidelines if the transaction is in an NMS Stock that is not subject to the LULD Plan) to determine whether executions would be cancelled as clearly erroneous.

The following illustrate the proposed application of the rule in the context of a corporate action or new issue:

Example 1

1. ABCD is subject to a corporate action, 1 for 10 reverse split, and the previous day close was $5, but the new theoretical price based on the terms of the corporate action is $50.

2. The security opens at $5, with LULD bands at $4.50 × $5.50.

3. The bands will be calculated correctly but the security is trading at an erroneous price based on the valuation of the remaining outstanding shares.

4. The theoretical price of $50 would be used as the new Reference Price when applying LULD bands to determine if executions would be cancelled as clearly erroneous.

Example 2

1. ABCD is subject to a corporate action, the company is doing a spin off where a new issue will be listed, BCDE. ABCD trades at $50, and the spinoff company is worth ⅕ of ABCD.

[20] *See* Appendix A of the LULD Plan.

[21] The initial Reference Price used to calculate Price Bands is typically set by the Opening Price on the primary listing market. *See* Section V(B) of the LULD Plan.

[22] The Exchange notes that the ''resumption of trading without an auction'' provision of the proposed rule text applies only to securities that enter a Trading Pause pursuant to LULD and does not apply to a corporate action or new issue.

[23] Using transaction data reported to the FINRA OTC Reporting Facility, FINRA disseminates via the Trade Data Dissemination Service a final closing report for OTC equity securities for each business day that includes, among other things, each security's closing last sale price.

2. BCDE opens at $50 in the belief it is the same company as ABCD.

3. The theoretical values of the two companies are ABCD $40 and BCDE $10.

4. BCDE would be deemed to have had an incorrect Reference Price and the theoretical value of $10 would be used as the new Reference Price when applying the LULD Bands to determine if executions would be cancelled as clearly erroneous.

Example 3

1. ABCD is an uplift from the OTC market, the prior days close on the OTC market was $20.

2. ABCD opens trading on the new listing exchange at $0.20 due to an erroneous order entry.

3. The new Reference Price to determine clearly erroneous executions would be $20, the theoretical value of the stock from where it was last traded.

In the context of the rare situation in which a security that enters a LULD Trading Pause and resumes trading without an auction (*i.e.,* reopens with quotations), the LULD Plan requires that the new Reference Price in this instance be established by using the mid-point of the best bid and offer (''BBO'') on the primary listing exchange at the reopening time.[24] This can result in a Reference Price and subsequent LULD Price Band calculation that is significantly away from the security's last traded or more relevant price, especially in less liquid names. In such rare instances, the Exchange is proposing to use a different Reference Price that is based on the prior LULD Band that triggered the Trading Pause, rather than the midpoint of the BBO.

The following example illustrates the proposed application of the rule in the context of a security that reopens without an auction:

Example 4:

1. ABCD stock is trading at $20, with LULD Bands at $18 × $22.

2. An incoming buy order causes the stock to enter a Limit State Trading Pause and then a Trading Pause at $22.

3. During the Trading Pause, the buy order causing the Trading Pause is cancelled.

4. At the end of the 5-minute halt, there is no crossed interest for an auction to occur, thus trading would resume on a quote.

5. Upon resumption, a quote that was available prior to the Trading Pause (*e.g.,* a quote was resting on the book prior to the Trading Pause), is widely set at $10 × $90.

6. The Reference Price upon resumption is $50 (mid-point of BBO).

7. The SIP will use this Reference Price and publish LULD Bands of $45 × $55 (*i.e.,* far away from BBO prior to the halt).

8. The bands will be calculated correctly, but the $50 Reference Price is subsequently determined to be incorrect as the price clearly deviated from where it previously traded prior to the Trading Pause.

9. The new Reference Price would be $22 (*i.e.,* the last effective Price Band that was in a limit state before the Trading Pause), and the LULD Bands would be applied to determine if the executions should be cancelled as clearly erroneous.

In all of the foregoing situations, investors would be left with no remedy to request clearly erroneous review without the proposed carveouts in paragraph (c)(1)(C) because the trades occurred within the LULD Price Bands (albeit LULD Price Bands that were calculated from an erroneous Reference Price). The Exchange believes that removing the current ability for the Exchange to review in these narrow circumstances would lessen investor protections.

Numerical Guidelines

Today, paragraph (c)(1) defines the Numerical Guidelines that are used to determine if a transaction is deemed clearly erroneous during Regular Trading Hours, or during the Pre-Market Session and Post-Market Session. With respect to Regular Trading Hours, trades are generally deemed clearly erroneous if the execution price differs from the Reference Price (*i.e.,* last sale) by 10% if the Reference Price is greater than $0.00 up to and including $25.00; 5% if the Reference Price is greater than $25.00 up to and including $50.00; and 3% if the Reference Price is greater than $50.00. Wider parameters are also used for reviews for Multi-Stock Events, as described in paragraph (c)(2). With respect to transactions in Leveraged ETF/ETN securities executed during Regular Trading Hours, Pre-Market Session and Post-Market Session, trades are deemed clearly erroneous if the execution price exceeds the Regular Trading Hours Numerical Guidelines multiplied by the leverage multiplier.

Given the changes described in this proposed rule change, the Exchange proposes to amend the way that the Numerical Guidelines are calculated during Regular Trading Hours in the handful of instances where clearly erroneous review would continue to be available. Specifically, the Exchange would base these Numerical Guidelines, as applied to the circumstances described in paragraph (c)(1)(A), on the Percentage Parameters used to calculate Price Bands, as set forth in Appendix A to the LULD Plan. Without this change, a transaction that would otherwise stand if Price Bands were properly applied to the transaction may end up being subject to review and deemed clearly erroneous solely due to the fact that the Price Bands were not available due to a systems or other issue. The Exchange believes that it makes more sense to instead base the Price Bands on the same parameters as would otherwise determine whether the trade would have been allowed to execute within the Price Bands. The Exchange also proposes to modify the Numerical Guidelines applicable to leveraged ETF/ETN securities during Regular Trading Hours. As noted above, the Numerical Guidelines will only be applicable to transactions eligible for review pursuant paragraph (c)(1)(A) (*i.e.,* to NMS Stocks that are not subject to the LULD Plan). As leveraged ETF/ETN securities are subject to LULD and thus the Percentage Parameters will be applicable during Regular Trading Hours, the Exchange proposes to eliminate the Numerical Guidelines for leveraged ETF/ETN securities traded during Regular Trading Hours. However, as no Price Bands are available outside of Regular Trading Hours, the Exchange proposes to keep the existing Numerical Guidelines in place for transactions in leveraged ETF/ETN securities that occur during the Pre-Market Session and Post-Market Session.

The Exchange also proposes to move existing paragraphs (c)(2), (c)(3), and (d) to proposed paragraph (c)(2)(B), (c)(2)(C), and (C)(2)(D), respectively, as Multi-Stock Events, Additional Factors, and Outlier Transactions will only be subject to review if those NMS Stocks are not subject to the LULD Plan or occur during the Pre-Market Session and Post-Market Session. Proposed paragraph (c)(2)(B) is substantially similar to existing paragraph (c)(2) except for a change in rule reference to paragraph (c)(1) has been updated to paragraph (c)(1)(A). Further, given the proposal to move existing paragraph (c)(2) to paragraph (c)(2)(B), the Exchange also proposes to amend applicable rule references throughout paragraph (c)(2)(A). Finally, the Exchange proposes to update applicable rule references in paragraph (c)(2)(D) based on the above-described structural changes to the Rule.

Reference Price

As proposed, the Reference Price used would continue to be based on last sale

[24] *See* LULD Plan, Section I(U) and V(C)(1).

and would be memorialized in proposed paragraph (d). Continuing to use the last sale as the Reference Price is necessary for operational efficiency as it may not be possible to perform a timely clearly erroneous review if doing so required computing the arithmetic mean price of eligible reported transactions over the past five minutes, as contemplated by the LULD Plan. While this means that there would still be some differences between the Price Bands and the clearly erroneous parameters, the Exchange believes that this difference is reasonable in light of the need to ensure timely review if clearly erroneous rules are invoked. The Exchange also proposes to allow for an alternate Reference Price to be used as prescribed in proposed paragraphs (d)(1), (2), and (3). Specifically, the Reference Price may be a value other than the consolidated last sale immediately prior to the execution(s) under review (1) in the case of Multi-Stock Events involving twenty or more securities, as described in paragraph (c)(2)(B) above, (2) in the case of an erroneous Reference Price, as described in paragraph (c)(1)(C) above,[25] or (3) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest, provided that such circumstances occurred during Pre-Market Session or Post-Market Session or the execution(s) are eligible for review pursuant to paragraph (c)(1)(A).

Appeals

As described more fully below, the Exchange proposes to eliminate paragraph (f), System Disruption or Malfunction. Accordingly, the Exchange proposes to remove from paragraph (e)(2), Appeals, each reference to paragraph (f), and include language referencing proposed paragraph (g), Transactions Occurring Outside of the LULD Bands.

[25] As discussed above, in the case of (c)(1)(C)(1), the Exchange would consider a number of factors to determine a new Reference Price that is based on the theoretical value of the security, including but not limited to, the offering price of the new issue, the ratio of the stock split applied to the prior day's closing price, the theoretical price derived from the numerical terms of the corporate action transaction such as the exchange ratio and spin-off terms, and the prior day's closing price on the OTC market for an OTC up-listing. In the case of (c)(1)(C)(2), the Reference Price will be the last effective Price Band that was in a limit state before the Trading Pause.

System Disruption or Malfunction

To conform with the structural changes described above, the Exchange now proposes to remove paragraph 11.15(f), System Disruption or Malfunction, and proposes new paragraph (c)(1)(B). Specifically, as described in paragraph (c)(1)(B), transactions occurring during Regular Trading Hours that are executed outside of the LULD Price Bands due to an Exchange technology or system issue, may be subject to clearly erroneous review pursuant to proposed paragraph 11.15(g). Proposed paragraph 11.15(c)(1)(B) further provides that a transaction subject to review pursuant to this paragraph shall be found to be clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the Reference Price, described in paragraph (d), by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan.

Trade Nullification for UTP Securities That Are the Subject of Initial Public Offerings

Current paragraph (h) of Rule 11.15 provides different procedures for conducting clearly erroneous review in initial public offering (''IPO'') securities that are traded pursuant to unlisted trading privileges (''UTP'') after the initial opening of such IPO securities on the listing market. Specifically, this paragraph provides that a clearly erroneous error may be deemed to have occurred in the opening transaction of the subject security if the execution price of the opening transaction on the Exchange is the lesser of $1.00 or 10% away from the opening price on the listing exchange or association. The Exchange no longer believes that this provision is necessary as opening transactions on the Exchange following an IPO are subject to Price Bands pursuant to the LULD Plan. The Exchange therefore proposes to eliminate this provision in connection with the broader changes to clearly erroneous review during Regular Trading Hours.

Securities Subject To Limit Up-Limit Down Plan

The Exchange proposes to renumber paragraph (i) to paragraph (h) based on the proposal to eliminate existing paragraph (h), and to rename the paragraph to provide for transactions occurring outside of LULD Price Bands. Given that proposed paragraph (c)(1) defines the LULD Plan, the Exchange also proposes to eliminate redundant language from proposed paragraph (h). Finally, the Exchange also proposes to update references to the LULD Plan and Price Bands so that they are uniform throughout the Rule and to update rule references throughout the paragraph to conform to the structural changes to the Rule described above.

Multi-Day Event and Trading Halts

The Exchange proposes to renumber paragraphs (j) and (k) to paragraphs (h) and (i), respectively, based on the proposal to eliminate existing paragraph (h). Additionally, the Exchange proposes to modify the text of both paragraphs to reference the Percentage Parameters as well as the Numerical Guidelines. Specifically, the existing text of proposed paragraphs (h) and (i) provides that any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. The Exchange proposes to amend the rule text to provide that any action taken in connection with this paragraph will be taken without regard to the Percentage Parameters or Numerical Guidelines set forth in this Rule, with the Percentage Parameters being applicable to an NMS Stock subject to the LULD Plan and the Numerical Guidelines being applicable to an NMS Stock not subject to the LULD Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[26] in general, and Section 6(b)(5) of the Act,[27] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

As explained in the purpose section of this proposed rule change, the current pilot was implemented following the Flash Crash to bring greater transparency to the process for conducting clearly erroneous reviews, and to help assure that the review process is based on clear, objective, and consistent rules across the U.S. equities markets. The Exchange believes that the amended clearly erroneous rules have been successful in that regard and have thus furthered fair and orderly markets. Specifically, the Exchange believes that the pilot has successfully ensured that

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

such reviews are conducted based on objective and consistent standards across SROs and has therefore afforded greater certainty to Members and investors. The Exchange therefore believes that making the current pilot a permanent program is appropriate so that equities market participants can continue to reap the benefits of a clear, objective, and transparent process for conducting clearly erroneous reviews. In addition, the Exchange understands that the other U.S. equities exchanges and FINRA will also file largely identical proposals to make their respective clearly erroneous pilots permanent. The Exchange therefore believes that the proposed rule change would promote transparency and uniformity across markets concerning review of transactions as clearly erroneous and would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors, and the public interest.

Similarly, the Exchange believes that it is consistent with just and equitable principles of trade to limit the availability of clearly erroneous review during Regular Trading Hours. The Plan was approved by the Commission to operate on a permanent rather than pilot basis. As a number of market participants have noted, the LULD Plan provides protections that ensure that investors' orders are not executed at prices that may be considered clearly erroneous. Further, amendments to the LULD Plan approved in Amendment Eighteen serve to ensure that the Price Bands established by the LULD Plan are ''appropriately tailored to prevent trades that are so far from current market prices that they would be viewed as having been executed in error.'' [28] Thus, the Exchange believes that clearly erroneous review should only be necessary in very limited circumstances during Regular Trading Hours. Specifically, such review would only be necessary in instances where a transaction was not subject to the LULD Plan, or was the result of some form of systems issue, as detailed in the purpose section of this proposed rule change. Additionally, in narrow circumstances where the transaction was subject to the LULD Plan, a clearly erroneous review would be available in the case of (1) a corporate action or new issue or (2) a security that enters a Trading Pause pursuant to LULD and resumes trading without an auction, where the Reference Price is determined to be erroneous by an Officer of the Exchange because it clearly deviated from the theoretical value of the security. Thus, eliminating clearly erroneous review in all other instances will serve to increase certainty for Members and investors that trades executed during Regular Trading Hours would typically stand and would not be subject to review.

Given the fact that clearly erroneous review would largely be limited to transactions that were not subject to the LULD Plan, the Exchange also believes that it is necessary to change the parameters used to determine whether a trade is clearly erroneous. Specifically, due to the different parameters currently used for clearly erroneous review and for determining Price Bands, it is possible that a trade that would have been permitted to execute within the Price Bands would later be deemed clearly erroneous, if, for example, a systems issue prevented the dissemination of the Price Bands. The Exchange believes that this result is contrary to the principle that trades within the Price Bands should stand and has the potential to cause investor confusion if trades that are properly executed within the applicable parameters described in the LULD Plan are later deemed erroneous. By using consistent parameters for clearly erroneous reviews conducted during Regular Trading Hours and the calculation of the Price Bands, the Exchange believes that this change would also serve to promote greater certainty with regards to when trades may be deemed erroneous.

The Exchange believes that it is consistent with the protection of investors and the public interest to remove the current provision of the clearly erroneous rule dealing with UTP securities that are the subject of IPOs. This provision applies specifically to opening transactions on a non-listing market following an IPO on the listing market. As such, review under this paragraph is limited to trades conducted during Regular Trading Hours. As previously addressed, trades executed during Regular Trading Hours would generally not be subject to clearly erroneous review but would instead be protected by the Price Bands. The Exchange therefore no longer believes that this paragraph is necessary, as all trades subject to this provision today would either be subject to the LULD Plan, or, in the event of some systems or other issue, would be subject to the provisions that apply to transactions that are not adequately protected by the LULD Plan.

Finally, the proposed rule changes make organizational updates to the Exchange's Clearly Erroneous Execution Rule as well as minor updates and corrections to the Rule to improve readability and clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal would ensure the continued, uninterrupted operation of harmonized clearly erroneous execution rules across the U.S. equities markets while also amending those rules to provide greater certainty to Members and investors that trades will stand if executed during Regular Trading Hours where the LULD Plan provides adequate protection against trading at erroneous prices. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Act [29] and Rule 19b–4(f)(6) [30] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [31] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [32] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on

[28] *See* Amendment Eighteen, supra note 8.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4.

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

October 1, 2022. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to coordinate its implementation of the revised clearly erroneous execution rules with the other national securities exchanges and FINRA, and will help ensure consistency across the SROs.[33] For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[34]

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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File SR–MEMX–2022–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2022–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2022–25 and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20144 Filed 9–16–22; 8:45 am]

BILLING CODE 8011–01–P

[33] *See* SR-CboeBZX–2022–37 (July 8, 2022).

[34] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95752; File No. SR–NYSEARCA–2022–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Connection With the iShares® Gold Trust Micro

September 13, 2022.

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 August 31, 2022, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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, in connection with the iShares® Gold Trust Micro (the ''Trust''), to (1) delete a duplicative representation, and (2) amend a representation regarding the availability of gold spot prices on the Trust's website. 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

The Exchange proposes, in connection with the Trust, to (1) delete a duplicative representation, and (2) amend a representation regarding the availability of gold spot prices on the Trust's website. Shares (''Shares'') of the Trust are currently listed on the Exchange under NYSE Arca Rule 8.201–E.[4]

In the proposed rule change filed with the Commission regarding the listing and trading of the Shares, the Exchange described the information available to the public regarding the price of gold and the gold market information as follows:

> Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot

[4] *See* Securities Exchange Act Release No. 91669 (April 26, 2021), 86 FR 22996 (April 30, 2021) (SR–NYSEArca–2021–25) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Shares of the iShares® Gold Trust Micro Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) (''Notice'')).

prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares.[5]

The Exchange proposes two changes to these representations, as follows.

First, the Exchange proposes the non-substantive change of deleting the following representation: ''Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers'' as duplicative of the first sentence.

Second, the Exchange proposes to amend the representation regarding the availability of gold spot prices on the Trust's website (*www.ishares.com*). Specifically, the Notice stated that the Trust's website would provide pricing information for gold spot prices and the Shares. Currently, the website provides the London Bullion Market Association (''LBMA'') Gold Price PM, the price utilized by the Trustee to value the Trust's gold as described in the prospectus, free of charge to anyone accessing the website. The LBMA Gold Price PM is also available, free of charge to the public, on LBMA's website.[6] Given the availability of information regarding the delayed spot price of gold from various sources that are also free of charge, the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website.[7] The Exchange accordingly proposes to delete the reference to the Trust's website providing pricing information for gold spot prices. The Exchange believes that removing the delayed spot gold prices from the website will not harm investors because the same information is currently available to investors from other sources.

Other than the proposed changes to the two representations as described herein, the Trust would continue to comply with all other requirements set forth in the Notice and in NYSE Arca Rule 8.201–E, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(1)[9] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] in that 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 proposes to delete a duplicative representation and amend a representation to reflect that that the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website. The Exchange believes that these proposed non-substantive clarifying changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members by adding clarity, transparency and consistency to the Exchange's rules with respect to the listing requirements for the Shares. The Exchange believes that the change would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the increased clarity and transparency that the changes would introduce, thereby reducing potential confusion.

In addition, the Exchange believes that amending the Notice to reflect that the Trust will no longer provide delayed pricing information for gold spot prices free of charge on its website would be consistent with the public interest and the protection of investors because the same information that the Trust posts on its website (*i.e.,* the delayed spot price of gold) is currently available to investors in the same form and equally free of charge on the LBMA's website. As noted, there is a considerable amount of gold price and gold market information available on public websites and through professional as well as subscription services, including the spot price of gold. Specifically, investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. The delayed spot price of gold available to investors directly from the LBMA's website would be the same as that currently available on the Trust's website and would be equally free of charge.[11] The Exchange accordingly believes that, given the widespread availability of delayed information on the spot price of gold and gold prices at no charge, investors will continue to have ready access to the same information on the spot price of gold that the Trust currently provides on its website and investors will not be harmed by the Trust no longer providing the spot price of gold on its website.

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 change is not designed to address any competitive issue but rather to delete a duplicative representation and amend a representation regarding the availability of information on the spot price of gold on the website of the Trust whose Shares are currently listed on the Exchange based on the availability of the same information in the same format and equally free of charge from other sources.

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 proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[5] *See id.,* 86 FR at 23000.

[6] *See https://www.lbma.org.uk/prices-and-data/precious-metal-prices#/table.*

[7] As noted, the Trust's website currently provides delayed information regarding the spot price of gold.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(1).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* note 6, *supra.*

of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the Exchange represents that the delayed spot price of gold is widely available, including from public websites, and through professional and subscription services, and investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. The Exchange further represents that the delayed spot price of gold available to investors directly from the LBMA's website would be the same as that currently available on the Trust's website and would be equally free of charge. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of such 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.

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.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2022–58 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–NYSEARCA–2022–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–58 and should be submitted on or before October 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–20143 Filed 9–16–22; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12), (59).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2022–0006]

Rescission of Social Security Acquiescence Ruling 12–1(8)

AGENCY: Social Security Administration.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling 12–1(8)—*Petersen* v. *Astrue,* 633 F.3d 633 (8th Cir. 2011)—Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt from the Windfall Elimination Provision (WEP)—Title II of the Social Security Act.

SUMMARY: In accordance with 20 CFR 402.35(b)(2) and 404.985(e)(1), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling (AR) 12–1(8).

DATES: We will apply this rescission notice on September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Stacey W. Harris, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9180, or TTY 410–966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review. As provided by 20 CFR 404.985(e)(1), we will rescind an AR as obsolete and apply our interpretation of the Act or regulations if the Supreme Court overrules or limits a circuit court holding that was the basis of an AR.

On August 27, 2012, we issued AR 12–1(8) to reflect the holding of the United States Court of Appeals for the Eighth Circuit in *Petersen* v. *Astrue,* 633 F.3d 633 (8th Cir. 2011).[1] The Eighth Circuit held that the Civil Service Retirement System (CSRS) payments to dual-status National Guard technicians are based wholly on work ''as a member of'' a uniformed service pursuant to 42 U.S.C. 415(a)(7)(A)(III) and therefore qualify for the uniformed services exception to the windfall elimination

[1] 77 FR 51842, *corrected at* 77 FR 54646 (September 5, 2012).

provision (WEP) of the Act. The Eighth Circuit rejected our interpretation of 42 U.S.C. 415(a)(7)(A)(III) that monthly payments based on noncovered civilian employment, including the CSRS payments to dual-status National Guard technicians, are subject to the WEP.

On January 13, 2022, in *Babcock* v. *Kijakazi,* 142 S. Ct. 641 (2022), the Supreme Court upheld our interpretation of 42 U.S.C. 415(a)(7)(A)(III) that the CSRS payments to dual-status National Guard technicians do not qualify for the uniformed services exception to the WEP because they are not based wholly on the technicians' service as a members of a uniformed service. The Supreme Court explained that even though dual-status technicians must maintain National Guard membership and wear military uniforms, their technician work is not performed ''as''—in the role, capacity, or function of—a member of the National Guard. ''[T]he role, capacity, or function in which a technician serves is that of a civilian, not a member of the National Guard.'' 142 S. Ct. at 645. In addition, the Court explained, Congress explicitly classified the dual-status technicians as civilian employees of the Federal government. *Id.* at 646.

Because, in *Babcock,* the Supreme Court rejected the holding in *Petersen* by upholding our policy of applying the WEP to the CSRS payments of dual-status National Guard technicians, we are rescinding AR 12–1(8) in accordance with 20 CFR 404.985(e)(1).

(Catalog of Federal Domestic Assistance Program Nos. 96.002, Social Security–Retirement Insurance; and 96.004, Social Security–Survivors Insurance)

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to William P. Gibson, Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

William P. Gibson,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

[FR Doc. 2022–20185 Filed 9–16–22; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Fiscal Year 2023 Tariff-Rate Quota Allocations for Refined and Specialty Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative is providing notice of allocations of the Fiscal Year (FY) 2023 (October 1, 2022 through September 30, 2023) in-quota quantity of the tariff-rate quota (TRQ) for imports of certain sugars, syrups and molasses (also known as refined sugar), including specialty sugar.

DATES: The changes made by this notice are applicable as of September 19, 2022.

FOR FURTHER INFORMATION CONTACT: Erin Nicholson, Office of Agricultural Affairs, at 202–395–9419, or *Erin.H.Nicholson@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), the United States maintains TRQs for imports of raw cane sugar and refined sugar. Pursuant to Additional U.S. Note 8 to chapter 17 of the HTSUS, the United States maintains a TRQ for imports of sugar-containing products. Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the U.S. Trade Representative under Presidential Proclamations 6763 (60 FR 1007) and 7235 (64 FR 55611).

On September 15, 2022, the U.S. Department of Agriculture (USDA) announced the establishment of the in-quota quantity of the FY2023 refined sugar TRQ at 222,000 metric tons raw value (MTRV) for which the sucrose content, by weight in the dry state, must have a polarimeter reading of 99.5 degrees or more. This amount includes the minimum level to which the United States is committed under the WTO Agreement (22,000 MTRV of which 1,656 MTRV is reserved for specialty sugar) and an additional 200,000 MTRV for specialty sugar. The U.S. Trade Representative is allocating the refined sugar TRQ as follows: 10,300 MTRV of refined sugar to Canada, 2,954 MTRV to Mexico, and 7,090 MTRV to be administered on a first-come, first-served basis. Imports of all specialty sugar will be administered on a first-come, first-served basis in five tranches. USDA has announced that the total in-quota quantity of specialty sugar will be the 1,656 MTRV included in the WTO minimum plus an additional 200,000 MTRV. The first tranche of 1,656 MTRV will open October 3, 2022. All types of specialty sugar are eligible for entry under this tranche. The second tranche of 60,000 MTRV will open on October 10, 2022. The third tranche of 60,000 MTRV will open on January 20, 2023. The fourth tranche of 40,000 MTRV will open on April 14, 2023. The fifth tranche of 40,000 MTRV will open on July 14, 2023. The second, third, fourth, and fifth tranches will be reserved for organic sugar and other specialty sugar not currently produced commercially in the United States or reasonably available from domestic sources.

Refined and specialty sugar for the FY2023 TRQ may enter the United States as of October 3, 2022.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2022–20168 Filed 9–16–22; 8:45 am]

BILLING CODE 3290–F2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0222]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Survey of Airman Satisfaction With Aeromedical Certification Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves soliciting feedback from airmen on service quality of Aeromedical Certification Services. The information to be collected will be used to inform improvements in Aeromedical Certification Services.

DATES: Written comments should be submitted by October 19, 2022.

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: Dr. Kylie N. Key by email at: *kylie.n.key@faa.gov;* phone: (405) 954–6839.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0707.

Title: Survey of Airman Satisfaction with Aeromedical Certification Services.

Form Numbers: N/A.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2022 (87 FR 49). No comments were received. The Federal Aviation Administration (FAA), through the Office of Aerospace Medicine (OAM), is responsible for the medical certification of pilots and certain other personnel under 14 CFR 67 to ensure they are medically qualified to operate aircraft and perform their duties safely. In the accomplishment of this responsibility, OAM provides a number of services to pilots, and has established goals for the performance of those services. This is a biennial survey designed to meet the requirement to survey stakeholder satisfaction under Executive Order No. 12862, ''Setting Customer Service Standards,'' and the Government Performance and Results Act of 1993 (GPRA).

The survey of Airman Satisfaction with Aeromedical Certification Services assesses airman opinion of key dimensions of service quality. These dimensions, identified by the OMB Statistical Policy Office in the 1993 ''Resource Manual for Customer Surveys,'' are courtesy, competence, reliability, and communication. The survey also provides airmen with the opportunity to provide feedback on the services and a medical certificate application tool they use. This information is used to inform improvements in Aeromedical Certification Services.

The survey was initially deployed in 2004, and deployed again in 2006, 2008, 2012, 2014, 2016, 2019, and 2021 (OMB Control No. 2120–0707). Across collections, minor revisions have been made to the survey items and response options to reflect changes in operational services and survey technology. To reduce the burden on the individual respondent and potentially improve the response rate, this information collection will be electronic.

Respondents: Approximately 4,300 Airmen.

Frequency: Biannually.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 15 minutes per respondent, 950 total burden hours.

Issued in Oklahoma City, Oklahoma on September 14, 2022.

Ashley Catherine Awwad,

Management & Program Analyst, Civil Aerospace Medical Institute (CAMI), Flight Deck Human Factors Research Lab, AAM–510.

[FR Doc. 2022–20233 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0076]

Notice of Intent To Prepare an Environmental Impact Statement for Model Years 2030 and Beyond New Medium- and Heavy-Duty Fuel Efficiency Improvement Program Standards

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

ACTION: Notice of intent to prepare an environmental impact statement; request for scoping comments.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), NHTSA intends to prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of new fuel efficiency (FE) standards for model years (MYs) 2030 and beyond medium- and heavy-duty on-highway vehicles and some work trucks (''HD vehicles'' that NHTSA will be proposing pursuant to the Energy Independence and Security Act of 2007 (EISA). This notice initiates the process for determining the scope of considerations to be addressed in the EIS and for identifying any significant environmental issues related to the proposed action. NHTSA invites comments from Federal, State, and local agencies, Indian tribes, stakeholders, and the public in this scoping process to help identify and focus any matters of environmental significance and reasonable alternatives to be examined in the EIS.

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS (DEIS), which will be made available for public comment concurrently with the issuance of a Notice of Proposed Rulemaking (NPRM). To ensure that NHTSA has an opportunity to fully consider scoping comments, scoping comments should be received on or before October 19, 2022. NHTSA will consider comments received after that date to the extent the rulemaking schedule allows.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the following website:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 before coming.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.transportation.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to

provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Vinay Nagabhushana, Fuel Economy Division, telephone: (202) 366–1452, email: *vinay.nagabhushana@dot.gov;* or Hannah Fish, Vehicle Safety Standards & Harmonization, Office of the Chief Counsel, telephone: (202) 366–1099, email: *hannah.fish@dot.gov;* or Stephanie Walters, Legislation & General Law Division, Office of the Chief Counsel, telephone: (202) 819–3642, email: *stephanie.walters@dot.gov,* at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a forthcoming notice of proposed rulemaking (NPRM), the United States Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) intends to propose FE standards for MYs 2030 and beyond for medium- and heavy-duty on-highway vehicles and some work trucks (referred to herein as ''HD vehicles'') vehicles pursuant to the Energy Independence and Security Act of 2007 (EISA).[1] In particular, NHTSA will propose the next phase (''Phase 3'') of the Medium and Heavy Vehicle Fuel Efficiency Standards program. In the Phase 2 rulemaking, NHTSA tailored the standards to the following regulatory categories of HD vehicles: vocational vehicles, combination tractors, gasoline and diesel HD vehicle engines, and heavy-duty pickup trucks and vans.[2] [3] NHTSA set separate categories of standards based on fuel type, duty cycle, vehicle application, and tractor cab type. As discussed further below, NHTSA is seeking comment on how to tailor Phase 3 standards to these regulatory categories of HD vehicles.

The National Environmental Policy Act (NEPA) instructs Federal agencies to consider the potential environmental impacts of their proposed actions and possible alternatives. In connection with the action described above, NHTSA will prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of the proposed reasonable alternatives for HD vehicle FE standards pursuant to NEPA and implementing regulations issued by the Council on Environmental Quality (CEQ),[4] DOT Order No. 5610.1C,[5] and NHTSA regulations.[6] To inform decision makers and the public, the EIS will analyze the potential environmental impacts of the agency's Preferred Alternative and a spectrum of reasonable alternatives, including a ''no action'' alternative.[7] As required by NEPA, the EIS will consider direct, indirect, and cumulative effects of the proposed action and alternatives.[8]

I. Purpose and Need

The Energy Policy and Conservation Act of 1975 (EPCA)[9] mandated that NHTSA establish and implement a regulatory program for motor vehicle fuel economy as part of a comprehensive approach to federal energy policy. As codified in chapter 329 of title 49 of the U.S. Code, and as amended by EISA, EPCA set forth extensive requirements concerning the establishment of fuel economy standards for passenger cars and light trucks. Pursuant to this statutory authority, NHTSA sets Corporate Average Fuel Economy (CAFE) standards for those vehicles.[10]

In December 2007, Congress enacted the EISA, which significantly amended EPCA's program requirements, granting the DOT, and NHTSA by delegation,[11] additional rulemaking authority and requirements. EISA provided NHTSA authority to implement, through rulemaking and regulations, ''a commercial medium- and heavy-duty on-highway vehicle [12] and work truck [13] fuel efficiency improvement program designed to achieve the maximum feasible improvement[.]'' [14] This provision also directs NHTSA to ''adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks.'' [15] This authority permits NHTSA to set ''separate standards for different classes of vehicles.'' [16]

EISA also establishes requirements for lead time and regulatory stability for these vehicle types. New fuel efficiency improvement program standards that NHTSA adopts pursuant to EISA for these vehicle types must provide not less than 4 full model years of regulatory lead-time and 3 full model years of regulatory stability.[17] Finally, EISA directs that NHTSA's HD rulemaking must be conducted in consultation with the Environmental Protection Agency (EPA) and the Department of Energy.[18]

On May 21, 2010, the President issued a memorandum to the Secretary of Transportation, the Secretary of Energy, the Administrator of EPA, and the

[1] Public Law 110–140, 121 Stat. 1492 (Dec. 19, 2007) (codified at 49 U.S.C. 32901 *et seq.*).

[2] In accordance with the notice 87 FR 50386, NHTSA is seeking comment on including heavy-duty pickup trucks and vans standards in a separate action.

[3] Pursuant to *Truck Trailer Manufacturers Ass'n, Inc* v. *Env't Prot. Agency,* 17 F.4th 1198 (D.C. Cir. 2021), NHTSA is not proposing trailer standards in this rule.

[4] 42 U.S.C. 4321–4347; 40 CFR parts 1500–1508.

[5] *Procedures for Considering Environmental Impacts* (1979) (revised 1985), *available at https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c.*

[6] 49 CFR part 520.

[7] 40 CFR 1502.14.

[8] *Id.* 1508.1(g).

[9] Public Law 94–163, 89 Stat. 871 (Dec. 22, 1975).

[10] *See Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, Final Rule,* 75 FR 25324 (May 7, 2010); *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards,* 77 FR 62624 (October 15, 2012).

[11] The Secretary has delegated responsibility for implementing fuel economy and fuel efficiency requirements under EPCA and EISA to NHTSA. 49 CFR 1.95(a) and (j).

[12] EISA added the following definition to the automobile fuel economy chapter of the United States Code: '' 'commercial medium- and heavy-duty on-highway vehicle' means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.'' 49 U.S.C. 32901(a)(7).

[13] EISA added the following definition to the automobile fuel economy chapter of the United States Code: '' 'work truck' means a vehicle that—(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and (B) is not a medium-duty passenger vehicle (as defined in section 86.1803–01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of [EISA]).'' 49 U.S.C. 32901(a)(19).

[14] 49 U.S.C. 32902(k)(2).

[15] *Id.*

[16] *Id.* For background on the HD vehicle segment, issues related to regulating this segment, and fuel efficiency improvement technologies available for these vehicles, see the reports recently issued by the National Academy of Sciences. National Research Council, *Technologies and Approaches to Reducing the Fuel Consumption of Medium- and Heavy-Duty Vehicles,* Washington, DC (The National Academies Press, 2010), *available at http://www.nap.edu/catalog.php?record_id=12845* (last accessed April 25, 2014); National Research Council, *Reducing the Fuel Consumption and Greenhouse Gas Emissions of Medium- and Heavy-Duty Vehicles, Phase Two: First Report,* Washington, DC (The National Academies Press, 2014), *available at http://www.nap.edu/catalog.php?record_id=18736* (last accessed April 25, 2015).

[17] 49 U.S.C. 32902(k)(3).

[18] 49 U.S.C. 32902(k)(2). As discussed later in this document, both agencies have been invited to serve as cooperating agencies on this EIS.

Administrator of NHTSA that called for coordinated regulation of the heavy-duty vehicle market segment under EISA and under the Clean Air Act.[19] NHTSA and EPA met that directive in August 2011 by finalizing first-of-a-kind standards for new HD engines and vehicles in MYs 2014 through 2018 (''Phase 1'').[20] The performance-based standards created a national program requiring manufacturers to meet targets for FE and GHG emissions. The agencies estimated that the Phase 1 standards would save vehicle owners and operators an estimated $50 billion in fuel costs over the lifetime of those vehicles while also reducing oil consumption by a projected 530 billion barrels and GHG pollution by approximately 270 million metric tons.[21]

Building on the success of Phase 1 of the program, in a February 18, 2014, Presidential Announcement, President Obama directed NHTSA and EPA to finalize the next phase of HD vehicle FE and GHG standards by March 31, 2016.[22] NHTSA and EPA met that directive in October 2016 by finalizing standards for new HD engines and vehicles in MYs 2018 and beyond (''Phase 2''). NHTSA conducted the Phase 2 rulemaking in consultation with EPA and DOE. The Phase 2 standards were expected to further reduce GHG emissions (GHG) and increase FE for on-road heavy-duty vehicles. NHTSA's fuel consumption standards and EPA's carbon dioxide (CO_2) emissions standards were tailored to three regulatory categories of heavy-duty vehicles: (1) combination tractors; [23] (2) heavy-duty pickup trucks and vans; [24] and (3) vocational vehicles,[25] as well as gasoline and diesel heavy-duty engines.[26] In addition, the agencies added new standards for combination trailers. EPA's hydrofluorocarbon emissions standards that currently apply to air conditioning systems in tractors, pickup trucks, and vans, were also applied to vocational vehicles.

Current Action

On August 5, 2021, President Biden issued Executive Order (E.O.) 14037, Strengthening American Leadership in Clean Cars and Trucks, which directed NHTSA and EPA to, as appropriate and consistent with applicable law, take actions under EPCA/EISA and the Clean Air Act to set standards for light-, medium-, and heavy-duty vehicles.[27] Specifically, the E.O. directed NHTSA to consider beginning work on rulemakings to ''establish new fuel efficiency standards for medium- and heavy-duty engines and vehicles to begin as soon as model year 2030.''

In accordance with E.O. 14037, but pursuant to the agency's own exercise of authority consistent with EPCA/EISA, NHTSA intends to propose fuel efficiency standards for MYs 2030 and Beyond HD vehicles in an upcoming NPRM by July 2024. However, in accordance with EISA's lead time requirements, NHTSA is statutorily required to issue a final rule for MY 2030 the Phase 3 standards no later than January 2025.[28]

Like past FE rules described above, NHTSA will use full vehicle computer models for Medium- and Heavy-Duty Vehicle Compliance and other analysis tools to determine the impacts of different levels of HD vehicles FE stringency. Pursuant to NEPA, NHTSA will prepare an EIS to analyze the potential environmental impacts of its proposed action. This Notice of Intent initiates the scoping process for the EIS under NEPA and its implementing regulations,[29] and under NHTSA's NEPA regulations.[30] Specifically, this Notice of Intent requests public input on the scope of NHTSA's NEPA analysis including the alternatives considered and the significant environmental issues relating to more stringent FE standards for HD vehicles.

II. Considerations for the Range of Alternatives

In an upcoming NPRM, NHTSA intends to propose new FE standards, as described above. This notice briefly describes a variety of possible alternatives that are currently under consideration by the agency and seeks input from the public about those alternatives and about whether other alternatives should be considered as NHTSA proceeds with the rulemaking and the EIS.

a. Framing the Range of Alternatives

The purpose of and need for an agency's action inform the range of reasonable alternatives to be considered in its NEPA analysis.[31] In developing alternatives for analysis in the EIS, NHTSA must consider EISA's requirements for setting FE standards under the MD/HD fuel efficiency improvement program noted above.

With regards to the FE standards, EISA requires that: (1) The program

[19] *See* The White House, Office of the Press Secretary, *Presidential Memorandum Regarding Fuel Efficiency Standards* (May 21, 2010), *available at http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-fuel-efficiency-standards* (last accessed April 25, 2014); *see also* The White House, Office of the Press Secretary, *President Obama Directs Administration to Create First-Ever National Efficiency and Emissions Standards for Medium- and Heavy-Duty Trucks* (May 21, 2010), *available at http://www.whitehouse.gov/the-press-office/president-obama-directs-administration-create-first-ever-national-efficiency-and-em* (last accessed April 25, 2014).

[20] *See Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles,* 76 FR 57106 (September 15, 2011).

[21] *See White House Announces First Ever Oil Savings Standards for Heavy Duty Trucks, Buses* (August 9, 2011), *available at http://www.nhtsa.gov/About+NHTSA/Press+Releases/2011/White+House+Announces+First+Ever+Oil+Savings+Standards+for+Heavy+Duty+Trucks,+Buses* (last accessed April 28, 2014). For more information on the rulemaking, *see also* EPA Regulatory Announcement, *EPA and NHTSA Adopt First-Ever Program to Reduce Greenhouse Gas Emissions and Improve Fuel Efficiency of Medium- and Heavy-Duty Vehicles* (August 2011), *available at http://www.epa.gov/otaq/climate/documents/420f11031.pdf* (last accessed April 28, 2014).

[22] *See FACT SHEET—Opportunity For All: Improving the Fuel Efficiency of American Trucks—Bolstering Energy Security, Cutting Carbon Pollution, Saving Money and Supporting Manufacturing Innovation* (February 18, 2014), *available at http://www.whitehouse.gov/the-press-office/2014/02/18/fact-sheet-opportunity-all-improving-fuel-efficiency-american-trucks-bol* (last accessed April 28, 2014); *Improving the Fuel Efficiency of American Trucks—Bolstering Energy Security, Cutting Carbon Pollution, Saving Money and Supporting Manufacturing Innovation* (February 2014), *available at http://www.whitehouse.gov/sites/default/files/docs/finaltrucksreport.pdf* (last accessed April 28, 2014).

[23] Combination tractors, which may be equipped with sleeper cabs, including Class 7 and 8 truck tractors, are used for freight transportation. Tractors sometimes run without a trailer in between loads, but most of the time they run with one or more trailers that can carry up to 50,000 pounds or more of payload. Pursuant to the decision in *Truck Trailer Manufacturers Association, Inc.* v. *Environmental Protection Agency,* No. 16–1430 (D.C. Cir. 2021), NHTSA is not considering trailer standards in this action.

[24] Heavy-duty pickup trucks and vans are defined in 49 CFR 523.7.

[25] Vocational vehicles, which may span Classes 2b through 8, include smaller and larger van trucks; delivery, utility, tank, flat-bed, and refuse trucks; transit, shuttle, and school buses; fire trucks and other emergency vehicles; motor homes; and tow trucks, among others.

[26] Phase 1 required that engines used in heavy-duty vehicles be separately certified by their manufacturer to meet GHG emissions and fuel efficiency standards using the same test procedures used to certify engines for criteria pollutants, unless the vehicle is allowed to be chassis-certified (typically, Class 2b and 3 heavy-duty pick-up trucks and vans) whereby the separate engine certification is not required. Phase 1 engine standards vary depending on engine size linked to intended vehicle service class and use. In particular, the agencies created separate standards for spark-ignition and compression-ignition engines.

[27] 86 FR 43583 (August 10, 2021).

[28] 49 U.S.C. 32902(k)(3)(A) requires the commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard to provide not less than 4 full model years of regulatory lead-time.

[29] 42 U.S.C. 4321–4347; 40 CFR parts 1500–1508.

[30] *See* 40 CFR 1501.7, 1508.22; 49 CFR 520.21(g).

[31] 40 CFR 1502.13.

must be ''designed to achieve the maximum feasible improvement''; (2) the various required aspects of the program must be appropriate, cost-effective, and technologically feasible for MD/HD vehicles; and (3) the standards adopted under the program must provide not less than four model years of lead time and three model years of regulatory stability.[32] In considering these various requirements, NHTSA will also account for relevant environmental and safety considerations.

For setting FE standards, NHTSA will analyze action alternatives calculated at the lower point and at the upper point of a range of FE standards that would satisfy EISA's requirements of increasing the FE of HD vehicles. The lower bound would reflect the least stringent of the range of alternatives to achieve the maximum feasible improvement in fuel efficiency. On the other hand, the upper bound, represents the most stringent fuel efficiency improvement.

Similarly, the range of alternatives will reflect differences in the degree of technology adoption across the fleet; in costs to manufacturers and consumers; and in conservation of energy and related impacts to the environment. For example, the most stringent FE standard NHTSA will evaluate would require greater adoption of fuel-saving technology across the fleet, including more advanced technology, than the least stringent standard NHTSA will evaluate. As a result, the most stringent alternative for the FE standard would impose greater costs and achieve greater energy conservation.

The range of alternatives would provide a broad range of information for NHTSA to use in evaluating and weighing the statutory factors in the EISA. It would also assist the decision-maker in considering the differences and uncertainties in the way in which key economic inputs (*e.g.,* the price of fuel and the social cost of greenhouse gas emissions) and technological inputs are estimated or valued.

b. Considerations on Levels of Standards for Regulatory Classes

Within the range of alternatives, NHTSA may consider setting more stringent standards for the earlier years of the rule than for the later years, or, alternatively, setting less stringent standards for the earlier years of the rule than for the later years, depending on our assessment of what would be ''maximum feasible'' for those time periods for each fleet. The changes in stringency considered in the lower and upper bounds may be defined as ''average'' changes in stringency; the preferred alternative and actual standards may either be constant throughout the period or may vary, consistent with EISA's regulatory stability requirements. However, analysis of the average yearly change over that period would provide sufficient environmental analysis to bracket the range of environmental impacts of reasonable alternatives and allow for a reasoned choice among the alternatives presented. NHTSA also may select ''maximum feasible'' fuel efficiency standards for some or all model years that decrease or remain the same as compared to prior model year(s), consistent with EISA's regulatory stability requirements.

NHTSA (in consultation with EPA) is still evaluating the costs and effectiveness of the various technologies available, the potential structure of the program, the stringencies of potential alternatives covering regulatory categories of the HD sector), and the range of reasonable alternatives for consideration in this rulemaking and EIS. NHTSA will evaluate several factors in developing alternatives for consideration and analysis, including costs for technology development and manufacture, costs that will be paid by heavy-duty vehicle owners and operators, FE (and corresponding GHG reduction) benefits, industry structure, and more.

For different regulatory vehicle classes within HD vehicles, NHTSA may consider setting standards at different rates, or that change over different rates during the timeframe of the rule. NHTSA may also consider setting different levels of standards for vehicles that are powered by different fuels (*e.g.,* in past MD/HD FE rules, NHTSA set separate standards for gasoline- and diesel-powered vehicles).

c. Considerations on Industry Lead Time

As noted above, there is no limitation on the number of model years of standards that NHTSA can set for HD vehicles.

d. Considerations on Standard Attributes and Form

In the previous MD/HD rulemaking, NHTSA used different metrics for setting HD vehicle standards. For HD pickups trucks and vans, work factor[33] was the metric for setting vehicle standards. NHTSA set standards separately for vocational and truck tractors to account for differences in vehicle applications and fuel type. As discussed further below, NHTSA seeks comment on the attribute used to set FE standards, possible other attributes that could be used to set FE standards, the shape of the standards curves, and other programmatic aspects that could help fulfill the goals outlined herein.

e. Other Programmatic Considerations

As with any FE rulemaking, NHTSA will also consider programmatic aspects other than stringency (*e.g.,* flexibilities) that may affect model years including those for which NHTSA would set FE standards.

III. Range of Alternatives

NHTSA is considering the following alternatives for analysis in the Draft EIS:

a. No Action Alternative

NEPA requires agencies to consider a ''no action'' alternative in their NEPA analyses and to compare the effects of not taking action with the effects of the reasonable action alternatives in order to demonstrate the different environmental effects of the action alternatives.[34] In this EIS, NHTSA will consider a ''no action'' alternative, which assumes, for purposes of NEPA analysis, that NHTSA would not issue a new rule regarding HD FE standards. Under these circumstances, the existing FE standards established for the end of Phase 2 would persist until NHTSA takes additional action.[35] The no-action alternative would also take into account CARB's Advanced Clean Trucks (ACT) program, set to begin in model year 2024. The ACT program stipulates that manufacturers must electrify specified percentages of their heavy-duty fleets (including Class 2b and Class 3 heavy-duty pickup trucks and vans) in order to continue selling heavy-duty vehicles in California and other states that have formally adopted the program.

NHTSA will refer to this alternative that includes the conditions described

[32] 49 U.S.C. 32902(k)(2) and (3).

[33] Work factor is an attribute that combines a vehicle's payload, towing capabilities, and the presence of 4-wheel drive.

[34] *See* 40 CFR 1502.2(e), 1502.14. CEQ has explained that ''[T]he regulations require the analysis of the no action alternative *even if the agency is under a court order or legislative command to act.* This analysis provides a benchmark, enabling decision makers to compare the magnitude of environmental effects of the action alternatives. . . . Inclusion of such an analysis in the EIS is necessary to inform Congress, the public, and the President as intended by NEPA. [*See* 40 CFR 1500.1(a).]'' *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* 46 FR 18026 (1981) (emphasis added).

[35] The ''no action'' alternative will also assume that EPA would not issue a rule regarding HD GHG emissions standards. The existing GHG standards established for the end of Phase 1 would also persist indefinitely.

for FE standards as the ''No Action Alternative'' or as the ''baseline.''

b. Action Alternatives

The EIS will also analyze action alternatives calculated at the lower point and at the upper point of the range the agency believes encompasses reasonable alternatives meeting the purpose and need of the proposed action. These lower and upper ''bounds'' or ''brackets'' will account for various potential structures for the FE standards for the HD vehicles and various levels of stringency for the regulatory categories. These alternatives would bracket the range of actions the agency may select. In sum, in its final rule, NHTSA would be able to select from any stringency level within that range. NHTSA seeks public comments on the stringency levels at which to define the lower and upper bounds of this range of reasonable alternatives.

c. Preferred Alternative

In the EIS, NHTSA intends to identify a Preferred Alternative, which may be within the level of stringency that falls within the range being considered or may be the lower or upper bound levels of stringency. The Preferred Alternative would reflect what the agency believes is the ''maximum feasible improvement'' required under EISA. The Preferred Alternative may include improvements that are constant throughout the regulatory period or that vary in accordance with EISA's regulatory stability requirements, and from segment to segment, in accordance with predetermined stringency increases that would be established by this rule. However, the overall stringency and impacts will fall at or between the lower and upper brackets discussed above. NHTSA has not yet identified its Preferred Alternative.

IV. Consideration of Expected Impacts

The scoping process initiated by this notice seeks to determine ''the range of actions, alternatives, and impacts to be considered'' in the EIS and to identify the most important issues for analysis involving the potential environmental impacts of NHTSA's FE standards.[36] NHTSA's NEPA analysis will consider direct, indirect, and cumulative effects of the proposed action and those of reasonable alternatives.

While the main focus of NHTSA's prior CAFE and FE EISs (*i.e.,* the HD Phase 1 [37] and Phase 2 [38] EISs) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of life-cycle impacts and cumulative impacts, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of impacts on resources such as water resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice.

Similar to past EIS practice, NHTSA plans to analyze environmental impacts related to fuel and energy use, emissions and their effects on climate change and the environment,[39] air quality,[40] natural resources, and the human environment. NHTSA is considering examining life-cycle impacts consistent with its past EISs and looking at tools that may be available for quantitative analysis. NHTSA will consider the direct and indirect impacts of the proposed FE standards, as well as the cumulative effects [41] of the proposed FE standards together with any past, present, and reasonably foreseeable future actions. Overall, NHTSA plans to analyze impacts in much the same manner as it did in its prior EISs, while incorporating by reference any of the relevant discussions from those documents.

Estimates of fuel used as a result of different levels of standards are used as inputs for the EIS's climate modeling. As with any model, uncertainties exist in modeling potential future climate change scenarios. Because all analysis of possible future outcomes necessarily involves uncertainty, including what NHTSA will consider for this rulemaking and EIS, NHTSA anticipates uncertainty in its estimates of the potential environmental impacts related to climate change. To account for this uncertainty, NHTSA plans to evaluate a range of potential global temperature changes that may result from changes in fuel and energy consumption and GHG emissions attributable to new FE standards. It is difficult to quantify how the specific impacts due to the potential temperature changes attributable to new FE standards may affect many aspects of the environment. NHTSA will endeavor to gather the key relevant and credible information using a transparent process that employs the best available peer-reviewed science. NHTSA invites public comments on the scope of its analysis on climate change impacts, including citations to peer-reviewed scientific articles to frame and analyze the relevant issues.

Because of the models NHTSA will use for this rulemaking and EIS, the agency anticipates analyzing impacts on fuel/energy use and pollutant emissions through 2050 and impacts on GHG emissions, global temperature, and climate change through 2100. Because HD vehicles generally accumulate the vast majority of their VMT in early years, and because more distant projections contain far more uncertainty, NHTSA believes the analysis year of 2050 for fuel/energy use and air quality will provide sufficient information for the decision-maker to assess the totality of the impacts related to the regulated vehicles. Because climate impacts are more long-term, NHTSA anticipates that the EIS will assess these impacts to 2100.

In order to streamline its documentation and eliminate redundancy, NHTSA plans not to include analyses of either monetized health benefits in its air quality analysis or monetized climate change benefits in its climate change analysis in the EIS, as both of those analyses will be included in its RIA (consistent with past practice), which is subject to public notice and comment concurrently with the EIS. NHTSA will incorporate the analyses in the RIA by reference in the EIS consistent with the requirements of the CEQ implementing regulations.[42] The EIS will continue to present analyses on air quality emissions (including non-monetized health impacts), GHG emissions, and climate change impacts (including impacts on

[36] *See* 40 CFR 1500.5(f), 1501.9.

[37] *Final Environmental Impact Statement, Medium- and Heavy-Duty Fuel Efficiency Improvement Program, Model Years 2014–2018,* Docket No. NHTSA–2010–0079–0151 (June 2011).

[38] *Final Environmental Impact Statement, Medium- and Heavy-Duty Fuel Efficiency Improvement Program, Model Years 2018–2027,* Docket No. NHTSA–2014–0074 (August 2016).

[39] NHTSA is planning to include in this EIS a quantitative analysis to estimate the impact of the alternatives on ocean acidification based on changes in atmospheric CO_2 concentrations.

[40] Consistent with past practice, in addition to the air quality analysis presented in the Draft and Final EIS, NHTSA will conduct a national-scale photochemical air quality modeling and health risks assessment that will be included in the Final EIS, but not the Draft EIS, due to the substantial time required to complete the analysis. In addition, because of the lead time required for this analysis, it will be based on the alternatives presented in the Draft EIS, but not the alternatives as they may be revised for the Final EIS. Still, NHTSA believes the analysis will provide meaningful information for the decisionmaker and the public.

[41] In accordance with CEQ regulations, cumulative impacts are ''the impacts on the environment that result from the incremental impacts of the action when added to the impacts of other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.'' 40 CFR 1508.1.

[42] 40 CFR 1501.12.

CO_2 concentrations, temperature, sea-level rise, and precipitation).

NHTSA expects to rely on previously published EISs, incorporating material by reference ''when the effect will be to cut down on bulk without impeding agency and public review of the action.'' [43] Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency's prior NEPA documents, where appropriate.

V. The Scoping Process

NHTSA's NEPA analysis will consider the direct, indirect, and cumulative environmental effects of proposed standards and those of reasonable alternatives. The scoping process initiated by this notice seeks public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important matters for in-depth analysis in the EIS. All comments relevant to the scoping process are welcome.

NHTSA invites the public to participate in the scoping process [44] by submitting written comments concerning the appropriate scope of the NEPA analysis for the proposed FE standards to the docket number identified in the heading of this notice, using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping meeting because, based on prior experience, written comments will be effective in identifying and narrowing the considerations for analysis.

a. Comments on the Range of Alternatives

NHTSA invites comments to ensure that the agency considers a full range of reasonable alternatives in setting new HD vehicle FE improvement standards. Comments may go beyond the approaches and information that NHTSA described above for developing the alternatives. NHTSA understands that there are a variety of potential alternatives that could be considered that fit within the purpose and need for the proposed rulemaking, as set forth in EISA. NHTSA is therefore interested in comments on how best to structure or describe proposed alternatives for purposes of evaluation under NEPA. Subject to the statutory restraints under EISA, a variety of potential alternatives could be considered within the purpose and need for the proposed rulemaking, each falling along a theoretically infinite continuum of potential standards. As described above, NHTSA plans to address this issue by identifying alternatives at the upper and lower bounds of a range within which we believe the statutory requirement for ''maximum feasible improvement'' [45] would be satisfied, as well as identifying and analyzing the impacts of a preferred alternative. In this way, NHTSA expects to bracket the potential environmental impacts of the standards it may select.[46]

The agency may modify the proposed alternatives that will be analyzed in depth based upon the comments received during the scoping process and upon further agency analysis. When suggesting an approach to developing alternatives that the agency should analyze, please explain the recommended way to balance EISA's factors ((1) The program must be ''designed to achieve the maximum feasible improvement''; (2) the various required aspects of the program must be appropriate, cost-effective, and technologically feasible for MD/HD vehicles; and (3) the standards adopted under the program must provide not less than four model years of lead time and three model years of regulatory stability).

b. Comments on Environmental Effects

NHTSA invites comments to ensure that the agency identifies the environmental impacts and focuses its analyses on all the potentially significant impacts related to each alternative. Comments may go beyond the approaches and information that NHTSA described above for identifying the potentially significant environmental effects. The agency may modify the environmental effects that will be analyzed in depth based upon the comments received during the scoping process and upon further agency analysis. When suggesting additional resource areas to analyze, please explain how the recommendation will add value to the public and decisionmaker in looking at the environmental impacts of the range of identified alternatives.

Two important purposes of scoping are identifying the significant considerations that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the matters that are not significant and therefore require only a brief discussion in the EIS.[47] In light of these purposes, written comments should include an internet citation (with a date last visited) to each study or report cited in the comments, if one is available. If a document cited is not available to the public online, the commenter should either provide sufficient bibliographical information to allow NHTSA to locate and obtain a copy of the study, or attach a copy to the comments.[48] Commenters should indicate how each document cited or attached to their comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific the comments are, and the more support they provide in identifying peer-reviewed scientific studies and reports, the more useful the comments will be to the NEPA process. For example, if a comment identifies an additional area of impact or environmental concern that NHTSA should analyze, or an analytical tool or model that NHTSA should use to evaluate these environmental impacts, the comment should clearly describe it and provide a reference to a specific peer-reviewed scientific study, report, tool, or model, if possible. Specific, well-supported comments will help the agency prepare an EIS that is focused and relevant and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public by ''avoid[ing] useless bulk in statements and . . . concentrate[ing] effort and attention on important issues.'' [49] By contrast, mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not assist the scoping process for the proposed standards.

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[43] *Id.*

[44] Consistent with NEPA and implementing regulations, NHTSA is sending this notice directly to: (1) Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts involved or authorized to develop and enforce environmental standards; (2) the Governors of every State, to share with the appropriate agencies and offices within their administrations and with the local jurisdictions within their States; (3) organizations representing state and local governments and Indian tribes; and (4) other stakeholders that NHTSA reasonably expects to be interested in the NEPA analysis for the MY 2028–2032 CAFE standards. *See* 42 U.S.C. 4332(2)(C); 49 CFR 520.21(g); 40 CFR 1501.8, 1506.6.

[45] *See* 49 U.S.C. 32902(k)(2).

[46] Should NHTSA ultimately choose to set standards at levels other than the Preferred Alternative, we believe that this bracketing will properly inform the decision-maker, so long as the standards are set within its bounds. This methodology permits the analysis of a range of reasonable alternatives the agency may pick, while providing the agency flexibility to select the alternative based on the most up-to-date information and analyses available at that time.

[47] 40 CFR 1500.4(g), 1502.2(b).

[48] Please be mindful of copyright restrictions when attaching documents to any comments, as they will be made publicly available in the agency's docket.

[49] 40 CFR 1502.15.

Please be sure to reference the docket number identified in the heading of this notice in any submitted comments. All comments and materials received, including the names and addresses of the commenters who submit them, will become part of the administrative record and will be posted on the web at *http://www.regulations.gov.*

c. Schedule for Decision-Making

Separate **Federal Register** notices published by EPA will announce the availability of the Draft EIS, which will be available for public comment, and the Final EIS. NHTSA will issue the Draft EIS concurrently with its NPRM. In addition, NHTSA will simultaneously issue a Final EIS and Record of Decision (Final Rule), pursuant to 49 U.S.C. 304a, unless it is determined that statutory criteria or practicability considerations preclude concurrent issuance. NHTSA also plans to continue to post information about the NEPA process and this CAFE rulemaking on its website (*http://www.nhtsa.gov*).

Issued in Washington, DC, under authority delegated in 49 CFR parts 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2022–20211 Filed 9–16–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Real Estate Lending and Appraisals

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC 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 OCC is soliciting comment concerning renewal of its information collection titled, ''Real Estate Lending and Appraisals.'' The OCC also is giving notice that is has sent the collection to OMB for review.

DATES: Comments must be received by October 19, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0190, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0190'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* You can find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

On June 7, 2022, the OCC published a 60-day notice for this information collection, 87 FR 34756. You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0190'' or ''Real Estate Lending and Appraisals.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB extend its approval of the collection in this notice.

Title: Real Estate Lending and Appraisals.

OMB Control No.: 1557–0190.

Type of Review: Extension, without revision, of a currently approved collection.

Description: Twelve CFR parts 34 and 160 contain a number of reporting, recordkeeping, and disclosure requirements. Twelve CFR part 34, subpart B (Adjustable-Rate Mortgages (ARM)), subpart E (Other Real Estate Owned (OREO)) and part 160 (Lending and Investment) contain reporting requirements. Twelve CFR part 34, subpart C (Appraisal Requirements), subpart D (Real Estate Lending Standards), and part 160 contains recordkeeping requirements. Twelve CFR 190.4(h) contains a disclosure requirement concerning Federally-related residential manufactured housing loans.

Twelve CFR part 34, subpart B, § 34.22(a) and § 160.35(b) require that for ARM loans, the loan documentation must specify an index or combination of indices to which changes in the interest rate will be linked. Sections 34.22(b) and 160.35(d)(3) set forth the notice procedures for national banks and Federal savings associations to use when seeking to use an alternative index.

Twelve CFR 34.44 provides minimum standards for the performance of real estate appraisals, including the requirement that appraisals be in

writing and contain sufficient information and analysis to support the institution's decision to engage in the transaction.

Twelve CFR 34.62, 160.101 and the related appendices require each institution to adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate, or that are made for the purpose of financing permanent improvements to real estate. The institution's board of directors must approve the real estate lending policies at least annually.

Twelve CFR 7.1024(d) requires that after holding any real estate acquired for future bank expansion for one year, a national bank or Federal savings association must state, by resolution or other official action, its plans for the use of the property and make the resolution or other action available for inspection by examiners. Twelve CFR 34.85 requires national banks and Federal savings associations to develop prudent real estate collateral evaluation policies to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice. Twelve CFR 34.85 establishes the appraisal requirements for OREO held by institutions, with reference to the appraisal requirements in 12 CFR 34, subpart C, ''Appraisals.''

Twelve CFR 34.85 requires national banks and Federal savings associations to obtain an appraisal or evaluation, as appropriate, to substantiate the market value of each parcel upon transfer to OREO. If the institution has a valid and compliant appraisal or evaluation that was previously obtained in connection with the underlying real estate loan, it does not need to obtain a new appraisal or evaluation to comply with these regulations.

Twelve CFR 34.86 requires national banks and Federal savings associations to notify the appropriate supervisory office at least 30 days before making advances under a development or improvement plan for OREO if the total investment in the property will exceed 10 percent of the institution's total equity capital on its most recent report of condition.

Twelve CFR 190.4(h) requires that for Federally-related residential manufactured housing loans, a creditor must send a debtor a notice of default at least 30 days prior to any repossession, foreclosure, or acceleration of payments.

Affected Public: Businesses or other for-profit.

Frequency of Response: On occasion.

Burden Estimates:

Estimated Number of Respondents: 1,413.

Estimated Annual Burden: 193,857.

Comments: On June 7, 2022, the OCC published a 60-day notice for this information collection, 87 FR 34756. No comments were received. Comments continue to be invited on:

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

(b) The accuracy of the OCC's estimate of the information collection burden;

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

(d) Ways to minimize the burden of the 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–20227 Filed 9–16–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On September 14, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individuals:

1. AGHA AHMADI, Mohammad (Arabic: محمد آقامدی), Iran; DOB 01 Mar 1995; POB Savojbolagh, Alborz Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4890244441 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

   Designated pursuant to Section 1(a)(ii) of Executive Order 13694 of April 1, 2015, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," 80 FR 18077, 3 CFR 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 FR 1, 3 CFR 2016 Comp., p. 659 (E.O. 13694, as amended) for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

2. AGHA-AHMADI, Ali (Arabic: علی آقامدی) (a.k.a. AGHA AHMADI, Ali), Iran; POB Savojbolagh, Alborz Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4899768060 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

   Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

3. AHMADI, Mansour (Arabic: منصور امدی) (a.k.a. AHMADI, Mansur; a.k.a. AKBARI, Masoud; a.k.a. UNSI, Parsa), Iran; DOB 07 Jul 1988; POB Shamiran, Tehran Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0453740243 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

   Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

4. HAJI HOSSEINI, Mojtaba (a.k.a. HAJIHOSSEINI, Mojtaba; a.k.a. HAJJI HOSEINI ROKNABADI, Mojtaba (Arabic: مجتبی احاجی سینی رکن آبادی)), Iran; DOB 1991; POB Meybod, Yazd Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4480031332 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

   Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

5. HAJI HOSSEINI, Mostafa (a.k.a. HAJIHOSSEINI, Mostafa; a.k.a. HAJJI HOSEINI ROKNABADI, Mostafa (Arabic: مصطفی احاجی سینی رکن آبادی)), Iran; DOB 1991; POB

Meybod, Yazd Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4480031340 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

6. KHATIBI AGHADA, Ahmad (Arabic: احمد خطیبی عقدا) (a.k.a. KHATIBI, Ahmad), Iran; DOB 21 Mar 1977; POB Ardakan, Yazd Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Digital Currency Address - XBT 1H939dom7i4WDLCKyGbXUp3fs9CSTNRzgL; alt. Digital Currency Address - XBT bc1q3y5v2khlyvemcz042wl98dzflywr8ghglqws6s; alt. Digital Currency Address - XBT bc1qx3e2axj3wsfn0ndtvlwmkghmmgm4583nqg8ngk; Passport K30843288 (Iran); National ID No. 4449889711 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

7. MAHDAVI, Mo'in (Arabic: معین مهدوی) (a.k.a. MAHDAVI, Moein), Iran; DOB 28 May 1997; POB Kermanshah, Kermanshah Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 3241787281 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

8. NIKAEEN RAVARI, Amir Hossein (a.k.a. NICKAEIN RAVARI, Amir Hossein; a.k.a. NIKA'IN, Amir Hosein), Iran; DOB 13 Apr 1992; POB Meybod, Yazd Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Digital Currency Address - XBT 1H939dom7i4WDLCKyGbXUp3fs9CSTNRzgL; alt. Digital Currency Address - XBT bc1qsxf77cvwcd6jv6j8d8j3uhh4g0xqw4meswmwuc; alt. Digital Currency Address - XBT bc1q9lvynkfpaw330uhqmunzdz6gmafsvapv7y3zty; alt. Digital Currency Address - XBT bc1qpaly5nm7pfka9v92d6qvl4fc2l9xzee8a6ys3s; National ID No. 4480046429 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

9. RASHIDI-BARJINI, Aliakbar (Arabic: علی اکبر رشیدی بارجینی) (a.k.a. RASHIDI, Ali Akbar), Iran; DOB 30 Apr 1991; POB Meybod, Yazd Province, Iran; nationality Iran;

Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4480034870 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

10. SHAKERI ASHTIJEH, Mohammad (Arabic: محمد شاکری اشتیجه) (a.k.a. SHAKERI, Mohammad), Iran; DOB 28 Nov 1997; POB Qom, Qom Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport B50759562 (Iran); National ID No. 0371588723 (Iran) (individual) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or for having engaged in, directly or indirectly, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

Entities:

1. AFKAR SYSTEM YAZD COMPANY (Arabic: □شرکت افکار سیستم یز) (a.k.a. YAZD AFKAR SYSTEM PRIVATE JOINT STOCK COMPANY), Building 5, 2nd Floor, Amir al-Momenein Alley, 31st Alley, Central Area, Yazd 8916984626, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 30 Jun 2007; Organization Type: Other information technology and computer service activities; Target Type Private Company; National ID No. 10860176637 (Iran); Registration ID 8862 (Iran) [IRGC] [IFSR] [CYBER2] (Linked To: KHATIBI AGHADA, Ahmad).

Designated pursuant to Section 1(a)(iii)(C) of E.O. 13694, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, AHMAD KHATIBI AGHADA, a person whose property and interests in property are blocked pursuant to E.O. 13694, as amended.

2. NAJEE TECHNOLOGY HOOSHMAND FATER LLC (Arabic: شرکت ناجی تکنولوژی هوشمند فاطر، شرکت با مسئولیت محدو□) (a.k.a. NAJI TECHNOLOGY HOOSHMAND FATIR), Ground Floor, Unit 1, No. 11, Paradise Building, Block 3, Ghae'm Street, Shahid Mohammadreza Ahmadi Sharif Cul-de-Sac, Karaj County, Central District, Rajaee City, Phase 3, Karaj, Alborz Province 3146815441, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Type: Other information technology and computer service activities; Target Type Private Company; National ID No. 14008335397 (Iran); Registration ID 36157 (Iran) [IRGC] [IFSR] [CYBER2].

Designated pursuant to Section 1(a)(iii)(B) of E.O. 13694, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, a cyber-enabled activity identified pursuant to Section 1(a)(ii)(C) of E.O. 13694, as amended.

Dated: September 14, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–20234 Filed 9–16–22; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing an update to the identifying information of one individual currently included on OFAC's list of Specially Designated Nationals and Blocked Persons.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On September 13, 2022, OFAC updated the SDN List for the following individual, whose property and interests in property continue to be blocked under the Foreign Narcotics Kingpin Designation Act.

Individual

1. FIGUEROA GOMEZ, Hassein Eduardo (a.k.a. FERNANDEZ GOMEZ, Ernesto; a.k.a. FIGUERO GOMEZ, Hassein Eduardo; a.k.a. FIGUEROA, Edward), Las Cortes 2935, Barajas Villasenor, Guadalajara, Jalisco, Mexico; Tlajomulco de Zuniga, Paseo de los Bosquez 115, El Palomar, Jalisco, Mexico; Benito Juarez, Valentin Gomez Farias 120A, Puerto Vallarta, Jalisco, Mexico; Puerta de Hierro 5594, Colonia Puerta de Hierro, Zapopan, Jalisco, Mexico; Donato Guerra 227, Colonia Centro, Guadalajara, Jalisco, Mexico; San Aristeo 2323, Colonia Popular, Guadalajara, Jalisco, Mexico; Acueducto 2200, Casa 2, Zapopan, Jalisco, Mexico; Avenida Pinos 330–2, Zapopan, Jalisco, Mexico; Marina Heights Tower Penthouse 4902, Dubai Marina, Dubai, United Arab Emirates; c/o DESARROLLOS INMOBILIARIOS CITADEL, S.A. DE C.V.; c/o DESARROLLOS TURISTICOS FORTIA, S.A. DE C.V.; c/o SCUADRA FORTIA, S.A. DE C.V.; c/o UNION ABARROTERO DE JALISCO S.C. DE R.L. DE C.V.; c/o EL PALOMAR CAR WASH, S.A. DE C.V.; c/o FORTIA BAJA SUR, S.A. DE C.V.; c/o GEOFARMA S.A. DE C.V.; c/o GRUPO COMERCIAL SAN BLAS, S.A. DE C.V.; c/o GRUPO F Y F MEDICAL INTERNACIONAL DE EQUIPOS; c/o PROMOCIONES CITADEL, S.A. DE C.V.; c/o PUNTO FARMACEUTICO S.A. DE C.V.; c/o DESARROLLO ARQUITECTONICO FORTIA, S.A. DE C.V.; DOB 09 May 1973; alt. DOB 10 May 1973; POB Guadalajara, Jalisco, Mexico; Passport 01140311083 (Mexico); alt. Passport 6140103492 (Mexico); alt. Passport 96340014324 (Mexico) (individual) [SDNTK].

The listing for this individual now appears as follows:

1. FIGUEROA GOMEZ, Hassein Eduardo (a.k.a. FERNANDEZ GOMEZ, Ernesto; a.k.a. FIGUERO GOMEZ, Hassein Eduardo), Las Cortes 2935, Barajas Villasenor, Guadalajara, Jalisco, Mexico; Tlajomulco de Zuniga, Paseo de los Bosquez 115, El Palomar, Jalisco, Mexico; Benito Juarez, Valentin Gomez Farias 120A, Puerto Vallarta, Jalisco, Mexico; Puerta de Hierro 5594, Colonia Puerta de Hierro, Zapopan, Jalisco, Mexico; Donato Guerra 227, Colonia Centro, Guadalajara, Jalisco, Mexico; San Aristeo 2323, Colonia Popular, Guadalajara, Jalisco, Mexico; Acueducto 2200, Casa 2, Zapopan, Jalisco, Mexico; Avenida Pinos 330–2, Zapopan, Jalisco, Mexico; Marina Heights Tower Penthouse 4902, Dubai Marina, Dubai, United Arab Emirates; c/o DESARROLLOS INMOBILIARIOS CITADEL, S.A. DE C.V.; c/o DESARROLLOS TURISTICOS FORTIA, S.A. DE C.V.; c/o SCUADRA FORTIA, S.A. DE C.V.; c/o UNION ABARROTERO DE JALISCO S.C. DE R.L. DE C.V.; c/o EL PALOMAR CAR WASH, S.A. DE C.V.; c/o FORTIA BAJA SUR, S.A. DE C.V.; c/o GEOFARMA S.A. DE C.V.; c/o GRUPO COMERCIAL SAN BLAS, S.A. DE C.V.; c/o GRUPO F Y F MEDICAL INTERNACIONAL DE EQUIPOS; c/o PROMOCIONES CITADEL, S.A. DE C.V.; c/o PUNTO FARMACEUTICO S.A. DE C.V.; c/o DESARROLLO ARQUITECTONICO FORTIA, S.A. DE C.V.; DOB 09 May 1973; alt. DOB 10 May 1973; POB Guadalajara, Jalisco, Mexico; Passport 01140311083 (Mexico); alt. Passport 6140103492 (Mexico); alt. Passport 96340014324 (Mexico) (individual) [SDNTK].

Dated: September 13, 2022.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting.

[FR Doc. 2022–20194 Filed 9–16–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Matching Program

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a new matching program.

SUMMARY: VA is providing notice of a new matching program between VA Financial Services Center (FSC), Data Analytics Services (DAS) and Department of the Treasury (Treasury), Bureau of the Fiscal Service (Fiscal Service), Do Not Pay (DNP) Business Center. The information will be used to assist VA programs in identifying potential high-risk payees. DAS will build tools to assist VA in preventing potential fraud or abuse of the financial payment systems across the VA. The match results will allow DAS to provide insights and/or make recommendations to VA programs.

DATES: Comments on this matching program must be received no later than October 19, 2022. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new agreement will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary. This matching program will be valid for three years from the effective date of this notice.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to Individuals submitting Invoices-Vouchers for Payment-VA, 13VA047 (April 23, 2020). Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: Treasury will be the point of contact and can be reached at *donotpay@fiscal.treasury.gov.* FSC contact is Scott Meier, Director, Data Analytics Services, Financial Services Center, 1615 Woodward St, Austin, TX 78741, at phone number 512–460–5100.

SUPPLEMENTARY INFORMATION: The purpose of this CMA is to reduce improper payments by authorizing the Treasury, Fiscal Service to provide the Data Analytics Services, DAS through the Treasury's Working System as defined by Office of Management and Budget (OMB) Memorandum M–21–19, ''Transmittal of Appendix C to OMB Circular A–123, Requirements for Payment Integrity Improvement, identifying information from the Fiscal Service's System of Record (SOR) ''Treasury/Fiscal Service.017'' about individuals and entities excluded from receiving federal payments, contract awards and other benefits.

Participating Agencies

The CMA is between the VA FSC DAS and Fiscal Service, DNP Business Center.

Authority for Conducting the Matching Program

This matching agreement between DNP and the VA is executed pursuant to Payment Integrity Information Act of 2019 and the Privacy Act of 1974, as amended, OMB Circular A–130 entitled, Managing Information as a Strategic Resource, July 28, 2016 and OMB guidelines pertaining to computer matching, June 19, 1989 and April 23, 1991; and the computer matching portions of appendix I to OMB Circular No. A–130 as amended, July 28, 2016.

1. Executive Order 13520 ''Reducing Improper Payments and Eliminating Waste in Federal Programs'' (November 20, 2009).

2. Payment Integrity Information Act of 2019, 31 U.S.C. 3351 *et seq.*

Purpose(s)

The purpose of this CMA will produce expedited eligibility determinations and will minimize administrative burden in preventing improper payments by authorizing the Treasury, Fiscal Service to provide the DAS, through the Treasury's Working System as defined by OMB Memorandum M–21–19, ''Transmittal of appendix C to OMB Circular A–123, Requirements for Payment Integrity Improvement, identifying information from the Fiscal Service SOR ''Treasury/Fiscal Service.017'' about individuals and entities excluded from receiving federal payments, contract awards and other benefits. The benefit of this data match with respect to the DAS fraud and abuse program is the increased assurance that DAS achieves efficiencies and administrative time/cost savings to DAS payment, procurement, and benefit programs.

Categories of Individuals

This matching program between VA FSC, DAS and Fiscal Service' DNP Business Center, will be conducted with data maintained by the VA in the Individuals submitting Invoices-Vouchers for Payment-VA, 13VA047 (April 23, 2020). The individuals whose information will be used in this match include Veterans, Employees, Contractors and Vendors.

Categories of Records

VA may disclose information to the Treasury to facilitate payments to physicians, clinics, and pharmacies for reimbursement of services rendered and to Veterans for reimbursements of authorized expenses, or to collect, by set off or otherwise, debts owed the United States.

The following data elements will be sent by VA to Fiscal Service for matching against Treasury's Working System:

- Tax Identification Number (TIN)
- Business Name
- Person Full Name
- Address
- City Name
- State Code
- Person Date of Birth
- Person Sex
- Vendor/Payee Phone Number
- Vendor/Payee Email Address.

Fiscal Service will return match results to DAS containing the following data elements:

- Record Code
- Payee Identifier
- Agency Location Code
- Tax Identification Type
- TIN
- Business or Individual or Government
- DUNS Number
- Payee Business Name
- Payee Business Doing Business As (DBA) Name
- Person Full Name
- Address
- Person Date of Birth
- Person Sex
- Vendor/Payee Status
- Phone Type
- Vendor/Payee Phone Number
- Vendor/Payee FAX Number
- Vendor/Payee Email Address
- Vendor/Payee Active Date
- Vendor/Payee Expiration Date
- Agency Record Grouping
- Other Agency Data
- Match Type
- Match Source
- Match Level
- Match Date/Time
- Matched Party Type
- Matched Tax ID Number
- Matched Tax ID Type Code (alternate)
- Matched Tax ID Number (alternate)
- Matched DUNS Number
- Matched Full Name
- Matched Business Name
- Matched DBA Business Name
- Matched Birth Date
- Matched Death Date
- Matched List Status Code
- Matched List Status Code Description
- Matched List Effective Date
- Matched Address
- Matched City
- Matched State Code
- Matched Zip Code
- Matched Country Code.

System(s) of Records

Fiscal Service will provide VA with information extracted from Treasury, Fiscal Service .017—DNP Payment Verification Records, 85 FR 11776 at 11803 (Feb. 27, 2020). Routine use number 1 will allow Fiscal Service to disclose data to VA for the purpose of identifying, preventing, or recouping improper payments. Routine use number 4 will allow Fiscal Service to disclose data to VA to validate eligibility for an award through a federal program.

This matching program will be conducted with data maintained by the VA in the Individuals submitting Invoices–Vouchers for Payment–VA, 13VA047 (April 23, 2020). Routine Use number 18 VA may disclose information to the Treasury to facilitate payments to physicians, clinics, and pharmacies for reimbursement of services rendered and to Veterans for reimbursements of authorized expenses, or to collect, by set off or otherwise, debts owed the United States.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Faith Roy, Deputy Chief Information Security Officer, Office of Information and Technology and VA Chief Privacy Officer, approved this document on August 5, 2022 for publication.

Dated: September 14, 2022.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2022–20191 Filed 9–16–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA), Veterans Benefits Administration.

ACTION: Rescindment of a system of records.

SUMMARY: This system notice serves to maintain records and provide benefits to repatriated prisoners of war who file claims for a wide variety of Federal veteran's benefits administered by VA at VA facilities located throughout the nation.

DATES: Comments on this rescindment notice must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the rescindment will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to Repatriated American Prisoners of War-VA (60VA21). Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Julian Wright, *julian.wright2@va.gov,* 202–530–9104, Outreach, Transition, and Economic Development (27), VA Central Office, 810 Vermont Avenue NW, Washington, DC 20420.

SUPPLEMENTARY INFORMATION: The Former Prisoner of War (FPOW) SORN (60VA21) is being rescinded because the information is also covered in the SORN ''Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58VA21/22/28).

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on September 8, 2022 for publication.

Dated: September 14, 2022.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Repatriated American Prisoners of War-VA (60VA21).

HISTORY:

75 FR 61861, October 6, 2010

[FR Doc. 2022–20177 Filed 9–16–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0874]

Agency Information Collection Activity: Employment Certification Form

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 18, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0874'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0874'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Section 116, Public Law 115–48; section 8006, Public Law 117–2.

Title: Employment Certification Form, VAF 22–10201.

OMB Control Number: 2900–0874.

Type of Review: Revision of a currently approved collection.

Abstract: On August 16, 2017, the President signed into law, the Harry W. Colmery Veterans Educational Assistance Act of 2017 (''Forever GI Bill''), Public Law 115–48, which amended title 38, United States Code to make certain improvements in the laws administered by the Secretary of Veterans Affairs (VA), and for other purposes. Section 116 of the law authorizes VA to establish a 5-year high technology pilot program for Veterans as an educational program provided by leading technology employers. Section 116 also requires that VA receive Employment Certification from School Certifying Officials (SCOs) and Veterans enrolled in the VET TEC pilot program.

Additionally, section 116 of Public Law 115–48, and section 8006 of Public

Law 117–2, authorized VA to implement both the Veteran Employment through Technology Education Courses (VET TEC), and the Veteran Rapid Retraining Assistance Program (VRRAP), respectively. Both of these programs provide assistance to an eligible Veteran for the pursuit of a covered program of education. This form therefore allows Veterans who either participated in a VRRAP or VET TEC program to certify to VA that they have found employment in a field related to their program of education.

The VET TEC Employment Certification Form 22–10201, which is also used as the employment certification for VRRAP, will allow student Veterans and SCOs to certify that a student Veteran has obtained meaningful employment with the skills acquired during their training program funded by those programs. VA continues to require approval of this information collection, so that VA can verify Veteran employment, as required by the law. VA would not comply with statute, if we do not collect the Veteran Employment Certification. The new laws require VA to certify and verify employment for student Veterans, which aligns with the skills acquired during their training program, funded by the VET TEC program offered by the Department of Veterans Affairs.

Affected Public: Individuals or Households.

Estimated Annual Burden: 159 hours.

Estimated Average Burden Time per Respondent: 5 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,908.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–20141 Filed 9–16–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Monday,
No. 180 September 19, 2022

Part II

Department of Energy

10 CFR Part 429 and 431
Energy Conservation Program: Test Procedure for Circulator Pumps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE–2016–BT–TP–0033]

RIN 1904–AD77

Energy Conservation Program: Test Procedure for Circulator Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (''DOE'') is establishing definitions, a test procedure, sampling and rating requirements, and enforcement provisions for circulator pumps. Currently, circulator pumps are not subject to DOE test procedures or energy conservation standards. DOE is adopting a test procedure for measuring the circulator energy index for circulator pumps. The test method references the relevant industry test standard. The definitions and test procedures are based on the recommendations of the Circulator Pump Working Group, which was established under the Appliance Standards Rulemaking Federal Advisory Committee.

DATES: The effective date of this rule is October 19, 2022. Compliance with the final rule will be mandatory for representations of head, flow rate, driver power input, circulator energy rating, and circulator energy index made on or after March 20, 2023. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on October 19, 2022.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page can be found at *www.regulations.gov/docket/EERE-2016-BT-STD-0004*. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov*.

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: 202–586–2588. Email: *Amelia.Whiting@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

DOE incorporates by reference the following industry standards into 10 CFR part 431:

HI 40.6–2021, ''Methods for Rotodynamic Pump Efficiency Testing''.

HI 41.5–2022 ''Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program''.

Copies of HI 40.6–2021 and HI 41.5–2022 can be obtained from the Hydraulic Institute (''HI'') at 6 Campus Drive, First Floor North, Parsippany, NJ 07054–4406, (973) 267–9700, or by going to *www.pumps.org.*

For a further discussion of these standards, see section IV.N of this document.

Table of Contents

I. Authority and Background

Pumps are included in the list of ''covered equipment'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(A)) Circulator pumps, which are the subject of this final rule, are a category of pumps. Circulator pumps generally are designed to circulate water in commercial and residential applications. Circulator pumps do not include dedicated-purpose pool pumps, for which test procedures and energy conservation standards are established in title 10 of the Code of Federal Regulations (''CFR'') part 431 subpart Y. DOE has not previously established test procedures or energy conservation standards applicable to circulator pumps. The following sections discuss DOE's authority to establish test procedures for circulator pumps and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C [2] of EPCA, added by Public Law 96–619, Title IV, section 441(a) (42 U.S.C. 6311–6317 as codified) established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes pumps, the subject of this document. (42 U.S.C. 6311(1)(A))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and 42 U.S.C. 6316(b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6316(b)(2)(D))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a type of covered equipment during a representative average use cycle (as determined by the Secretary) and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

Before prescribing any final test procedures, the Secretary must publish proposed test procedures in the **Federal Register** and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)).

DOE is publishing this final rule in accordance with the statutory authority in EPCA.

B. Background

As stated previously in this document, EPCA includes ''pumps'' among the industrial equipment listed as ''covered equipment'' for the purpose of Part A–1, although EPCA does not define the term ''pump.'' (42 U.S.C. 6311(1)(A)) In a final rule published January 25, 2016, DOE established a definition for ''pump,'' associated definitions, and test procedures for certain pumps. 81 FR 4086 (''January 2016 TP final rule''). ''Pump'' is defined as equipment designed to move liquids (which may include entrained gases, free solids, and totally dissolved solids) by physical or mechanical action and includes a bare pump and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. 81 FR 4086, 4147; 10 CFR 431.462. Circulator pumps fall within the scope of this definition.

While DOE has defined ''pump'' broadly, the test procedure established in the January 2016 TP final rule is applicable only to certain categories of clean water pumps,[3] specifically those that are end suction close-coupled (''ESCC''); end suction frame mounted/own bearings (''ESFM''); in-line (''IL''); radially split, multi-stage, vertical, in-line casing diffuser (''RSV''); and submersible turbine (''ST'') pumps with the following characteristics:

- Flow rate of 25 gallons per minute (''gpm'') or greater at best efficiency point (''BEP'') at full impeller diameter;
- 459 feet of head maximum at BEP at full impeller diameter and the number of stages specified for testing;
- design temperature range from 14 to 248 °F;
- designed to operate with either: (1) a 2- or 4-pole induction motor, or (2) a non-induction motor with a speed of rotation operating range that includes speeds of rotation between 2,880 and 4,320 revolutions per minute (''rpm'') and/or 1,440 and 2,160 rpm, and in either case, the driver and impeller must rotate at the same speed;
- 6-inch or smaller bowl diameter for ST pumps;
- A specific speed less than or equal to 5,000, when calculated using U.S. customary units, for ESCC and ESFM pumps;
- Except for: fire pumps; self-priming pumps; prime-assist pumps; magnet driven pumps; pumps designed to be used in a nuclear facility subject to 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities''; and pumps meeting the design and construction requirements set forth in any relevant military specifications. [4]

10 CFR 431.464(a)(1); 81 FR 4086, 4148. The pump categories subject to the current test procedures are referred to as ''general pumps'' in this document. As stated, circulator pumps are not general pumps and therefore, are not subject to the current pumps test procedure.

DOE also published a final rule establishing energy conservation standards applicable to certain classes of general pumps. 81 FR 4368 (Jan. 26, 2016) (''January 2016 ECS final rule''); *see also,* 10 CFR 431.465.

The January 2016 TP final rule and the January 2016 ECS final rule implemented the recommendations of the Commercial and Industrial Pump Working Group (''CIPWG'') established through the Appliance Standards Rulemaking Federal Advisory Committee (''ASRAC'') to negotiate standards and a test procedure for

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] A ''clean water pump'' is a pump that is designed for use in pumping water with a maximum non-absorbent free solid content of 0.016 pounds per cubic foot, and with a maximum dissolved solid content of 3.1 pounds per cubic foot, provided that the total gas content of the water does not exceed the saturation volume and disregarding any additives necessary to prevent the water from freezing at a minimum of 14 °F. 10 CFR 431.462.

[4] E.g., MIL–P–17639F, ''Pumps, Centrifugal, Miscellaneous Service, Naval Shipboard Use'' (as amended); MIL–P–17881D, ''Pumps, Centrifugal, Boiler Feed, (Multi-Stage)'' (as amended); MIL–P–17840C, ''Pumps, Centrifugal, Close-Coupled, Navy Standard (For Surface Ship Application)'' (as amended); MIL–P–18682D, ''Pump, Centrifugal, Main Condenser Circulating, Naval Shipboard'' (as amended); and MIL–P–18472G, ''Pumps, Centrifugal, Condensate, Feed Booster, Waste Heat Boiler, And Distilling Plant'' (as amended). Military specifications and standards are available at *https://everyspec.com/MIL-SPECS.*

general pumps. (Docket No. EERE–2013–BT–NOC–0039) The CIPWG approved a term sheet containing recommendations to DOE on appropriate standard levels for general pumps, as well as recommendations addressing issues related to the metric and test procedure for general pumps (''CIPWG recommendations''). (Docket No. EERE–2013–BT–NOC–0039, No. 92) Subsequently, ASRAC approved the CIPWG recommendations. The CIPWG recommendations included initiation of a separate rulemaking for circulator pumps. (Docket No. EERE–2013–BT–NOC–0039, No. 92, Recommendation #5A at p. 2)

On February 3, 2016, DOE issued a notice of intent to establish the circulator pumps working group to negotiate a notice of proposed rulemaking (''NOPR'') for energy conservation standards and a test procedure for circulator pumps, if possible, and to announce the first public meeting. 81 FR 5658. The members of the Circulator Pump Working Group (''CPWG'') were selected to ensure a broad and balanced array of interested parties and expertise, including representatives from efficiency advocacy organizations and manufacturers. Additionally, one member from ASRAC and one DOE representative were part of the CPWG. 81 FR 5658, 5660. Table I.1 lists the 15 members of the CPWG and their affiliations.

TABLE I.1—ASRAC CIRCULATOR PUMP WORKING GROUP MEMBERS AND AFFILIATIONS

Member	Affiliation
Charles White	Plumbing-Heating-Cooling Contractors Association.
Gabor Lechner	Armstrong Pumps, Inc.
Gary Fernstrom	California Investor-Owned Utilities.
Joanna Mauer	Appliance Standards Awareness Project.
Joe Hagerman	U.S. Department of Energy.
Laura Petrillo-Groh	Air-Conditioning, Heating, and Refrigeration Institute.
Lauren Urbanek	Natural Resources Defense Council.
Mark Chaffee	TACO, Inc.
Mark Handzel	Xylem Inc.
Peter Gaydon	Hydraulic Institute.
Richard Gussert	Grundfos Americas Corporation.
David Bortolon	Wilo Inc.
Russell Pate	Rheem Manufacturing Company.
Don Lanser	Nidec Motor Corporation.
Tom Eckman	Northwest Power and Conservation Council (ASRAC member).

The CPWG commenced negotiations at an open meeting on March 29, 2016, and held six additional meetings to discuss scope, metrics, and the test procedure. The CPWG concluded its negotiations for test procedure topics on September 7, 2016, with a consensus vote to approve a term sheet containing recommendations to DOE on scope, definitions, metric, and the basis of the test procedure (''September 2016 CPWG Recommendations''). The September 2016 CPWG Recommendations are available in the CPWG docket. (Docket No. EERE–2016–BT–STD–0004, No. 58)

The CPWG continued to meet to address potential energy conservation standards for circulator pumps. Those meetings began on November 3–4, 2016, and concluded on November 30, 2016, with approval of a second term sheet (''November 2016 CPWG Recommendations'') containing CPWG recommendations related to energy conservation standards, applicable test procedure, labeling and certification requirements for circulator pumps. (Docket No. EERE–2016–BT–STD–0004, No. 98) ASRAC subsequently voted unanimously to approve the September and November 2016 CPWG Recommendations during a December 2016 meeting. (Docket No. EERE–2013–BT–NOC–0005, No. 91 at p. 2) [5]

In a letter dated June 9, 2017, HI expressed its support for the process that DOE initiated regarding circulator pumps and encouraged the publishing of a NOPR and a final rule by the end of 2017. (Docket No. EERE–2016–BT–STD–0004, HI, No.103 at p. 1) In response to an early assessment review request for information (''RFI'') published on September 28, 2020 regarding the existing test procedures for general pumps (85 FR 60734, ''September 2020 Early Assessment RFI''), HI commented that it continues to support the recommendations from the CPWG. (Docket No. EERE–2020–BT–TP–0032, HI, No. 6 at p. 1) NEEA also referenced the September 2016 CPWG Recommendations and recommended that DOE adopt test procedures for circulator pumps in the pumps rulemaking or a separate rulemaking. (Docket No. EERE–2020–BT–TP–0032, NEEA, No. 8 at p. 8)

On May 7, 2021, DOE published a RFI related to test procedures and energy conservation standards for circulator pumps and small vertical in-line pumps. 86 FR 24516 (''May 2021 RFI''). Subsequently, DOE published a notice of NOPR for the test procedure on December 20, 2021, presenting DOE's proposals to establish a circulator pump test procedure and requesting comment. (the ''December 2021 NOPR'') 86 FR 72096. DOE held a public webinar related to the December 2021 NOPR on February 2, 2022.

DOE received comments in response to the December 2021 NOPR from the interested parties listed in Table I.1.

[5] All references in this document to the approved recommendations included in 2016 Term Sheets are noted with the recommendation number and a citation to the appropriate document in the CPWG docket (*e.g.,* Docket No. EERE–2016–BT–STD–0004, No. #, Recommendation #X at p. Y). References to discussions or suggestions of the CPWG not found in the 2016 Term Sheets include a citation to meeting transcripts and the commenter, if applicable (*e.g.,* Docket No. EERE–2016–BT–STD–0004, [Organization], No. X at p. Y).

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE DECEMBER 2021 NOPR

Commenter(s)	Reference in this final rule	Docket number	Commenter type
New York State Energy Research and Development Authority.	NYSERDA	EERE–2016–BT–TP–0033–0006	State.
Grundfos Americas Corporation	Grundfos	EERE–2016–BT–TP–0033–0007	Manufacturer.
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council.	Joint Advocates	EERE–2016–BT–TP–0033–0008	Efficiency Organizations.
Hydraulic Institute	HI	EERE–2016–BT–TP–0033–0009	Trade Association.
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison.	CA IOUs	EERE–2016–BT–TP–0033–0010	Utilities.
Northwest Energy Efficiency Alliance	NEEA	EERE–2016–BT–TP–0033–0011	Efficiency Organization.

DOE also received a comment from Kobel that was supportive but did not address the substance of the proposals. (Docket No. EERE–2016–BT–TP–0033–0005) A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[6]

II. Synopsis of the Final Rule

In this final rule, DOE is establishing a test procedure in subpart Y to 10 CFR part 431 that includes methods to (1) measure the performance of the covered equipment, and (2) use the measured results to calculate a circulator energy index (''CEI'') to represent the weighted average electric input power to the driver over a specified load profile, normalized with respect to a circulator pump serving the same hydraulic load that has a specified minimum performance level.[7] The test procedure and metric are similar in concept to the test procedure and metric established in subpart Y to 10 CFR part 431 for general pumps.

DOE's test method for circulator pumps includes measurements of head, flow rate, and driver power input, all of which are required to calculate CEI, as well as other quantities to characterize the rated circulator pump performance (*e.g.,* pump power output (hydraulic horsepower), speed, wire-to-water efficiency). For consistent and uniform measurement of these values, DOE is incorporating the test methods established in HI 40.6–2021, ''Methods for Rotodynamic Pump Efficiency Testing,'' with certain exceptions. In order to specify methods to use the measured results to calculate the Circulator Energy Rating (''CER'') for different circulator varieties, DOE is also incorporating certain sections of HI 41.5–2022, ''Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program.''

DOE reviewed the relevant sections of HI 40.6–2021 and HI 41.5–2022 and determined that those sections will produce test results that reflect the energy efficiency, energy use, or estimated operating costs of a circulator pump during a representative average use cycle. (42 U.S.C. 6314(a)(2)) DOE also reviewed the burdens associated with conducting the circulator pump test procedure adopted in this final rule and based on the results of such analysis, found that the test procedure would not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) DOE's analysis of the burdens associated with the test procedure is presented in section III.H.1 of this document.

This final rule also establishes requirements regarding the sampling plan and representations for circulator pumps at 10 CFR part 429 subpart B. The sampling plan requirements are similar to those established for general pumps. DOE also adopts provisions regarding allowable representations of energy consumption, energy efficiency, and other relevant metrics manufacturers may make regarding circulator pump performance (as discussed in section III.G of this document).

The effective date for the amended test procedures adopted in this final rule is 30 days after publication of this document in the **Federal Register**. Manufacturers are not required to test according to the DOE test procedure until such time as compliance is required with energy conservation standards for circulator pumps, should DOE establish such standards. Manufacturers choosing to make voluntary representations would be required to test the subject circulator pump according to the established test procedure, and any such representations would have to fairly disclose the results of such testing.

III. Discussion

In this test procedure final rule, DOE establishes test procedures and related definitions for circulator pumps in subpart Y of 10 CFR part 431, amends 10 CFR 429.59 to establish sampling plans for this equipment, and establishes enforcement provisions for this equipment in 10 CFR 429.110 and 10 CFR 429.134. The requirements and amendments are summarized in Table III.1.

[6] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for circulator pumps. (Docket No. EERE–2016–BT–TP–0033, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

[7] The performance of a comparable pump that has a specified minimum performance level is referred to as the circulator energy rating.

TABLE III.1—SUMMARY OF TOPICS IN THIS TEST PROCEDURE FINAL RULE, THEIR LOCATION WITHIN THE CODE OF FEDERAL REGULATIONS, AND THE APPLICABLE PREAMBLE DISCUSSION

Topic	Location in CFR	Summary of requirements	Applicable preamble discussion
Definitions	10 CFR 431.462	Defines circulator pump as well as varieties of circulator pumps and circulator pump controls.	Sections III.B.2, III.B.3, III.B.4, III.B.5, III.B.7, and III.D.1.
Test Procedure	10 CFR 431.464 & Appendix D.	Establishes CEI as the metric for circulator pumps, incorporate by reference HI 40.6–2021, and provides additional instructions for determining the CEI (and other applicable performance characteristics) for circulator pumps.	Sections III.C, III.D, and III.E.
Sampling Plan	10 CFR 429.59	Specifies the minimum number of circulator pumps to be tested to rate a basic model and determination of representative values.	Section III.F.1.
Enforcement Provisions	10 CFR 429.110 & 10 CFR 429.134.	Establishes a method for determining compliance of circulator pump basic models.	Section III.F.2.

The following sections discuss DOE's specific regulations regarding circulator pumps. Section III.B presents definitions for categorizing and testing of circulator pumps. Sections III.C, III.D, III.E, and III.F discuss the metric, test procedure, and certification and enforcement provisions for tested circulator pump models. Section III.G discusses representations of energy use and energy efficiency for circulator pumps.

A. General Comments

In response to the December 2021 NOPR, several commenters expressed general statements related to the proposed test procedure. NYSERDA stated that circulator pumps have a large energy savings potential, as they are commonly used in multifamily and commercial buildings to reduce hot water demand time for occupants, and a test procedure that accurately measures their energy use is vital to measuring code impacts and meeting New York's greenhouse gas reduction goals. NYSERDA added that the CPWG developed a thorough set of recommendations, including definitions, outline of scope, and proposed test procedure, that DOE should implement. (NYSERDA, No. 6 at p. 1) Joint Advocates supported the CPWG recommendations along with the changes proposed in the December 2021 NOPR, consistent with HI 41.5–2021, which were based on stakeholder feedback in response to the May 2021 RFI. (Joint Advocates, No. 8 at p. 1) CA IOUs supported the proposed test procedure for the CEI metric. (CA IOUs, No. 10 at p. 1) And NEEA supported DOE's progress towards establishing a test procedure and standard for circulator pumps, stating that most major manufacturers have been prepared to meet a DOE standard since the CPWG concluded in 2016. (NEEA, No. 11 at p. 1) ASAP stated that they support the CPWG recommendations as well as the proposed modification based on stakeholder comments. (ASAP, No. 4 at p. 5)

HI stated that HI and its member companies producing circulators have continued the work of the CPWG since 2016, by publishing HI 41.5–2021. HI explained that the industry-led program has been implemented by manufacturers with energy efficient circulators labeled per the HI 41.5 program and listed on the program website. (HI, No. 9 at p. 1)

As discussed in the following sections, DOE is adopting a test procedure generally consistent with the procedure proposed in the December 2021 NOPR, and generally consistent with the recommendations of the CPWG.

B. Scope and Definitions

As discussed, in the January 2016 TP final rule, DOE adopted a definition for ''pump,'' as well as definitions for other pump component- and configuration-related definitions. 81 FR 4086, 4090–4094 (Jan. 25, 2016); *see also* 10 CFR 431.462. DOE recognized circulator pumps as a category of pumps, but DOE did not define ''circulator pump.'' 81 FR 4086, 4097.

In this final rule, DOE is establishing a definition of circulator pump, associated definitions for categories of circulator pumps, as well as related definitions for control varieties of circulator pumps (see sections III.B.2, III.B.3, III.B.4, III.B.5 and III.D.1 of this final rule). These definitions are necessary to establish the scope of applicability of the circulator pump test procedure. The scope of the test procedure is discussed in section III.B.6 of this document.

1. CPWG Recommendations

The September 2016 Circulator Pump Recommendations addressed the scope of a circulator pumps rulemaking. Specifically, the CPWG recommended that the scope of a circulator pumps test procedure and energy conservation standards cover clean water pumps (as defined at 10 CFR 431.462) distributed in commerce with or without a volute [8] and that are one of the following categories: wet rotor circulator pumps, dry rotor close-coupled circulator pumps, and dry rotor mechanically-coupled circulator pumps. The CPWG also recommended that the scope exclude submersible pumps and header pumps. 86 FR 24516, 24520; (Docket No. EERE–2016–BT–STD–0004, No. 58, Recommendations #1A, 2A and 2B at pp. 1–2) The CPWG also recommended several definitions relevant to scope, see discussion in sections III.B.3 through III.B.5. 86 FR 24516, 24520; (Docket No. EERE–2016–STD–0004, No. 58, Recommendation #2B, 3A, and 3B at pp. 2–3)

DOE notes that generally these definitions recommended by the CPWG rely on terms previously defined in the January 2016 TP final rule, including ''close-coupled pump,'' ''mechanically-coupled pump,'' ''dry rotor pump,'' ''single axis flow pump,'' and ''rotodynamic pump.'' 81 FR 4086, 4146–4147; 10 CFR 431.462. In addition, the recommended definition for submersible pump is the same as that already defined in a 2017 test procedure final rule for dedicated-purpose pool pumps (''DPPP'') (''August 2017 DPPP TP final rule''). 82 FR 36858, 36922 (August 7, 2017); 10 CFR 431.462.

DOE discusses the definitions of wet rotor circulator pump; dry rotor, two-

[8] Volutes are also sometimes referred to as a ''housing'' or ''casing.''

piece circulator pump; dry rotor, three-piece circulator pump; and horizontal motor in section III.B.3, header pump in section III.B.4, and submersible pump in section III.B.6 of this final rule.

2. Definition of Circulator Pump

In the December 2021 NOPR, DOE proposed a definition of circulator pump at 10 CFR 431.462 consistent with the definition recommended by the CPWG and informed by the standard American National Standards Institute (''ANSI'')/HI 1.1–1.2–2014 standard (''ANSI/HI 1.1–1.2–2014''), ''Rotodynamic Centrifugal Pumps for Nomenclature and Definitions.'' 86 FR 72096, 72101–72102. Specifically, DOE proposed the following definition for circulator pump:

Circulator pump is a pump that is either a wet rotor circulator pump; a dry rotor, two-piece circulator pump; or a dry rotor, three-piece circulator pump. A circulator pump may be distributed in commerce with or without a volute.

Id. at 86 FR 72102.

DOE requested comment on the proposed definition for circulator pump. *Id.* In response to the December 2021 NOPR, HI, Grundfos, NEEA, and NYSERDA agreed with the proposed definition of circulator pumps. (HI, No. 9 at p. 3; Grundfos, No. 7 at p. 1; NEEA, No. 11 at p. 2; NYSERDA, No. 6 at p. 1)

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, in this final rule, DOE adopts the definition of circulator pump as proposed in the December 2021 NOPR.

The definitions of the pump categories that comprise the scope of ''circulator pump'' are addressed in the following section.

3. Definition of Circulator Pump Varieties

In the December 2021 NOPR, DOE proposed to adopt definitions for wet rotor circulator pump; dry rotor, two-piece circulator pump; and dry rotor, three-piece circulator pump at 10 CFR 431.462 as recommended by the CPWG and supported by stakeholder comments in response to the May 2021 RFI. 86 FR 72096, 72102. The proposed definitions are as follows:

Wet rotor circulator pump means a single stage, rotodynamic, close-coupled, wet rotor pump. Examples include, but are not limited to, pumps generally referred to in industry as CP1.

Dry rotor, two-piece circulator pump means a single stage, rotodynamic, single-axis flow, close-coupled, dry rotor pump that:

(1) Has a rated hydraulic power less than or equal to five horsepower at best efficiency point at full impeller diameter,

(2) Is distributed in commerce with a horizontal motor, and

(3) Discharges the pumped liquid through a volute in a plane perpendicular to the shaft. Examples include, but are not limited to, pumps generally referred to in industry as CP2.

Dry rotor, three-piece circulator pump means a single stage, rotodynamic, single-axis flow, mechanically-coupled, dry rotor pump that:

(1) Has a hydraulic power less than or equal to five horsepower at best efficiency point at full impeller diameter,

(2) Is distributed in commerce with a horizontal motor, and

(3) Discharges the pumped liquid through a volute in a plane perpendicular to the shaft. Examples include, but are not limited to, pumps generally referred to in industry as CP3.

Id. at 86 FR 72139.

In the December 2021 NOPR, DOE also proposed a definition for horizontal motor, consistent with the intent of the CPWG:

Horizontal motor means a motor, for which the motor shaft position when functioning under operating conditions specified in manufacturer literature, includes a horizontal position.

Id. at 86 FR 72102.

DOE tentatively concluded that the proposed modification to the horizontal motor definition would provide additional specificity but would not in practice change the pumps currently excluded from the IL pump definition (and now proposed to be included in the circulator pump definition) through use of the term. *Id.*

DOE requested comment on the proposed definition for horizontal motor, including whether it met the intent of the CPWG recommendation or whether it would include other motors not intended to be captured in the definition. *Id.*

NYSERDA supported the definitions of wet rotor circulator pump; dry rotor, two-piece circulator pump; dry rotor, three-piece circulator pump; and horizontal motor, as recommended by the CPWG. (NYSERDA, No. 6 at pp. 1–2) HI and Grundfos agreed with the proposed definition of horizontal motor and stated that it meets the intent of the CPWG. (HI, No. 9 at p. 3; Grundfos, No. 7 at p. 1) NEEA agreed also with the proposed definition of horizontal motor and stated the definition was consistent with the intent of CPWG. (NEEA, No. 11 at p. 2)

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, in this final rule, DOE adopts the definitions of wet rotor circulator pump; dry rotor, two-piece circulator pump; dry rotor, three-piece circulator pump; and horizontal motor as proposed in the December 2021 NOPR.

4. Definition of Circulator-Less-Volute and Header Pump

In the December 2021 NOPR, DOE discussed that some circulator pumps are distributed in commerce as a complete assembly with a motor, impeller, and volute, while other circulator pumps are distributed in commerce with a motor and impeller, but without a volute (herein referred to as ''circulators-less-volute''). Some circulators-less-volute are solely intended to be installed in other equipment, such as a boiler, using a cast piece in the other piece of equipment as the volute, while others can be installed as a replacement for a failed circulator pump in an existing system or newly installed with a paired volute in the field. 86 FR 72096, 72102; (Docket No. EERE–2016–BT–STD–0004, No. 47 at pp. 371–372; Docket No. EERE–2016–BT–STD–0004, No. 70 at p. 99) The CPWG recommended excluding circulator pumps that are distributed in commerce exclusively to be incorporated into other OEM equipment, such as boilers or pool heaters. 86 FR 72096, 72103; (Docket No. EERE–2016–BT–STD–0004, No. 74 at pp. 413–416)

As stated in the December 2021 NOPR, the CPWG suggested referring to circulator-less-volute that are intended solely for installation in another piece of equipment and do not have a paired volute that is distributed in commerce as ''header pumps,'' and recommended defining header pump as pump that consists of a circulator-less-volute intended to be installed in an [original equipment manufacturer] ''OEM'' piece of equipment that serves as the volute. 86 FR 72096, 72103; (Docket No. EERE–2016–BT–STD–0004, No. 74 at pp. 384–386; No. 58 Recommendation #2B at p. 2)

The CPWG recommended that for header pumps distributed in commerce with regulated equipment, DOE should consider modifying the test procedure and metric for such regulated equipment during the next round of applicable rulemakings to account for the energy use of header pumps in a modified metric. For header pumps distributed in commerce with non-regulated equipment, the CPWG recommended that DOE should consider

test procedures and standards for such pumps or equipment at a later date. (Docket No. EERE–2016–BT–STD–0004, No. 58 Non-Binding Recommendation to the Secretary #2 at p. 10); 86 FR 72096, 72103.

In the December 2021 NOPR, DOE tentatively agreed that a circulator-less-volute designed solely for use as a component in a separate piece of equipment should be distinguished from a circulator-less-volute generally. To provide a distinction between a circulator-less-volute and a header pump, DOE proposed to add additional detail within the definition of header pump recommended by the CPWG and to add a definition of circulator-less-volute to be mutually exclusive from the definition of a header pump. These definitions proposed by DOE are as follows:

Header pump means a circulator pump distributed in commerce without a volute and for which a paired volute is not distributed in commerce. Whether a paired volute is distributed in commerce will be determined based on published data, marketing literature, and other publicly available information.

Circulator-less-volute means a circulator pump distributed in commerce without a volute and for which a paired volute is also distributed in commerce. Whether a paired volute is distributed in commerce will be determined based on published data, marketing literature, and other publicly available information.

86 FR 72096, 72103.

DOE requested comment on the proposed definitions of header pump and circulator-less-volute. *Id.* DOE also tentatively concluded that requiring testing of header pumps using a reference volute, as required in EU Regulation No 622/2012, may result in a rating that is not representative of its energy use in the equipment for which it is designed, and that assessing header pump energy use within broader equipment categories in which they are embedded, such as boilers, may be more appropriate. As such, DOE did not propose to include header pumps in the scope of the test procedure, nor did it propose a test method for them. *Id.*

In response to the December 2021 NOPR, NYSERDA supported the definition of header pump as recommended by the CPWG. (NYSERDA, No. 6 at p. 2) HI and NEEA agreed with the proposed definitions of header pump and circulator-less-volute. (HI, No. 9 at p. 3; NEEA, No. 11 at p. 2)

Grundfos agreed with the proposed definition of circulator-less-volute but stated that header pumps should be included in this definition and covered by the circulator-less-volute testing requirements. (Grundfos, No. 7 at p. 1) Additionally, Grundfos noted that the CPWG's basis for excluding header pumps was because an OEM specific volute was not available for testing. Grundfos commented that header pumps are generally the same as standard circulator-less-volutes in the market and that representative volutes already exist or can be created by manufacturers. Grundfos stated that DOE should require that header pumps be tested like circulators-less-volute, except that the manufacturer determines the volute to be used and make this volute available for testing on the open market so that all interested parties can purchase and test the pump in the same manner it was certified. Grundfos noted that allowing header pumps to exist on the market without testing creates a loophole that can be exploited to avoid meeting the test standard and efficiency standard requirements. (Grundfos, No. 7 at p. 4)

While Grundfos has suggested a method for testing header pumps, DOE observes that the suggested method would increase burden on manufacturers by requiring creation of volutes that may not be used in commerce (given that header pumps are intended solely for installation in another piece of equipment) and requiring them to be available for testing on the open market. Additionally, by requiring testing with volutes for which the application is only for equipment testing, the suggested method would not be representative of an average use. Grundfos did not address DOE's tentative determination regarding lack of representativeness of testing header pumps with reference volutes. As such, in this final rule, DOE adopts the definitions of header pump and circulator-less-volute as proposed in the December 2021 NOPR and is not including header pumps within the scope of the test procedure nor adopting a test method for header pumps.

5. Definition of On-Demand Circulator Pumps

In the December 2021 NOPR, DOE stated that on-demand circulator pumps are designed to maintain hot water supply within a temperature range by activating in response to a signal, such as user presence. 86 FR 72096, 72104. Discussion during CPWG meetings suggested that the purpose of recommending a definition for on-demand circulator pumps would be to allow for the possibility of considering them as a separate equipment class with a different standard level, while still applying the metric and test procedure to them. (Docket No. EERE–2016–BT–STD–0004–0069, p. 199)

The CPWG discussed that on-demand controls do not reduce the speed of the pump, but rather reduce the hours of use. Pumps with on-demand controls could also have speed controls, which the recommended metric would capture. (Docket No. EERE–2016–BT–STD–0004–0069, pp. 172–173) In addition, CPWG members discussed that the extent to which time-based controls are used is unknown (*Id.* at p. 176), and that rather than attempting to capture it in the metric, utility programs could consider prescriptive rebates associated with these controls. (*Id.* at p. 178) In addition, CPWG members suggested that legionella concerns would limit the application of on-demand controls.[9] (*Id.* at pp. 195–196)

DOE notes that neither HI 41.5–2021 nor HI 41.5–2022 address on-demand circulator pumps. DOE proposed to define on-demand circulator pump at 10 CFR 431.462 consistent with the definition recommended by the CPWG, as follows:

On-demand circulator pump means a circulator pump that is distributed in commerce with an integral control that:

- Initiates water circulation based on receiving a signal from the action of a user [of a fixture or appliance] or sensing the presence of a user of a fixture and cannot initiate water circulation based on other inputs, such as water temperature or a pre-set schedule.
- Automatically terminates water circulation once hot water has reached the pump or desired fixture.
- Does not allow the pump to operate when the temperature in the pipe exceeds 104 °F or for more than 5 minutes continuously.

86 FR 72096, 72104.

DOE did not propose to exclude on-demand circulator pumps from the scope of the test procedure or to develop a credit for such controls in the December 2021 NOPR. DOE noted that if on-demand circulator pumps are equipped with other controls that reduce speed, they may be tested according to the relevant test methods rather than using the no controls test. *Id.* DOE stated that it would consider whether standards were appropriate for this equipment in a future energy conservation standards rulemaking. *Id.*

DOE requested comment on its proposal to include on-demand circulator pumps within the scope of

[9] As discussed in the transcript, situations where water is stagnant and the temperature drops can result in growth of legionella.

this test procedure. DOE also requested data and information that would justify a CEI credit for on-demand circulator pumps. 86 FR 72096, 72104.

Joint Advocates supported inclusion of on-demand controls but noted that the energy savings benefits of reduced run time would not be directly captured by the test procedure. Joint Advocates explained that on-demand controls have the potential to reduce energy consumption in water recirculation applications. Joint Advocates encouraged DOE to consider options to promote the adoption of on-demand controls that reduce energy consumption by reducing circulator pump run-time. (Joint Advocates, No. 8 at p. 3)

CA IOUs supported DOE's proposed definition of the on-demand circulator pump product class, in particular that a product must be exclusively an on-demand circulator and should not support additional control modes typical of other circulator products (*e.g.,* constant pressure), or support bypass functionality, ensuring that users receive consistent run-hour reduction benefits relative to conventional products. (CA IOUs, No. 10 at p. 2) CA IOUs stated they aim to encourage widespread market adoption in the domestic hot water sector, in part by maintaining the cost benefit to consumers of this product. CA IOUs included an analysis of potential costs and benefits to a consumer when applying a 1.0 CEI requirement, which would imply an electrically commutated motor (''ECM''). CA IOUs stated that, based on their analysis, cost is the largest influencing factor of consumer payback, followed by runtime hours, with CEI as the least influential factor.[10] Based on this, CA IOUs encouraged DOE to develop a methodology for on-demand circulator products that does not require the ECM level unless lifecycle cost effectiveness can be demonstrated. (CA IOUs, No. 10 at pp. 3–5). CA IOUs stated that baseline operating hours of a domestic hot water circulator product is 6,400 hours per year and the on-demand product is instead 92, a ratio of 0.014. CA IOUs encouraged DOE to develop a CEI score for circulator products that demonstrates the substantial energy savings available and allows for field representative lifecycle cost-benefit calculations. (CA IOUs, No. 10 at p. 5)

NEEA recommended that DOE require testing circulator pumps at full speed but provide a CEI credit for circulator pumps intended for domestic hot water recirculation equipped with run-hour controls. NEEA stated that eliminating unnecessary operation at no cost of convenience or performance to customers, is the most significant method to reduce circulator energy consumption. NEAA added that ignoring this factor misses an important opportunity for energy conservation and fails to communicate energy savings to the market. NEEA commented that a CEI credit is the most effective strategy to convey this factor to consumers. (NEEA, No. 11 at pp. 1–2)

Additionally, NEEA stated that efficient run hour controls include temperature (*i.e.,* aquastat), on-demand, learning, or a combination of timer and temperature run-hour controls. NEEA noted that the Regional Technical Forum's circulator measure workbook contains calculations about the potential energy savings from run-hour controls on domestic hot water circulators, and that according to this analysis, run-hour controls reduce energy consumption by 50 percent to 99 percent. NEEA stated that the CEI credit should accurately reflect the energy savings reduction from each control type. However, NEEA commented that savings from learning-based controls are less well-proven in the field, and that there is concern that timer-based controls can be overridden or set to a high number of hours to avoid homeowner complaints. But NEEA noted also that their research indicates that timer-controls are relatively consistently applied. (NEEA, No. 11 at p. 4) NEEA suggested that there should be different CEI credits for different control types, especially on-demand and temperature-based, due to differences between commercial and residential applications. (NEEA, No. 11 at pp. 4–5)

NEEA recommended that rating equipment with applicable run hours controls should be optional so as to represent an opportunity rather than a burden, especially for manufacturers of equipment with on-demand controls that cannot operate without them, to potentially comply with future standards without redesigning the motor. NEEA stated that circulators that can only be operated with on-demand controls represent a small portion of the market but are very efficient due to extremely low run hours and increasing the efficiency of the pump and motor would likely not be cost effective. NEEA stated that an appropriate CEI credit could allow such equipment to remain on the market at a cost-competitive price point, which may increase their adoption and lead to more overall pump and hot water savings. (NEEA, No. 11 at p. 5)

NEEA stated that in order for the CEI credit to not represent a loophole in the standard, DOE must calibrate the credit to ensure it provides a comparable and meaningful metric compared to the hydronic heating controls currently proposed in the test procedure, and require rating with the most consumptive control available, such that the mere availability of run-hour controls (or other efficient controls) do not circumvent the desired efficiency of the standard. NEEA suggested that DOE consider the relative run hours of hydronic heating versus domestic hot water installations, as temperature-based run-hour controls may run a similar number of hours as hydronic heating controls and a significant credit may not be warranted. (*Id.*)

NEEA noted that the CEI credit concept was not discussed in the CPWG nor approved in the term sheet, and that an appropriate credit and certification system may take time to develop and implement. NEEA stated that, while DOE could make a reasonable proposal now, the addition of special treatment for run-hours-controls-equipped circulators could be considered in the future with more opportunity for discussion and input. In this case, NEEA recommended that on demand circulators not be exempted and be covered by the applicable test procedure and any future standard to provide consistency for manufacturers and the market. (NEEA, No. 11 at p. 5)

HI agreed with the proposed definition of on-demand circulator pump and inclusion of on-demand circulating pump within the scope of the test procedure. However, HI stated that domestic hot water circulators come with several intermittent control methods, including temperature and timer, that all provide reduced energy consumption versus a circulator under continuous operation. HI stated that as DOE only identified on-demand controls in the December 2021 NOPR, DOE should not consider credits for them. HI stated that in future rulemakings DOE should consider creating a category and test procedure calculations for intermittent controlled domestic hot water circulator pumps that define an average use case for this new category of pumps, including operating hours and load points. (HI, No. 9 at p. 3) Grundfos stated that inclusion of on-demand circulator pumps is warranted but commented similarly to HI regarding the other control methods that were not included, recommending that these categories should be included in a separate rulemaking. (Grundfos, No. 7 at p. 1)

[10] CA IOUs also included a discussion regarding potential economics for consumers with electric water heaters versus natural gas water heaters.

After reviewing and considering all the comments on on-demand circulator pumps, DOE is adopting a definition for on-demand circulator pumps and a scope of applicability for the test procedure that includes on-demand circulator pumps, as proposed. DOE is not adopting a CEI credit for on-demand circulators in this rulemaking. Such a credit was not discussed by the CPWG, nor proposed in the NOPR. As noted by the commenters, development of further information as to the prevalence, variety, and operation of on-demand controls is likely needed. Accordingly, DOE is not addressing a CEI credit for on-demand circulator pumps in this final rule. In response to the comments from CA IOUs and NEEA, DOE will consider the appropriate scope and product categories for standards for on-demand circulators in a separate energy conservation rulemaking.

6. Applicability of Test Procedure Based on Pump Configurations

In the December 2021 NOPR, DOE proposed that the test procedure would be applicable to circulator pumps that are clean water pumps, including circulators-less-volute and on-demand circulator pumps, and excluding header pumps and submersible pumps (as recommended by the CPWG). DOE requested comment on the proposed scope. 86 FR 72096, 72105.

NEEA agreed with the proposed scope of applicability. (NEEA, No. 11 at p. 2) NYSERDA supported the proposed test procedure scope, specifically as limited to clean water pumps, consistent with the scope of general pumps. (NYSERDA, No. 6 at p. 2) HI agreed with the proposed scope of applicability to exclude header pumps and submersible pumps but include circulator-less-volute pumps. (HI, No. 9 at p. 4) Joint Advocates supported exclusion of header pumps. (Joint Advocates, No. 8 at p. 1)

Grundfos agreed that submersible pumps should be excluded but stated that header pumps should be included. (Grundfos, No. 7 at p. 1)

As discussed in section III.B.4 of this document, DOE continues to have concerns about the representativeness of including header pumps in the scope of the test procedure and, therefore, is not including them in scope.

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, in this final rule, DOE is adopting the scope as proposed in the December 2021 NOPR.

7. Basic Model

In the course of regulating consumer products and commercial and industrial equipment, DOE has developed the concept of a ''basic model'' to determine the specific product or equipment configuration(s) to which the regulations would apply. For the purposes of applying the proposed circulator pump regulations, DOE proposed to rely on the definition of ''basic model'' as currently defined at 10 CFR 431.462. 86 FR 72096, 72105. DOE stated that application of the current definition of ''basic model'' would allow manufacturers of circulator pumps to group similar models within a basic model to minimize testing burden, while ensuring that key variables that differentiate circulator pump energy performance or utility are maintained as separate basic models. *Id.* As proposed, manufacturers would be required to test only a representative number of units of a basic model in lieu of testing every model they manufacture. *Id.* As proposed, individual models of circulator pumps would be permitted to be grouped under a single basic model, so long as all grouped models have the same representative energy performance, which is representative of the least efficient or most consumptive unit. *Id.*

Specifically, for pumps, DOE's existing definition of basic model is as follows:

Basic model means all units of a given class of pump manufactured by one manufacturer, having the same primary energy source, and having essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and, in addition, for pumps that are subject to the standards specified in 10 CFR 431.465(b), the following provisions also apply:

(1) All variations in numbers of stages of bare RSV and ST pumps must be considered a single basic model;

(2) Pump models for which the bare pump differs in impeller diameter, or impeller trim, may be considered a single basic model; and

(3) Pump models for which the bare pump differs in number of stages or impeller diameter, and which are sold with motors (or motors and controls) of varying horsepower may only be considered a single basic model if:

(i) For ESCC, ESFM, IL, and RSV pumps, each motor offered in the basic model has a nominal full load motor efficiency rated at the Federal minimum (see the current table for NEMA Design B motors at § 431.25) or the same number of bands above the Federal minimum for each respective motor horsepower (see Table 3 of appendix A to subpart Y of this part); or

(ii) For ST pumps, each motor offered in the basic model has a full load motor efficiency at the default nominal full load submersible motor efficiency shown in Table 2 of appendix A to subpart Y of this part or the same number of bands above the default nominal full load submersible motor efficiency for each respective motor horsepower (see Table 3 of appendix A to subpart Y of this part).

10 CFR 431.462.

In the December 2021 NOPR, DOE stated that only the general provisions of the basic model definition would be applicable to circulator pumps and no additional provisions specific to circulator pumps would be necessary. 86 FR 72096, 72106. DOE requested comment on the proposed applicability of the definition of ''basic model'' at 10 CFR 431.462 to circulator pumps and any characteristics unique to circulator pumps that may necessitate modifications to that definition. *Id.*

HI and Grundfos agreed that the main paragraph of the basic model definition is accurate for circulator pumps, but stated that DOE should explicitly exclude parts 1, 2, and 3 of the definition. (HI, No. 9 at p. 4; Grundfos, No. 7 at p. 2)

As discussed in the December 2021 NOPR, provisions (1)–(3) of the basic model definition would not apply to circulator pumps based on the nature of how circulator pumps are designed and distributed in commerce. 86 FR 72096, 72106. Therefore, DOE does not need to exclude these provisions explicitly and instead applies the existing definition of ''basic model'' at 10 CFR 431.462 to circulator pumps, consistent with the application of that definition to dedicated-purpose pool pumps, for which provisions (1)–(3) would also not be applicable due to lack of variation in stages and impeller trims within a pump model.

C. Rating Metric

In the December 2021 NOPR, DOE proposed to adopt the CEI metric as the performance-based metric for representing the energy performance of circulator pumps, as defined in equation (1), and consistent with Section 41.5.3.2 of HI 41.5–2021. 86 FR 72096, 72107. DOE noted that while HI 41.5–2021 defines the denominator as CER_{REF}, DOE believed that the terminology CER_{STD} is more reflective of the Federal energy conservation standards. *Id.* Any standards considered for any circulator pumps for which the CEI is applicable would use this metric as a basis for the standard level.

$$CEI = \left[\frac{\mathrm{CER}}{CER_{STD}}\right] \quad \textbf{(1)}$$

Where:

CER = circulator energy rating (hp); and

CER_{STD} = circulator energy rating for a minimally compliant circulator pump serving the same hydraulic load.

Id.

In the December 2021 NOPR, DOE stated that the CPWG specified a method for determining the denominator of the metric with procedures to determine the minimally compliant overall efficiency at the various test points based on the hydraulic performance of the rated circulator pump. 86 FR 72096, 72106; (Docket No. EERE–2016–BT–STD–0004, No. 98 Recommendations #1 and 2A–D at pp. 1–4). As discussed, the denominator would represent the energy efficiency of a circulator pump that is minimally compliant with the applicable energy conservation standard, should DOE establish such a standard. Were DOE to conduct a rulemaking to propose energy conservation standards for circulator pumps, DOE would discuss in detail the derivation of the denominator, as well as an analysis as required by EPCA to evaluate any such standard level to determine the level designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, as required under EPCA.[11] DOE noted that the recommended method for determining the denominator relies on the hydraulic horsepower of the rated circulator pump, which was also discussed in the December 2021 NOPR. 86 FR 72096, 72106–72107.

DOE requested comment on its proposal to adopt CEI as the metric to characterize the energy use of certain circulator pumps and on the proposed equation for CEI. *Id.* at 86 FR 72107.

HI, Grundfos, NEEA, and NYSERDA supported adoption of CEI. (HI, No. 9 at p. 5; Grundfos, No. 7 at p. 2; NEEA, No. 11 at p. 2; NYSERDA, No. 6 at p. 2) NYSERDA noted that CEI is consistent with HI 41.5–2021, developed by CPWG members based on the approved CPWG term sheet, and supported by a variety of stakeholders. (NYSERDA, No. 6 at p. 2) DOE notes that HI 41.5–2022 has the same definition of CEI as HI 41.5–2021.

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, in this final rule, DOE adopts CEI as the metric to characterize the energy use of circulator pumps and the equation for CEI as proposed in the December 2021 NOPR.

D. Test Methods for Different Circulator Pump Categories and Control Varieties

In the December 2021 NOPR, DOE stated that many circulator pumps are sold with a variable speed drive and controls (*i.e.,* logic or user interface) with various control strategies that reduce the required power input at a given flow rate to save energy. The primary varieties of control recommended by the CPWG include manual speed controls, pressure controls, temperature controls, and external input signal controls. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendations #4 at p. 4) For the test procedure to produce results that reflect variations in energy consumption associated with the various control strategies that could be implemented in a circulator pump, the CPWG recommended that DOE establish different test methods for each control variety in the circulator test procedure. 86 FR 72096, 72107; (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendations #6A and #6B at pp. 4–6).

Section III.D.1 discusses DOE's definitions for each of these circulator pump control varieties.

Section III.D.2 discusses the reference system curve that serves as a basis for rating each variety of circulator pump controls.

Sections III.D.3 through III.D.7 discuss the specific test provisions for pressure controls, temperature controls, manual speed controls, external input signal controls, and no controls,[12] respectively.

In response to the December 2021 NOPR, NEEA stated that they agreed with the proposed procedures for specific circulator types and control methods. (NEEA, No.11 at p. 2) Joint Advocates stated that they support the use of unique test point weights for different control types. (Joint Advocates, No. 8 at p. 1)

In the December 2021 NOPR, DOE considered incorporating HI 41.5–2021, ''Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program,'' which provides additional instructions for testing circulator pumps to determine an Energy Rating value for different circulator pump control varieties. DOE tentatively determined not to directly incorporate HI 41.5–2021. Unlike HI 40.6–2021, which is an industry test standard, HI 41.5–2021 is a guideline for participation in an industry program and includes many provisions not relevant to DOE. However, DOE preliminarily determined that its proposed test methods and calculations that supplement the proposed incorporation by reference of HI 40.6–2021, as discussed in sections III.D and III.E.2.c of this document, were consistent with HI 41.5–2021. 86 FR 72096, 72099.

In response to the December 2021 NOPR, HI requested that DOE incorporate by reference appropriate sections of HI 41.5–2021, instead of restating the requirements in the test procedure, noting support from additional stakeholders in response to the May 2021 RFI. (HI, No. 9 at p. 1) HI stated that this will reduce testing burden by eliminating confusion between DOE's test procedure and HI's standard and will significantly simplify and shorten the regulatory text language in appendix D. HI stated that many of DOE's requests for comment in the December 2021 NOPR were fully covered by HI 41.5, and slight changes by DOE could cause confusion in the market while not being beneficial to energy efficiency. (HI, No. 9 at pp. 1–2). HI did not recommend that DOE incorporate by reference HI 41.5 in full, but rather that DOE incorporate a table summarizing the appropriate Section of HI 41.5–2021 for each control method, and by referencing the appropriate Section of HI 41.5–2021 in each applicable section of the regulatory text. (HI, No. 9 at pp. 2–3).

Grundfos stated that DOE should incorporate HI 41.5–2021, Table 41.5.3 into appendix D, similar to Table 1 in appendix A, to clarify what testing is required based on the control method(s) of a circulator pump and to directly reference HI 41.5–2021 for testing

[11] For more information on any energy conservation standard rulemaking for circulator pumps, see Docket No. EERE–2016–BT–STD–0004.

[12] In this document, circulator pumps with ''no controls'' are also inclusive of other potential control varieties that are not one of the specifically identified control varieties. *See* section III.D.7 of this document.

procedures instead of recreating the language within the test procedure itself. (Grundfos, No .7 at p. 7)

NEEA also disagreed that DOE is not able to adopt HI 41.5–2021 directly. NEEA stated that while HI 41.5–2021 is a rating guide for HI's Energy Rating program for circulators, it also contains the necessary test provisions for circulators and is identical to the test procedure DOE proposed. As such, NEEA found this proposal in the December 2021 NOPR to be confusing and burdensome for manufacturers and the market, as manufacturers have invested in testing and rating circulators according to HI 41.5–2021 and labeling equipment accordingly. NEEA noted that if there are minor difference between DOE's proposal and HI 41.5–2021, retesting might be required to ensure compliance without substantively affecting the efficiency of the equipment or the overall test result. NEEA stated that it would be more simple and less confusing to have just one test procedure for CEI. NEEA recommended that DOE reference the appropriate sections in HI 41.5–2021, rather than writing each section out in full. (NEEA, No. 11 at pp. 2–3) NEEA's suggestions for references are consistent with those provided by HI.

Following publication of the December 2021 NOPR, HI released a new version of HI 41.5, HI 41.5–2022 ''Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program''. In this version of the industry guideline, HI corrected errors in certain test methods, provided additional specificity regarding certain provisions, and removed provisions specific to the HI Energy Rating program. These changes are discussed in the following subsections. Having considered comments suggesting that adding additional regulatory text would be confusing and burdensome, and due to the changes made in HI 41.5–2022, DOE is incorporating by reference HI 41.5–2022, adopting only sections specific to the test methods for control modes as requested by stakeholders. This limitation of the reference addresses DOE's concerns about the inclusion of provisions not relevant to DOE.

In the December 2021 NOPR, DOE proposed that manufacturers could select the control variety used for testing if the circulator pump model is distributed in commerce with multiple control varieties, which DOE expected would typically be the least consumptive control mode. However, DOE proposed that manufacturers may select multiple control varieties with which to test their circulator pumps and noted that DOE would address certification requirements in any future energy conservation standard rulemaking.[13] DOE requested comment on this proposal. 86 FR 72096, 72108.

Joint Advocates stated that when given the option to choose a control variety for rating, it is expected that most manufacturers would choose the least consumptive control curve, so in practicality there would be little difference between the ''manufacturer-selected'' and the ''least-consumptive'' control methods. Joint Advocates stated that requiring additional reporting of ratings representing the ''most-consumptive'' control method may encourage adoption of energy efficient options and would better inform purchases. (Joint Advocates, No. 8 at p. 3)

Joint Advocates and CA IOUs noted that the HI labeling program requires testing of the most and least consumptive control modes. (Joint Advocates, No. 8 at p. 3; CA IOUs, No. 10 at p. 1) CA IOUs added that manufacturers are intended to compete primarily on the least consumptive control mode, that most manufacturers are participating, and that therefore manufacturers will have test data in hand for both most and least consumptive control modes. (CA IOUs, No. 10 at pp. 1–2)

CA IOUs agreed with DOE's reasoning that the least consumptive control mode is where the products are most easily differentiated from each other and is representative of the circulator product performance in the field under a variety of scenarios. CA IOUs noted that there would be no need for DOE to specify least consumptive prescriptively and supported the proposal that manufacturers select the control mode to be tested. (CA IOUs, No. 10 at p. 2)

CA IOUs recommend that DOE require reporting of the most consumptive product performance values and reporting of the control type used for certification rating (*i.e.,* least consumptive). CA IOUs noted that the most consumptive control mode data is a direct indication of product mechanical performance at the CEI rating load points, unlike the least consumptive mode which also assesses the control system's performance. (*Id.*) CA IOUs also noted that the control scheme used can have a considerable influence on the results of the CEI rating at the least consumptive control method, so the CA IOUS recommended that control scheme used as part of rating should be reported in a supplemental information field. CA IOUs recommended that adaptive pressure controls have a unique control classification as part of the rating. (*Id.*)

NEEA recommended that DOE require testing in the most consumptive control strategy, likely full speed, and set the performance standard at efficiency level (''EL'') 1.5 (*i.e.,* a nominally lower efficiency level than the EL2 recommended by the CPWG). NEEA stated that the intent of a DOE standard and the CPWG recommendation is to raise the performance of all circulators in commerce to a minimum threshold, which should be one to be powered by electrically commutated (''EC'') motors. NEEA stated that the proposed test procedure requires circulators to be capable of reaching the required efficiency level but allows equipment to operate below the rated efficiency when installed. NEEA stated that this approach is not an appropriate regulatory mechanism nor is it representative of how circulators are operated in the market. Therefore, NEEA recommended testing in the most consumptive control strategy. (NEEA, No. 11 at p. 2) NEEA added that non-guaranteed performance would discourage utility circulator energy conservation programs. (NEEA, No. 11 at p. 7) NEEA stated that a DOE standard based on the most consumptive control setting creates a baseline above which utilities can incentivize increased performance, such as using the least consumptive control setting. (NEEA, No. 11 at p. 9)

NEEA stated that it believed the CPWG intent was for all circulator pumps sold in commerce to be equipped with either an EC motor or advanced controls. NEEA stated that by using least consumptive as the standard, installers would have the option to choose between controls that meet DOE's standard and controls that do not. NEEA stated that it did not believe that the least consumptive setting available is representative of how circulators with multiple control strategies will be installed, and that at this time information on what is representative is not available (NEEA, No. 11 at p. 6)

NEEA commented that not all EC motors meet EL 2 (the level recommended by the CPWG), and as such EL 1.5 might be appropriate when paired with a most consumptive requirement (which would tend to produce lower ratings for a given circulator pump model). NEEA stated that if DOE allows manufacturers to choose the control setting, then EL2 is appropriate. (NEEA, No. 11 at p. 7) NEEA stated that testing in the most consumptive setting and using EL 1.5 as

[13] For more information on any energy conservation standard rulemaking for circulator pumps, see Docket No. EERE–2016–BT–STD–0004.

the standard allows DOE to increase the standard in future circulator rulemakings, which would be difficult based on least consumptive settings. (NEEA, No .11 at p. 9)

NEEA also recommended that DOE allow manufacturers to test in another control setting of their choosing to represent the range of efficiency available in a product to the market, and that the CEI of the most consumptive control strategy and any other CEI be reported to DOE and included on the circulator nameplate. (NEEA, No. 11 at p. 6) NEEA stated that multiple ratings would support the market in adopting energy efficient options and technologies beyond the minimum threshold set by the standard. NEEA noted that manufacturers already support testing in most consumptive control setting through the HI Energy Rating program. (NEEA, No. 11 at p. 8)

HI stated that, for DOE compliance, the manufacturer should be able to select any control mode that results in a compliant rating. (HI, No. 9 at p. 4) Grundfos agreed that the manufacturer should be allowed to select the control method tested. However, Grundfos stated that reporting of the control method used, and the actual parameters of the testing need to be addressed in detail in the circulator efficiency standard. Grundfos gave as an example, where a user can adjust setpoints for maximizing their system, this should be detailed in reporting to DOE, so repeatability of testing is possible. (Grundfos, No. 7 at p. 2)

DOE is adopting provisions in section 2.2 of appendix D to allow manufacturers to use the DOE test procedure to test any control variety available on a given circulator pump model, as proposed in the December 2021 NOPR. In response to NEEA's recommendation that DOE require testing in the most consumptive control strategy, DOE notes that circulator pumps may be sold with multiple control varieties, and DOE has determined that consumers may benefit from having access to CEI ratings at full speed and with various control options. Whether compliance with any standard established, should energy conservation standards be established, would be based on a specific control mode (or no controls), or whether certain information related to the control mode used for testing would be required as part of certification, would be addressed in an energy conservation standard rulemaking.

1. Definitions Related to Circulator Pump Control Varieties

In the December 2021 NOPR, DOE proposed to define external input signal control, manual speed control, pressure control, and temperature control as recommended by the CPWG and consistent with HI 41.5–2021:

- *Manual speed control* means a control (variable speed drive and user interface) that adjusts the speed of a driver based on manual user input.
- *Pressure control* means a control (variable speed drive and integrated logic) that automatically adjusts the speed of the driver in response to pressure.
- *Temperature control* means a control (variable speed drive and integrated logic) that automatically adjusts the speed of the driver continuously over the driver operating speed range in response to temperature.
- *External input signal control* means a variable speed drive that adjusts the speed of the driver in response to an input signal from an external logic and/or user interface.

86 FR 72096, 72108–72109.

DOE also proposed to define adaptive pressure control as follows:

> *Adaptive pressure control* means a pressure control that continuously senses the head requirements in the system in which it is installed and adjusts the control curve of the pump accordingly.
>
> DOE requested comment on this definition. 86 FR 72096, 72109.

In response, HI suggested modifications to the proposed definition and stated that adaptive pressure control pumps do not always operate continuously. HI proposed the following definition:

Adaptive pressure control means a pressure control that senses the head requirements in the system in which it is installed and adjusts the pump control curve accordingly.

(HI, No. 9 at p. 4)

Grundfos agreed with the suggested modification detailed by HI. (Grundfos, No. 7 at p. 2)

In this final rule, for the reasons discussed in the December 2021 NOPR, DOE adopts the definitions for external input signal control, manual speed control, pressure control, and temperature control as proposed in the December 2021 NOPR. For the reasons discussed in the NOPR, and in order to capture controls that do not always operate continuously, as identified by HI and Grundfos, DOE is adopting the definition for adaptive pressure control as recommended by HI and Grundfos.

2. Reference System Curve

In the December 2021 NOPR, DOE stated that all recommended test methods for circulator pump control varieties, which involve variable speed control of the circulator pump, specify test points with respect to a representative system curve. 86 FR 72096, 72109. That is, for circulator pumps with manual speed controls, pressure controls, temperature controls, or external input signal controls, a reference system curve is implemented to be representative of the speed reduction that is possible in a typical system to provide representative results. *Id.* For circulator pumps with no controls, no reference system is required as measurements are taken at various test points along a pump curve at maximum speed only. *Id.*

Such a reference system curve describes the relationship between the head and the flow at each test point in a typical system. Additionally, a reference system curve that is representative of a typical system in which circulator pumps are installed may also allow for the differentiation of control varieties to be reflected in the resulting ratings. DOE proposed to incorporate a quadratic reference system curve as recommended by the CPWG and consistent with HI 41.5–2021, which includes this reference curve in each of the individual control test methods (sections 41.5.3.4.2 #3d, 41.5.3.4.3 #2, 41.5.3.4.4.1 #2, 41.5.3.4.4.2 #2, and 41.5.3.4.5 #2d). *Id.* The proposed reference system curve intersects the BEP and has a static offset of 20 percent of BEP head, as shown in equation (2).

$$H = \left[0.8 * \left(\frac{Q}{Q_{100\%}}\right)^2 + 0.2\right] * \mathrm{H}_{100\%} \quad \textbf{(2)}$$

Where:

H = the pump total head (ft),
Q = the flow rate (gpm),
$Q_{100\%}$ = flow rate at 100 percent of BEP flow (gpm), and
$H_{100\%}$ = pump total head at 100 percent of BEP flow (ft).

86 FR 72096, 72109–72110.

DOE received no comments on the proposed reference system curve. As noted in section II, DOE is incorporating by reference sections of HI 41.5–2022 for each control mode test method, which include the reference curve equation, and is the same as HI–41.5–2021. As such, DOE is adopting the proposed reference curve through reference to HI 41.5–2022 and is not establishing an additional section in its test procedure specifying the reference curve as applicable to all test methods.

As such, DOE adopts the curve as described in Equation 2 and proposed in the December 2021 NOPR. Pressure Control.

In the December 2021 NOPR, DOE proposed a test method for circulator pumps with pressure controls consistent with the method included in HI 41.5–2021 and deviating from that proposed by the CPWG. 86 FR 72096, 72111–72112. Specifically, DOE proposed that circulator pumps with pressure controls be tested at test points of 25, 50, 75, and 100 percent of BEP flow based on a manufacturer-selected control curve that is available to the end user, must produce a head equal to or greater than 25 percent of BEP head at a minimum of one test point, and must achieve 100 percent BEP flow of the reference curve. *Id.* at 86 FR 72112. DOE proposed that such the test points may be obtained based on automatic speed adjustment, manual speed adjustment, or simulated pressure signal, or a combination of these adjustments, including throttling. *Id.* Additionally, DOE proposed that the CEI for circulator pumps with pressure controls be calculated with the unique weights and test points as shown in equation (3):

$$CER = \sum_{i} \omega_i \left(P_{in,i} \right) \quad \textbf{(3)}$$

Where:

CER = circulator pump energy rating (hp);
w_i = weight of 0.05, 0.40, 0.40, and 0.15 at test points of 25, 50, 75, and 100 percent of BEP flow, respectively;
$P_{in,i}$ = power input to the driver at each test point i (hp); and
i = test point(s), defined as 25, 50, 75, and 100 percent of the flow at BEP.

Id. at 86 FR 72110.

Additionally, in a deviation from CPWG recommendations and based on stakeholder comments on the May 2021 RFI and the contents of HI 41.5–2021, DOE stated that it agreed with commenters that it is important for the test method to capture the variety of pressure controls on the market, and that correction back to the reference curve would prevent any unfair advantage among the variety of controls on the market. *Id.* at 86 FR 72112. DOE requested comment on the proposed test method for circulator pumps with pressure controls. *Id.*

Joint Advocates supported the proposed update, consistent with HI 41.5–2021, relating to pressure control system test points, stating that they understand that many programmed control curves were not testable under the older methodology because the control systems of some circulator pumps may operate at head pressures below the reference curve provided in HI 41.5–2018. Referring to the proposed update and the contents of HI 41.5–2021, Joint Advocates added that they understand that the power correction back to the reference curve assumes a constant pump efficiency, is valid, and does not give an arbitrary advantage to products using this assumption. (Joint Advocates, No. 8 at p. 2) Grundfos stated that DOE should not recreate language from HI 41.5 and instead point to HI 41.5.3.4.2 for testing circulator pumps with pressure controls. (Grundfos, No. 7 at p. 2)

In the December 2021 NOPR, DOE stated that it was aware of some circulator pumps that are equipped with user-adjustable pressure controls such that the maximum and minimum head values on the control curve can be set to specifically match the system into which the pump is being installed. 86 FR 72096, 72112. DOE's interpretation of HI 41.5–2021 was that these types of controls are not addressed in the industry standard. To test such controls, DOE proposed that the maximum and minimum head values on user-adjustable pressure controls may be adjusted, if possible, to coincide with a maximum head value at the pump's BEP and a minimum head value equivalent to 20 percent of the BEP head value (consistent with the static offset of the proposed reference system curve). *Id.* If only the maximum or minimum head value can be adjusted, DOE proposed that only the adjustable setting would be adjusted. In either case, DOE also proposed that the settings can be adjusted for testing only if they are adjustable by the user. *Id.* DOE stated that this proposed methodology would result in the most representative performance of such adjustable controls by preventing the testing of specifically tuned control options that would not be representative of likely field performance. *Id.* DOE noted that further adjustment to attain 100 percent of BEP head would be required. *Id.*

In summary, for adjustable pressure controls with user-adjustable maximum and/or minimum head values, DOE proposed to allow one-time manual adjustment of the maximum and/or minimum control curve head values, as applicable, to coincide with a maximum head value at the pump's BEP and a minimum head value equivalent to 20 percent of the BEP head value with all subsequent test points taken along the adjusted control curve. DOE requested comment on whether specific test provisions for circulator pumps equipped with user-adjustable pressure controls are needed, and if so, on the proposed provisions for such pumps. *Id.*

Joint Advocates supported DOE's approach to testing user-adjustable controls, noting that DOE's interpretation of HI 41.5–2021 is that these controls are not addressed in the industry standard. Joint Advocates stated that, importantly, DOE's proposal states that settings can only be adjusted for testing if they are adjustable by the user, which would prevent testing of specifically tuned control options that are not representative. (Joint Advocates, No. 8 at pp. 2–3)

HI and Grundfos stated that circulator pumps with user-adjustable pressure controls are addressed in HI 41.5–2021 in section 41.5.3.4.2 and should be tested accordingly. (HI, No. 9 at pp. 4–5; Grundfos, No. 7 at p. 2) HI noted that no special provisions or alternative test

methods are needed. (HI, No. 9 at p. 5) Grundfos added that DOE should properly collect this adjustment data through reporting for repeatable testing. (Grundfos, No. 7 at p. 2)

Upon review of HI 41.5–2021, DOE finds that its proposals in the December 2021 NOPR related to adjustable pressure controls are a more specific implementation of the requirements for pressure controls in section 41.5.3.4.2 #3. Specifically, user-adjustable controls allow the user to create a control curve, and the control curve created by adjusting the maximum and/or minimum head values must be available to the end user, produce a head equal to or greater than 25 percent of BEP head at a minimum of one test point, and achieve 100 percent BEP flow of the reference curve. While DOE's proposal has more specificity that could increase repeatability, DOE notes that all of DOE's proposed test methods for the various speed control varieties, as well as the methods in HI 41.5–2022, allow some discretion by the manufacturer with regard to exactly which settings to use. As such, DOE is not adopting its proposal specific to user-adjustable controls, and, in response to Grundfos, DOE will address certification reporting requirements related to control curve settings in a separate rulemaking.

In the December 2021 NOPR, DOE stated that adaptive pressure controls are installed in similar applications as pressure controls but can also be effective at reducing the head and flow provided in single-zone systems to adjust for typical pump oversizing. Also, due to the ability of adaptive pressure controls to measure and automatically adjust to the system requirements over time, adaptive pressure controls can result in optimized performance and energy use as compared to pressure-based controls. 86 FR 72096, 72112.

Consistent with HI 41.5–2021, for adaptive pressure controls, DOE proposed to test at each test point at the minimum thresholds for head noted in the manufacturer literature or the head values specified along the reference system curve, whichever is greater. In addition, although not included in HI 41.5–2021, DOE also proposed that if the pump does not have a manual control mode available, the speed would be adjusted based on the pressure control mode with the lowest head at each load point, and if the selected pressure control results in a head value below the reference system curve, the pump would be throttled to achieve a head value at or above the reference system curve. 86 FR 72096, 72114.

DOE requested comment on the proposed test methods for circulator pumps with adaptive pressure controls, and, in particular, on the proposed provisions not included in HI 41.5–2021, including for pumps without a manual control mode, whether throttling should be allowed to achieve head above the reference system curve, or instead head should be allowed below the reference system curve and adjusted back to the curve, as with other non-adaptive pressure controls. DOE also requested comment on the HI 41.5–2021 provision for manual adjustment to achieve 100 percent BEP flow and head point at max speed, which is not included for other pressure controls. *Id.*

Joint Advocates supported the proposed test methodology for adaptive pressure controls as a reasonable approach, while encouraging DOE in the future to gather field data related to real-world operating points. (Joint Advocates, No. 8 at p. 2)

HI and Grundfos stated that HI 41.5–2021 treats adaptive pressure controls with the same methodology as all pressure controls, and that section 41.5.3.4.2 #4 is a subset of the pressure testing methodology and not a standalone test methodology. (HI, No. 9 at p. 5; Grundfos, No. 7 at p. 2) HI added that it would be rare that the circulator BEP would be outside of the adaptive controls operating area, so the difference between throttling and adjusting back to the curve would not be an issue, unless the BEP is outside the control area. HI stated that a pump without manual speed adjustment would still allow use of a throttling equivalent (as noted in section 41.5.3.4.2 #2b) to get back to the BEP flow, which can then be corrected back to BEP on the reference curve. (HI, No. 9 at p. 5)

In response to HI and Grundfos, DOE notes that HI 41.5–2021 contained discrepancies with regard to the methodology in section 41.5.3.4.2 #4 (adaptive pressure controls) compared to #2 and #3 (all pressure controls). Specifically, #4 only allows manual speed adjustment, while #2 also allows throttling and simulated pressure signal. In addition, #4 requires head values to be above the reference curve, while #3 does not require this. In the recent publication of HI 41.5–2022, HI included several updated to section 41.5.3.4.2 that address DOE's proposals related to adaptive pressure controls, specifically removing the identified discrepancies, so that #4 now provides additional testing provisions for adaptive pressure controls, but not conflicting provisions. This update indicates that the provision requiring adaptive pressure controls to achieve head values at or above the reference curve was erroneous.

In addition, HI 41.5–2022 has moved the contents of section 41.5.3.4.2 #5, which discussed the choice and reporting of factory control curves specific to the HI Energy Rating Program, but not necessary for conduct of the test method, to a separate section of the guideline. As such, DOE will reference the entire section.

For these reasons, DOE is adopting the test method for pressure speed controls by referencing HI 41.5–2022 section 41.5.3.4.2. As noted, this test method contains some differences from the test method proposed by DOE in that it does not include specific provisions for user-adjustable controls, which DOE has determined are not necessary, and that it has revised the test method for adaptive pressure controls to be more consistent with the test method for pressure controls in general, while providing necessary additional specifications. The overall test method for pressure controls in HI 41.5–2022 section 41.5.3.4.2 in general is consistent with that proposed in the December 2021 NOPR. DOE has determined that the revised test method for adaptive pressure controls will produce representative results for such equipment and would not be unduly burdensome to conduct.

3. Temperature Control

Temperature controls are controls that automatically adjust the speed of the variable speed drive in the pump continuously over the operating speed range to respond to a change in temperature of the operating fluid in the system. Typically, temperature controls are designed to achieve a fixed temperature differential between the supply and return lines and adjust the flow rate through the system by adjusting the speed to achieve the specified temperature differential. Similar to pressure controls, temperature controls are also designed primarily for hydronic heating applications. However, temperature controls may be installed in single- or multi-zone systems and will optimize the circulator pump's operating speed to provide the necessary flow rate based on the heat load in each zone. Unlike pressure controls, there are no minimum head requirements inherent to the temperature control, so temperature controls have the potential to use the least amount energy to serve a given load. 86 FR 72096, 72114.

The CPWG recommended that for circulator pumps distributed in commerce with temperature controls, PER_{CIRC} should be calculated in the

same way and with the same weights as for pressure controls, as shown in equation (4). (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #6A at pp. 4–5)

In the December 2021 NOPR, DOE tentatively determined that the CPWG recommendation for temperature controls would allow for temperature controls to be tested in a way that captures the potential energy savings from this control variety without being overly burdensome for manufacturers to conduct. Therefore, DOE proposed to adopt the recommendations of the CPWG to test temperature controls based on manual speed adjustment or with simulated temperature signal to activate the temperature-based control to achieve the test point flow rates with a head at or above the reference system curve. Additionally, DOE proposed to use the weights and test points shown in equation (4) of the December 2021 NOPR (equation (3) in this final rule) for circulator pumps distributed in commerce with temperature controls. DOE requested comment on the proposed test methods, test points, and weights for circulator pumps with temperature controls. 86 FR 72096, 72115.

Joint Advocates supported testing of temperature controls as recommended by the CPWG. (Joint Advocates, No. 8 at p. 1) HI agreed with the proposed testing of temperature controls but noted that the terminology in the equations should be updated to reflect CEI and CER. (HI, No. 9 at p. 6) Grundfos agreed with the temperature control testing but stated that DOE should directly reference HI 41.5.3.4.3 instead of recreating this language within the test procedure. (Grundfos, No. 7 at p. 3)

In response to HI, DOE notes that the regulatory text proposed in section V.C of appendix D reflected CER terminology. 86 FR 72096, 72144. This proposed regulatory text, which DOE based on the test procedure from HI 41.5–2021, is consistent with the content of HI 41.5–2022. DOE adopts the test method for temperature controls as proposed, but instead of including regulatory text, DOE is referencing HI 41.5–2022 section 41.5.3.4.3, as requested by stakeholders. This section is consistent with the regulatory text proposed in the NOPR, and as such does not representative a substantive change.

4. Manual Speed Control

In the December 2021 NOPR, DOE proposed to test circulator pumps with manual speed controls consistent with the provisions in Section 41.5.3.4.5 of HI 41.5–2021, as follows: (1) the tested control must produce head equal to or greater than 25 percent of BEP head at a minimum of one test point (HI 41.5–2021 section 41.5.3.4.5 #2a), and (2) the control curve setting being evaluated must achieve 100 percent BEP flow of the reference curve (HI 41.5–2021 section 41.5.3.4.5 #2b). DOE also proposed that the CER be calculated as the weighted average of $P_{in,max}$ and $P_{in,reduced}$, as shown in equations (5), (6), and (7):

$$CER = z_{max}\left(P_{in_{max}}\right) + z_{reduced}\left(P_{in_{reduced}}\right) \quad \textbf{(5)}$$

Where:

CER = circulator pump energy rating (hp);
z_{max} = speed factor weight of 0.75;
$z_{reduced}$ = speed factor weight of 0.25; and
P_{in_max} = weighted average input power at maximum rotating speed of the circulator (hp), as specified in equation (6);
$P_{in\_reduced}$ = weighted average input power at reduced rotating speed of the circulator (hp), as specified in equation (7).

$$P_{in_{max}} = \sum_{i} \omega_{i_{max}}\left(P_{in,i_{max}}\right) \quad \textbf{(6)}$$

Where:

P_{in_max} = weighted average input power at maximum speed of the circulator (hp);
w_{i_max} = 0.25;
P_{in,i_max} = power input to the driver at maximum rotating speed of the circulator pump at each test point i (hp); and
i = test point(s), defined as 25, 50, 75, and 100 percent of the flow at BEP.

$$P_{in_{reduced}} = \sum_{i} \omega_{i_{reduced}}\left(P_{in,i_{reduced}}\right) \quad \textbf{(7)}$$

Where:

$P_{in\_reduced}$ = weighted average input power at reduced speeds of the circulator (hp);
$w_{i\_reduced}$ = 0.3333;
$P_{in,i\_reduced}$ = power input to the driver at reduced rotating speed of the circulator pump at each test point i (hp); and
i = test point(s), defined as 25, 50, and 75 percent of the flow at BEP of max speed.

86 FR 72096, 72115–72116.

Additionally, in a deviation from CPWG recommendations and based on stakeholder comments on the May 2021 RFI and the contents of HI 41.5–2021, DOE did not propose that all test points

on a control curve must exist above the reference curve. DOE noted that HI 41.5–2021 section 41.5.3.4.5 #3 still retained that provision, which DOE assumed to be an error based on HI's comments and recommendations in response to the May 2021 RFI. 86 FR 72096, 72116.

DOE tentatively determined that the proposed test methods for manual speed control circulator pumps are appropriate and representative, as they account for the likelihood that a circulator pump with manual speed controls will be installed and operated at maximum speed, but also accounts for the potential energy savings associated with reduced speed operation. 86 FR 72096, 72116. DOE requested comment on the proposed test method and the unique test points, weights, and speed factors for circulator pumps distributed in commerce with manual speed controls. *Id.* at 86 FR 72117.

Grundfos continued to state, as it did in response to the May 2021 RFI, that manual speed control should not be a separate test method, as the devices are typically operated 75 percent of the time at full speed, and a manufacturer could benefit by adding alternate speeds that are never used. Grundfos suggested that if manual speed testing is maintained, a CEI value should be required for each setting available to consumers so that consumers can understand the true efficiency. (Grundfos, No. 7 at p. 3)

As discussed in the December 2021 NOPR, the CPWG addressed the issues raised by Grundfos in discussing how the test points at maximum speed were designed to represent the performance at maximum speed and account for operation at maximum speed the majority of the time, while the test points at reduced speed allowed some ''credit'' for being able to reduce speed. 86 FR 72096, 72116; (Docket No. EERE–2016–BT–STD–0004, No. 70 at p. 201–202) The CPWG concluded that about 75 percent of the time, circulator pumps with manual speed controls are operated at maximum speed, as reflected in its recommended procedure. (Docket No. EERE–2016–BT–STD–0004, No. 71 at p. 377) For these reasons, DOE proposed to include manual speed control as a test method in the circulator pump test procedure. 86 FR 72096, 72116. Grundfos did not add additional information in their comment in response to the December 2021 NOPR, and as such DOE is adopting a test method for circulator pumps with manual speed control in this final rule. DOE will address Grundfos' suggestion for CEI ratings for multiple settings in a separate certification rulemaking.

Joint Advocates supported testing manual controls with test point weightings as recommended by the CPWG and using updated testing methodology consistent with HI 41.5–2021, for the same reasons discussed for pressure controls. (Joint Advocates, No. 8 at p. 1–2) HI supported the proposed testing for manual controls but noted that the terminology in the equations should be updated to reflect CEI and CER. (HI, No. 9 at p. 6) Grundfos stated that DOE should directly reference HI 41.5.3.4.5, instead of recreating this language within the test procedure. (Grundfos, No. 7 at p. 3)

In the December 2021 NOPR, DOE noted that HI 41.5–2021 section 41.5.3.4.5 #3 includes a provision for head to be at or above the reference curve, as originally recommended by the CPWG, which DOE assumed to be an error based on HI's comments and recommendations in response to the May 2020 RFI. DOE also noted that the introductory text of HI 41.5–2021 section 41.5.3.4.5 specifies that the test method applies to manual speed control, which can be operated without an external input signal, but DOE stated it believed this provision is superfluous as manual speed controls by definition do not require an external input signal. 86 FR 72096, 72116–72117. DOE did not include these provisions in its proposed test method for manual speed control. DOE did not receive comments specifically related to these issues, but in the recent publication of HI 41.5–2022, the provisions that DOE assumed to be erroneous have been removed. In response to HI's comments, the proposed regulatory text regarding the manual speed control test method did reflect CEI and CER; HI 41.5–2022 also reflects this terminology.

DOE also notes that in the proposed regulatory text for manual speed controls, DOE proposed that the control curve must be available to the end user. 86 FR 72096, 72142. This provision was not specified in HI 41.5–2021 but has been added to HI 41.5–2022. DOE has determined that this requirement will improve the representativeness of CEI ratings for circulator pumps with manual speed controls as it will prevent manufacturers from rating with speeds that cannot be used in the field. The remainder of the provisions in HI 41.5–2022 section 41.5.3.4.5 are consistent with DOE's proposals and with HI 41.5–2021.

For these reasons, DOE adopts the test method for manual speed control as proposed in the NOPR but is referencing HI 41.5–2022 section 41.5.3.4.5 instead of including regulatory text. This section is consistent with the regulatory text proposed in the NOPR, and as such does not representative a substantive change.

5. External Input Signal Control

In the December 2021 NOPR, DOE proposed to specify a test method for circulator pumps sold only with external input signal control and that cannot operate without an external input signal. 86 FR 72096, 72118. Specifically, DOE proposed to test along the reference system curve to achieve the test point flow rates with a head at or above the reference curve, and that CEI would be calculated as shown in equation (2) of the December 2021 NOPR (equation (1) in this final rule). *Id.* DOE also proposed that the speed of the pump could be adjusted using either manual speed adjustment or with a simulated external signal to achieve the specified flow rates. *Id.* at 86 FR 72141.

DOE also proposed to test circulator pumps sold with external input signal controls along with other controls, or which can be operated without an external input signal control, both: (1) along the maximum speed circulator pump curve to achieve the test point flow rates for the max speed input power values and (2) with speed adjustment that will achieve a head at or above the reference system curve at the test point flow rates for the reduced speed input power values. DOE proposed that in either case, either manual speed adjustment or simulated external input signal can be used to achieve the relevant flow rates. DOE did not propose that the speed adjustment include the ''lowest speed setting'' that results in a head value at or above the reference system curve, as recommended by the CPWG; however, DOE addressed this issue in its enforcement provision proposals. Finally, DOE proposed that the CEI should be calculated as the weighted average of $P_{in,max}$ and $P_{in,reduced}$, as shown in equations (8), (9), and (10).

$$CER = z_{max}(P_{in_{max}}) + z_{reduced}(P_{in_{reduced}})$$

(8)

Where:

CER = circulator pump energy rating (hp);
z_{max} = speed factor weight of 0.30;
P_{in_max} = weighted average input power at maximum rotating speed of the circulator pump (hp);
$z_{reduced}$ = speed factor weight of 0.70; and
$P_{in\_reduced}$ = weighted average input power at reduced rotating speed of the circulator (hp).

$$P_{in_{max}} = \sum_{i} \omega_{i_{max}}\left(P_{in,i_{max}}\right)$$

(9)

Where:

P_{in_max} = weighted average input power at maximum speed of the circulator (hp);
w_{i_max} = 0.25;
P_{in,i_max} = power input to the driver at maximum rotating speed of the circulator pump at each test point i (hp); and
i = test point(s), defined as 25, 50, 75, and 100 percent of the flow at BEP.

$$P_{in_{reduced}} = \sum_{i} \omega_{i_{reduced}}\left(P_{in,i_{reduced}}\right)$$

(10)

Where:

$P_{in\_reduced}$ = weighted average input power at reduced speeds of the circulator pump (hp);
$w_{i\_reduced}$ = 0.3333;
$P_{in,i\_reduced}$ = power input to the driver at reduced rotating speed of the circulator pump at each test point i (hp); and
i = test point(s), defined as 25, 50, and 75 percent of the flow at BEP of max speed and head values at or above the reference curve.

86 FR 72096, 72117–72118.

DOE requested comment on the proposed test method and the unique test points, weights, and speed factors for circulator pumps distributed in commerce with external input signal controls. 86 FR 72096, 72118. In particular, DOE requested comment on whether manual speed adjustment and/or simulated external input signal are appropriate for testing circulator pumps with external input signal only, as well as circulator pumps with external input signal in addition to other control varieties. *Id.* DOE also sought comment on whether it is necessary to reference the ''lowest speed setting'' when determining the appropriate test points. *Id.* Finally, DOE sought comment on whether the test points and weights for circulator pumps distributed in commerce with external input signal control in addition to other control varieties are appropriately reflective of their energy consumption in the field relative to other control varieties. *Id.*

In response, Grundfos stated that delta T and temperature control test methods should be combined.[14] Grundfos noted that the speed of the pump is the primary function determining efficiency, that both test methods control the pumps speed, as in both cases they simulate inputs to conduct testing and attempt to model the reference curve with those inputs, and therefore separate test requirements are not necessary. (Grundfos, No. 7 at p. 3).

DOE assumes that Grundfos is recommending that the test methods for temperature controls and external input signal controls be combined, as they suggested in response to the May 2021 RFI. (Grundfos, No. 113 at p. 4) As discussed in the December 2021 NOPR, the CPWG considered the category of external input signal controls as separate from temperature controls. Specifically, the CPWG noted that unlike pressure and temperature controls, for external input signal controls, the logic that defines how the circulator pump operating speed is selected in response to some measured variable (*e.g.,* temperature, pressure, or boiler fire rate) is not integral to the circulator as distributed in commerce. Instead, it is part of another control system, such as a building management system or a boiler control system. (Docket No. EERE–2016–BT–STD–0004, No. 72 at p. 83–84); 86 FR 72096, 72115.

DOE also noted that the test method recommended by the CPWG and in HI 41.5–2021 for circulator pumps with external input signal controls only and that cannot operate without an external signal control is the same as the test method for circulator pumps with temperature control. 86 FR 72096, 72115. However, the CPWG recommended, and HI 41.5–2021 included, a different test method for external input signal controls with other control varieties or that can be operated without external input signal control. *Id.* The CPWG asserted that if external input signal control is one of multiple options available on a circulator pump, or the pump is able to operate without an external input signal, it is less likely that the external input signal control option is going to be utilized since it requires external logic and equipment in order to operate properly. (Docket No. EERE–2016–BT–STD–0004, No. 72 at pp. 216–218, 229); 86 FR 72096, 72117. The CPWG recommended testing

[14] Delta T and temperature controls refer to the same type of control. As discussed in the next paragraph, DOE believes this is an error.

circulator pumps with external input signal controls similar to manual speed controls. (Docket No. EERE–2016–BT–STD–0004, No. 47 at p. 480); 86 FR 72096, 72117.

For these reasons, DOE proposed separate test methods for temperature controls, external input signal controls only (identical to the test method for temperature controls), and external input signal controls with other control varieties. 86 FR 72096, 72115.

In its response to the December 2021 NOPR, Grundfos has not introduced additional information beyond that provided in its May 2021 RFI comments that would contribute to DOE amending the test methods as proposed. (See Grundfos, No. 7 at p. 3)

HI agreed with the proposal in the NOPR, which they stated is incorporated within the appropriate testing sections of HI 41.5–2021. (HI, No. 9 at p. 6) Grundfos stated that DOE should directly reference HI 41.5–2021 sections 41.5.3.4.4.1 for external control only and 41.5.3.4.4.2 for external control with other control methods, instead of recreating the language within the test procedure. (Grundfos, No. 7 at p. 3)

HI stated that additional clarification for ''lowest speed setting'' is not necessary. (HI, No. 9 at p. 6) Grundfos also stated that adding ''lowest speed setting'' to the testing requirements is not required for repeatability and would put test points at or near the minus 5 percent region of flow. Grundfos stated that DOE testing should attempt to achieve a head/flow as close to the reference curve/test point as possible. (Grundfos, No. 7 at p. 3)

In the December 2021 NOPR, DOE noted that HI 41.5–2021 contained some discrepancies between the two external input signal control methods regarding testing with manual speed adjustment and/or simulated external input signal. 86 FR 72096, 72118. DOE proposed to allow both manual speed adjustment and simulated external input signal for both test methods. *Id* at 86 FR 72141.

No commenters responded to DOE's request regarding whether manual speed adjustment and/or simulated external input signal are appropriate for testing circulator pumps with external input signal only, as well as circulator pumps with external input signal in addition to other control varieties. However, in the recent publication of HI 41.5–2022, HI amended the test method to both allow manual speed adjustment and simulated external input signal, regardless of whether external input signal control is the only control mode, as proposed by DOE. The remainder of the provisions regarding external input signal controls are the same in HI 41.5–2022 as in HI 41.5–2021, and also consistent with DOE's proposals.

In response to the comments from HI and Grundfos, DOE is not adopting a reference to the ''lowest speed'' setting in the test method for external input control, consistent with the December 2021 NOPR proposal and HI 41.5–2022. DOE addresses enforcement testing in section III.F.2 of this document.

In this final rule, DOE is adopting the test methods for external input signal controls by referencing HI 41.5–2022 sections 41.5.3.4.4.1 and 41.5.3.4.4.2, rather than including regulatory text. The test methods in those sections of HI 41.5–2022 are consistent with that proposed by DOE and as such this does not represent a substantive change.

6. No Controls or Full Speed Test

In the December 2021 NOPR, consistent with the recommendations of the CPWG, DOE proposed to test circulator pumps without external input signal, manual, pressure, or temperature controls along the maximum speed circulator pump curve to achieve the test point flow rates. DOE agreed that since these circulator pumps with no controls are single-speed controls and only have a single speed, testing at maximum speed is representative of the typical operation of circulator pumps with no controls. Additionally, DOE proposed to use equation (11):

$$CER = \sum_{i} \omega_i \left(P_{in,i} \right) \quad \textbf{(11)}$$

Where:

CER = circulator pump energy rating (hp);

$w_i = 0.25$;

$P_{in,i}$ = power input to the driver at each test point i (hp); and

i = test point(s), defined as 25, 50, 75, and 100 percent of the flow at BEP.

86 FR 72096, 72119.

To provide regulatory clarity about which pumps must be rated using the ''no controls'' test method, but also accommodate the option for any pump to be rated using the ''no controls'' test method, DOE proposed to refer to this test method in the regulatory text as the test method for circulator pumps without external signal, manual, pressure, or temperature controls (*i.e.,* full speed test). DOE also proposed additional language in the scope section regarding this clarification. *Id.*

DOE requested comment on the proposed test method for circulator pumps distributed in commerce with no controls. *Id.*

HI agreed with the proposal for pumps with no controls and stated that DOE should incorporate by reference section 41.5.3.4.1 for ''Full speed or without pressure, temperature, external input signal or manual speed control.'' (HI, No. 9 at p. 6) Grundfos also agreed with the proposed test method and stated that DOE should reference HI 41.5–2021 section 41.5.3.4.1, use language consistent with HI 41.5, and name this test method ''Full speed.'' (Grundfos, No. 7 at p. 3)

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, DOE is adopting the proposed test method for circulator pumps without external input signal, manual, pressure, or temperature controls (full speed test) in this final rule. In response to HI and Grundfos, DOE is re-ordering the title of this test method to: ''Testing and Calculation of CER for Full Speed Test and for Circulator Pumps without External Input Signal, Manual, Pressure, or Temperature Controls.'' In addition, instead of including regulatory text, DOE is referencing HI 41.5–2022 section 41.5.3.4.1, which is identical to HI 41.5–2021 section 41.5.3.4.1, as requested by stakeholders. This section contains the same content as the NOPR proposal and does not represent a substantive change.

E. Determination of Circulator Pump Performance

In the December 2021 NOPR, DOE stated that as part of the September 2016 CPWG Recommendations, the CPWG recommended that all test points be tested on a wire-to-water basis, in accordance with HI 40.6–2014, with minor modifications. The CPWG also

recommended that if an updated version of HI 40.6 is published prior to publication of the test procedure final rule, DOE should review and incorporate the updated version. (Docket No. EERE–2016–BT–STD–0004, No. 58, Recommendation #10 at p. 8–9); 86 FR 24516, 24526. The CPWG also recommended several modifications related to frequency of data collection, BEP speed, electrical measurement equipment, relevant parameters at specific load points, power supply characteristics, and rounding of values for calculating and reporting purposes. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #10 at pp. 8–9). 86 FR 72096, 72119.

DOE noted that two updated versions of HI 40.6—HI 40.6–2016 and HI 40.6–2021—had been published since the CPWG meetings concluded. DOE proposed to incorporate by reference HI 40.6–2021, for measuring the performance of circulator pumps, noting the changes made from the previous version of HI 40.6–2014. DOE also stated that it was necessary to make several exceptions, modifications, and additions to this test procedure to ensure accuracy and repeatability of test measurements and that the test method produces results that reflect energy efficiency or energy use during a representative average use cycle without being unduly burdensome to conduct Additionally, DOE proposed specific procedures for calculating the CEI and rounding of values to ensure that the resultant ratings are determined in a consistent manner. 86 FR 72096, 72119. DOE discusses these proposals and their resulting requirements in the following subsections.

Section III.E.1 discusses HI 40.6–2021, the industry standard, which DOE is incorporating by reference, for measuring the performance of circulator pumps. DOE has determined that it is necessary to make several exceptions, modifications, and additions to this test procedure to ensure accuracy and repeatability of test measurements (sections III.E.2.a through III.E.2.c of this document) and that the test method produces results that reflect energy efficiency or energy use during a representative average use cycle without being unduly burdensome to conduct. Additionally, DOE adopts specific procedures for calculating the CEI and rounding of values to ensure that the resultant ratings are determined in a consistent manner (section III.E.2.d of this document).

1. Incorporation by Reference of HI 40.6–2021

In the December 2021 NOPR, DOE stated that it had reviewed HI 40.6–2021 and determined that the test methods contained within HI 40.6–2021 are generally consistent with HI 40.6–2014 and are sufficiently specific and reasonably designed to produce test results to determine a CEI that is representative of an average use cycle of applicable circulator pumps. Specifically, Table 40.6.2 of HI 40.6–2021, like HI 40.6–2014, defines and explains how to calculate driver power input,[15] volume per unit time,[16] pump total head,[17] and other relevant quantities, which are essential to determining the metric. 86 FR 72096, 72120.

HI 40.6–2021 also contains appropriate specifications regarding the scope of pumps covered by the test method, standard rating conditions, equipment specifications, uncertainty calculations, and tolerances. The electrical measurement specification and associated equipment specifications in Section C.4.3 of HI 40.6–2021 contain the relevant measurement specifications for certain non-energy metrics (*i.e.,* true root mean square ''RMS'' current, true RMS voltage, and real power) that manufacturers may choose to make representations about for each rated circulator pump. These specifications also describe the relevant measurements used in the calculation of true power factor (''PF'') at each applicable load point for each circulator pump control variety, a non-energy metric manufacturers may wish to use to make representations. In addition, HI 40.6–2021 contains a new appendix E with specific test instructions for circulator pumps. DOE noted that Section 41.5.3.1 of HI 41.5–2021 references Appendix E of HI 40.6–2021 as the test standard that governs measurements of all test points in the standard. DOE reviewed HI 40.6–2021 with respect to the minor modifications listed by the CPWG in Recommendation #10. DOE found that recommendations regarding frequency of data collection are included in section 40.6.5.5.1, and recommendations regarding electrical measurement equipment and power supply characteristics are included in section C.3.4.1 and Table 40.6.3.2.3. The recommendation regarding BEP speed—specifically, to test at max speed with no adjustment to nominal—is addressed in Appendix E of HI 40.6–2021, which excludes sections 40.6.5.5.2, 40.6.6.1, and 40.6.6.1.1, dealing with the specified speed of rotation and translation to that specified speed. The recommendations for relevant parameters at specific load points have been addressed in Appendix E of HI 40.6–2021 as well as HI 41.5–2021, with some modifications. *Id.*

After considering stakeholder comments on the May 2021 RFI, DOE proposed to incorporate HI 40.6–2021, inclusive of Appendix E, into the proposed appendix D to subpart Y, with the exceptions, modifications, and additions described elsewhere in the December 2021 NOPR. DOE requested comment on its proposal. 86 FR 72096, 72121.

HI agreed with incorporating HI 40.6–2021 by reference. In Appendix E of HI 40.6–2021, HI noted exception and modifications for testing of circulator pumps. (HI, No. 9 at p. 6) Grundfos agreed with incorporating HI 40.6–2021 as stated in the December 2021 NOPR. (Grundfos, No. 7 at p. 4)

For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, DOE is incorporating by referencing HI 40.6–2021, inclusive of Appendix E, into appendix D to subpart Y, with the exceptions, modifications, and additions described elsewhere in the document.

2. Exceptions, Modifications and Additions to HI 40.6–2021

In the December 2021 NOPR, DOE stated that, in general, DOE finds the test methods contained within HI 40.6–2021 are sufficiently specific and reasonably designed to produce test results to determine a CEI that is representative of average use cycle of applicable circulator pumps. However, only certain sections of HI 40.6–2021 are applicable to the proposed circulator pump test procedure. 86 FR 72096, 72121. In addition, DOE proposed certain exceptions, modifications, and additions to ensure test results are sufficiently repeatable and reproducible, addressed in the subsequent sections III.E.2.a through III.E.2.d of this document.

[15] The term ''driver or control power input'' in HI 40.6–2021 is defined as ''the power input to the driver or control;'' in the NOPR, DOE refers to ''driver power input'' as the power to either the motor or the controls, if present.

[16] The term ''volume per unit time'' in HI 40.6–2021 is defined as ''. . . the volume rate of flow in any given section . . . Also referred to as *flow, flow rate,* and *rate of flow.*''

[17] The term ''pump total head'' is defined in HI 40.6–2021 as ''the algebraic difference between the outlet total head and the inlet total head'' and is used synonymously with the term ''head'' in this document.

a. Applicability and Clarification of Certain Sections of HI 40.6–2021

In the December 2021 NOPR, DOE stated that although it is proposing to incorporate by reference HI 40.6–2021 as the basis for its test procedure, some sections of the standard are not applicable to the circulator pump test procedure, while other sections require additional specification regarding their applicability when conducting the circulator pump test procedure. *Id.*

DOE did not propose to adopt through reference section 40.6.4.1, ''Vertically suspended pumps,'' and section 40.6.4.2, ''Submersible pumps,'' of HI 40.6–2021 in the circulator pump test procedure because circulator pumps are IL pumps and are not vertical turbine or submersible pumps. As such, the test provisions applicable to vertical turbine and submersible pumps described in Section 40.6.4.1 and section 40.6.4.2 of HI 40.6–2021 would not apply to the circulator pump test procedure. *Id.*

Additionally, Section 40.6.5.5.2 of HI 40.6–2021, ''Speed of rotation during test,'' requires that the speed of rotation to establish flow rate, pump total head, and power input be within the range of 80 percent to 120 percent of the rated speed. However, in the proposed circulator pump test procedure, rated or nominal speeds are not relevant, as DOE did not propose that speed be measured as part of the test procedure. Similarly, section 40.6.6.1, ''Translation of test results to the specified speed of rotation,'' describes the method by which tested data can be translated to the rated speed of rotation for subsequent calculations and reporting purposes. As DOE did not propose that speed be measured as part of this circulator pump test procedure, translation of tested results based on speed is not necessary. As a result, DOE did not propose to adopt Sections 40.6.5.5.2 and 40.6.6.1 (including 40.6.6.1.1) of HI 40.6–2021. This is consistent with the exclusions for circulator pump testing in Appendix E of HI 40.6–2021. *Id.*

DOE also did not propose to adopt Section 40.6.5.3, ''Test report,'' which provides requirements regarding reporting of test results and Appendix B, ''Reporting of test results,'' that refers to DOE's existing reporting requirements at 10 CFR 429.59 for general pumps, both of which are not required for testing and rating circulator pumps in accordance with DOE's procedure. Specifically, the updated Appendix B references specific reporting requirements established in the general pumps test procedure, of which not all specifications are applicable to circulator pumps. DOE noted that it would propose specific certification and reporting requirements for circulator pumps as part of a separate rulemaking, should such standards be proposed.[18] *Id.*

Finally, DOE did not propose to adopt Appendix G, ''DOE compared to HI 40.6 nomenclature,'' which refers to nomenclature used by DOE in the general pumps test procedure (appendix A to subpart Y of 10 CFR part 431) and is not in all cases consistent with the terminology used in the proposed circulator pump test procedure. *Id.*

In summary, for the reasons stated previously, DOE did not propose to adopt Sections 40.6.4.1, 40.6.4.2, 40.6.5.3, 40.6.5.5.2, 40.6.6.1, 40.6.6.1.1, Appendix B, and Appendix G of HI 40.6–2021 as part of the DOE test procedure for circulator pumps. *Id.*

In addition, DOE noted that Appendix E of HI 40.6–2021 includes modifications to testing in sections 40.6.5.5.1 and 40.6.6.3. DOE proposed to reference HI 40.6–2021 inclusive of Appendix E and the modifications therein. *Id.*

DOE requested comments on these proposals. *Id.*

Grundfos stated that excluding sections 40.6.4.1, 40.6.4.2, 40.6.5.3, 40.6.5.5.2, 40.6.6.1, 40.6.6.1.1, Appendix B, and Appendix G of HI 40.6–2021is warranted. (Grundfos, No. 7 at p. 4) HI stated that circulator pump definitions are separate from submersible or vertically suspended; therefore, a specific exclusion of Sections 40.6.4.1 and 40.6.4.2 is not needed. HI stated that Appendix E already excludes Section 40.6.5.5.2, 40.6.6.1, and 40.6.6.1.1, so DOE does not need to exclude them. HI agreed that Section 40.6.5.3, Appendix B, and Appendix G of HI 40.6–2021 can be excluded. (HI, No. 9 at p. 7)

In response to HI, DOE understands that within HI 40.6–2021 section 40.6.4, there are separate subsections for vertically suspended pumps (40.6.4.1), submersible pumps (40.6.4.2), and all other pump types (40.6.4.3), the latter of which references all other pump types identified by ANSI/HI 14.1–14.2, ''Rotodynamic Pumps for Nomenclature and Definitions,'' which is the successor to the previously discussed ANSI/HI 1.1–1.2–2014. DOE expects this is why HI stated that specific exclusion of sections 40.6.4.1 and 40.6.4.2 is not required. However, to provide clarity without having to reference additional industry standards, DOE is adopting only those specific sections of HI 40.6–2021 applicable to the test procedure for circulator pumps in scope of the DOE test procedure (see section A.0.1 in appendix D as established in this final rule), as proposed in the December 2021 NOPR. DOE is also excluding sections 40.6.5.5.2, 40.6.6.1, and 40.6.6.1.1, to improve the clarity of the DOE test procedure even though Appendix E of HI 40.6–2021 already excludes them. DOE is also adopting exclusions of section 40.6.5.3, Appendix B, and Appendix G as proposed in the December 2021 NOPR and supported by HI and Grundfos.

b. Testing Twin Head Circulator Pumps and Circulators-Less-Volute

In the December 2021 NOPR, DOE stated that a twin head circulator pump is a type of circulator pump that contains two impeller assemblies, mounted in two volutes that share a single inlet and discharge in a common casing. DOE proposed to test twin head circulator pumps as recommended by the CPWG and consistent with Section 41.5.3 of HI 41.5–2021. Specifically, DOE proposed that to test twin head circulator pumps, one of the two impeller assemblies should be incorporated into an adequate, single impeller volute and casing. An adequate, single impeller volute and casing means a volute and casing for which any physical and functional characteristics that affect energy consumption and energy efficiency are essentially identical to their corresponding characteristics for a single impeller in the twin head circulator pump volute and casing. DOE requested comments on its proposal. 86 FR 72096, 72121–72122.

HI agreed with the proposed test procedure for twin head pumps, which is consistent with the test procedure outlined in HI 41.5.3 (paragraph 5). (HI, No. 9 at p. 7) Grundfos agreed with the test method, stating that it is the same method applied to general pumps and using that test method ensures consistency in the regulation. (Grundfos, No. 7 at p. 4)

As discussed in the December 2021 NOPR and consistent with comment, in this final rule, DOE is adopting the test procedure for twin head circulator pump as proposed in the December 2021 NOPR.

In the December 2021 NOPR, DOE stated that a circulator-less-volute is a circulator pump with a complete motor that is sold without a volute, but for which a paired volute is available in commerce from a manufacturer. DOE proposed that the circulator-less-volute would be paired with specific volute(s)

[18] For more information on any energy conservation standard rulemaking for circulator pumps see Docket No. EERE–2016–BT–STD–0004.

with which the circulator-less-volute is offered for sale or advertised to be paired with, and that the combination would be subject to the proposed applicable DOE test procedure for that circulator-less-volute model. DOE proposed that the CEI for each volute and circulator-less-volute pairing be determined separately. Additionally, DOE proposed to allow manufacturers of circulator pumps to group similar volute and circulator-less-volute pairings within a given basic model rating to minimize testing burden, while still ensuring that the CEI rating is representative of minimum efficiency or maximum energy consumption of the group. DOE stated that circulator-less-volute manufacturers could opt to make representations of the CEI of each individual circulator-less-volute and volute combination or could elect to make CEI representations regarding a circulator-less-volute combined with several individual volutes and rate the group with the same representative CEI value, which would be representative of the least efficient model. DOE requested comment on its proposals. 86 FR 72096, 72122.

HI agreed with DOE's proposed test procedure for circulators-less-volute. (HI, No. 9 at p. 7) Grundfos agreed with the test procedure for circulator-less-volute but stated that header pumps should be included in this test procedure. (Grundfos, No. 7 at p. 4) As discussed in section III.B.4, Grundfos stated that DOE should require that header pumps be tested like circulators-less-volute, except that the manufacturer determines the volute to be used and make this volute available for testing on the open market so that all interested parties can purchase and test the pump in the same manner it was certified. (*Id.*)

As discussed in section III.B.4 and III.B.6 of this document, DOE is not including header pumps within the scope of the test procedure as it has determined that the recommended test method would increase burden and would not produce representative results. Therefore, for the reasons discussed in the December 2021 NOPR, DOE is adopting the test procedure for circulators-less-volute as proposed in the December 2021 NOPR.

c. Determination of Circulator Pump Driver Power Input at Specified Flow Rates

In the December 2021 NOPR, DOE proposed to adopt the provisions in appendix E of HI 40.6–2021 for determining circulator pump driver power input at specified flow rates, noting that these differ from the CPWG recommendations, but are more appropriate because having test points lower than the lowest point of required driver power allows a linear regression to be constructed that includes all the driver power input points. The provisions include:

- Section 40.6.5.5.1 Test procedure—A minimum of nine test points shall be taken for all performance tests. Points are to be selected at approximately 10 percent, 25 percent, 40 percent, 60 percent, 75 percent, 90 percent, 100 percent, 110 percent, and 120 percent of the flow rate at the expected BEP of the circulator pump.
- Section 40.6.6.3 Performance curve—Determine the pump total head versus flow rate curve only based on a polynomial of the 6th order.
- Section 40.6.6.3 Performance curve—Determine the driver power input at 25 percent, 50 percent, 75 percent, and 100 percent of BEP based on a 3rd order polynomial curve of best fit of the tested values (as specified in section 40.6.5.5.1) at 10 percent, 25 percent, 40 percent, 60 percent, 75 percent, 90 percent, 100 percent, 110 percent, and 120 percent of expected BEP flow rate.

DOE requested comments on this proposal. 86 FR 72096, 72122–72123.

HI and Grundfos agreed with DOE's proposal to incorporate Appendix E of HI 40.6–2021 for determining the circulator pump driver power input at flow rates. (HI, No. 9 at p. 7; Grundfos, No. 7 at p. 4) For the reasons discussed in the December 2021 NOPR and in the preceding paragraphs, in this final rule, DOE is incorporating Appendix E of HI 40.6–2021 into the test procedure for circulator pumps as proposed.

In the December 2021 NOPR, DOE also noted that the procedure specified in section 40.6.6.3 and Appendix E of HI 40.6–2021 is applicable for test points gathered at maximum speed, but the other test points proposed for circulator pumps with pressure controls, temperature controls, manual speed controls, and external input signal controls are not specified in HI 40.6–2016. For circulator pumps with pressure controls, temperature controls, manual speed controls, and external input signal controls, the general test procedure consists of ''sweeping'' the maximum speed curve (*i.e.,* taking measurements at flow intervals along the head/flow curve associated with maximum pump speed) to determine BEP, adjusting the pump to the determined BEP at maximum speed, and then adjusting the speed of the pump according to the applicable control or reference system curve to achieve the specified load points at 25, 50, 75 percent of BEP flow at reduced speed. As such, for these test points, unlike the test points at maximum speed derived from the data collected to determine BEP, manufacturers would adjust the operation of the pump to specifically achieve the load points at 25, 50, 75, and 100 percent of BEP flow, as applicable. Due to experimental uncertainty, the specific test points measured in the test protocol may not be exactly at 25, 50, 75, or 100 percent of the BEP flow load points specified in the test procedure and, thus, the relevant power input measurements must be adjusted to reflect the power input at the specific load points specified in the test procedure. DOE noted that HI 40.6–2021 does not specify the tolerances around which the specified flow values must be achieved or how to adjust the test points to the specified load points, accounting for such experimental tolerance. 86 FR 72096, 72123.

In the December 2021 NOPR, DOE stated that HI 41.5–2021 includes provisions different from those recommended by the CPWG. Specifically, all tested flow values must be within ±5 percent of the target flow load points as specified by the reference system curve in HI 41.5–2021. (HI 41.5–2021 section 41.5.3.4.2 #3c, 41.5.3.4.3, 41.5.3.4.4.1–2, 41.5.3.45) HI stated that this target range limits the pump efficiency ranges allowed for a given test point and minimizes variation in CEI values for a given test. In addition, any head values that are above the reference system curve (including within 10 percent) are not adjusted. HI stated that this eliminates a discontinuity in CEI values when transitioning between corrected and uncorrected values and allows for better representation of pump CEI. Finally, for pressure control and manual speed control, tested head is allowed to be below the reference curve and corrected back to the reference curve. HI stated that this eliminates the need for all control curves to exist above the reference curve allowing for a better representation of control curves used in the market and for the circulator pump CEI values to better represent a pump's capabilities. (HI, No. 112 at p. 2) These provisions are found throughout each of the individual control variety test methods in HI 41.5; a summary is available in 41.5.1. DOE proposed to incorporate the provisions in HI 41.5–2021. 86 FR 72096, 72123.

DOE noted also that the proposed load points are specified with a discrete flow value (*i.e.,* 25, 50, 75, and/or 100 percent of BEP flow) and, for temperature control and external input signal controls, a minimum head value

(*i.e.,* at or above the reference system curve). Therefore, as proposed the flow values must be achieved within ±5 percent and, for temperature controls and external input signal controls, the tested head values must not be more than 10 percent below the reference system curve. Any test point with a flow value that is more than ±5 percent away from the specified value or, for temperature controls and external input signal controls, a head value is more than 10 percent below the reference system curve would be invalid and, therefore, must be retested. 86 FR 72096, 72124.

DOE proposed to adjust the tested driver input power values for all relevant test points for circulator pumps with temperature and external input signal controls using the methods adopted in the January 2016 TP final rule and discussed by the CPWG. Specifically, DOE proposed that if the tested flow values are within ±5 percent of the flow load point specified by the reference system curve and the head values are within ±10 percent of the head load points specified by the reference system curve, the tested driver input power values would be proportionally adjusted to the specified flow and head points, as shown in equation (12):

$$P_{R,i} = \left(\frac{H_{R,i}}{H_{T,j}}\right)\left(\frac{Q_{R,i}}{Q_{T,j}}\right)P_{T,j} \quad \textbf{(12)}$$

Where:

$P_{R,i}$ = the driver power input (hp);
$H_{R,i}$ = the specified head at load point i based on the reference system curve (ft);
$H_{T,j}$ = the tested head at load point j (ft);
$Q_{R,i}$ = the specified flow rate at load point i based on the reference system curve (gpm);
$Q_{T,j}$ = the tested flow rate at load point j (gpm); and
$P_{T,j}$ = the tested driver power input at load point j (hp).

86 FR 72096, 72124.

DOE also proposed that for pressure controls and manual speed controls, if the tested flow values are within ±5 percent of the flow load point specified by the reference system curve and the tested head values are below the head load points specified by the reference system curve, the tested driver power input values would be proportionally adjusted to the specified flow and heat points as shown in equation (12). *Id.*

Finally, DOE proposed, consistent with the recommendations of the CPWG and the modifications in HI 41.5–2021, that for temperature controls and external input signal controls, if the tested head values are above the reference system curve by more than 10 percent, or for pressure controls and manual speed controls, if the tested head values are above the reference system curve at all, only the flow values would be proportionally adjusted to the specified value, as shown in equation (13):

$$P_{R,i} = \left(\frac{Q_{R,i}}{Q_{T,j}}\right)P_{T,j} \quad \textbf{(13)}$$

Where:

$P_{R,i}$ = the driver power input (hp);
$Q_{R,i}$ = the specified flow rate at load point i based on the reference system curve (gpm);
$Q_{T,j}$ = the tested flow rate at load point j (gpm); and
$P_{T,j}$ = the tested driver power input at load point j (hp).

DOE requested comment on these proposals. 86 FR 72096, 72124.

HI stated that the power corrections in HI 41.5 are as HI intends, specifically for pressure and manual speed controls, the power corrections noted in HI 41.5–2021 section 41.5.3.4.2.3.d and Equation 41.5.3.4.2b for pressure speed control and section 41.5.3.4.5.2.d and Equation 41.5.3.4.5b for manual speed control. HI recommended that DOE should incorporate these sections by reference. (HI, No. 9 at p. 7) Grundfos also stated that only the head term is ignored when correcting power above the reference curve, and that it agreed with the ±5 flow tolerance. (Grundfos, No. 7 at p. 5)

HI stated that, with regard to temperature and external input signal controls, the power corrections noted in HI 41.5–2021 in section 41.4.3.4.3.2 and Equation 41.5.3.4.3b for temperature controls and sections 41.5.3.4.4.1.2 and 41.5.3.4.4.2.2 and Equations 41.5.3.4.4.1b and 41.5.3.4.4.2b for external input signal controls are as intended. HI recommended that DOE should incorporate these sections by reference. (HI, No. 9 at p. 8) Grundfos reiterated that only the head term is ignored when correcting power above the reference curve, and that it agreed with the ±5 flow tolerance. (Grundfos, No. 7 at p. 5)

For the reasons discuss above and in the December 2021 NOPR, DOE is adopting the flow and head tolerances and proportional adjustments as proposed in the December 2021 NOPR. However, as discussed in section II, DOE is adopting through reference specific sections of HI 41.5–2022, each of which includes provisions for these adjustments. The language in HI 41.5–2022 differs from that in the regulatory text in the December 2021 NOPR, by using only one equation and clarifying the applicable use of the equation in different scenarios in text rather than including two separate equations applicable to the different scenarios as DOE did. However, the substance of the language in HI 41.5–2022 is consistent with that of the regulatory text in the December 2021 NOPR; as such this does not represent a substantive change. In addition, HI specifically requested DOE reference the relevant sections of HI 41.5–2021 (to which HI 41.5–2022 is identical), and no stakeholders expressed that the relevant language in HI 41.5 was unclear.

With regards to the test points to which the tolerance and adjustment methods are applicable, DOE noted in the December 2021 NOPR that the CPWG recommended that ''all'' test points for circulator pumps with pressure controls, temperature controls, manual speed controls, or external input signal controls apply the specified tolerances and adjustment methods. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #10 at pp. 8–9) However, DOE stated that it believed that the curve fitting method for determining driver power input at the specified load points at maximum speed is more applicable and less burdensome for many of the maximum speed test points than requiring retesting along the maximum speed curve to achieve those test points within ±10 percent. Specifically, for manual speed controls and external input signal controls in addition to other control varieties, the proposed test methods and CEI calculation methods require load points be determined at 25, 50, 75, and 100 percent of BEP flow along the maximum speed curve, as well as at 25, 50, and 75 percent of BEP flow at reduced speeds. For the test points at reduced speed, DOE stated that it believed, as recommended by the CPWG, that the proposed tolerances and proportional adjustment would be applicable. However, for the test points at 25, 50, and 75 percent of maximum speed, DOE stated that it believed that it would be less burdensome and more consistent with the proposed testing of circulator pumps with no controls to determine such test points via curve fitting of the BEP test data at maximum speed. DOE stated that this is consistent with Sections 41.5.3.4.4.2 and 41.5.3.4.5 of HI 41.5–2021. With regard to the test point at 100 percent of BEP flow and maximum speed, DOE noted that, in order to test such circulator pump models, the circulator pump must be adjusted to a test point at 100 percent of BEP flow and maximum speed before reducing the speed in accordance with the control logic to achieve the reduced speed values. As such, DOE stated that using the tested value at 100 percent of BEP flow and maximum speed as opposed to the value determined via curve fitting would be more accurate and would not increase the burden of the testing. DOE noted that this proposal is inconsistent with HI 41.5–2021, which includes the 100 percent point as part of the points determined by curve fitting, rather than as a measured test point. DOE requested comment on this deviation. 86 FR 72096, 72124–72125. Table III.2 summarizes the proposed applicability of the different adjustment methods to the various test points for each circulator pump variety.

TABLE III.2—SUMMARY OF APPLICABLE ADJUSTMENT METHOD FOR DIFFERENT TEST POINTS FOR ALL CONTROL VARIETIES

Control variety	Test points that would be determined via curve fitting	Test points that must be achieved within any specified tolerance and would be determined via proportional adjustment
Pressure Controls	None	All (25, 50 ,75, and 100 percent of BEP flow).
Temperature Controls	None	All (25, 50 ,75, and 100 percent of BEP flow).
Manual Speed Controls	25, 50, and 75 percent of BEP flow at maximum speed.	25, 50, and 75 percent of BEP flow at reduced speed and 100 percent of BEP flow at maximum speed.
External Input Signal Controls	25, 50, and 75 percent of BEP flow at maximum speed.	25, 50, and 75 percent of BEP flow at reduced speed and 100 percent of BEP flow at maximum speed.

DOE requested comment on the proposed applicability of the tolerance and proportional adjustment method to the various test points, as compared to the curve fitting method, based on circulator pump control variety. DOE particularly requested comment on which category is most appropriate for the 100 percent of BEP flow point. *Id.* at 86 FR 72125.

HI stated that it understood that DOE proposed to test the 100 percent BEP for manual speed controls and external input signal controls the same way as for pressure and temperature controls to determine the input power term at maximum speed in the CER equation, which requires adjusting the tested power proportional to the BEP originally determined from the curve fit. HI commented that the curve fitted 100 percent BEP point is the anchor point for the reduced speed load points and should be used without requiring retesting for manual and external input speed control. HI stated that DOE's proposal would not increase accuracy but would require retesting a point already measured. HI stated that DOE should incorporate by reference the language in sections HI 41.5.3.4.5 for manual speed control and 41.5.3.4.4 for external input signal control to maintain consistency with what industry has already implemented. (HI, No. 9 at p. 8)

Grundfos stated that maintaining the curve fitting method is preferable to minimize testing burden even if minor deviations are present using this method. Grundfos added that if DOE decides that curve fitting error needs to be addressed, allowing a piece-wise curve fitting would solve this issue. Grundfos added that this curve fitting error happens at all test points, not just at 100 percent BEP. (Grundfos, No. 7 at p. 5)

DOE agrees with HI and Grundfos that deviating from HI 41.5–2021 to require the 100 percent BEP flow point be obtained by achieving the test point within tolerance rather than by curve-fitting would introduce burden not warranted for the expected gain. These provisions appear in the updated version of the industry guideline, in HI 41.5–2022 sections 41.5.3.4.5 and 41.5.3.4.4, which DOE is adopting through reference. As such, DOE is adopting provisions for manual speed controls and external input signal controls that determine the 100 percent BEP flow point through curve fitting.

3. Calculation and Rounding Modifications and Additions

In the December 2021 NOPR, DOE noted that HI 40.6–2014 did not specify how to round values for calculation and reporting purposes. DOE recognized that the manner in which values are rounded can affect the resulting CEI and that CEI values should be reported with the same number of significant digits. Therefore, to improve the consistency of calculations and to ensure accuracy, the CPWG recommended that that all calculations be performed with the raw measured data, and that the resultant CER (then called PER_{CIRC})and CEI (then called PEI_{CIRC}) be rounded to 3 significant figures. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #10 at p. 8) DOE noted that neither HI 40.6–2021 nor HI 41.5–2021 include any rounding provisions. 86 FR 72096, 72125.

DOE stated that it agreed with the CPWG regarding its recommendation to perform all calculations with the raw measured data and to round the resultant CER, CEI, and other relevant measurements and calculations in a standardized manner. In the established provisions for general pumps, the CEI analog (''PEI'') is rounded to the nearest hundredths place (*i.e.,* 0.01). See section I.D.3 of appendix A to subpart Y of part 431. To be consistent with the general pumps provisions, DOE proposed to round CER to three significant figures and to round CEI to the nearest hundredths place. Additionally, DOE proposed to calculate relevant non-energy metrics using the raw measured data and to round to the following: BEP flow at maximum speed and BEP head at maximum speed values to three significant figures; real power, true RMS current, and true RMS voltage values to the tenths place (*i.e.,* 0.1); and rated hydraulic horsepower and true power factor values to the hundredths place unless otherwise specified. DOE requested comment on these proposals. *Id.* at 86 FR 72125–72126.

HI agreed with using raw data for all calculations. HI stated that it is common practice for manufacturers to use power analyzers to measure the real power input and that individual values of RMS voltage, RMS current, and true power factor are not always available. HI added that collection of test data to 3 significant digits could be a problem depending on instrumentation display, its resolution, and the measured value. (HI, No. 9 at p. 9)

HI agreed with the CPWG recommendation that any non-energy metrics, like RMS current, RMS voltage, real power, and power factor, should be voluntary to report. (HI, No. 9 at p. 9) HI stated that, for voluntary purposes to DOE, sufficient rounding guidelines are as follows:

- Flow at maximum speed (Three significant digits, but limited to the tenths place for decimal values. *e.g.,* 101, 10.1, 1.1)
- BEP head at maximum speed (Three significant digits, but limited to the tenths place for decimal values. *e.g.,* 101, 10.1, 1.1)
- Real power (Three significant digits, but limited to four decimal places. *e.g.,* 0.0111)
- True RMS current (Three significant digits, but limited to the tenths place for decimal values. *e.g.,* 101, 10.1, 1.1)
- True RMS voltage (Tenths)
- Hydraulic horsepower (Three significant digits, but limited to four decimal places. *e.g.,* 0.0111)
- True power factor (Hundredths place)

(*Id.*)

HI added that the rounding guidelines should not apply to manufacturer representations of this data in commerce (*e.g.,* websites, literature). (*Id.*)

Grundfos agreed that the calculations should be done using raw measured data and agreed with the recommendations from HI on rounding. (Grundfos, No. 7 at p. 5)

In response to HI's and Grundfos' comments in support of the CPWG's recommendation to use unrounded values in intermediate test procedure calculations, DOE is adopting in the December 2021 NOPR proposal to use the raw measured data in this final rule. Specifically, DOE is requiring use of raw measured data to perform test procedure calculations.

In response to HI's support of rounding provisions only as related to voluntary reporting to DOE and not to manufacturer representations, DOE has determined that as it has not yet proposed or finalized certification reporting requirements for circulator pumps, it is only appropriate to finalize rounding proposals related to parameters necessary for determination of scope (*i.e.,* rated hydraulic horsepower) and calculation of CEI (*i.e.,* CER, BEP flow, and BEP head). As DOE has not yet determined whether it is necessary to report real power, RMS voltage, RMS current, and true power factor, and given HI's statement regarding potential limitations in instrumentation for these values, DOE finds that it would be premature to finalize rounding proposals related to these provisions at this time. DOE may consider certification reporting requirements in a separate rulemaking.

Specifically to CEI and CER, DOE received no comments or data contrary to adoption of the December 2021 NOPR proposal. Therefore, DOE is adopting in this final rule the December 2021 NOPR's proposal to require rounding of (1) CEI to the hundredths decimal place; and (2) CER to three significant figures. Rounding CER to three significant figures is consistent with the CPWG's recommendation and rounding CEI to the hundredths place is consistent with the requirements for general pumps. *See* section I.D.3 of appendix A to subpart Y of part 431.

Regarding rated hydraulic horsepower, HI and Grundfos suggested more precision than DOE proposed requiring in December 2021 NOPR's proposal. Whereas the December 2021 NOPR proposed to require rounding of rated hydraulic horsepower to the hundredths decimal place,[19] as stated previously HI (and Grundfos in support of HI's comment) commented in support of rounding to three significant figures, not to exceed four decimal places. (HI, No. 9 at p. 9; Grundfos, No. 7 at p. 5)

Review of publicly available marketing literature indicates availability of units of power draw at least as small as 14W.[20] Depending on the relative efficiencies of both the motor and wet end, DOE estimates the rated hydraulic horsepower of such a motor may round to zero if expressed to two decimal places.

Further, because circulator pump motor output power is often marketed using fractions, identifying the correct value when converted to decimal notation would require at least the same number of significant figures. As the denominators of circulator pump motor output power reach at least three digits, at least three significant figures are required to identify rated hydraulic power with sufficient precision. However, in review of the market, DOE did not observe circulator pump models, which would require more precision than the fourth decimal place to characterize.

Accordingly, in this final rule, DOE is adopting the rounding requirements suggested by HI and supported by Grundfos to round rated hydraulic power to less precise of the following two values: three significant figures; the fourth decimal place when expressed in units of horsepower.

4. Rated Hydraulic Horsepower

In the December 2021 NOPR, DOE noted that the proposed definitions of dry rotor, two-piece circulator pumps and dry rotor, three-piece circulator pumps each contain a clause that the pump must have a rated hydraulic power less than or equal to 5 hp at BEP at full impeller diameter. Accordingly, DOE proposed nomenclature to consistently refer to and categorize dry rotor circulator pumps based on the hydraulic horsepower they can produce at BEP and full impeller diameter, as measured in accordance with the proposed circulator pump test procedure. DOE noted that hydraulic horsepower (termed pump power output [21]) is defined in HI 40.6–2021

[19] For this discussion of rated hydraulic horsepower, decimal places are as expressed in units of horsepower.

[20] Xylem Inc. *Autocirc Instant Hot Water System Product Brochure.* Accessed: June 07, 2022. *https://www.xylem.com/siteassets/brand/bell-amp-gossett/resources/brochure/a-134.pdf.*

[21] The term ''pump power output'' in HI 40.6 is defined as ''the mechanical power transferred to the

Continued

and which DOE proposed to adopt through reference (*see* section III.E.1 of this document). HI 40.6–2021 also contains a test method for determining pump power output. However, HI 40.6–2021 includes methods for determining pump power output at any load point. To specify the pump power characteristic that DOE proposed to use to describe the size of dry rotor circulator pumps, DOE proposed to introduce a new term, the ''rated hydraulic horsepower,'' that is identified as the measured hydraulic horsepower at BEP and full impeller diameter for the rated pump. DOE requested comment on this proposal. 86 FR 72096, 72126.

HI agreed with the proposal to use rated hydraulic horsepower. (HI, No. 9 at p. 9) Grundfos agreed with the proposal but stated that DOE needs to consider that using rated hydraulic horsepower could modify the scope of products covered by the CPWG recommendations. Grundfos also noted that consideration should be made to ensure that setting this limit does not modify the scope such that wet runner [22] and dry runners [23] have different sizes covered by the regulation. (Grundfos, No. 7 at pp. 5–6)

In response to Grundfos, the definitions for the two varieties of dry rotor circulator pumps, as recommended by CPWG, as proposed in the NOPR, and as found in HI 41.5–2021, specify that such pumps must have hydraulic power less than or equal to five horsepower at best efficiency point at full impeller diameter. DOE's proposed test procedure in section 7 of appendix D requires determination of the rated hydraulic horsepower as the pump power output measured at BEP and full impeller diameter for the rated pump. This provision does not differ materially from the language in the dry rotor circulator pump definitions. As such, DOE has determined that the definition will not modify the scope of products covered by the CPWG recommendations. In addition, the proposed definition of wet rotor circulator pump does not have such a horsepower limitation provision because, unlike dry rotor circulator pumps, wet rotor circulator pumps are not found in larger horsepower that would otherwise be regulated as a commercial and industrial pump. For these reasons, DOE is adopting the provision for rated hydraulic horsepower as proposed in the December 2021 NOPR.

F. Sampling Plan and Enforcement Provisions for Circulator Pumps

In the December 2021 NOPR, DOE proposed that, for determining the representative values (*i.e.,* both the proposed energy- and non-energy-related metrics) for each basic model, manufacturers must use a statistical sampling plan of tested data, consistent with the sampling plan for pumps that is currently specified at 10 CFR 429.59. In addition, DOE proposed specific enforcement procedures that DOE would follow when testing equipment to verify compliance of any circulator pump basic model should energy conservation standards be established. 86 FR 72096, 72126. The following sections III.F.1 and III.F.2 of this document discuss DOE's sampling plan and enforcement provisions for circulator pumps.

1. Sampling Plan

In the December 2021 NOPR, DOE stated that it provides, in subpart B to 10 CFR part 429, sampling plans for covered equipment. *Id.* at 86 FR 72126. The purpose of a statistical sampling plan is to provide a method to determine representative values of energy- and non-energy-related metrics, for each basic model. In the January 2016 TP final rule, DOE adopted sampling provisions applicable to pumps that were similar to those used for other commercial and industrial equipment. 81 FR 4086, 4135–4136 (Jan. 25, 2016). *See also* 10 CFR 429.59.

In the December 2021 NOPR, DOE proposed to adopt statistical sampling plans for circulator pumps similar to that adopted for pumps. That is, DOE proposed to amend 10 CFR 429.59 to require that, for each basic model of pump (including circulator pumps), a sample of sufficient size must be randomly selected and tested to ensure that any representative value of CEI or other measure of energy consumption of a basic model for which customers would favor lower values is greater than or equal to the higher [24] of the following two values:

(1) The mean of the sample,
where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and $\bar{x}$ is the sample mean, n is the number of samples, and x_i is the maximum of the i^{th} sample;

Or,

(2) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.05,

where:

$$UCL = \bar{x} + t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{x}$ is the sample mean, s is the sample standard deviation, n is the number of samples, and $t_{0.95}$ is the t statistic for a 95 percent one-tailed confidence interval with $n-1$ degrees of freedom (from appendix A of subpart B of 10 CFR part 429).

86 FR 72096, 72126; *see also* 86 FR 72096, 72137–72138.

DOE stated that for purposes of certification testing, the determination that a basic model complies with the applicable energy conservation standard would be based on testing conducted using the proposed DOE test procedure and sampling plan. The general sampling requirement currently applicable to all covered products and equipment provides that a sample of sufficient size must be randomly selected and tested to ensure compliance and that, unless otherwise specified, a minimum of two units must be tested to certify a basic model as compliant. 10 CFR 429.11(a)–(b). DOE proposed to apply this same minimum sample size requirement to circulator pumps. Thus, if a statistical sampling plan is used, DOE proposed that a sample of sufficient size be selected to ensure compliance and that at least two units must be tested to determine the representative values of applicable metrics for each basic model. DOE noted that manufacturers may need to test a sample of more than two units depending on the variability of their sample, as provided by the statistical sampling plan. *Id* at 86 FR 72126.

DOE noted that the proposed sampling provisions would be applicable to all energy-related metrics for which each manufacturer elected to make representations. DOE stated that, similar to other pumps, an upper confidence limit (''UCL'') of 0.95 divided by a de-rating factor of 1.05 would also be applicable to circulator pumps, based on the variability inherent in the test procedure and manufacturing variability among units within a given model. Specifically, DOE noted that the proposed circulator pump test procedure is based on the same

liquid as it passes through the pump, also known as pump hydraulic power.'' It is used synonymously with ''hydraulic horsepower'' in this document. However, where hydraulic horsepower is used to reference the size of a dry rotor circulator pump, it refers to the rated hydraulic horsepower.

[22] Also known as wet rotor circulator pumps.

[23] Also known as dry rotor circulator pumps.

[24] In the preamble of the December 2021 NOPR, this was erroneously written as ''lower of'', while it was correctly written as ''higher of'' in the regulatory text. *See* 86 FR 72096, 72126; 86 FR 72096, 72137–72138.

fundamental test standard (*i.e.,* HI 40.6–2021), with identical equipment accuracy requirements and test tolerances. In addition, DOE stated that circulator pumps would realize similar performance variability to other commercial and industrial equipment, such as general pumps and dedicated-purpose pool pumps, based on a statistical analysis conducted by DOE discussed in section III.F.2 of this document. *Id.* at 86 FR 72126.

DOE also stated that in addition to CEI, the rated hydraulic horsepower would be an important characteristic for determining the applicability of the proposed test procedure to a given circulator pump model. Specifically, rated hydraulic horsepower would determine the scope of applicability of the proposed test procedure for dry-rotor close-coupled circulator pump and dry-rotor mechanically-coupled circulator pump. DOE proposed that the representative value of rated hydraulic horsepower be determined as the average of all the tested units that serve as the basis for the rated efficiency for that basic model. Similarly, DOE also proposed that true RMS current, true RMS voltage, true power factor, input power, and the flow and head at BEP at each load point be determined based on the average of the test results, for each metric, from all the tested units that serve as the basis for the rating for that basic model. *Id.* at 86 FR 72126–72127.

Finally, consistent with provisions for other commercial and industrial equipment, DOE noted the applicability of certain requirements regarding retention of certain information related to the testing and certification of circulator pumps, which are detailed under 10 CFR 429.71. Generally, manufacturers must establish, maintain, and retain certification and test information, including underlying test data for all certification testing for 2 years from the date on which the circulator pump model is discontinued in commerce. *Id.* at 86 FR 72127.

DOE requested comment on the proposed statistical sampling procedures and certification requirements for circulator pumps. *Id.*

HI commented on what it stated was contradictory language within the NOPR with regard to statistical sampling procedures. HI stated that it agreed with the proposed language to 10 CFR 429.59 at 86 FR 72137, which states in part: ''Any representation of the constant load pump energy index (PEICL), variable load pump energy index (PEIVL), circulator energy index (CEI), or other measure of energy consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of: . . .'', while HI stated that the language in the preamble text at 86 FR 72126 incorrectly used ''lower''. (HI, No. 9 at p. 10) Grundfos agreed with the proposed statistical sampling procedures and certification requirements. (Grundfos, No. 7 at p. 6) Grundfos also stated that the discussion recommendation diverges from the current requirement in 10 CFR 429.59 for selecting the highest of the Mean CEI and UCL/1.05 values. Grundfos stated that the current language in the regulation should also apply to circulators.[25] (Grundfos, No. 7 at p. 6)

DOE acknowledges the error in the preamble of the December 2021 NOPR and adopts the sampling plan as proposed in the regulatory text. With regard to the proposals related to representative values of rated hydraulic horsepower, true RMS current, true RMS voltage, true power factor, input power, and the flow and head at BEP at each load point, DOE has determined that as it has not yet proposed or finalized certification reporting requirements for circulator pumps, as discussed in section III.E.2.d of this document, it is only appropriate to finalize the proposals related to parameters necessary for determination of scope (*i.e.,* rated hydraulic horsepower) and calculation of CEI (*i.e.,* flow and head at BEP; input power limited to relevant load points). Instead of including specific provisions for true RMS current, true RMS voltage, true power factor, and input power at unspecified points, which would be premature, DOE is finalizing a provision that requires the representative value of any other reported value of a basic model of circulator pump to be determined based on the mean of that value for each tested unit. DOE will consider certification reporting requirements in a separate rulemaking.

With regard to the requirements in 10 CFR 429.71 as discussed in the December 2021 NOPR, DOE notes that the records retention requirements are applicable to certification reports and the data underlying certification reports. DOE reiterates that certification in accordance with the test procedure adopted in this final rule would not be required until such time as compliance were required with energy conservation standards for circulator pumps, should DOE establish such standards.

[25] DOE notes that Grundfos included this statement in response to a request for comment about enforcement provisions, but DOE believes it is actually in reference to the sampling plan. (*See* Grundfos, No. 7 at p. 6)

2. Enforcement Provisions

In the December 2021 NOPR, DOE stated that enforcement provisions govern the process DOE would follow when performing an assessment of basic model compliance with standards, as described under subpart C of 10 CFR part 429. Specifically, subpart C of 10 CFR part 429 describes the notification requirements, legal processes, penalties, specific prohibited acts, and testing protocols related to testing covered equipment to determine or verify compliance with standards. DOE proposed that the same general enforcement provisions contained in subpart C of 10 CFR part 429 would be applicable to circulator pumps. 86 FR 72096, 72127.

Related to enforcement testing of circulator pumps, as specified in 10 CFR 429.110(e)(1), DOE proposed that it would conduct the applicable circulator pump test procedure, once adopted, to determine the CEI for tested circulator pump models. DOE proposed circulator-pump specific enforcement testing provisions for 10 CFR 429.134.[26] Specifically, if a manufacturer did not certify a control setting, DOE would test the circulator pump model using the no controls test method if no controls were available, or if controls are available, DOE would test using the test method for any one of the available control varieties on board. DOE requested comment on how, absent information on the tested control method for a basic model, DOE should determine which test method to conduct. *Id.*

HI agreed with DOE's proposed methodology for determining which test method to conduct and recommended that DOE make the tested control method a mandatory entry in the data upload template. (HI, No. 9 at p. 10) Grundfos stated that DOE should rely on published literature on the product, and absent that information DOE should select any available control method for testing. (Grundfos, No. 7 at p. 6)

In response to HI, DOE will address the certification requirements and template in a separate rulemaking. In response to Grundfos, DOE has determined that it does not need to rely on manufacturer literature to identify an appropriate control method for testing; any control method available on board the circulator may be tested. As such, DOE is finalizing its proposal that if a manufacturer does not certify a control setting, DOE would test the circulator pump model using the no controls test method if no controls were available, or

[26] DOE intends to propose certification requirements in a separate energy conservation standards rulemaking.

if controls are available, DOE would test using the test method for any one of the available control varieties on board.

In the December 2021 NOPR, DOE noted that the CPWG recommended that for pressure controls, manufacturers choose the factory control logic to test, report the control setting used for rating, and report the method of control (automatic speed adjustment, manual speed adjustment, or simulated pressure signal adjustment). (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #9 at p. 7) However, DOE proposed that it would test using the specified control curve but would always use the automatic control option for testing of pressure controls, to ensure that any rated CEI is representative of commercially available performance, as distributed in commerce. In addition, for circulator pumps rated with adaptive pressure controls, DOE proposed to test the circulator pump using the manual control option that results in the lowest head values at each test point below maximum speed. This would ensure that, if the minimum head thresholds are not accessible via the commercially available control with which the pump is distributed in commerce, a representative CEI can still be obtained for the compliance of that circulator pump to be assessed. If a specified control curve is not available, DOE proposed to test using any control that meets the requirements specified in the pressure control test method. DOE stated that it would consider adopting more specific provisions in the final rule given feedback on the most appropriate selection criteria. 86 FR 72096, 72127.

For manual speed controls and external input signal controls, the CPWG recommended testing at the lowest speed setting that will achieve a head at or above the reference curve. (Docket No. EERE–2016–BT–STD–0004, No. 58 Recommendation #9 at p. 7–8) DOE noted that this requirement had been removed in HI 41.5–2021. For external input signal controls and temperature controls, DOE proposed that it would conduct enforcement testing with this provision. DOE stated that if manual speed control testing is allowed below the reference curve, this provision would not be applicable to certification testing. However, to provide certainty as to how DOE would conduct enforcement testing DOE proposed to specify that it would conduct testing using the speed setting closest to each of the head points specified by the reference system curve (above or below). 86 FR 72096, 72127.

DOE requested comment on the proposed product-specific enforcement testing provisions for circulator pumps, particularly with regard to the appropriate control curve for pressure controls (when not specified) and the appropriate speed settings for other control methods. *Id.*

HI stated that to clarify, DOE should test at the lowest head at or above the reference curve for 75, 50, and 25 percent of BEP flow that is within the manufacturer's literature. HI recommended that for the 100 percent BEP flow point, DOE should use the curve fitted 100 percent BEP point as the anchor point. (HI, No. 9 at p. 10)

Grundfos stated that DOE should clarify that adaptive pressure controls will be manually tested with the following parameters: (1) test the points below 100 percent flow as close to the reference curve as possible, still meeting the +−5% flow requirements, and (2) all test points will be conducted within the operating parameters of the identified adaptive control method (*e.g.,* H_min_set, Hmax, etc.) to ensure that the resultant CEI reflects test points achievable in the field. (Grundfos, No. 7 at p. 6)

Upon review, DOE has determined that additional product-specific enforcement provisions are not needed for circulator pumps. In HI 41.5–2022, industry has determined that it is not necessary to specify ''lowest speed'' as part of the test methods. In addition, HI 41.5–2022 section 41.5.5.3 requires manufacturers to report to HI the control type(s) the circulator pumps is rated with as well as, where applicable, the control curve setting used and numerical description of the control curve as a function of flow rate (gpm) and head (ft). As such, DOE has determined that it will be sufficient for DOE to test the circulator pump in accordance with the control curve description and equation with which the circulator pumps was rated.

As circulator pumps have relatively large shipments and are generally a high-volume piece of equipment, in the December 2021 NOPR, DOE proposed to use, when determining performance for a specific basic model, the enforcement testing sample size, calculations, and procedures laid out in appendix A to subpart C of 10 CFR part 429 for consumer products and certain high-volume commercial equipment. These procedures, in general, provide that DOE would test an initial sample of at least 4 units and determine the mean CEI value and standard error of the sample. DOE would then compare these values to the CEI standard level, once adopted, to determine the compliance of the basic model or if additional testing (up to a total of 21 units) is required to make a compliance determination with sufficient confidence. 86 FR 72096, 72127.

DOE noted that this proposal differs from the enforcement testing sample size and calculations for DOE adopted for general pumps in the January 2016 TP final rule. Specifically, in the January 2016 TP final rule, DOE adopted provisions at 10 CFR 429.110(e)(5) [27] stating that DOE would assess compliance of any pump basic models undergoing enforcement testing based on the arithmetic mean of up to four units. 81 FR 4086, 4121. In the August 2017 DPPP TP final rule, DOE also adopted the enforcement testing sample provisions in appendix A and clarified that the enforcement provisions adopted in the January 2016 TP final rule and specified at 10 CFR 429.110(e)(5) are only applicable to those pumps subject to the test procedure adopted in the January 2016 TP final rule. 82 FR 36858, 36910. In the December 2021 NOPR, DOE stated that circulator pumps should be treated similarly to DPPP because of the shipments and high volume of the equipment. 86 FR 72096, 72127–72128.

DOE requested comment on the proposal to apply to circulator pumps the enforcement testing sample size, calculations, and procedures laid out in appendix A to subpart C of 10 CFR part 429. *Id.* at 86 FR 72128.

HI stated that the standard methodology laid out in appendix A to subpart C of 10 CFR part 429 applies to products where the representative value of efficiency is larger for more efficient products. HI noted that CEI has lower values for more efficient products; therefore, appendix A is not applicable unless the determinations are inverted. (HI, No. 9 at p. 10) Grundfos also stated that appendix A applies to regulated products where the representative measure is higher for more efficient product and therefore does not apply to circulators. (Grundfos, No. 7 at p. 6)

In response to HI and Grundfos, DOE notes that while section (e) of appendix A applies to products where the representative value of efficiency is larger for more efficient products (*i.e.,* subject to an energy efficiency standard), section (f) applies to products that have lower values for more efficient products (*i.e.,* subject to an energy

[27] DOE notes that the 2016 general pumps TP final rule were originally adopted into 10 CFR 429.110(e)(1)(iv), but a recent rulemaking for battery chargers reorganized the enforcement provisions for various equipment, including pumps, to place the pump enforcement provisions in 10 CFR 429.110(e)(5). 81 FR 31827, 31841 (May 20, 2016).

consumption standard). As such, DOE is applying to circulator pumps the enforcement testing sample size, calculations, and procedures laid out in appendix A to subpart C of 10 CFR part 429 as proposed in the December 2021 NOPR.

In the December 2021 NOPR, DOE noted that the rated hydraulic horsepower would be necessary to determine the scope of applicability of the test procedure to certain circulator pump varieties (*i.e.,* dry-rotor close-coupled circulator pump and dry-rotor mechanically-coupled circulator pump). Therefore, DOE proposed specific procedures to determine the rated hydraulic horsepower of tested circulator pumps when verifying compliance. When determining compliance of any units tested for enforcement purposes, DOE proposed that, if the rated hydraulic horsepower determined through DOE's testing (either the measured rated hydraulic horsepower for a single unit sample or the average of the measured rated hydraulic horsepower values for a multiple unit sample) is within 5 percent of the certified value of rated hydraulic horsepower, then DOE would use the certified value of rated hydraulic horsepower as the basis for determining the scope of applicability for that circulator pump model. However, if DOE's tested value of hydraulic horsepower is not within 5 percent of the certified value of hydraulic horsepower, DOE would use the arithmetic mean of all the hydraulic horsepower values resulting from DOE's testing when determining the scope of applicability for the circulator pump model. DOE stated such an approach would result in more reproducible and equitable compliance determinations among DOE, manufacturers, and test labs. 86 FR 72096, 72128.

DOE sought comment upon the applicability of a 5 percent tolerance on rated hydraulic horsepower for each tested circulator pump model or if a higher or lower percentage variation would be justified. *Id.*

HI stated that based on the uncertainties listed in HI 40.6–2021, it agreed with DOE's proposal. (HI, No. 9 at p. 10) Grundfos also agreed with the proposal. (Grundfos, No. 7 at p. 6)

DOE notes that while the preamble to the December 2021 NOPR explained this proposal and solicited comment, the corresponding draft regulatory text for this provision was erroneously omitted in the December 2021 NOPR. Given stakeholder support for the proposal and for the reasons discussed previously and in the December 2021 NOPR, in this final rule, DOE adopts the product-specific enforcement provisions related to hydraulic horsepower for circulator pumps as described in the December 2021 NOPR preamble.

G. Representations of Energy Use and Energy Efficiency

In the December 2021 NOPR, DOE stated that manufacturers of circulator pumps within the scope of the proposed circulator pump test procedure, if finalized, would be required to use the test procedures proposed in this rulemaking when making representations about the energy efficiency or energy use of their equipment. 86 FR 72096, 72128. Specifically, 42 U.S.C. 6314(d) provides that ''no manufacturer . . . may make any representation . . . respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.''

DOE stated that, if made final, the proposed test procedure would not require manufacturers to test the subject circulator pumps. However, beginning 180 days after publication of a final rule that adopts a test procedure for circulator pumps, any voluntary representations as to the energy efficiency or energy use of a subject circulator pump would be required to be based on the DOE test procedure. (42 U.S.C. 6314(d)); 86 FR 72096, 72128.

With respect to representations, generally, DOE stated that manufacturers often make representations (graphically or in numerical form) of energy use metrics, including overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower) and may make these representations at a variety of different load points or operating speeds. DOE proposed to allow manufacturers to continue making these representations. To ensure consistent and standardized representations across the pump industry and to ensure such representations are not in conflict with the reported CEI for any given circulator pump model, DOE proposed to establish testing procedures for these parameters that are part of the DOE test procedure and that while manufacturers would not be required to make representations regarding the performance of circulator pumps using these additional metrics, to the extent manufacturers wish to do so, they would be required to do so based on testing in accordance with the DOE test procedure. In addition, as noted in section III.C of this document, the CPWG-recommended method of determining $PER_{STD,}$ if adopted by DOE, would require tested hydraulic horsepower of the rated circulator pump at one or more specific load points. 86 FR 72096, 72128.

DOE noted that overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower) are already parameters that are described in HI 40.6–2021, which DOE proposed to incorporate by reference in the DOE test procedure. DOE stated that further specification is not necessary regarding the determination of these parameters. DOE noted that HI 40.6–2021 does not include explicit instructions for determining pump power output at specific load points; however, section E.3.2 specifies determination of the circulator pump total head versus flow rate curve based on a polynomial of the 6th order, and DOE assumed this curve would be used to calculate pump power output at any relevant load point. *Id.*

DOE requested comment on its proposal to adopt provisions for the measurement of several other circulator pump metrics, including overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower). *Id.* DOE also requested comment on its belief that HI 40.6–2021 contains all the necessary methods to determine overall (wire-to-water) efficiency, driver power input, and/or pump power output (hydraulic horsepower) and that further specification is not necessary. 86 FR 72096, 72129.

HI agreed that the load point pump power output would be calculated based on the flow and head curve as identified in HI 40.6–2021 section E.3.2. (HI, No. 9 at p. 11) HI and Grundfos agreed that no further specification is necessary in HI 40.6–2021. (HI, No. 9 at p. 11; Grundfos, No .7 at p. 7)

HI stated that it is not realistic for circulator manufacturers to update literature for all circulators 180 days after the final rule is published. HI stated that specifically for products that will be discontinued after the compliance date, the test burden required would be orders of magnitude greater than the current test burden, and that the additional testing burden was not considered when DOE evaluated the impact on manufacturers. (HI, No. 9 at pp. 10–11) Grundfos also stated that the provisions, combined with a 180-day implementation, would be a large increase in burden for management of data and updating literature across all possible representations. Grundfos added that this provision does not address multi-market products (*e.g.,* US

an EU) where both regions will require representations of the same data using different test methods. (Grundfos, No. 7 at p. 6)

In response to HI and Grundfos, DOE has determined that in order to meet its stated goal in the December 2021 NOPR of ensuring representations of metrics other than CEI are not in conflict with the reported CEI for any given circulator pump model, it is only necessary to finalize provisions related to circulator pump metrics that are used in the determination of CEI, specifically flow and head at BEP and pump power output and driver power input at load points used in the determination of CEI, including the rated hydraulic horsepower. Instead of finalizing provisions specific to other metrics that may or may not be reported to DOE, which would be premature, DOE is limiting the adopted provision to state that any other reported performance parameters must be determined based on testing according to the DOE test procedure. This is consistent with the discussion in sections III.E.2.d and III.F.1 of this document with respect to rounding and representation provisions. DOE expects that by reducing the scope of the metrics to which the test procedure provisions apply, DOE has sufficiently mitigated the burden concerns expressed by HI and Grundfos. DOE will consider certification reporting requirements in a separate rulemaking. In addition, DOE notes that if manufacturers do not make voluntary representations of CEI prior to the compliance date of any relevant energy conservation standards, then the concerns about conflicts with CEI would not apply.

H. Test Procedure Costs and Harmonization

1. Test Procedure Costs and Impacts

This final rule establishes a test procedure for circulator pumps by incorporating by reference the test methods established in HI 40.6–2021, ''Methods for Rotodynamic Pump Efficiency Testing,'' with certain exceptions. Additionally, DOE is establishing representations, and enforcement provisions for circulator pumps that would be added to 10 CFR parts 429 and 431, respectively.

DOE is incorporating, by reference, the test methods established in HI 40.6–2021, ''Methods for Rotodynamic Pump Efficiency Testing,'' with certain exceptions. The test results are necessary for calculating the CEI to represent the energy consumption of the circulator pump, inclusive of a motor and any controls, and determine the minimum test sample (*i.e.,* number of units) and permitted method of determining represented values.

DOE has determined that the test procedure established in this final rule would not be unduly burdensome, given that DOE is referencing the prevailing industry test procedure. Furthermore, compliance with the test procedure in this final rule is not required until such a time DOE adopts energy efficiency standards for circulator pumps, or if a manufacturer chooses to make voluntary representations. Accordingly, DOE has determined that this final rule establishes DOE test procedures that are reasonably designed to produce test results, which reflect energy efficiency and energy use of circulator pumps during a representative average use cycle and would not be unduly burdensome for manufacturers to conduct.

In the December 2021 NOPR, DOE presented the maximum expected testing burden associated with testing equipment and procedure consistent with the requirements of the proposed test procedure should a manufacturer not already be testing to HI 40.6–2021. 86 FR 72096, 72129. DOE considered also the capital conversion costs and labor costs for a manufacturer to conduct testing in-house. Capital cost estimates are based on previous manufacturer interviews and stakeholder comments. The following sections detail those costs in specifics.

a. Estimated Capital Costs for Testing Circulator Pumps

In the maximum-burden case where a circulator pump manufacturer would be required to construct a test lab from scratch, manufacturers would be required to make capital outlays to acquire test equipment.

The first necessary item for testing a circulator pump is a water reservoir to hold the water that the pump circulates during testing. Manufacturers provided estimates to DOE on the cost of water reservoirs for a variety of sizes. The water reservoir sizes provided from manufacturers varied between 5 gallons and 1,500 gallons, as some manufacturers also use their water reservoirs to test larger pumps. Based on the information provided, DOE estimated in the December 2021 NOPR that the cost of a water reservoir to test circulator pumps to be approximately $9.30 per gallon. Because the circulator pumps are typically less than 5 hp in output, DOE used a 100-gallon water reservoir as a typical size and thus estimates the cost at approximately $930 for the water reservoir.[28] *Id.*

To complete the circulator pump test loop, assorted piping and valves would be necessary to circulate water from the reservoir to the pump and regulate the flow and head of the water. Multiple diameter pipes, valves, and associated fittings may be required to accommodate different size circulator pumps. The total costs for the values and piping will vary on pipe diameter as well as the actual testing laboratory configuration. In the December 2021 NOPR, DOE estimated a cost of $2,745 for the piping and valves necessary to test the circulator pumps within the scope of the proposed test procedure.[29] *Id.*

The proposed DOE test procedure also requires the power supply characteristics (*i.e.,* voltage, frequency, voltage unbalance, and total harmonic distortion) to be maintained within specific values. Specifically, the proposed power supply requirements must be within a certain percent of the rated voltage, frequency, and voltage unbalance. Also, the total harmonic distortion must be limited throughout the test. In some situations, manufacturers may be required to acquire power conditioning equipment to ensure the power supplied to the circulator pump motor or control is within the required tolerances. Based on the estimates DOE researched for power supplies as well as incorporated estimates provided by manufacturers of possible equipment costs, DOE estimated the cost for power conditioning equipment as $2,200.[30] *Id.*

The circulator pump test procedure in this final rule contains requirements regarding the characteristics and accuracy of the measurement necessary for determining relevant measured quantities. The primary measurement equipment includes flow measuring equipment, pressure measuring equipment, and electrical measuring equipment.

Test facilities would need equipment to measure the flow rate in gallons per minute to verify that the circulator pump is operating at the applicable load point. Manufacturers indicated that, for flow measurement equipment, they utilized magnetic flow measurement devices. These magnetic flow

[28] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[29] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[30] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

measurement devices vary in price based on the range of the device to accommodate different sizes of circulator pumps. DOE researched flow measurement devices, as well as referenced feedback from manufacturer interviews about the typical prices of various sizes of flow measurement devices. In the December 2021 NOPR, DOE estimated a typical flow measurement equipment capable of accommodating the full range of circulator pumps subject to this proposed test procedure to be $4,400.[31] *Id.* at 86 FR 72129–72130.

Pressure measurement equipment could include a manometer, bourdon tube, digital indicator, or a transducer. Manufacturers provided information as to which pressure measurement device they utilize and the approximate cost of such device. DOE's research indicated that most manufacturers utilize differential pressure transducers to measure pressure in the test setup. In the December 2021 NOPR, DOE estimated the average cost of the pressure measurement devices to be $1,650.[32] *Id.* at 86 FR 72130.

Finally, electrical measurement equipment is necessary to determine the input power to the circulator pump, as measured at the input to the motor or controls (if present). There are multiple devices that can measure power and energy values. However, DOE includes specific requirements regarding the accuracy and quantities measured for such power measuring equipment, as discussed in section III.E.1 of this document. In this case, only specific power analyzers and watt-amp-volt meters with the necessary accuracy can measure RMS voltage, RMS current, and real power up to at least the 40th harmonic of fundamental supply source frequency and having an accuracy level of ±2.0 percent of the measured value when measured at the fundamental supply source frequency. DOE researched equipment as well as inquired with manufacturers about the equipment used and related costs. DOE estimated the typical cost for the electrical measurement equipment to conduct this proposed test procedure is $4,400.[33] *Id.*

Additionally, temperature measurements would be necessary to perform the test procedure. To verify that the testing fluid (*i.e.,* clear water) is within the specified temperature range, testing facilities will also need to measure temperature. DOE estimated a cost of $220 for potential temperature measurement devices.[34] *Id.*

Finally, to ensure that all data are taken simultaneously and properly recorded, a data acquisition system might also be necessary. DOE researched data acquisition systems necessary for the test procedure and estimated the typical cost for a data acquisition system as $21,000.[35] *Id.*

In total, DOE estimated the cost of acquiring all the necessary equipment to perform the proposed circulator pump test procedure as approximately $37,600, if a manufacturer needed to purchase all the testing equipment described in this section. In the December 2021 NOPR, DOE requested comment on its understanding of the capital cost burden associated with its proposed test procedure. *Id.*

In response, HI stated that a capital investment range of $20,000–$37,600 for HI members with existing laboratories was sufficient. For manufacturers that would need to create a circulator pump-specific test laboratory, HI estimated conversion costs could exceed DOE's high-end estimate of $37,600. (HI, No. 9 at p. 11) Grundfos agreed with HI that opening a lab would exceed the high-end estimate and elaborated by explaining there are additional costs that are not related to test equipment. (Grundfos No. 7 at p. 7)

While DOE recognizes there would be costs to develop a test laboratory specific to circulator pumps, DOE notes that the majority of circulator pump manufacturers have indicated they already have existing testing capabilities to verify equipment performance, as well as certify performance for other applicable circulator pump programs.[36] In response to the December 2021 NOPR, HI stated that all members have implemented the capital investments necessary to have their labs certified under the HI Pump Test Laboratory Program and to properly test and rate circulators as part of the HI Energy Rating program. (HI, No. 9 at p. 11) Comments were not received regarding the specific test facility cost estimates.

DOE has determined that its estimated $37,600 capital cost as a maximum-case estimate is representative of the maximum burden a manufacturer could incur. However, DOE notes that is not representative of the likely eventual burden to most manufacturers.

b. Estimated Labor Costs for Testing Circulator Pumps

This final rule includes requirements regarding the sampling plan and representations for covered circulator pumps at subpart B of part 429 of title 10 of the Code of Federal Regulations. The sampling plan requirements are similar to those for several other types of commercial equipment and, among other things, require a sample size of at least two units per circulator pump basic model be tested when determining representative values CEI, as well as other circulator pump performance metrics.

In the December 2021 NOPR, DOE estimated the fully burdened mechanical engineering technician wage of $41.46/hr.[37] DOE estimated an average of 7.5 hours per pump. DOE calculated the total cost of labor for testing a circulator pump to be approximately $622 per basic model.[38] 86 FR 72096, 72130.

In the December 2021 NOPR, DOE requested comment on the estimated time and costs to complete a test of a single circulator pump basic model under the proposed test procedure. *Id.*

Grundfos commented that DOE underestimated the cost for testing because the estimate only included the testing portion and stated that additional testing tasks such as product scoping, test planning, data management, and required documentation updates are not captured in the analysis. (Grundfos, No. 7 at p. 7) HI provided laboratory technician and engineer labor estimates of twelve hours and six hours per basic model, respectively. (HI, No. 9 at p. 11) In response, DOE updated its labor estimate to arrive at a labor testing cost of $1,088 per basic model.[39] [40]

[31] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[32] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[33] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[34] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[35] DOE based this cost estimate on information gathered from manufacturers during the 2016 CPWG meetings.

[36] See section III.B.1 for a review of applicable circulator pump regulatory and voluntary programs.

[37] DOE estimated the hourly wage using data from BLS's ''Occupational Employment and Wages, May 2020'' publication. DOE used the ''Mechanical Engineering Technologies and Technicians'' mean hourly wage of $29.27 to estimate the hourly wage rate (*www.bls.gov/oes/current/oes173027.htm*). DOE then used BLS's ''Employer Costs for Employee Compensation—June 2021'' to estimate that wages and salary account for approximately 70.6 for private industry workers. (*www.bls.gov/news.release/archives/ecec_09162021.pdf*). Last accessed on May 15, 2022. Therefore, DOE estimated a fully-burdened labor rate of $41.46 ($29.27 ÷ 0.706 = $41.46),

[38] 7.5 mechanical engineering technician hours × $41.46/hr × 2 units per basic model = $621.90 (rounded to $622).

[39] DOE identified the hourly wage using data from BLS's ''Occupational Employment and Wages, May

Continued

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that product during a representative average use cycle. Section 8(c) of appendix A of 10 CFR part 430 subpart C; 10 CFR 431.4. In cases where the industry standard does not meet EPCA statutory criteria for test procedures, DOE will make modifications through the rulemaking process to these standards as the DOE test procedure.

The industry standard DOE is incorporating by reference via proposals described in the NOPR (see 86 FR 72096, 72131) is discussed in further detail in section IV.N of this document.

HI commented that the testing outlined in the December 2021 NOPR adds some burden without any benefit and that DOE should stay consistent with HI 41.5. HI asserted that to test the 100 percent BEP flow at maximum speed for Manual Speed Controls and External Input Signal Controls the same way as for Pressure and Temperature Controls as proposed in Table III.2 of the December 2021 NOPR and this document would be a burden without any benefit since it is a repetition of already determined data without improvement in accuracy. For this reason, HI recommended that DOE stay consistent with HI 41.5 and not require this. Further, individual values of RMS voltage, RMS current, and True Power Factor are not always available; therefore, requiring mandatory reporting of this data would add burden without additional energy benefits. (HI, No. 9 at pp. 11–12) Grundfos agreed with the inclusion of industry standards in this rulemaking. (Grundfos, No. 7 at p. 7)

DOE is incorporating, by reference, sections of HI 41.5 that include testing of Manual Speed Controls and External Input Signal Controls. This is respectively discussed further in sections III.D.5 and III.D.6 of this document. The rounding requirements for metrics that are voluntary to report are provided in section III.E.2.d of this document. In addition, DOE is adopting test methods and calculations for circulator pumps with certain control varieties by incorporating certain sections of HI 41.5–2022.

DOE is also adopting through reference, sections of HI 40.6–2021, which is discussed in section III.E.2 of this document, in order to appropriately address circulator pump testing as specific from other rotodynamic pump testing.

I. Compliance Date

The effective date for the adopted test procedure amendment will be 30 days after publication of this final rule in the **Federal Register**. EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of the final rule in the **Federal Register**. (42 U.S.C. 6314(d)(1)) EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6314(d)(2)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'')12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *www.energy.gov/gc/office-general-counsel.*

DOE conducted an initial regulatory flexibility analysis (''IRFA'') as part of the December 2021 NOPR. As part of the IRFA, DOE initially concluded that it would be unlikely for small business manufacturers to incur significant burden as result of the proposed test procedure given that: (1) most

2021'' publication. DOE used the ''Mechanical Engineering Technologies and Technicians'' and ''Mechanical Engineer'' mean hourly wages of $30.47 and $46.64, respectively, to estimate the hourly wage rate (*https://www.bls.gov/oes/current/oes_nat.htm*). DOE then used BLS's ''Employer Costs for Employee Compensation—December 2021'' to estimate that wages and salary account for approximately 70.6 for private industry workers.

[40] ((16 technician hours × $43.22/hr) + (6 engineer hours × $66.16/hr)) × (2 units per basic model) = $1,088 per basic model.

manufacturers are already testing to HI 40.6–2021 and (2) testing would not be required until a time DOE established energy conservation standards for circulator pumps or a manufacturer choose to make voluntary representations. 86 FR 72096, 72131–72133. DOE reviewed the test procedures in this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

EPCA [41] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C [42] of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317 as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes pumps, the subject of this document. (42 U.S.C. 6311(1)(A))

For manufacturers of circulator pumps, the Small Business Administration (''SBA'') has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. In 13 CFR 121.201, the SBA sets a threshold of 750 employees or fewer for an entity to be considered as a small business for this category. The equipment covered by this rule are classified under North American Industry Classification System (''NAICS'') code 333914,[43] ''Measuring, Dispensing, and Other Pumping Equipment Manufacturing.''

DOE used publicly available information to identify small businesses that manufacture circulator pumps covered in this rulemaking. DOE identified ten companies that are OEMs of circulator pumps covered by this rulemaking. DOE screened out companies that do not meet the definition of a ''small business'' or are foreign-owned and operated. DOE identified three small, domestic OEMs using subscription-based business information tools to determine the number of employees and revenue of the potential small businesses.

Given that DOE is referencing the prevailing industry test procedure, DOE has determined the test procedure in this final rule would not significantly increase burden for circulator pump manufacturers, including small businesses. Furthermore, compliance with the test procedure in this final rule is not required until such a time DOE adopts energy efficiency standards for circulator pumps, or in the scenario a manufacturer chooses to make voluntary representations.

Therefore, on the basis of the de minimis compliance burden, DOE certifies that this final rule does not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. DOE will transmit a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Although no energy conservation standards have been established for circulator pumps as of the publication of this final rule, manufacturers of circulator pumps would need to certify to DOE that their products comply with any potential future applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including pumps. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Certification data will be required for circulator pumps; however, DOE is not establishing certification or reporting requirements for circulator pumps in this final rule. Instead, DOE may consider proposals to establish certification requirements and reporting for circulator pumps under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB Control Number 1910–1400 at that time, as necessary.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE establishes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for circulator pumps. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to Subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

[41] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020)), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[42] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[43] The size standards are listed by NAICS code and industry description and are available at: *www.sba.gov/document/support--table-size-standards* (Last accessed on May 1, 2022).

responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the

public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The test procedure for circulator pumps adopted in this final rule incorporates testing methods contained in certain sections of the following commercial standards: HI 40.6–2021 and HI 41.5–2022. DOE has evaluated these standards and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the test standard HI 41.6–2021. This is an industry-accepted standard used to specify methods of testing for determining the head, flow rate, driver power input, pump power output, and other relevant parameters necessary to determine the CEI of applicable pumps proposed in this TP NOPR. The test procedure adopted in this final rule references various sections of HI 40.6–2021 that address test setup, instrumentation, measurement, and test specifications.

DOE also incorporates by reference the rating guideline HI 41.5–2022. This is an industry-accepted guideline used to test and rate circulator pumps as part of an industry program. Copies of HI 40.6–2021 and HI 41.5–2022 may be obtained from Hydraulic Institute, 6 Campus Drive, First Floor North, Parsippany, NJ, 07054–4406, (973) 267–9700, or by visiting *www.Pumps.org.*

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on August 24, 2022, by Dr. Geraldine L. Richmond, Undersecretary of Science and Innovation, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 8, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 431 of chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 429.59 is amended by revising paragraphs (a)(1)(i) and (a)(2)(i) and adding paragraphs (a)(2)(iv) through (vii) to read as follows:

§ 429.59 Pumps.

* * * * *

(a) * * *

(1) * * *

(i) Any representation of the constant load pump energy index (PEI_{CL}), variable load pump energy index (PEI_{VL}), circulator energy index (CEI), or other measure of energy consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of:

(A) The mean of the sample,

where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and $\bar{x}$ is the sample mean, n is the number of samples, and x_i is the maximum of the ith sample;

Or,

(B) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.05,

where:

$$UCL = \bar{x} + t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{x}$ is the sample mean, *s* is the sample standard deviation, n is the number of samples, and $t_{0.95}$ is the t statistic for a 95 percent one-tailed confidence interval with n-1 degrees of freedom (from appendix A of subpart B of part 429).

(2) * * *

(i) *Rated hydraulic horsepower.* The representative value of rated hydraulic horsepower of a basic model of dedicated-purpose pool pump or circulator pump must be the mean of the rated hydraulic horsepower for each tested unit.

* * * * *

(iv) *Input power.* The representative value(s) of input power of a basic model of circulator pump at a load point(s) used in the calculation of CEI must be determined based on the mean of the input power at measured data point(s) for each tested unit.

(v) *Flow at BEP and maximum speed.* The representative value of flow at BEP and maximum speed of a basic model of circulator pump must be determined based on the mean of the flow at BEP and maximum speed for each tested unit.

(vi) *Head at BEP and maximum speed.* The representative value of head at BEP and maximum speed of a basic model of circulator pump must be determined based on the mean of the head at BEP and maximum speed for each tested unit.

(vii) *Other reported values.* The representative value of any other reported value of a basic model of circulator pump must be determined

based on the mean of that value for each tested unit.

* * * * *

■ 3. Section 429.110 is amended by revising paragraphs (e)(1) and (5) to read as follows:

§ 429.110 Enforcement testing.

* * * * *

(e) * * *

(1) For products with applicable energy conservation standard(s) in § 430.32 of this chapter, and commercial prerinse spray valves, illuminated exit signs, traffic signal modules and pedestrian modules, commercial clothes washers, dedicated-purpose pool pumps, circulator pumps, and metal halide lamp ballasts, DOE will use a sample size of not more than 21 units and follow the sampling plans in appendix A of this subpart (Sampling for Enforcement Testing of Covered Consumer Products and Certain High-Volume Commercial Equipment).

* * * * *

(5) For pumps subject to the test procedures specified in § 431.464(a) of this chapter, DOE will use an initial sample size of not more than four units and will determine compliance based on the arithmetic mean of the sample.

* * * * *

■ 4. Section 429.134 is amended by adding paragraph (i)(3) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(i) * * *

(3) *Circulator pumps.* (i) The flow rate at BEP and maximum speed of each tested unit of the basic model will be measured pursuant to the test requirements of § 431.464(c) of this chapter, where the value of flow rate at BEP and maximum speed certified by the manufacturer will be treated as the expected BEP flow rate at maximum speed. The resulting measurement(s) will be compared to the value of flow rate at BEP and maximum speed certified by the manufacturer. The certified flow rate at BEP and maximum speed will be considered valid only if the measurement (either the measured flow rate at BEP and maximum speed for a single unit sample or the average of the measured flow rates for a multiple unit sample) is within 5 percent of the certified flow rate at BEP and maximum speed.

(A) If the representative value of flow rate is found to be valid, the measured flow rate at BEP and maximum speed will be used in subsequent calculations of circulator energy rating (CER) and circulator energy index (CEI) for that basic model.

(B) If the representative value of flow rate at BEP and maximum speed is found to be invalid, the mean of all the measured values of flow rate at BEP and maximum speed determined from the tested unit(s) will serve as the new expected BEP flow rate and the unit(s) will be retested until such time as the measured flow rate at BEP and maximum speed is within 5 percent of the expected BEP flow rate.

(ii) The rated hydraulic horsepower of each tested unit of the basic model will be measured pursuant to the test requirements of § 431.464(c) of this chapter. The resulting measurement will be compared to the rated hydraulic horsepower certified by the manufacturer. The certified rated hydraulic horsepower will be considered valid only if the measurement (either the measured rated hydraulic horsepower for a single unit sample or the average of the measured rated hydraulic horsepower values for a multiple unit sample) is within 5 percent of the certified rated hydraulic horsepower.

(A) If the certified rated hydraulic horsepower is found to be valid, the certified rated hydraulic horsepower will be used as the basis for determining scope of applicability for that model.

(B) If the certified rated hydraulic horsepower is found to be invalid, the arithmetic mean of all the hydraulic horsepower values resulting from DOE's testing will be used as the basis for determining scope of applicability for that model.

(iii) DOE will test each circulator pump unit according to the control setting with which the unit was rated. If no control setting is specified and no controls were available, DOE will test using the full speed test. If no control setting is specified and a variety of controls are available, DOE will test using the test method for any one of the control varieties available on board.

(iv) DOE will test each circulator pump using the description and equation for the control curve with which it was rated, if available.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 5. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 6. Section 431.462 is amended by:

■ a. Adding in alphabetical order definitions for the terms ''Adaptive pressure controls'', ''Circulator-less-volute'', ''Circulator pump'', ''Dry rotor, three-piece circulator pump'', ''Dry rotor, two-piece circulator pump'', ''External input signal control'', and ''Header pump''.

■ b. Revising the definition for ''Horizontal motor''; and

■ c. Adding in alphabetical order definitions for ''Manual speed control'', ''On-demand circulator'', ''Pressure control'', ''Temperature control'', and ''Wet rotor circulator pump''.

The additions and revision read as follows:

§ 431.462 Definitions.

* * * * *

Adaptive pressure control means a pressure control that senses the head requirements in the system in which it is installed and adjusts the pump control curve accordingly.

* * * * *

Circulator-less-volute means a circulator pump distributed in commerce without a volute and for which a paired volute is also distributed in commerce. Whether a paired volute is distributed in commerce will be determined based on published data, marketing literature, and other publicly available information.

Circulator pump means is a pump that is either a wet rotor circulator pumps; a dry rotor, two-piece circulator pump; or a dry rotor, three-piece circulator pump. A circulator pump may be distributed in commerce with or without a volute.

* * * * *

Dry rotor, three-piece circulator pump means:

(1) A single stage, rotodynamic, single-axis flow, mechanically-coupled, dry rotor pump that:

(i) Has a rated hydraulic power less than or equal to 5 hp at the best efficiency point at full impeller diameter,

(ii) Is distributed in commerce with a horizontal motor, and

(iii) Discharges the pumped liquid through a volute in a plane perpendicular to the shaft.

(2) Examples include, but are not limited to, pumps generally referred to in industry as CP3.

Dry rotor, two-piece circulator pump means:

(1) A single stage, rotodynamic, single-axis flow, close-coupled, dry rotor pump that:

(i) Has a rated hydraulic power less than or equal to 5 hp at best efficiency point at full impeller diameter,

(ii) Is distributed in commerce with a horizontal motor, and

(iii) Discharges the pumped liquid through a volute in a plane perpendicular to the shaft.

(2) Examples include, but are not limited to, pumps generally referred to in industry as CP2.

* * * * *

External input signal control means a variable speed drive that adjusts the speed of the driver in response to an input signal from an external logic and/or user interface.

* * * * *

Header pump means a circulator pump distributed in commerce without a volute and for which a paired volute is not distributed in commerce. Whether a paired volute is distributed in commerce will be determined based on published data, marketing literature, and other publicly available information.

Horizontal motor means a motor, for which the motor shaft position when functioning under operating conditions specified in manufacturer literature, includes a horizontal position.

* * * * *

Manual speed control means a control (variable speed drive and user interface) that adjusts the speed of the driver based on manual user input.

* * * * *

On-demand circulator pump means a circulator pump that is distributed in commerce with an integral control that:

(1) Initiates water circulation based on receiving a signal from the action of a user [of a fixture or appliance] or sensing the presence of a user of a fixture and cannot initiate water circulation based on other inputs, such as water temperature or a pre-set schedule.

(2) Automatically terminates water circulation once hot water has reached the pump or desired fixture.

(3) Does not allow the pump to operate when the temperature in the pipe exceeds 104 °F or for more than 5 minutes continuously.

* * * * *

Pressure control means a control (variable speed drive and integrated logic) that automatically adjusts the speed of the driver in response to pressure.

* * * * *

Temperature control means a control (variable speed drive and integrated logic) that automatically adjusts the speed of the driver continuously over the driver operating speed range in response to temperature.

* * * * *

Wet rotor circulator pump means a single stage, rotodynamic, close-coupled, wet rotor pump. Examples include, but are not limited to, pumps generally referred to in industry as CP1.

■ 7. Section 431.463 is amended by revising paragraph (a) and adding paragraphs (d)(5) and (6) to read as follows:

§ 431.463 Materials incorporated by reference.

(a) *General.* Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the U.S. Department of Energy (DOE) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at DOE and at the National Archives and Records Administration (NARA). Contact DOE at: the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, www.energy.gov/eere/buildings/building-technologies-office.* For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the sources in the following paragraphs:

* * * * *

(d) * * *

(5) HI 40.6–2021, *Hydraulic Institute Standard for Methods for Rotodynamic Pump Efficiency Testing,* approved February 17, 2021; IBR approved for appendix D to this subpart.

(6) HI 41.5–2022, *Hydraulic Institute Program Guideline for Circulator Pump Energy Rating Program,* approved June 16, 2022; IBR approved for appendix D to this subpart.

* * * * *

■ 8. Section 431.464 is amended by adding paragraph (c) to read as follows:

§ 431.464 Test procedure for measuring energy efficiency and other performance factors of pumps.

* * * * *

(c) *Circulator pumps*—(1) *Scope.* This paragraph (c) provides the test procedures for determining the circulator energy index for circulator pumps that are also clean water pumps, including on-demand circulator pumps and circulators-less-volute, and excluding submersible pumps and header pumps.

(2) *Testing and calculations.* Determine the circulator energy index (CEI) using the test procedure set forth in appendix D of this subpart Y.

■ 9. Add appendix D to subpart Y of part 431 to read as follows:

Appendix D to Subpart Y of Part 431—Uniform Test Method for the Measurement of Energy Consumption of Circulator Pumps

Note 1 to appendix D to subpart Y of part 431: Beginning March 20, 2023, any representations made with respect to the energy use or efficiency of circulator pumps subject to testing pursuant to 10 CFR 431.464(c) must be made in accordance with the results of testing pursuant to this appendix.

0. Incorporation by Reference

DOE incorporated by reference in § 431.463 the entire standard for HI 40.6–2021 and for HI 41.5–2022. However, not all provisions of HI 40.6–2021 and HI 41.5–2022 apply to this appendix. If there is any conflict between any industry standard and this appendix, follow the language of the test procedure in this appendix, disregarding the conflicting industry standard language.

0.1 Specifically, the following provisions of HI 40.6–2021 are not applicable:

(a) Section 40.6.4—Considerations when determining the efficiency of certain pumps, Section 40.6.4.1—Vertically suspended pumps

(b) Section 40.6.4—Considerations when determining the efficiency of certain pumps, Section 40.6.4.2—Submersible pumps

(c) Section 40.6.5—Test procedures, Section 40.6.5.3—Test report

(d) Section 40.6.5—Test procedures, Section 40.6.5.5—Test conditions, Section 40.6.5.5.2—Speed of rotation during test

(e) Section 40.6.6—Analysis, Section 40.6.6.1—Translation of the test results to the specified speed of rotation

(f) Section 40.6.6—Analysis, Section 40.6.6.1—Translation of the test results to the specified speed of rotation, Section 40.6.6.1.1—Translation of the test results into data based on specified speed of rotation

(g) Appendix B—Reporting of test results

(h) Appendix G—DOE compared to HI 40.6 nomenclature

0.2 Specifically, only the following provisions of HI 41.5–2022 are applicable:

(a) Section 41.5.3.4.1—Determination of CER—Full Speed

(b) Section 41.5.3.4.2—Determination of CER—Pressure Speed Control

(c) Section 41.5.3.4.3—Determination of CER—Temperature Speed Control

(d) Section 41.5.3.4.4.1—Determination of CER—External Input Signal Speed Control Only

(e) Section 41.5.3.4.4.2—Determination of CER—External Input Signal Speed Control Operated With Other Control Methods

(f) Section 41.5.3.4.5—Determination of CER—Manual Speed Control

1. General

To determine the circulator energy index (CEI), testing shall be performed in accordance with HI 40.6–2021, including Appendix E ''Testing Circulator Pumps,'' with the exceptions noted in section 0.1 of this appendix and the modifications and additions as noted throughout the following provisions. For the purposes of applying this appendix, the term ''pump power output,'' as defined in section 40.6.2, ''Terms and definitions,'' of HI 40.6–2021 shall be deemed to be synonymous with the term ''hydraulic horsepower'' used throughout that standard and this appendix.

2. Scope

2.1 This appendix is applicable to all circulator pumps and describes how to calculate the circulator energy index (CEI; section F) based on the pump energy rating for the minimally compliant reference circulator pump (CER_{STD}) and the circulator energy rating (CER) determined in accordance with one of the test methods listed in Table I of this appendix based on a control variety with which the circulator pump is distributed in commerce.

TABLE 1 TO APPENDIX D TO SUBPART Y OF PART 431—APPLICABILITY OF TEST METHODS BASED ON CIRCULATOR PUMP CONFIGURATION AND CONTROL METHOD WITH WHICH CIRCULATOR PUMP IS DISTRIBUTED IN COMMERCE

Circulator pump configuration	Control method with which circulator pump is distributed	Test method to be used for testing and calculation of CER
Circulator Pump + Motor	Circulator pumps at full speed or circulator pumps without pressure, temperature, external input signal, or manual speed control.	HI 41.5–2022 Section 41.5.3.4.1.
Circulator Pump + Motor + Controls	Circulator pumps with pressure control (including adaptive pressure control).	HI 41.5–2022 Section 41.5.3.4.2.
	Circulator pumps with temperature control	HI 41.5–2022 Section 41.5.3.4.3.
	Circulator pumps with only external input signal control, and which cannot be operated without an external input signal.	HI 41.5–2022 Section 41.5.3.4.4.1.
	Circulator pumps with external input signal control in addition to other control varieties, or which can be operated without an external input signal.	HI 41.5–2022 Section 41.5.3.4.4.2.
	Circulator pumps with manual speed control	HI 41.5–2022 Section 41.5.3.4.5.

2.2 If a given circulator pump model is distributed in commerce with multiple control varieties available, the manufacturer may select a control variety (or varieties) among those available with which to test the circulator pump, including the test method for circulator pumps at full speed or circulator pumps without external input signal, manual, pressure, or temperature controls).

3. Measurement Equipment

For the purposes of measuring flow rate, head, driver power input, and pump power output, the equipment specified in HI 40.6–2021 Appendix C must be used and must comply with the stated accuracy requirements in HI 40.6–2021 Table 40.6.3.2.3. When more than one instrument is used to measure a given parameter, the combined accuracy, calculated as the root sum of squares of individual instrument accuracies, must meet the specified accuracy requirements.

4. Test Conditions

4.1 Pump specifications. Conduct testing in accordance with the test conditions, stabilization requirements, and specifications of HI 40.6–2021 section 40.6.3, ''Pump efficiency testing''; section 40.6.4, ''Considerations when determining the efficiency of a pump,'' including section 40.6.4.4, ''Determination of pump overall efficiency''; section 40.6.5.4 (including Appendix A), ''Test arrangements''; and section 40.6.5.5, ''Test conditions.''

4.2 Twin head circulator pump. To test twin head circulator pumps, one of the two impeller assemblies should be incorporated into an adequate, single impeller volute and casing. An adequate, single impeller volute and casing means a volute and casing for which any physical and functional characteristics that affect energy consumption and energy efficiency are essentially identical to their corresponding characteristics for a single impeller in the twin head circulator pump volute and casing.

4.3 Circulator-less-volute. To determine the CEI for a circulator-less-volute, test each circulator-less-volute with each volute for which the circulator-less-volute is offered for sale or advertised to be paired for that circulator pump model according to the testing and calculations described in the applicable test method listed in Table 1 of this appendix, depending on the variety of control with which the circulator pump model is distributed in commerce. Alternatively, each circulator-less-volute may be tested with the most consumptive volute with which is it offered for sale or advertised to be paired for that circulator pump model.

5. Data Collection and Analysis

5.1 Stabilization. Record data at any test point only under stabilized conditions, as defined in HI 40.6–2021 section 40.6.5.5.1.

5.2 Testing BEP at maximum speed for the circulator pump. Determine the BEP of the circulator pump at maximum speed as specified in Appendix E of HI 40.6–2021 including sections 40.6.5.5.1 and 40.6.6 as modified. Determine the BEP flow rate at maximum speed as the flow rate at the operating point of maximum overall efficiency on the circulator pump curve, as determined in accordance with section 40.6.6.3 of HI 40.6–2021 as modified by Appendix E, where overall efficiency is the ratio of the circulator pump power output divided by the driver power input, as specified in Table 40.6.2.1 of HI 40.6–2021. For the purposes of this test procedure, all references to ''driver power input'' in this appendix or HI 40.6–2021 shall refer to the input power to the controls, or to the motor if no controls are present.

5.3 Rounding. All terms and quantities refer to values determined in accordance with the procedures set forth in this appendix for the rated circulator pump. Perform all calculations using raw measured values without rounding. Round CER to three significant figures. Round CEI to the hundredths decimal place. Round rated hydraulic horsepower to the less precise of the following two values: three significant figures; the fourth decimal place when expressed in units of horsepower.

6. Calculation of CEI

Determine CEI using the following equation:

$$CEI = \frac{\mathrm{CER}}{CER_{STD}}$$

Where:

CEI = the circulator energy index (dimensionless);

CER = the circulator energy rating determined in accordance with Table 1 of this appendix (hp); and

CER_{STD} = the CER for a circulator pump that is minimally compliant with DOE's energy conservation standards with the same hydraulic horsepower as the tested pump, as determined in accordance with the specifications at paragraph (i) of § 431.465.

7. Determination of Additional Circulator Performance Parameters

7.1 To determine flow and head at BEP; pump power output (hydraulic horsepower) and driver power input at load points used in the calculation of CEI, including the rated hydraulic horsepower; and any other reported performance parameters, conduct testing according to section 1 of this appendix.

7.2 Determine the rated hydraulic horsepower as the pump power output measured at BEP and full impeller diameter for the rated pump.

7.3 Determine the true power factor at each applicable load point specified in the applicable test method listed in Table 1 of this appendix for each circulator pump control variety as a ratio of driver power input to the motor (or controls, if present) (P_i), in watts, divided by the product of the true RMS voltage in volts and the true RMS current in amps at each load point *i,* as shown in the following equation:

$$PF_i = \frac{P_i}{V_i \times I_i}$$

Where:

PF_i = true power factor at each load point *i,* dimensionless;

P_i = driver power input to the motor (or controls, if present) at each load point *i,* in watts;

V_i = true RMS voltage at each load point *i,* in volts;

I_i = true RMS current at each load point *i,* in amps; and

i = load point(s), defined uniquely for each circulator pump control variety as specified in the applicable test method listed in Table 1 of this appendix.

[FR Doc. 2022–19760 Filed 9–16–22; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL REGISTER

Vol. 87 Monday,
No. 180 September 19, 2022

Part III

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 210, 215, et al.
Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP); Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 225, and 226

RIN 0584–AE72

Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP)

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This rulemaking amends the Summer Food Service Program (SFSP) regulations to strengthen program integrity by clarifying, simplifying, and streamlining program administration to facilitate compliance with program requirements. Through this final rule, USDA is codifying changes to the regulations that will streamline requirements among Child Nutrition Programs, simplify the application process, enhance monitoring requirements, offer more clarity on existing requirements, and provide more discretion at the State agency level to manage program operations.

Effective date: This rule is effective October 1, 2022.

Compliance date: Compliance with the provisions of this rule must begin May 1, 2023.

FOR FURTHER INFORMATION CONTACT: Anne Fiala, 703–305–2590, *anne.fiala@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Summer Food Service Program (SFSP) is authorized under section 13 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1761. Its primary purpose is to provide free, nutritious meals to children from low-income areas during periods when schools are not in session.

USDA published the proposed rule *Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP)* on January 23, 2020 (85 FR 4064) in order to streamline requirements for program operators and enhance the customer experience for participating children and their families. Although this final rule primarily affects the SFSP, it also makes changes to the regulations related to waiver authority for the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program, Fresh Fruit and Vegetable Program, and the Child and Adult Care Food Program (CACFP). This rulemaking is the culmination of many years of stakeholder and community engagement, which informed the development of these policies.

Many of the provisions codified through this final rule are currently allowed as program flexibilities and have been shown to improve program administration and enhance service delivery for participating children and their families. These flexibilities were previously indicated through policy memoranda and will now have the full force and effect of law. In addition, this rule will codify key aspects of four nationwide waivers that were available in the past but have been rescinded in response to an audit by the USDA Office of the Inspector General (OIG), entitled ''*FNS Controls Over the Summer Food Service Program*'' (27601–0004–41). This report led USDA to determine that offering waivers under 42 U.S.C. 1760(l) on a nationwide basis is not supported by the statute. However, beginning in 2019, USDA allowed States and sponsors to request, on an individual basis, four of the rescinded waivers: first week site visits, meal service times, offer versus serve, and eligibility for closed enrolled sites. Such individual waivers are authorized under section 12(l) of the NSLA, which provides USDA authority to waive certain provisions of the Child Nutrition Programs if a waiver would facilitate the ability of the State or eligible service provider to carry out the purpose of the affected program while also meeting public notice and federal cost requirements. States and eligible service providers were approved for more than 230 individual section 12(l) waivers under this authority for summer 2019, related primarily to the four rescinded waivers. In March 2020, Congress passed the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116–127), which authorized USDA to establish nationwide waivers for all States for the purposes of providing meals under the Child Nutrition Programs with appropriate safety measures with respect to the novel coronavirus (COVID–19) pandemic. Under section 2202(a) of this authority, USDA issued nationwide waivers for first week site visits, meal service times, offer versus serve, and eligibility for closed enrolled sites. Therefore, States and eligible service providers did not need to request these same waivers under section 12(l) of the NSLP on an individual basis in summers 2020 or 2021. Prior to issuance of the nationwide waivers under section 2202(a) of FFCRA, USDA received 189 requests for individual waivers under section 12(l) of the NSLP related to the four rescinded waivers for summer 2020. The large number of individual waiver requests received from States and sponsors related to the rescinded waivers demonstrates the value of the policies allowed through the waivers, and the benefit of codifying key aspects of the waivers so that these policies are available to all States and sponsors without the need to request a waiver. Through the process of evaluating waiver requests and outcomes for summer 2019, USDA gained valuable insight into challenges and best practices of using the waivers, which informed changes in this final rule to provisions impacted by the waivers. As a result, this final rule codifies, with modifications that will promote better program integrity, the four most requested SFSP waivers.

Codifying existing flexibilities and key aspects of the four rescinded nationwide waivers will facilitate sponsor and site participation, decrease paperwork burdens on State agencies and sponsors, and provide certainty that these options will continue to be available. The following table, entitled *FNS Policy Memoranda Addressed in This Rule,* details USDA policy memoranda that are discussed in this rule, the specific provision(s) from each memorandum that is discussed, the status of the impacted waiver or flexibility, and the section of the rule in which it is addressed.

This final rule also codifies additional provisions to streamline program administration, enhance monitoring requirements, and provide needed clarity on existing provisions. In their totality, these changes will improve the customer experience, and facilitate the ability of States and sponsors to implement the program with fidelity.

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FNS Policy Memoranda Addressed in This Rule			
Policy Memorandum	**Provision Addressed in Rule**	**Provision Status**	**Section of Rule**
Summer Food Service Program (SFSP) Waiver for Closed Enrolled Sites, November 17, 2002[1]	Determining Eligibility for Closed Enrolled Sites	Rescinded in SFSP 01-2019	II. F. i.
Field Trips in the Summer Food Service Program (SFSP) February 3, 2003[2] & FNS Instruction 788-13: Sub-Sites in the Summer Food Service Program	Reimbursement Claims for Meals Served Away from Approved Locations	Active	II. E. i.
SFSP 12-2011, *Waiver of Site Monitoring Requirements in the Summer Food Service Program*, April 5, 2011[1]	First Week Site Visits for Returning Sites	Rescinded in SFSP 01-2019	II. C. i.
SFSP 05-2012, *Simplifying Application Procedures in the Summer Food Service Program*, October 31, 2011[3]	Application Procedures for New CACFP Sponsors	Active	II. B. i.
	Demonstration of Financial and Administrative Capability for CACFP Institutions	Active	II. B. ii.
SFSP 04-2013, *Summer Feeding Options for School Food Authorities*, November 23, 2012[4]	Application Procedures for New SFA Sponsors	Active	II. B. i.
	Demonstration of Financial and Administrative Capability for SFAs	Active	II. B. ii.
	First Week Site Visits for SFA Sponsors	Rescinded in SFSP 01-2019	II. C. i.
SFSP 06-2014, *Available Flexibilities for CACFP At-Risk Sponsors and Centers Transitioning to SFSP*, November 12, 2013[5]	First Week Site Visits for CACFP or SFA sponsors	Rescinded in SFSP 01-2019	II. C. i.
SFSP 07-2014, *Expanding Awareness and Access to Summer Meals*, November 12, 2013[6]	Requirements for Media Release	Active	II. E. iii.
SFSP 16-2015, *Site Caps in the Summer Food Service Program – Revised*, April 21, 2015[7]	Establishing the Initial Maximum Approved Level of Meals for Vended Sponsors	Active	II. C. ii.
SFSP 04-2017, *Automatic Revocation of Tax-Exempt Status – Revised*, December 1, 2016[8]	Annual Verification of Tax-Exempt Status	Active	II. E. iv.
SFSP 06-2017, *Meal Service Requirements in the Summer Meal Programs, with Questions and Answers – Revised*, December 05, 2016[9]	Meal Service Times	Rescinded in SFSP 01-2019	II. D. i
	Off-site Consumption of Food Items	Active	II. D. ii.
	Offer versus Serve	Rescinded in SFSP 01-2019	II. D. iii.
SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol – Revised*, May 24, 2018[10]	Overview of Statutory Waiver Authority Request Process	Active	II. G. i.

Endnotes:

[1] No longer available
[2] https://www.fns.usda.gov/sfsp-020303
[3] https://www.fns.usda.gov/simplifying-application-procedures-summer-food-service-program
[4] https://www.fns.usda.gov/summer-feeding-options-school-food-authorities
[5] https://www.fns.usda.gov/available-flexibilities-cacfp-risk-sponsors-and-centers-transitioning-summer-food-service-program
[6] https://www.fns.usda.gov/expanding-awareness-and-access-summer-meals
[7] https://www.fns.usda.gov/site-caps-summer-food-service-program-revised
[8] https://www.fns.usda.gov/sfsp/automatic-revocation-tax-exempt-status%E2%80%93revised
[9] https://www.fns.usda.gov/meal-service-requirements-summer-meal-programs-questions-and-answers-%E2%80%93-revised
[10] https://www.fns.usda.gov/child-nutrition-program-waiver-request-guidance-and-protocol-revised

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II. Public Comments

USDA received 163 comments during a 90-day comment period, which was originally 60-days, then extended another 30 days to April 22, 2020. Commenters were generally representative of SFSP stakeholders and offered a diversity of viewpoints. Of the comments received, 16 responses were associated with five form letter campaigns, 16 responses were non-germane or duplicates, and 131 responses were unique. One hundred of the 131 unique comments were substantive and supported by detailed reasoning and explanations for the commenters' positions.

These comments represented 59 individuals and commenters who remained anonymous, 29 State agencies (47 total comments), 12 advocacy or nonprofit organizations, nine sponsoring organizations, seven food banks, six school districts, three nutritionists, two professional associations, and one Federal elected official. A few State agencies submitted multiple comments, some of which were unique and are counted as individual submissions, and some of which were the same or virtually the same and are considered to be form letters for the purpose of this comment analysis. FNS received comments from four additional form letter campaigns comprised of 12 total comments from sponsors, food banks, and general advocacy or nonprofit organizations. Comments associated with these four campaigns were detailed and provided explanations for their responses and recommendations.

Nearly two-thirds of all comments were generally supportive of this rulemaking and many commenters offered substantive and detailed recommendations. The provisions that garnered the most comments were: first week site visits (67), off-site consumption of food items (63), offer versus serve (62), eligibility for closed enrolled sites (52), meal service times (47), and clarifying performance standards for evaluating sponsor viability, capability, and accountability (40).

Except for a small number of non-germane responses, the comments are posted at *http://www.regulations.gov* under docket ID FNS–2019–0034–0001, *Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program.*

III. Section-by-Section Discussion of the Regulatory Provisions

A. Reorganization of Section 225.6

USDA proposed to reorganize and streamline § 225.6. This proposal would not change any existing requirements; rather, it would more clearly present current requirements for sponsor and site applications by reorganizing § 225.6(c), *Content of sponsor application.* The provisions found in current § 225.6(c)(2) would move to a new paragraph (g) and the provisions in current § 225.6(c)(4) would move to a new paragraph (f). In addition, § 225.6(d) through (i) would be reordered to make space for a new paragraph (d), related to performance standards for determining financial and administrative capability, and a new paragraph (e), related to sponsor submission of a management plan. These new sections are described in more detail in the next section of this preamble. The table below provides an outline of the proposed revisions:

Current outline	Proposed outline
a. General Responsibilities	a. General responsibilities.
b. Approval of sponsor applications	b. Approval of sponsor applications.
c. Content of sponsor application	c. Content of sponsor application.
1. Application forms	1. Application form.
2. Requirements for new sponsors, new sites, and, as determined by the State agency, sponsors and sites which have experienced significant operational problems in the prior year.	2. Application requirements for new sponsors and sponsors that have experienced significant operational problems in the prior year.
3. Requirements for experienced sponsors and experienced sites	3. Application requirements for experienced sponsors. 4. Application requirements for school food authorities and Child and Adult Care Food Program institutions.
	d. Performance standards.
	1. Performance standard 1.
	2. Performance standard 2.
	3. Performance standard 3.
	e. Management plan.
4. Free meal policy statement	f. Free meal policy statement.
5. Hearing procedures statement	1. Nondiscrimination statement.
	2. Hearing procedures statement.

Current outline	Proposed outline
	g. Site information sheets. 1. New sites. 2. Experienced sites.
d. Approval of sites	h. Approval of sites.
e. State-sponsor agreement	i. State-sponsor agreement.
f. Special account	j. Special account.
g. Food service management company registration	k. Food service management company registration.
h. Monitoring of food service management company procurements	l. Monitoring of food service management company procurements.
i. Meal pattern exceptions	m. Meal pattern exceptions.

Public Comments

USDA received one comment on this provision. The commenter expressed support for the proposed changes and suggested that USDA further divide the information in § 225.6 into shorter sections that are easier to use.

USDA Response

USDA appreciates the comment and agrees that various portions of § 225.6 could benefit from further reorganization. However, USDA prefers to propose any additional significant organizational changes to the regulations through notice and comment rule making and receive public comments before finalizing such changes. For that reason, USDA will codify this provision as proposed.

B. Streamlining Program Requirements

i. Application Procedures for New Sponsors

All sponsors are required to submit an annual application to participate in the SFSP. In accordance with current § 225.6(c), new applicants and sponsors that have experienced significant operational problems in the previous year must submit detailed information sufficient to demonstrate their ability to successfully operate the SFSP in compliance with program requirements and with integrity. This includes, but is not limited to, information on sites, arrangements for meeting health and safety standards, and a program budget. Experienced sponsors that have operated the SFSP in a prior year without significant operation problems may use a streamlined application process described in current § 225.6(c)(3). To reduce duplicative work, these sponsors submit updates on the types of information that are most likely to change from year to year.

Sponsors that have successfully operated other Child Nutrition Programs are likely to perform well in the operation of the SFSP. For example, school food authorities (SFA), which are the governing bodies that have the legal authority to operate the school meal programs in one or more schools, and CACFP institutions, which have agreements with a State agency to assume final administrative and financial responsibility for CACFP operations, have already demonstrated their ability to operate a food service and comply with State and Federal nutrition program requirements. In order to encourage participation of sponsors with Child Nutrition Program experience, USDA extended flexibilities through policy memoranda which allow SFAs operating the NSLP or SBP, and CACFP institutions in good standing to use the application procedures for experienced sponsors in certain circumstances (SFSP 05–2012, *Simplifying Application Procedures in the Summer Food Service Program,* October 31, 2011 and SFSP 04–2013, *Summer Feeding Options for School Food Authorities,* November 23, 2012).

The aforementioned flexibilities apply to SFAs and CACFP institutions in good standing that are applying for the SFSP for the first time and will serve meals at the same sites where they provide meal services through the NSLP, SBP, or CACFP during the school year. Such institutions are allowed to follow the application requirements for experienced sponsors found in current § 225.6(c)(3). The institution must also provide site information that is necessary for the State agency to evaluate each proposed site, including whether it is rural or non-rural, self-preparation or vended, and certification from a migrant organization if it will primarily serve the children of migrant families.

In accordance with these memoranda, an SFA or CACFP institution may be considered 'in good standing' if it has been reviewed by the State agency in the last 12 months and had no major findings or program violations, or completed and implemented all corrective actions from the last compliance review. In addition, an SFA or CACFP institution may be considered in good standing if it has not been found to be seriously deficient by the State agency in the past two years and has never been terminated from another Child Nutrition Program.

USDA proposed to codify the flexibilities currently extended through policy guidance and proposed to allow State agencies the discretion to determine whether or not to implement this streamlined application process.

Public Comments

USDA received 31 comments about application procedures for new sponsors, including three form letter copies. Of these, 24 were supportive, three offered partial support, none were opposed, and four were mixed. Proponents of this provision included all types of commenters, many of whom stated that offering the streamlined process is a proven strategy to reduce administrative burden and encourage participation among operators of other Child Nutrition Programs. Two State agencies and a general advocacy organization noted the importance of maintaining State agency discretion to request additional documentation if the State has reason to conduct a more thorough review of an application. A few other State agencies had suggestions or questions related to making a determination of 'good standing' for an applicant. These commenters suggested additional criteria to consider when making this determination, such as debts owed to the State agency, contractual arrangements for purchasing meals, and where the sponsor is in the serious deficiency process for the CACFP. One State agency pointed out that sponsors are not reviewed annually and so they may not have major findings or program violations recorded in the last 12 months as the proposed rule recommended. A State agency noted that this flexibility is only for sites at which the sponsor offers meal service during the school year and stated that this arrangement is often not the case. Another commenter stated that it would be burdensome for some States to make changes to their current automated application system.

USDA Response

This final rule codifies as proposed the flexibility for SFAs operating the NSLP or SBP and CACFP institutions in

good standing applying to the SFSP as new sponsors to use the application procedures for experienced sponsors in certain circumstances. However, USDA recognizes that States are in the best position to determine how and when to implement this flexibility. Therefore, States are encouraged to request additional evidence of administrative capability or require submission of a new sponsor application if they have reason to believe that a new SFA or CACFP sponsor may have difficulty operating the SFSP. States may also consider additional factors when determining if a sponsor applicant is 'in good standing.' The rule allows the State agency the latitude to use its discretion in this way.

With regard to determining if an applicant is in good standing in the NSLP, SBP, or CACFP, the proposed rule included standards found in existing policy guidance. However, USDA agrees with the commenter who pointed out that not all sponsors are reviewed annually, and it is not appropriate to say that they should, within the last 12 months, have no major findings or program violations. Instead, USDA suggests that an SFA or CACFP institution is considered to be in 'good standing' if it has been reviewed by the State agency and had no major program violations or has completed and implemented all corrective actions from the last compliance review. The same commenters asked for clarification on determining good standing for an applicant that has been found seriously deficient in the CACFP. A CACFP institution applicant in good standing should have completed and implemented all corrective actions outlined in its serious deficiency corrective action plan, if applicable. In addition, State agencies should carefully consider the capabilities of any sponsor that has been found seriously deficient when reviewing application materials. USDA understands that providing further clarification to determine good standing for program operators across all Child Nutrition Programs would benefit States and program operators. The Department intends to address this issue through a separate rulemaking that will allow the public to comment specifically on proposals related to determining good standing for Child Nutrition Program operators.

This flexibility has long been limited to SFAs and CACFP institutions applying to operate the SFSP at the same sites where they provide meal services during the school year. A commenter noted that this is not the arrangement in all cases, which USDA interprets to mean that some SFAs and CACFP institutions operate the SFSP at sites where they do not provide a meal service during the school year. Although SFAs and CACFP institutions may serve additional sites during the summer, this provision is limited to existing sites for which a new SFA or CACFP sponsor has demonstrated that they have the resources and capability to provide a meal service. After a year of operating the SFSP at their existing sites, an SFA or CACFP sponsor will be considered 'experienced' and can apply using the experienced application procedures for all of its sites, including those at which they will only offer a summer meal service through the SFSP. Alternatively, the new SFA or CACFP institution could apply to serve additional sites using the application process for new sponsors.

Accordingly, USDA will codify as proposed in § 225.6(c)(4) the flexibilities extended through policy guidance for NSLP and SBP SFAs and CACFP institutions to use application procedures for experienced sponsors.

ii. Demonstration of Financial and Administrative Capability

SFSP sponsors must have the financial and administrative capacity to support program operations and be able to accept full financial responsibly for all of their meal sites. The ability to meet these requirements is assessed through the application process, during which the State agency may consider budget submissions, financial records, documentation of organizational structure, menu planning, or other indicators of financial and administrative capability.

NSLP and SBP SFAs and CACFP institutions already undergo a rigorous application process to participate in the NSLP, SBP, and the CACFP, and have demonstrated that they have the financial and organizational viability, capability, and accountability necessary to operate a Child Nutrition Program. USDA extended several flexibilities to these sponsors when they participate in the SFSP through policy memoranda (SFSP 05–2012, *Simplifying Application Procedures in the Summer Food Service Program,* October 31, 2011, and SFSP 04–2013, *Summer Feeding Options for School Food Authorities,* November 23, 2012). This guidance provided that SFAs and CACFP institutions in good standing applying to participate in the SFSP are not required to submit further evidence of financial and administrative capability, as required in § 225.14(c)(1). However, if the State agency has reason to believe that operation of the SFSP would pose significant challenges for an SFA or CACFP institution, the State agency may request additional evidence of financial and administrative capacity sufficient to ensure that the sponsor has the ability and resources for successful administration of the SFSP. USDA proposed to codify these flexibilities in a revised § 225.14(c)(1).

In some States, the SFSP, school meals programs, and the CACFP are operated by different State agencies. USDA proposed that, in these situations, State agencies must develop an information sharing process so that information on the financial and administrative capability of sponsors will be shared across State agencies to protect the integrity of the SFSP. State agencies would be required to share relevant sponsor information, including, but not limited to:

- Demonstration of fiscal resources and financial history;
- Budget documents;
- Demonstration of appropriate and effective management practices; and
- Demonstration of adequate internal controls and other management systems in effect to ensure fiscal accountability.

USDA requested specific comments on the proposed information sharing requirement, including:

- Would the sharing of information help improve the integrity of the program?
- Would developing an information sharing process create undue burden on State agencies?
- What are the potential costs of developing an information sharing process?

Public Comments

USDA received 34 comments on this provision, including three form letter copies. Commenters were primarily State agencies, but also included a general advocacy organization, industry associations, sponsors, and individuals. Of those who commented on the proposal to not require additional evidence of financial and administrative capability for certain sponsors, 19 commenters were supportive, none were opposed, and 15 were mixed, including those who commented only on the specific requests for comment. Of those who commented on State agency information sharing requirements, six were supportive, two were opposed, and five were mixed. Eleven commenters, including three form letter copies, also provided information in response to the request for specific comments.

With regard to not requiring additional evidence of financial and administrative capability for certain sponsors, proponents and those with mixed feedback voiced that this provision would reduce administrative

burden and improve efficiency without compromising program integrity. It would also encourage participation by sponsors that have a proven track record of successfully operating other Child Nutrition Programs. However, some State agencies said that States should have the discretion to apply this flexibility as they deem most appropriate. For example, requesting additional documentation if needed to determine a sponsor's capability to operate the Program, or applying additional scrutiny based on sponsor characteristics, such as their method of procuring meals. One State agency commenter worried that it would not be able to accept the good standing determination of another State agency unless their protocols were aligned. A State agency also raised similar issues regarding determining good standing as were addressed in section III. B. i. of this final rule. Another commenter wanted to know how this provision would fit with the proposal to require submission of a management plan demonstrating sponsor viability, capability, and accountability found in section III. B. iii. of this final rule.

With regard to a State agency information sharing requirement, proponents said that the proposal would reduce burden at the State agency and sponsor level, and would spur States to improve existing informal information sharing relationships. Opponents expressed concern that establishing an information sharing process could be burdensome, costly, or unnecessary in States where the various Child Nutrition agencies already communicate effectively.

Eight State agencies responded to the requests for specific comments. In general, these State agencies said sharing information across agencies would improve integrity, although developing an information sharing process could be costly or burdensome depending on the requirements. Many of those who expressed concern about the costs cited development or modification of State information technology (IT) systems as a driver of the costs.

USDA Response

This final rule codifies as proposed the flexibility outlined in guidance that SFAs and CACFP institutions in good standing applying to operate the SFSP do not have to provide further evidence of financial and administrative capabilities. The final rule will also clarify that these sponsor applicants are not required to submit a management plan unless requested by the State agency. In addition, the final rule will codify as proposed the requirement that State agencies develop an information sharing process if programs are administered by separate agencies within the State.

USDA appreciates the comment that inquired about how this provision would fit with the requirement found in section III. B. iii. of this rule for sponsors to submit a management plan demonstrating financial and administrative capability. It was not intended that NSLP and SBP SFAs and CACFP institutions in good standing would be required to submit a management plan because they have already demonstrated the qualifications to be addressed in the management plan through their operation of another Child Nutrition Program. Accordingly, this final rule will revise the regulations to clarify that submission of a management plan is not required for these applicants unless requested by the State agency. Although SFAs and CACFP institutions have already demonstrated their financial and administrative capability through successful operation of another Child Nutrition Program, USDA agrees with commenters who expressed that States should have the discretion to require more documentation, including a management plan, if needed to evaluate an applicant's ability and resources to operate the Program if the State agency has reason to believe that this would pose significant challenges for the applicant.

Similar to the response provided in section III. B. i. of this final rule, USDA suggests that an SFA or CACFP institution is considered to be in 'good standing' if it has been reviewed by the State agency and had no major program violations, or has completed and implemented all corrective actions from the last compliance review, including actions outlined in its serious deficiency corrective action plan, if applicable. State agencies should carefully consider the capabilities of any applicant that has been found seriously deficient when reviewing application materials. As previously noted, USDA recognizes the benefit of providing more clarity to determine good standing for Child Nutrition Program operators and will solicit public comments on this specific issue in a separate rulemaking.

USDA will codify as proposed the requirement for States to share information on the financial and administrative capability of sponsors. USDA does not intend for this provision to require States to invest in new IT systems or modify existing IT systems. Information can be shared through any method that is mutually agreed upon by the participating agencies. For example, the SFSP State agency may have an agreement with a school meals or CACFP State agency to share the outcome of reviews, corrective actions, or other monitoring activities upon request. In developing this information sharing process, State agencies can clarify what information each agency uses to determine good standing and how it can best be applied for this purpose. This type of arrangement would require no more investment than establishing a contact with partnering State agencies.

Accordingly, this final rule amends regulations found at § 225.14(c)(1) to include the flexibility outlined in guidance that SFAs and CACFP institutions in good standing applying to operate the SFSP do not have to provide further evidence of financial and administrative capabilities. This rule also amends the regulations to clarify that SFAs and CACFP institutions are not required to submit a management plan unless requested by the State agency. In addition, this final rule adds a requirement that State agencies develop an information sharing process if programs are administered by separate agencies within the State.

iii. Clarifying Performance Standards for Evaluating Sponsor Viability, Capability, and Accountability

Current regulations at § 225.14(c)(1) require any organization applying to be an SFSP sponsor to demonstrate financial and administrative capability for program operations and accept final financial and administrative responsibility for total program operations at all sites at which it proposes to conduct a food service. However, the regulations do not provide metrics or methods for evaluating an applicant's potential to be viable, capable, and accountable for operating the SFSP with program integrity. USDA has provided technical assistance to States to aid in this process and has received requests from State agencies to provide additional clarity on the requirements in § 225.14(c)(1).

USDA proposed to add a new § 225.6(d) with performance standards for organizations applying to participate as SFSP sponsors that correspond to standards currently in place at § 226.6 for organizations applying to participate as CACFP sponsors. These standards are not new requirements; they are intended to clarify existing SFSP requirements and provide support and guidance to State agencies when evaluating sponsor applications.

Although this proposal would require some State agencies to modify their process for evaluating applications, the

intended effect of these changes is to provide clarity sought by States, streamline requirements across programs, and increase program integrity by supporting the ability of State agencies to more efficiently and consistently evaluate an applicant sponsor's financial and administrative capability. While there are operational and monitoring differences between the SFSP and the CACFP, the standards set forth in § 226.6 are intended to help State agencies identify whether an organization is able to meet the basic requirements for operating a Child Nutrition Program. In addition, the rule proposed that sponsors must demonstrate compliance with these performance standards as part of their management plan (§ 225.6(c)(2)(i) and new § 225.6(e)).

The proposed standards addressed: (1) financial viability and financial management, (2) administrative capability, and (3) internal controls and management systems that ensure program accountability. The proposed regulations included criteria for assessing each performance standard.

Finally, USDA proposed to amend § 225.14(a) and (c)(1) and (4) to reference application requirements, performance standards, and the management plan, respectively, in the reorganized § 225.6.

Public Comments

USDA received 40 comments on this provision, including 10 form letter copies. Of those who commented on the proposed performance standard, 19 were supportive, two offered partial support, three opposed, and 15 shared mixed feedback. Of those who commented on the proposed requirement for submission of a management plan demonstrating compliance with the performance standards, three were supportive and one comment was mixed.

Proponents and those who offered partial support for the performance standards were State agencies and one individual. These commenters appreciated that this change would create consistency across Child Nutrition Programs and provide State agencies and sponsors with objective standards for assessing a sponsor's potential to be viable, capable, and accountable for operating the SFSP with program integrity. Some commenters said that this would strengthen program integrity and result in more capable sponsors that stick with the Program over the long term. A few State agencies indicated that they already use the proposed standards or suggested that the proposal be strengthened. One State agency recommended that USDA further align SFSP requirements with other integrity measures used in the CACFP such as disqualification of individuals and organizations.

Opponents and several commenters with mixed feedback included State agencies and general advocacy organizations, a few sponsors, and an industry association. These commenters suggested that the SFSP is sufficiently different from the CACFP that USDA should develop unique performance standards for the SFSP. However, commenters did not provide specific suggestions for performance standards that would be suited for the SFSP. These commenters noted that the SFSP operates in a short timeframe and sponsors include small organizations with less administrative capacity than CACFP sponsors, such as faith-based organizations and local youth program providers. Some commenters expressed concern that increasing administrative burden would deter smaller organizations and private nonprofits from participating as sponsors, and would require additional paperwork and systems changes for State agencies.

Several commenters suggested that the requirements in this provision be waived or streamlined in certain circumstances, such as for SFAs and CACFP institutions, or experienced sponsors in good standing. A few commenters inquired about the frequency with which management plans must be submitted or updated, and some suggested that the State should have the discretion to determine how often to re-verify information provided in a sponsor's management plan.

Several commenters requested training and technical support from USDA to aid in implementation, and a few suggested allowing at least two years between publication of this rule and the effective date for this requirement. One State agency noted that they would need to make changes to their IT systems to accommodate this change.

USDA Response

This final rule codifies the performance standards as proposed and provides a streamlined option for experienced sponsors to comply with this requirement.

USDA understands the concerns of commenters who suggested that the proposed performance standards could be a deterrent to smaller sponsors. The addition of specific performance standards will improve program integrity by providing a consistent benchmark for determining financial and administrative capability; for this reason, the standards will be codified as proposed. However, USDA has determined that the process for sponsors to demonstrate financial and administrative capability can be streamlined without negatively impacting program integrity. Therefore, the final rule will allow experienced sponsors that have not demonstrated significant operational problems in the prior year to submit a simplified management plan. The simplified plan must include a certification that any information previously submitted to the State as part of a sponsor's management plan is current, or that the sponsor has submitted any changes or updates to the State. This certification must be submitted annually with the sponsor's application and must address all required elements of each performance standard. However, a full management plan must be submitted at least once every three years to ensure that State agencies periodically conduct a full review and assessment of a sponsor's financial and administrative capability. The State agency may require submission of a full plan more frequently if it determines that more information is needed to evaluate the sponsor's capabilities. New sponsors and those that have experienced significant operational problems in the prior year must submit a full management plan that thoroughly addresses all three performance standards.

In addition, another group of sponsors is largely exempt from the requirements in this provision. As discussed in section III. B. ii., under this final rule, SFAs and CACFP institutions in good standing applying to operate the SFSP do not have to provide further evidence of financial and administrative capabilities and are not required to submit a management plan unless requested by the State agency. These sponsors have already demonstrated their financial and administrative capability through operation of another Child Nutrition Program, and it is not necessary for them to duplicate that effort in order to participate in the SFSP.

USDA sees the value of finding more options to streamline requirements across Child Nutrition Programs, as suggested by a State agency that recommended the SFSP adopt more CACFP requirements related to disqualification of individuals and organizations. However, adding such requirements to the SFSP is beyond the scope of this rulemaking. In response to commenters who requested a year or more to implement these provisions,

this final rule will go into effect on October 1, 2022, which should provide sufficient time to update current systems in advance of May 1, 2023, when compliance with the provisions of this rule is required. As previously noted, this rulemaking is clarifying existing SFSP requirements, so States should already have systems in place to evaluate an applicant's potential to be viable, capable, and accountable for operating the SFSP. In addition, SFAs and CACFP institutions in good standing are not required to submit management plans, which will limit the number of plans that States must review.

Accordingly, this rule adds performance standards for determining sponsor financial viability, administrative capability, and program accountability in a new § 225.6(d) against which State agencies must evaluate an applicant sponsor's financial and administrative capabilities and clarifies the circumstances under which a full or simplified plan is required. This rule also requires in § 225.6(c)(2)(i) and (c)(3)(i) and the new § 225.6(e) the submission of a management plan demonstrating compliance with the performance standards in the new § 225.6(d) and describes the requirements for the full and simplified plans. Finally, this rule amends § 225.14(a) and (c)(1) and (4) to reference application requirements, performance standards, and the management plan, respectively, in the reorganized § 225.6.

C. Facilitating Compliance With Program Monitoring Requirements

i. First Week Site Visits

Section 225.15(d)(2) of the current regulations requires sponsors to visit each of their sites at least once during the first week of program operation. However, in response to consistent feedback from State agencies and sponsors that some sponsors lack sufficient resources to conduct monitoring visits during the first week of operation at all site locations, USDA issued policy guidance to waive the requirement in its entirety for:

- Sponsors in good standing in the NSLP or CACFP (SFSP 04–2013, *Summer Feeding Options for School Food Authorities,* November 23, 2012, and SFSP 06–2014, *Available Flexibilities for CACFP At-Risk Sponsors and Centers Transitioning to SFSP,* November 12, 2013, respectively); and
- Sites that had operated successfully the previous summer (or other most recent period of operation) and had no serious deficiency findings (SFSP 12–2011, *Waiver of Site Monitoring Requirements in the Summer Food Service Program,* April 5, 2011).

However, the nationwide waivers noted above were rescinded in 2018, as discussed in the background section of this final rule. Beginning in summer 2019, State agencies and sponsors were permitted to request a waiver of these regulations on an individual basis. Between 2019 and 2020, 38 States requested individual waivers related to first week site visits. Through implementation of these individual waivers and waivers provided on a nationwide basis through policy memoranda prior to 2019, USDA learned that waiving the first week site visit requirement eased the burden for the sponsors and sites that met the requirements of the waiver. However, USDA also determined that site visits during the first weeks of operation are an important monitoring tool that can help ensure effective and compliant program operations. Therefore, USDA proposed amending current requirements to provide flexibility in the timeframe during which first monitoring visits must take place for larger sponsors while still requiring an early visit for all sites. The proposed rule:

- Creates a tiered framework in which sponsors responsible for the management of 10 or fewer sites are required to conduct the first site monitoring visit within the first week of operations, and sponsors responsible for the management of more than 10 sites are required to conduct the first site monitoring visit within the first two weeks of program operations.
- Requires that, if a site operates for one week or less, the site visit will be conducted during the period of operation.
- Allows sponsors to conduct a first monitoring visit and a food service review at the same time.

Public Comments

In total, USDA received 67 comments on the proposed changes to first week site visit requirements. The summary below discusses these commenters' responses to the proposed tiered framework, proposed changes to the timing of first monitoring visits, including the food service review, and the specific requests for comment, respectively.

Tiered Framework for the First Monitoring Visit

USDA received 66 comments addressing the proposed tiered framework for the first monitoring visit requirement. Of these, nine were supportive, six were opposed, and six were mixed. The remaining 45 comments, including 10 form letters, supported amending current regulations, but voiced concerns over the tiered framework's ability to alleviate the problems it was designed to address. Multiple respondents suggested alternative formulations to the tiered framework; however, the majority of those comments requested a return to the flexibilities provided under the rescinded nationwide waivers. Commenters in support of reinstating previous policy guidance cited it as an effective monitoring approach that was responsive to the challenges that many sponsors faced in meeting the first week site visit requirement. Commenters also wrote that the previous policy guidance allowed sponsors to better target their monitoring resources to sites in greatest need of the monitoring.

In general, respondents who expressed concerns with or opposition to the tiered framework maintained that sponsors will still struggle to meet the requirements under the proposed rule. Multiple commenters wrote that the number of sites a sponsor manages is not always an indicator of their ability to administer the program, and that both small and large sponsors have similar difficulties in fulfilling these requirements. The logistical and administrative challenges commenters listed to visiting all sites in the given timeframe included: insufficient staff, time, and resources to conduct site visits; the inability to visit multiple sites with meal services occurring at the same time; sites operating fewer than seven days per week; and large distances between sites, particularly in rural areas. Several commenters wrote that sponsors may choose to support fewer sites if they cannot meet the proposed monitoring requirements.

Proponents of the tiered framework were appreciative of the flexibility in the timeframe afforded to larger sponsors, stating that the additional time to conduct the visit recognizes the administrative difficulties for larger sponsors, and allows larger sponsors greater flexibility in ensuring compliance and managing their resources.

Concurrent First Monitoring Visit and Food Service Review

USDA received 38 comments about the proposed change to allow the food service review to occur at the same time as the first monitoring visit. Of these, 18 were supportive, 12 provided partial support, six were opposed, and two were mixed. The 12 comments (including form letters) that provided

partial support expressed concern over the time constraints for first monitoring visits if sponsors are required to visit all sites. The commenters stated that the proposed change was a positive step for program administration; however, the timeframe for the first monitoring visit may not provide sponsors an adequate amount of time to conduct a full review early in operations if required to visit all sites.

Opponents of the proposed change wrote that it would increase the program's administrative burden without providing any benefit to oversight of operations, stating it is only a duplication of paperwork and recordkeeping. However, proponents of the proposal stated that it would provide more flexibility for sponsors to manage resources.

Finally, USDA received four comments specifically addressing the provision, which requires that, if a site operates for a week or less, the site visit must be conducted during the period of operation. One comment was in support, and the remaining comments were mixed. Two of the mixed comments requested that the first monitoring visit be eliminated for sites that operate for a week or less. One commenter wrote that the food service review is sufficient to ensure program integrity, while another commenter reasoned there is no opportunity for follow up and technical assistance given the short period of operation, particularly those sites that operate for only one day.

Specific Requests for Comments

USDA asked respondents to the proposed rule to address how the tiers would affect sponsors of different sizes and that operate under varying conditions. Specifically, USDA requested comments on the:

- Number of sites that sponsors manage;
- Number of staff available to conduct site visits;
- Logistics of conducting site visits;
- Time and resources necessary, as well as any other factors, that impact the ability of sponsors to fulfill this requirement;
- Proposed tiers and whether they provide sufficient flexibilities for sponsors; and
- Benefits of requiring first monitoring visits at all sites versus those sites that are new to the program or experienced operational or administrative difficulties in the past.

Eight State agencies provided specific feedback on all or some of the request for comments. The feedback to these specific comments varied among respondents. Overall, comments indicated there is a large variation in the number of sites a sponsor manages, and the number of staff available to conduct site visits. One State agency wrote that a sponsor may have up to 64 sites, while another said a sponsor may have up to 250 sites. Likewise, the average number of sites that sponsors have also varied. Several commenters wrote that typically one or two monitoring staff conduct site visits, but numbers as high as ten were also cited. Another State agency wrote that the number of staff available to conduct site visits is proportional to the number of sites the sponsor manages.

Respondents agreed that conducting a site visit takes a significant amount of time, taking into consideration that site visits also include travel, follow up, and technical assistance. Limited time, in addition to minimal staff, funding, and resources, were all given as factors that impact the ability of sponsors to conduct site visits and fulfill these monitoring requirements within the given timeframe. Commenters also wrote that sponsors often resort to rushing through site visits or staggering their sites' dates of operation to meet these requirements.

Commenters cited multiple benefits to requiring site visits for all sites. Requiring sponsors to monitor their sites helps ensure that sites are following program requirements, allows sponsors to identify and correct site issues early, and fosters open communication between sponsors and sites. A State agency wrote that visiting all sites would ensure that a well-run site continues to maintain standards, but added that the monitoring resources would be better spent on sites with operational issues.

Submissions were generally split on whether the tiered framework provided sufficient flexibility for sponsors. A State agency wrote that the tiered framework does not provide an adequate amount of flexibility and will remove the sponsor's ability to address sites with the most risk. Two State agencies wrote that there are sites that have successfully operated the program for years, and few, if any, of these sites, or sites managed by experienced sponsors, have any findings in the first week site visit. A State agency wrote that new sites or sites that experience operational or administrative difficulties require more technical assistance and training. Requiring site visits for only those sites empowers sponsors to determine where to focus monitoring resources.

USDA Response

This final rule revises the changes to first week site visit requirements in response to the comments received on the proposed rule. As a result, this final rule requires that sponsors must conduct a site visit in the first two weeks of operation for all new sites and sites that had operational problems in the prior year. State agencies may require a site visit during the first two weeks of program operations for any or all other sites in the State, at their discretion. In addition, each State agency must establish criteria for what constitutes operational problems in order to help sponsors determine which of their returning sites are required to receive a site visit during first two weeks of program operations. Operational problems may include, but are not limited to, deficiencies related to:

- Meal preparation;
- Meal service (components);
- Food safety issues; and
- Verification of meal counts at point of service.

Through the process of requesting individual waivers authorized under section 12(l) of the NSLA for summers 2019 and 2020, many State agencies expressed the need for significant flexibilities related to first week site visit requirements, which was echoed in a majority of the comments received for this rulemaking. In developing this final rule, USDA revised its initial proposal in a way that balances program integrity and administrative flexibilities. USDA recognizes the concerns of State agencies, sponsors, and other respondents about whether the proposed changes would provide a manageable monitoring schedule that ensures compliance with program requirements for all sponsors and sites. The proposed tiered framework was based on currently available data from studies conducted by USDA, which showed that over 80 percent of sponsors operate 10 sites or fewer. However, given the number of varying conditions under which sponsors operate the program, USDA agrees with respondents that the number of sites a sponsor manages is not always indicative of its ability to fulfill this requirement. The changes under the proposed rule only provided flexibility in the timeframe for larger sponsors and were not sufficiently responsive to the needs of smaller sponsors that face logistical challenges with completing monitoring requirements within the first week of operations. In response, the final rule extends the flexibility in the timeframe to conduct site visits to all sponsors in

an effort to alleviate the logistical challenges and other factors that impact the ability of sponsors to meet this requirement.

USDA learned through many years of implementing the nationwide waiver of first week site visit requirements that this flexibility eased the burden for sponsors in good standing in the NSLP, SBP, or CACFP, and sites that had operated successfully the previous summer. While experienced multi-program sponsors in good standing have demonstrated that they can operate Child Nutrition Programs successfully and with integrity, site visits facilitate good sponsor management and ensure that site supervisors and staff are receiving the technical assistance needed to operate the SFSP in compliance with all program requirements, particularly among new sites and sites with prior operational problems. Therefore, this final rulemaking codifies a risk-based approach that incorporates a modification to the flexibilities previously provided by the nationwide waiver. This approach allows sponsors to prioritize monitoring resources and technical assistance to sites most at risk of operational issues while reducing the administrative burden of operating the SFSP.

Furthermore, in an effort to be responsive to the need for significant flexibilities without compromising program integrity, this final rulemaking codifies the State agency's discretion to require a site visit during the first two weeks of program operations for any or all sites under any sponsor the State agency deems necessary. The rule also requires that sponsors must follow criteria established by the State agency to identify sites with operational problems that require a site visit during the first two weeks of operation. Commenters emphasized concerns about the administrative burden associated with visiting all sites and noted that monitoring resources would be better spent on sites at higher risk of operational problems. Accordingly, USDA believes that establishing criteria in advance will reduce this concern and improve regulatory certainty by providing sponsors notice of relevant criteria for determining which of their returning sites are required to receive a site visit so that they can plan how best to use their monitoring resources. In addition, these changes empower State agencies to set the appropriate level of monitoring that balances administrative flexibility with consideration of sponsor operations and capability. For example, State agencies may require a site visit for sites that have significant staff turnover, had findings on prior monitoring reviews, are under a sponsor that has had significant issues, or exhibit anything else of concern to the State agency. By permitting State agencies to set a responsive and manageable monitoring schedule in the State, sponsors may be encouraged to take on additional sites, thereby increasing program access without compromising integrity.

Sponsors are still required to conduct a full review of food service operations at each site within the first four weeks of operation, and thereafter, maintain a reasonable level of site monitoring. Consistent with the proposed rule, this final rule allows the food service review to occur at the same time as the site visit during the first two weeks of operation. This option provides sponsors with the opportunity to manage their resources in a way that best suits their program operations. Combining reviews allows sponsors to focus resources on site reviews where more aspects of the site and meal service can be assessed. In addition, given the nature of the program and the short duration under which many sites operate, a full review earlier in the start of program operations would be most effective at identifying and promptly addressing all operational issues that may arise, thereby protecting program integrity. A few comments point to concerns that combining reviews only results in a duplication of paperwork and recordkeeping. While § 225.15(d)(3) requires that sponsors complete a monitoring form developed by the State agency during the conduct of these reviews, this rulemaking gives State agencies the discretion to use their resources in the most efficient way, and State agencies have the option to streamline systems and documentation as they deem appropriate.

Under this final rule, in cases where the site operates for seven calendar days or fewer, the site visit must be conducted during the period of operation, as applicable. USDA acknowledges the challenges of conducting site visits for sites that operate for a short duration. However, monitoring is an effective tool for program management, and direct observation of certain operational activities is necessary to ensure compliance with program requirements.

With this final rule, USDA establishes minimum monitoring requirements while empowering State agencies to determine the appropriate level of monitoring that balances administrative flexibility and program integrity. If follow up is required, additional visits may be necessary to verify whether corrective action has been implemented. Even for sites that are not required to receive a site visit during the first two weeks of program operations under this final rule, as a best practice, USDA encourages sponsors to maintain a partnership that fosters open communication with all sites in order to identify and correct issues early and share best practices from sites that are operating successfully and within program requirements.

Accordingly, this rule amends § 225.15(d)(2) of the regulations to require a site visit during the first two weeks of program operations for all new sites, sites with operational problems in the prior year, and any site for which the State agency determines a visit is needed. In addition, this rule adds a new § 225.7(o) which provides that State agencies must establish criteria for sponsors to use in determining which sites with operational problems noted in the prior year are required to receive a site visit during the first two weeks of program operations. This rule also amends § 225.15(d)(3) to allow sponsors to conduct the site visit and a food service review at the same time.

ii. Establishing the Initial Maximum Approved Level of Meals for Sites of Vended Sponsors

Current regulations at § 225.6(d) require that each site must have an approved level for the maximum number of children's meals which may be served under the Program. This limit, which is commonly known as a 'site cap' is intended to encourage sponsors and State agencies to work closely together to develop reasonable estimates of anticipated site attendance. Site caps for sites that prepare their own meals may be no more than the number of children for which its facilities are adequate. Sponsors of vended sites determine the site cap using historical attendance, or another procedure developed by the State agency if no accurate record from prior years is available.

The process of determining the site caps provides State agencies and sponsors the opportunity to work together to assess a site's capacity and the needs of the community. Effective site caps prevent sites from purchasing or producing more meals than the site will serve or has the capacity to handle, and are an important tool for State agencies to monitor program management and determine if there is need for technical assistance or corrective action to ensure program integrity. In some cases, the capability of a site or the full needs of a community may be difficult to accurately assess before operations

begin, historical data needed to accurately forecast participation levels may be unavailable, or participation may change over the summer. If necessary, site caps can be adjusted based upon information collected during site reviews or other evidence presented to the State agency by the site's sponsor. Current requirements at § 225.11(e)(3) provide that State agencies must disallow payment on any meals served over the site cap at vended sites.

In recognition of the fact that site caps are sometimes revised to respond to conditions at the site, USDA issued policy guidance clarifying that sponsors may request an increase to an existing site cap at any time prior to the submission of the meal claim for reimbursement that includes meals served in excess of the site cap (SFSP 16–2015, *Site Caps in the Summer Food Service Program—Revised,* April 21, 2015). Under this guidance, State agencies have the discretion to approve such a request.

USDA proposed to amend § 225.6(h)(2)(iii) of the regulations, as redesignated through this rule, to clarify that sponsors of vended sites may request an adjustment to the maximum approved level of meal service at any time prior to submitting a claim for reimbursement. USDA also proposed to amend § 225.6(h)(2)(i), as redesignated through this rule, to clarify that State agencies may consider participation at other similar sites located in the area, documentation of programming taking place at the site, or statistics on the number of children residing in the area when determining the site cap.

Public Comments

USDA received 24 comments on this provision, including three form letter copies. Of those who commented specifically on the timing of a sponsor's request to adjust a site cap, 18 were supportive and two were opposed. Of those who commented specifically on the proposed guidance for determining the site cap for sites lacking accurate historic records, all six were supportive, one of whom offered additional recommendations.

Proponents of the proposal to allow an adjustment to the site cap at any time prior to submitting a claim for reimbursement were largely State agencies who appreciated that the change would allow sponsors to be responsive to the needs of their communities. Some offered suggestions to improve the process, such as providing advance notice of special events that could temporarily increase participation.

Two State agencies opposed this provision, saying that adjustments to the site cap should be approved by the State agency because site caps are an important tool for the State agency to monitor program integrity. One of these opponents said that sponsors should be aware of their site operations and able to update their site cap during the same month that the adjustment is needed. Four State agencies also questioned why self-prep sites are not subject to the same site cap rules as vended sites.

Proponents of the proposal to provide guidance for determining the site cap for sites lacking accurate records from prior years appreciated this guidance and said that it would be helpful because making such determinations can be difficult. One State agency requested the flexibility to allow the sponsor to initially self-certify their site cap and revise the caps after operations begin based on meal counts from the first week of meal service.

USDA Response

This final rule codifies the proposed changes with one clarification. This rulemaking adds criteria for establishing the site cap for sites with no accurate historical information in order to aid State agencies and sponsors in determining appropriate site caps. However, USDA did not intend for the criteria provided to be finite. The regulations are revised to make clear that States may consider other relevant information when determining the site cap for sites lacking accurate historical information.

The site cap should be based on the State agency and the sponsor's mutual understanding of the true capacity and capability of its sites, while allowing for potential participation growth. When done correctly, a site cap is a key tool to prevent sponsors and sites from purchasing or producing meals outside the capability of the site and the need of the community. This type of early planning is especially important for vended sites, which may enter into contracts to purchase meals before program operations begin. There is nothing to prevent a sponsor from requesting an adjustment to a site cap after operations begin. However, an initial site cap must still be established at the time that the sponsor's application is approved, in accordance with § 225.6(h)(2) of the regulations, as redesignated through this rule.

USDA agrees that State agencies should have discretion whether to approve a sponsor's request to adjust an established site cap; the current regulations and the policy memoranda that initially allowed this flexibility are clear on this point. This final regulation provides that sponsors may *request* a revision to a site cap, which requires approval, as opposed to notifying the State agency, which would not require approval.

With regard to site caps for self-preparation sites, current regulations require site caps for these sites to be based on the capacity of the site to prepare and distribute meals, and on the number of children for which their facilities are adequate. It is possible that the site's capacity to prepare meals and accommodate a meal service could change during the summer, but this is less likely to occur and poses less of a risk to program integrity than with a vended site. A self-preparation site should have a stronger basis for establishing a site cap—its own capacity—and should be able to correct production to meet demand in real time, as opposed to a vended sponsor that may already have contracted for food. As such, holding self-preparation sites to these requirements would be burdensome and would not have a significant impact on program integrity.

USDA understands the concerns of the commenter who said that sponsors should be required to request an adjustment to a site cap within the same month as the claim for which the cap must be adjusted. This final rule allows the flexibility for requests to be approved up until a claim is submitted for the impacted reimbursement period. However, the State agency may determine that it is in the best interest of the Program to require a sponsor to submit a request during the impacted month if, for example, the State has concerns about the sponsor's operations.

Accordingly, this final rule amends § 225.6(h)(2)(iii) of the regulations, as redesignated through this rule, to clarify that sponsors of vended sites may request an adjustment to the maximum approved level of meal service at any time prior to submitting a claim for reimbursement. This rule would also amend § 225.6(h)(2)(i), as redesignated through this rule, to include further guidance for determining the maximum approved level of meal service for sites lacking accurate records from prior years.

iii. Statistical Monitoring Procedures, Site Selection, and Meal Claim Validation for Site Reviews

Current regulations in § 225.7(d) provide requirements for how State agencies review sponsors to ensure their compliance with program requirements. This section includes the requirement that States conducting a sponsor review must review at least 10 percent of the

sponsor's sites or one site, whichever number is greater (current § 225.7(d)(2)(ii)(E)). Further, USDA guidance instructs State agencies to validate 100 percent of all meal claims from all sites under a sponsor that is being reviewed. USDA proposed three changes to these requirements, which are related to site selection criteria, the method for conducting meal claim validations, and the option for statistical monitoring. In addition, USDA proposed to renumber and rephrase portions of § 225.7 to make the regulations easier to understand.

Section 225.7(d)(8) allows State agencies the option to use statistical monitoring procedures in lieu of the site monitoring requirements found in § 225.7(d)(2). USDA is not aware of any States that currently use this option and has determined through research and feedback from State agencies that it is not possible to create standard statistical monitoring procedures that will meet the needs of the Program. Accordingly, USDA proposed to remove the provision in § 225.7(d)(8) that allows the use of statistical monitoring for site reviews.

USDA also proposed to provide guidance in § 225.7(e)(5), as redesignated in this rule, to assist State agencies and sponsors in selecting a sample of sites to review that will be generally reflective of the variety of all a sponsor's sites. Site characteristics that will be reflected in a sponsor's sample include:

- The maximum number of meals approved to serve under §§ 225.6(h)(1)(iii) and 225.6(h)(2), as redesignated through this rule;
- Method of obtaining meals (*i.e.,* self-preparation, vended meal service);
- Time since last review by the State agency;
- Site type (*i.e.,* open, closed enrolled, camp);
- Type of physical location (*e.g.,* school, outdoor area, community center);
- Rural designation (*i.e.,* rural, as defined in § 225.2, non-rural);
- Affiliation with the sponsor, as defined in § 225.2; and
- Additional criteria that the State agency finds relevant including, but not limited to: recommendations from the sponsoring organization, findings of other audits or reviews, or any indicators of potential error in daily meal counts (*e.g.,* identical or very similar claiming patterns, or large changes in meal counts).

Finally, USDA proposed a new, incremental approach for conducting meal claim validations as a part of the sponsor review in § 225.7(e)(6). This approach is intended to use State agency resources more efficiently and provide State agencies with a more targeted method for review. USDA requested specific comments on this process, including the anticipated impact on State agencies and burden, the accuracy of claim validations under this process, and the stepped increases and the percentage expanded at each step.

Rather than requiring that State agencies validate 100 percent of meal claims for all sites under the sponsor being reviewed, which may be burdensome for some State agencies, USDA proposed a multi-step approach to site-based meal claim validation. State agencies would initially validate a small sample of claims and would only be required to validate additional claims if they detect errors over the threshold. Included as part of the approach, USDA explained how State agencies should calculate the error percentage which would trigger the expanded validation sample.

Public Comments

USDA received 34 comments on these proposals. Of these comments, 13 were generally supportive, three offered partial or conditional support, three were opposed, and 15 had mixed opinions. Specific comments are addressed in the respective sections below.

Statistical Monitoring

USDA received 15 comments, including three form letter copies that addressed statistical monitoring procedures in lieu of site monitoring requirements. Of these comments, nine were supportive and six, including three form letters, were opposed.

Overall, proponents wholly supported the elimination of this provision and stated that they were not aware of the provision being used by State agencies. A commenter wrote that their agency had opted to review a minimum of 10% of each sponsor's sites or one site, whichever number is greater instead of using the statistical monitoring option.

Opponents of this provision included three unique comments and one form letter, all from one State agency. Commenters opposed these changes, writing that their State has used statistical monitoring for over 10 years and removing these requirements would hinder State agencies' ability to review sponsors in good standing through statistical monitoring. They further suggested that USDA provide guidance for how to develop and implement statistical monitoring procedures to provide State agencies this monitoring option.

Site Selection

USDA received 21 comments, including three form letter copies about site selection criteria. Of these, 16 were supportive of the proposal, two offered partial support, one was opposed, and two were mixed. Proponents supported the addition of site selection criteria as proposed to assist State agencies in selecting a sample of sites that would be reflective of the variety of a sponsor's sites when completing sponsor reviews. Two States offered partial support, agreeing in part to the characteristics put forth, but stated that some of the characteristics such as rural designation and sponsor affiliation are not as important as other indicators when selecting a site for review. These commenters stated that the proposed list of site selection criteria was a good-faith effort to compel States to incorporate diversity into their site review selection decisions. However, they further added that the most effective way to identify fraud would be to incorporate a review of questionable site claiming patterns, previous findings, and other irregularities in site claiming. These commenters also stated that it is a good idea to allow States the discretion to use additional site characteristics in their site selection decisions.

One commenter was opposed to this provision and stated that the provision would cause an additional burden on the State agency by creating additional labor and technology expenses. The commenter further stated that the site characteristics proposed are not information that State agencies are required to collect and are insignificant as indicators of risk to the Program. In addition, while neither expressing support nor opposition to the site selection criteria as proposed, one commenter stated that they were currently using a similar set of characteristics to determine which sites are selected for review. Another commenter stated that the list of site characteristics could be viewed as targeting certain sponsors or sites.

Meal Claim Validation

USDA received 33 comments, including three form letter copies, about the proposed meal claim validation methodology. Of these, 18 were supportive, three provided partial support, six were mixed or other, and six were in opposition. Overall, proponents supported the meal claim validation method, but requested training materials and tools to support the implementation of a new process.

Proponents that supported the meal claim validation methodology cited the

decrease in administrative burden in comparison to validating 100 percent of a sponsor's claim. Two States offered partial support, agreeing in part to the validation of meals based on reviewing a sample of sites as opposed to all sites, but stated the desire to add an additional step of validation all claims for 75 percent of the sponsor's sites.

Of the six commenters with mixed support or other comments, one commenter stated that the proposed methodology would not add additional burden as the State already completes a similar process during the sponsor review. One commenter stated that if minimal errors are initially identified in the process, the proposed methodology would provide accuracy for the review. A commenter also noted the desire to address errors discovered in the review without validating additional sites. In addition, one commenter noted that the error rate of five percent was too low and use of the step increases should be at the State's discretion. An additional comment stated that the stepped increases and percentages were appropriate.

Of the six commenters in opposition, three opposed the sampling approach and instead supported continuing to validate 100 percent of a sponsor's claim during the sponsor review. Two commenters in opposition stated that the multistep approach was complicated and unnecessary to determine integrity of a sponsor. The commenters were also opposed continuing to validate 100 percent of a sponsor's sites if issues were observed. One State agency noted that the proposed methodology would create additional labor and technology costs. One State agency referenced aligning the reviews in the SFSP to characteristics in the NSLP in order to reduce burden.

USDA Response

Statistical Monitoring

This final rule codifies as proposed the removal of the option for statistical monitoring in lieu of site monitoring requirements. Commenters overwhelmingly supported the removal of this option and USDA found through feedback from States agencies that this option is not being used by any State agency. USDA determined that the State agency opposed to the option's removal because they were using this method, was not in fact using statistical monitoring as outlined in § 225.7(d)(8).

Accordingly, this final rule removes the option at § 225.7(d)(8) for statistical monitoring in lieu of site monitoring requirements.

Site Selection

This final rule codifies the proposed site selection criteria with one change to specify that State agencies must develop criteria for site selection. USDA recognizes that State agencies are in the best position to identify which sponsors' sites to review based on a wide variety of characteristics. Although one State agency was opposed to this provision due to concerns over burden and costs, creating criteria for site selection will increase program integrity by ensuring States select a variety of sites to review. Therefore, USDA codifies the proposed approach to site selection which emphasizes identifying a variety of sites to be reviewed. In order to promote diversity among sites that are reviewed, States must create criteria for site selection using the site characteristics suggested by USDA as a guide. Additionally, State agencies may, in selecting sites for review, use additional criteria including, but not limited to, findings of other audits or reviews, or any indicators of potential error in daily meal counts (*e.g.,* identical, questionable, or very similar claiming patterns, or large changes in meal counts).

Accordingly, § 225.7(e)(5), as redesignated in this rule, includes site selection criteria.

Meal Claim Validation

This final rule codifies the proposed changes to meal claim validation requirements, and adds additional clarifications to confirm that State agencies have the discretion to exceed the minimum number of required claim validations, and to provide a chart to aid State agencies in complying with this provision.

Most commenters affirmed that USDA's proposal to initially validate a small sample of claims and expand the validation sample if errors over the threshold are detected would decrease administrative burden in comparison to requiring that State agencies validate 100 percent of meal claims for all sites under the sponsor being reviewed. While some State agencies stated that the proposed approach would increase their administrative burden when deficiencies are found, USDA believes it is in the best interest of program integrity to provide a standardized method to complete meal claim validations and decrease administrative burden for a majority of sponsor reviews.

Based on comments on the proposed rule, USDA is providing several clarifications. First, if the meal claim validation sample is expanded, it does not require the State agency to complete an additional review of the sites included in the expanded validation sample. The State agency may complete a more thorough review at their discretion.

Second, when expanding the sample size, the State agency is only required to validate the claims of the additional number of sites to reach 25, 50, and 100 percent of the sponsor's sites, and can count the sites reviewed in the initial sample toward the number of sites needed to be reviewed in the expanded sample. For example: A sponsor has 35 sites. The State agency is required by § 225.7(e)(4)(v) to review 10 percent of the sponsor's sites. The State agency calculates the sample size required for the initial validation by multiplying the total number of sites (35) by 10 percent (.10), which equates to 3.5; after rounding up, the number of sites required to be reviewed is 4. Step 1 of the meal claim validation process requires that the State agency validate all meals served by these 4 sites during the month of review. After step 1 of validation, it is determined that the percentage of error is over 5 percent. The State agency must now validate 25 percent of the sponsor's total sites. In order to satisfy this requirement, the State agency only needs to review the additional number of sites in the expanded sample. To determine the sample size required in the next step of validation, the State agency multiplies 35 by .25, which equates to 8.75. After rounding up, the number of sites to be reviewed is 9. To reach 25 percent of the total number of sites, or 9 sites, the State agency would only need to validate 5 additional sites (9 minus the 4 sites validated in step 1).

Third, the percentage of error is not a rolling average and is calculated based on the sample of sites included in each step of the validation. To ensure clarity, USDA has revised the explanation of how to calculate percentage error included in the proposed rule. USDA has also provided additional formulas to clarify how to calculate: the total meals claimed for the validation sample in each step, the individual meal count validation discrepancies for each site, total meal count validation discrepancy for the validation sample in each step, and the percentage of error. The clarifications below are meant to ensure all discrepancies in meal counting and claiming, whether an overclaim or underclaim, are equally accounted for in the percentage of error as both are signs of potential problems in the operation and administration of the Program.

To calculate the percentage error for each step, first determine the meal

counting and claiming discrepancy for each site validated by subtracting the total meals validated from the total meals claimed by the sponsor for each reviewed site. Then, determine the absolute value of each discrepancy. By using the absolute value, the numbers will be expressed as positive numbers. Add together all discrepancies from each site to calculate the total discrepancies for sites reviewed in the given step. Divide the total discrepancies by the total meals claimed by the sponsor for all reviewed sites within the validation sample for the given step and multiply by 100 to calculate the percentage of error in the given step. In determining the percentage of error, fractions must be rounded up (≥0.5) or down (<0.5) to the nearest whole number. Refer to the equations below for clarification.

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Percentage Error Formula after Totals

(a) Calculating discrepancies for each site validated

$$M_D = |\text{meals claimed}_{site\ X} - \text{meals validated}_{site\ X}|$$

(b) Calculating the percent error for each step

$$M_{TD} = M_{D\ (site\ 1)} + M_{D\ (site\ 2)} + M_{D\ (site\ 3)} \ldots.$$

$$M_C = \text{meals claimed}_{site\ 1} + \text{meals claimed}_{site\ 2} + \text{meals claimed}_{site\ 3} \ldots..$$

$$\textbf{Percentage error} = \frac{M_{TD}}{M_C} * 100$$

M_D = meal counting and claiming discrepancy for each site validated

M_{TD}= total discrepancies for the sites in the validation sample

M_C= total meals claimed for the sites in the validation sample

USDA codifies the meal claim validation method as shown in the table below.

Steps	Outcome	Result
Step 1: The State agency must complete an initial validation of the sites under review to satisfy the requirements outlined in paragraph (e)(4)(v) of this section. The State agency must validate all meals served by these sites for the review period. Then, calculate the percentage of error of the sites in this step as described in (v) of this section.	Validation of sites in step 1 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 1 yields a five percent error or more.	The State agency must move to step 2.
Step 2: Expand the validation of meal claims to 25 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period. Then, calculate the	Validation of sites in step 2 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any

Steps	Outcome	Result
percentage of error of the sites in this step as described in (v) of this section.		payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 2 yields a five percent error or more.	The State agency must move to step 3.
Step 3: Expand the validation of meal claims to 50 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period. Then, calculate the percentage of error of the sites in this step as described in (v) of this section.	Validation of sites in step 3 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 3 yields a five percent error or more.	The State agency must move to step 4.
Step 4: Expand the validation of meal claims to 100 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.	

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Finally, USDA recognizes that States agencies have their own best practices to ensure integrity during the sponsor review and has included in this final rule that the codified methodology is the minimum requirement and that sampling steps can be forgone at any point to reach 100 percent validation of the sponsor's claim. This provides the flexibility requested by commenters to use the step increases or to continue validating the entirety of a sponsor's claim for reimbursement without utilizing a sampling methodology.

Accordingly, USDA is codifying in section 225.7(e)(6), as redesignated in this rule, a method for conducting meal claim validations along with a chart to explain the validation process. In addition, this final rule renumbers and rephrases portions of § 225.7 to make the regulations easier to understand.

D. Providing a Customer-Service Friendly Meal Service

i. Meal Service Times

Section 225.16(c) of the current regulations sets forth restrictions on when meals can be served in the SFSP. Three hours are required to elapse between the beginning of one meal service, including snacks, and the beginning of another, with the exception that four hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. Further, the regulations state that the service of supper cannot begin later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances; however, in no case may the service of supper extend beyond 8 p.m. The duration of the meal service is limited to two hours for lunch or supper

and one hour for all other meals. These restrictions do not apply to residential camps.

These strict requirements did not provide sufficient control at the State agency and sponsor level to allow for planned meal services that meet the needs of the community. Dating as far back as 1998, USDA has issued guidance that waives these requirements at certain sites where the requirements proved to create significant barriers to efficient program operations and good customer service for the communities served. USDA heard consistent feedback from stakeholders that the restrictions presented challenges to aligning meal services with access to public transportation and community services. Therefore, in 2011, USDA published guidance that waived the meal service time restrictions for all SFSP sites while still requiring sponsors to submit meal service times to the State agency for approval (originating guidance has since been superseded and incorporated into SFSP 06–2017, *Meal Service Requirements in the Summer Meal Programs, with Questions and Answers—Revised,* December 05, 2016). These waivers were rescinded in 2018, as discussed in the background section of this final rule. Between 2019 and 2020, 51 States requested an individual waiver under section 12(l) of the NSLA of meal time restrictions to allow them to continue implementation of what had previously been in effect through guidance. Of those that applied in 2019, 39 asserted that the waiver would result in improved program operations and, therefore, efficient use of resources. Because increased flexibility in setting meal times proved to be a useful tool for program operations, USDA proposed to remove existing meal service time restrictions, and add a requirement that a minimum of one hour must elapse between the end of a meal service and the beginning of another.

Sponsors have also expressed the need for flexibilities to conduct meal services in the event of an unforeseen circumstance, such as a delayed delivery. Therefore, USDA also proposed allowing a State agency to approve for reimbursement meals served outside of the approved meal service time if an unanticipated event, outside of the sponsor's control, occurs. The State agency may request documentation to support approval of meals claimed when unanticipated events occur.

In recent years, it has come to USDA's attention that some sponsors have served a meal, which meets the meal pattern requirements for breakfast, in the afternoon after a lunch service was provided and claimed this meal as a reimbursable ''breakfast.'' The SFSP is statutorily designed to support ''programs providing food service similar to food service made available to children during the school year'' under the NSLP and SBP (42 U.S.C. 1761(a)(1)(D)). Currently, regulations governing the SBP define breakfast as a meal which is served to children in the morning hours and must be served ''at or close to the beginning of the child's day at school'' (7 CFR 220.2). As such, the service of a reimbursable, three component meal, or ''breakfast,'' in the afternoon following the service of lunch is not supported by the statute. Therefore, USDA proposed that a meal otherwise meeting the requirements for a breakfast meal is not eligible for reimbursement as a breakfast if it is served after any lunch or supper has been served and claimed for reimbursement.

Finally, USDA proposed to amend § 225.16(c) to make it easier for users to locate and understand key information. Section 225.16(c)(1) will consolidate meal service time requirements currently referenced in other sections of part 225. This would specify that meal service times must be established by the sponsor for each site, be included in the sponsor's application, and be approved by the State agency. Current regulations at § 225.16(c)(6), which specifies that a sponsor may claim for reimbursement only the type(s) of meals for which it is approved to serve, will move to § 225.16(b). In addition, a reference to approved meal service times will be added to the State-sponsor agreement information in redesignated § 225.6(i)(7)(iv).

Public Comments

USDA received 47 comments about meal service times, including three form letter copies. Of these, 31 were supportive, 10 expressed partial support, and six comments had mixed or neutral opinions regarding the proposal.

Proponents stated that a one-hour time gap would support sponsors in providing meal services at times that better align with community needs, as opposed to four hours. Additionally, proponents asserted that the proposed change in meal service time requirements would help SFSP meal services to mirror NSLP meal service times, so that children eat at similar intervals throughout the year. These commenters also expressed support for the reimbursement of meals served outside of the approved meal times, and disapproval of serving a reimbursable breakfast after lunch has been served.

Proponents who partially supported the provision stated that a one-hour limit between a lunch and supper when no snack is served was still too restrictive. These commenters asserted that a time limit of 30 minutes or less would grant more flexibility to sponsors that offer a variety of summer activity programs during similar hours. Additionally, commenters requested clarification on what circumstances would constitute an ''unanticipated event'' for the purposes of serving meals outside of the approved meal service time. Further, one comment from a sponsor organization stated that USDA's clarifications on breakfast meal services would create limitations on their ability to serve meals because their site opens in the afternoon.

Mixed comments on the proposal expressed an opinion that was unclear based on a common reading of the language used in the comment. For example, some of these comments expressed disagreement with the rule, but requested actions that the provision proposed as a remedy. Other comments requested clarification on the meaning of ''unanticipated event'' and whether the requirement for one-hour to elapse between meals will apply to camps.

USDA Response

This final rule codifies changes to meal service times as proposed. The waiver of meal time restrictions has helped decrease administrative burden and provided more local level control to sponsors to plan the most effective meal services, thereby improving program operations and better serving the community. USDA seeks to balance these benefits with the maintenance of program purpose and integrity. The purpose of the SFSP is to provide children with meal services when school is not in session. Further, to uphold program integrity, meal services should be clearly distinguishable from each other to enable accurate claiming and recordkeeping. USDA has determined that it would be beneficial to SFSP participants and sponsors for the timing of meals that students have when school is not in session to more closely align with the meal service that students have when school is in session. USDA recognizes that some sponsors have found it useful to serve breakfast at unconventional hours. However, having summer meal services that mirror those held during the school year, such as holding breakfast service before lunch, reduces confusion in program operations and provides program participants with a consistent meal service experience year-round.

USDA also recognizes that State agencies would benefit from further examples of what may constitute an unanticipated event for the purposes of providing meals outside of the approved meal time. Examples of such events include, but are not limited to: delayed meal deliveries, inclement weather that delays the start of the meal service, delayed public transportation utilized by participants, and other incidents as deemed appropriate by the State agency.

Additionally, comments requested clarification on whether the one-hour requirement between meals will apply to camps. This rulemaking will not modify the exemption at § 225.16(b)(1)(ii) which excludes residential camps from meal service time restrictions.

Accordingly, this final rule modifies § 225.16(c) to remove existing meal service requirements, and codifies the requirement that all sites, except residential camps, must allow a minimum of at least one hour to elapse between the end of one meal and the beginning of another. Additionally, this final rule allows a State agency to approve for reimbursement meals served outside of the approved meal service time if an unanticipated event occurs. This rule will also clarify that meals claimed as a breakfast must be served at or close to the beginning of a child's day, and prohibit a three component meal from being claimed for reimbursement as a breakfast if it is served after a lunch or supper is served. Finally, this rule will reorganize § 224.16(c) to improve the clarity of the regulations.

ii. Off-Site Consumption of Food Items

Providing a meal service for children in a group setting, a concept known as ''congregate feeding,'' has been a part of the SFSP since its inception. Congregate feeding has many benefits, including providing an opportunity for children to socialize, creating time for sites to offer activities, and allowing adults to monitor food safety and encourage healthy eating practices. Current SFSP regulations provide that sponsors must agree to ''maintain children on site while meals are consumed'' (§ 225.6(e)(15)).

However, over the years, USDA has heard from stakeholders that, because the SFSP operates in a wide variety of settings, including sites that do not offer activities or programming separate from the meal service, keeping children on site for consumption of the entire meal offered is sometimes challenging. Some children, particularly those who are younger, are unable to eat all of the meal components in one sitting, which sponsors note can result in children not receiving vital nutrition and contributes to plate waste. Thus, USDA proposed to amend § 225.16 to codify the previously granted flexibility to allow participants to take one item (*i.e.,* either a fruit, vegetable or grain item) off-site for later consumption.

Public Comments

USDA received 63 comments regarding the codification of the flexibility to allow off-site consumption of certain food items, including nine form letter copies. There were 41 comments in support of the proposal, six comments in partial support of the proposal, 16 comments with mixed or neutral opinions, and zero comments opposing the proposal.

USDA also received responses to specific questions posed in the proposed rule. Ten comments addressed State agencies' ability to monitor the effective implementation of the provision, and 12 comments addressed whether States agencies would prohibit certain sponsors from utilizing the option.

Proponents of the proposal stated that allowing participants to take food off-site increased State agencies' and sponsors' ability to administer and operate the SFSP more effectively, and would increase program access. Several sponsors also asserted that the proposal would minimize food waste, and support children eating portions that are appropriate for their appetite at meal services. Sponsors further noted that taking food off-site would allow children to derive the health benefits from being able to eat the entire meal, rather than needing to throw a portion away. Supportive comments from State agencies highlighted that training and technical assistance for successfully implementing this provision is available to eligible sponsors in their State. State agency comments further noted that sponsors need to ensure that they have adequate staffing available to monitor the provision.

Proponents who partially supported the provision expressed a desire for all shelf-stable milk options to be permitted to be taken off-site, or suggested that participants be permitted to take multiple items off-site. A State agency commenter requested the authority to prohibit a sponsor from utilizing this option if the State agency finds that the sponsor is incapable of adequately monitoring its implementation.

Opponents of the provision requested removal of the congregate feeding requirement due to a belief that it hinders program access. Other comments expressed concerns regarding the ability of State agencies and sponsors to effectively monitor the implementation of the provision. These comments noted that the provision may be difficult to monitor, particularly in rural areas with transportation limitations. However, other State agencies stated that they had successfully monitored the use of the flexibility in the past, and found that sponsors were implementing it correctly.

State agency comments on whether they would prohibit certain sponsors from allowing an item to be taken off-site centered on if the State agency anticipated patterns of non-compliance from a sponsor, and if a sponsor was in good standing. State agencies that had observed patterns of non-compliance from a particular sponsor would prohibit that sponsor from utilizing the provision. Other State agencies noted that they would not prohibit sponsors from using the flexibility, but would assign corrective action to sponsors as needed if the provision was not implemented correctly. A commenter requested a delay in implementation to update training and resources necessary to successfully utilize this provision.

USDA Response

This final rule codifies, as proposed, the flexibility for off-site consumption of food items. USDA appreciates the attention to program integrity provided by comments on the feasibility of monitoring this provision. It is important for program integrity and the safety of children that site staff appropriately monitor this flexibility to ensure that children only bring home the correct types and quantities of food items, and that such items are not at risk of spoiling before they can be consumed. Previously published USDA guidance on the implementation of this flexibility permitted State agencies to approve sponsors to use this provision on a case-by-case basis, and also provided State agencies with a non-appealable decision-making authority to prohibit sponsors from using this option when there are concerns about adequate site monitoring. This final rule does not change that authority; therefore, State agencies retain the discretion to prohibit sponsors from using this flexibility if the State finds that the provision cannot be adequately monitored. However, USDA encourages State agencies to explore options for successfully implementing this provision including updating training, procedures, and relevant systems.

USDA seeks to ensure that program meals are accessible to even the youngest of the SFSP demographic,

while still ensuring that participants can enjoy their meals in a safe, supervised setting in accordance with program requirements. USDA appreciates that some commenters would like children to be permitted to take multiple items off-site for later consumption. However, taking a single item off-site is the amount already allowed through policy memoranda for the SFSP and the at-risk afterschool component of the CACFP, in part because it is straightforward for a site to monitor children taking home a single non-perishable item, and more complex to oversee children taking other combinations of items off-site. In addition, this rulemaking proposed to allow children to take a single item off-site for later consumption, and solicited comments specifically on this programmatic option. Therefore, suggestions to allow more food items or entire meals to be consumed off-site are outside the scope of this rulemaking.

Accordingly, this final rule codifies the flexibility for sponsors to allow children to take a single fruit, vegetable, or grain item off-site for later consumption by amending § 225.6(i)(15), as redesignated through this rule, and adding a new § 225.16(h).

iii. Offer Versus Serve

Current regulations in § 225.16(f)(1)(ii) allow SFAs that are program sponsors to ''permit a child to refuse one or more items that the child does not intend to eat.'' This provision is known as ''Offer versus Serve'' (OVS). The regulations also require that an SFA using the OVS option must follow the meal pattern requirements for the NSLP, as set out in § 210.10. Finally, the regulations state that the sponsor's reimbursement must not be reduced if children do not take all required food components of the meal that is offered.

The goals of OVS are to simplify program administration and reduce food waste and costs while maintaining the nutritional integrity of the SFSP meal that is served. The use of OVS was first extended to SFSP operations through the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104–193), which permitted SFAs sponsoring the SFSP to use OVS on school grounds. Because the option is regularly implemented during the school year, it was thought that these sponsors could successfully implement the option during the summer. Recognizing that OVS was a useful tool to reduce food waste and food costs, the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105–336) extended the use of OVS to all SFSP sites sponsored by SFAs. In the years since, OVS has proved to be a useful tool for program operators.

After observing SFA sponsors successfully utilizing the option for many years and receiving significant feedback from stakeholders, including Congressional testimony about the positive effects of OVS on reducing food waste and containing program costs, USDA extended the option to use OVS to non-SFA sponsors through policy guidance in 2011 (SFSP 11–2011, Waiver of Meal Time Restrictions and Unitized Meal Requirements in the Summer Food Service Program, October 31, 2011). USDA continued to clarify policies surrounding OVS, including guidelines for required meal service components under the SFSP meal pattern (SFSP 08–2014, Meal Service Requirements, November 12, 2013) and extending the use of the SFSP OVS meal pattern guidelines to SFA sponsors that had previously been required to follow the OVS requirements for the NSLP (SFSP 05–2015 (v.2), Summer Meal Programs Meal Service Requirements Q&As—Revised, January 12, 2015). This guidance highlighted the distinguishing aspects of the SFSP and NSLP, including variations in settings and resources, and adjusted the OVS requirements for use in the SFSP accordingly.

As mentioned in the background of this rule, these waivers of statutory and regulatory requirements pertaining to OVS were rescinded in 2018. Between 2019 and 2020, 39 States requested individual waivers of program requirements through section 12(l) of the NSLA to allow them to continue utilizing OVS as had previously been permitted through guidance. FNS granted these requests to provide continuity to States and sponsors while the agency completed this rulemaking.

The proposed rule sought to retain the regulatory requirement that only SFA sponsors may utilize the OVS option. In addition, the rule proposed to allow SFA sponsors electing to use the SFSP meal pattern to use SFSP OVS guidelines. This would align the regulations with the NSLA, which only authorizes SFA sponsors to use OVS. Through on-site reviews, USDA has also observed meal pattern violations tied to the improper use of the OVS guidelines specifically at sites sponsored by non-SFAs. In light of these observations, maintaining OVS for the types of sponsors that are most likely to implement it correctly would promote program integrity while also operating the program in accordance with statutory intent.

Finally, the proposed rule sought the following specific comments on OVS:

- What level of training do non-SFA sponsors receive in order to be able to properly implement OVS?
- Do non-SFA sponsors have the resources needed to properly implement OVS?
- What level of technical assistance do non-SFA sponsors receive?
- How would non-SFA sponsors be impacted if OVS were no longer an available option?
- What are the specific benefits to sponsors that use OVS?

Public Comments

USDA received 62 comments regarding OVS, including nine form letter copies. Of the 62 comments, seven supported the proposal as written, 49 expressed support for OVS as an option and for the use of the SFSP meal pattern, while also expressing concerns with the overall proposal, six held a mixed opinion, and zero opposed it entirely. Thirteen stakeholders also submitted comments directly responding to all or some of the specific questions posed in the proposed rule.

Proponents of this provision included State agencies that have observed improper implementation of OVS from non-SFAs, or otherwise believed that SFAs are better equipped with the knowledge and resources to correctly utilize OVS. Additionally, these comments supported allowing SFA sponsors that elect to use OVS during SFSP operations to follow the SFSP meal pattern.

The majority of commenters supported continuing the flexibility for SFAs, but requested that this meal service option also be extended to non-SFA sponsors, including those that operate the CACFP and use OVS during the school year in their At-Risk Afterschool Meals programs. These comments highlighted that OVS benefits sponsors through decreased operation and administrative costs and reduced food waste. Commenters noted that training and technical assistance are generally offered to all SFSP sponsors that wished to use OVS and some stated that they have not witnessed implementation errors from non-SFA sponsors. Multiple State agencies said that not all non-SFA sites are equipped to successfully use OVS, and thus recommended it should be limited to those sponsors that have adequate resources or on a case-by-case basis. Other commenters echoed the suggestion that the use of OVS by non-SFA sponsors could be limited to those that are capable of using it correctly.

Mixed comments largely offered general support for OVS or focused on answering the specific questions posed

in the proposed rule. In response to USDA's questions about the level of OVS training and technical assistance that non-SFA sponsors receive and whether non-SFA sponsors have the resources needed to properly implement OVS, State agencies said that OVS is included in their regular training regimen, with non-SFAs receiving as much training as SFA sponsors. These commenters also expressed that sponsors presently have the resources needed to properly implement OVS, and are provided technical assistance by request or when needs are identified by State agency representatives. In response to USDA's questions about the benefits of OVS and the impact of it no longer being available for non-SFA sponsors, commenters said that OVS decreases program waste and cost, while providing more food choices to program participants. Non-SFA sponsors who previously implemented OVS would not realize these benefits and would need to retrain staff if OVS is no longer available to them. A few indicated that this change could have a negative impact on sponsor participation. These commenters included State agencies, sponsor organizations, and school districts.

USDA Response

This final rule codifies the proposed changes to OVS regulations. USDA understands that OVS has been a popular flexibility among SFSP sponsors and, for many years, sponsors of all types have used OVS to increase cost efficiency and provide more food choice for children during meal services. However, section 13(f)(7) of the NSLA only authorizes SFAs to use OVS. The flexibilities that allowed non-SFAs to utilize OVS were pursuant to policy guidance that was rescinded in 2018, or COVID–19-related waiver authority which was not permanent and was intended to aid program operators during the public health emergency and as they transition back to normal operations. As previously discussed in the background section of this rule, a 2018 OIG report led USDA to determine that offering waivers under 42 U.S.C. 1760(l) on a nationwide basis is not supported by the statute. As such, the use of nationwide waivers is no longer a viable option to address OVS. USDA exercised its discretion in 2019 to issue individual waivers under section 12(l) of the NSLA for 37 State agencies in order to bridge the gap between when the nationwide waiver was rescinded and this rulemaking was completed. As discussed in the proposed rule, the operation of OVS by non-SFA sponsors has also raised some program integrity concerns. Information obtained from site visits, and some State agency comments have indicated improper OVS implementation among non-SFA sponsors. Therefore, limiting OVS to only SFA sponsors, which generally have experience with OVS in the NSLP, will ensure that program regulations and operations remain in agreement with the statute and promote program integrity. As a result, this final rule continues the current regulatory requirement that only SFA sponsors may utilize the OVS option, while revising the regulations to allow the use of the SFSP meal pattern with OVS.

USDA does not expect a significant impact on program participation as OVS is an optional flexibility that functions to modify meal component offerings at meal services; SFA and non-SFA sponsors alike may operate meal services without OVS. USDA stands ready to provide technical assistance, as needed, to support this transition. Further, FNS data indicate that a relatively small share of all sponsors will be affected; fewer than 10% of SFSP sponsors are non-SFAs that used OVS under the waivers.[1] With regard to food waste, section D ii of this rule codifies the option for participants to take one fruit, vegetable, or grain item off-site for later consumption. Similarly, the use of share tables, where children may return whole food or beverage items they choose not to eat for other children to take, is also an option for sponsors to reduce food waste.

Accordingly, this final rule retains the requirement at § 225.16(f)(1)(ii) that only SFA sponsors may utilize the OVS option. Further, this rule allows SFA sponsors electing to use the SFSP meal pattern to use SFSP OVS guidelines.

E. Clarification of Program Requirements

i. Reimbursement Claims for Meals Served Away From Approved Locations

Under current regulations, meals are reimbursable only when served at sites approved by the State agency. As defined in § 225.2, a site is ''a physical location at which a sponsor provides a food service for children and at which children consume meals in a supervised setting.'' Site approval applies only to the specific location approved, not to meals removed from that site for service at another location that has not been approved. The State agency must approve any changes in site service time or location after the initial site approval. However, USDA granted State agencies the flexibility to approve exceptions to this requirement for the operation of field trips under USDA Instruction 788–13: *Sub-Sites in the Summer Food Service Program* and policy guidance, *Field Trips in the Summer Food Service Program (SFSP),* February 3, 2003.

USDA proposed codifying the flexibility to allow sponsors the option to receive reimbursement for meals served away from the approved site without requiring formal approval from the State agency, and establishing conditions that must be met in order for sponsors to receive reimbursement for these meals. The proposed rule:

- Requires sponsors to notify the State agency in advance that meals will be served away from the site.
- Permits State agencies to set time limits for how far in advance of the field trip sponsors would send notification to the administering agency.
- Requires sponsors of open sites to continue operating at the approved open site location while the field trip occurs, if feasible, or notify the community of the change in meal service and provide information about alternative open sites where community children can receive free summer meals.

Under these proposed changes, sponsors must be capable of meeting program requirements and local health, safety, and sanitation standards during the field trip, and meals are required to be served at the approved meal service times.

Public Comments

USDA received 29 comments addressing the proposal to allow reimbursement claims for meals served away from approved locations, including three form letter copies. Of these comments, 27 were supportive, and two were mixed. None of the comments USDA received for this provision were opposed. Thirteen of the comments received specifically addressed the condition that sponsors of open sites continue operating during field trips, or alert the public where children can access meals during those times. Of those, one was opposed, one was mixed, and the remaining were supportive of the condition as proposed.

Proponents wrote that the proposed changes would simplify the process for State agencies and local program operators. A few respondents in support also provided recommendations for different aspects of the provision for

[1] According to the most recently available USDA administrative data, approximately 60% of sites were SFA sites in July 2021. According to the Summer Meals Study (Report Volume 3, page 3–15), only 24% of non-SFA sites used OVS in 2018. This gives a total of 9.6% of all sites who will need to transition to meal service without the use of OVS as a result of this rule (40% × 24% = 9.6%). The Summer Meals Study is available online at *https://www.fns.usda.gov/cn/usda-summer-meals-study.*

USDA to consider. An advocacy group wrote that proposed changes should not put undue burden on sites or allow State agencies to set unreasonable limits. Another commenter requested that USDA set time limits for notice and notification to the community.

Several proponents also voiced concerns over the condition that sponsors of open sites should remain open. These commenters expressed concern for children who frequent open sites and rely on the availability of meals at these sites, while also acknowledging the burden on sponsors, particularly small sponsors, of maintaining a meal service at the site while administering a field trip. One of the commenters opposed the condition as written, stating that allowing sponsors to close sites during field trips would limit access for children who lack transportation to alternative sites. A State agency suggested that USDA consider a limitation that sites can close for field trips for no more than half of their weekly operation. Another respondent wrote that sponsors should be able to make the determination as to whether a site will remain open while field trips occur. A State agency requested clarification on several aspects of this proposal, including the appropriate amount of advanced notice, allowable circumstances for an open site to close, parameters for selecting alternative sites, State agency responsibility in monitoring sponsor compliance with this provision, and the requirement for advanced notification without formal approval.

USDA also received two comments that provided suggestions that were out of scope for this proposal. One commenter recommended USDA consider expanding the definition of site to include a vehicle in order to assist in the expansion of the SFSP to rural sites. Another respondent wrote that it would be helpful for staff of smaller sites if SFSP staff did not necessarily have to attend a field trip to administer a meal.

USDA Response

Consistent with the proposed rule, this final rule codifies the flexibility to allow sponsors the option to receive reimbursement for meals served away from the approved site. However, the final rule adjusts the requirements for maintaining a meal service at the site during a field trip and provides points of clarification in response to comments received.

Sponsors must notify the State agency in advance that meals will be served away from the site, but formal approval of the alternative meal service is not required. If the State agency is not notified prior to the SFSP field trip, meals served may be considered ''consumed off-site'' and the State agency has the discretion to not reimburse those meals. This procedure is similar to the notification requirements for field trips in the CACFP, where providers must notify either their sponsoring organization or the State agency in advance of a planned field trip. However, while obtaining formal approval of the off-site meal service for a field trip is not a requirement in order for the sponsor to receive reimbursement under this final rulemaking, the State agency has the discretion to require formal approval if deemed necessary.

In addition, this final rule gives State agencies the discretion to set time limits for how far in advance of the field trip sponsors would send notification to the administering agency, as proposed. Though comments pointed to concerns over the time limit for advanced notification, including one commenter who requested that USDA set the limit for the amount of advanced notice needed, USDA prefers to allow State agencies to determine their individual notification deadlines in this instance.

This final rule modifies a condition that must be met in order for sponsors of open sites to receive reimbursement for meals served away from approved locations. This rule requires sponsors of open sites to continue operating at the approved open site location while a field trip occurs. If this is not possible (for example, if there is limited staff coverage), the State agency may permit the sponsor to close the open site. In this case, the sponsor must notify the community of the change in meal service and provide information about alternative open sites that are likely to be accessible to community children so that they have continued access to free summer meals.

In response to comments, USDA modified the condition to allow State agencies the discretion to permit sponsors of open sites to close operations at the approved location while the field trip occurs. USDA acknowledges that field trips are widely supported at sites and by sponsors as they are a fun, educational tool for children. On the other hand, open sites are intended to serve the community at large and closing open sites due to circumstances related to a field trip could prevent children in the community from receiving meals. USDA understands the importance of this flexibility for the occasional field trip, but emphasizes that this flexibility should not be used in a manner that habitually impacts operations at the approved open site location. While USDA recognizes the additional burden this stipulation may place on some sponsors, sponsors enter into a written agreement with State agencies that attests they are capable of operating the Program, and the site type they oversee. In consideration of this change, administering agencies should work closely with sponsors electing to operate a field trip and exercise special care to ensure that the sponsors of open sites have developed adequate procedures to resolve any potential issues. When it is not possible to continue operating at the approved site location, sponsors should have plans to ensure that children in the community are provided ample notification of changes in meal service and are directed to appropriate alternate sites to obtain a meal. In accordance with 7 CFR 225.7(g) and FNS Instruction 113–1, State agencies should take reasonable steps to assure meaningful access to the program, including providing notification of alternate site location in the languages of the individuals in the community that the site serves and in alternative formats for persons with disabilities. Furthermore, State agencies should consider site type during application to make sure sites are correctly classified and serving the community as intended.

Finally, consistent with the proposed rule, in order to operate field trips in the SFSP, the sponsor must be capable of successfully operating the Program during an outing. When considering if sponsors are eligible to receive reimbursement for meals served away from approved sites, State agencies must determine that all program requirements, including all applicable State and local health, safety, and sanitation standards will be met while traveling and at the field trip meal service location.

Accordingly, the final rule addresses meals served away from the approved site location during a field trip at redesignated § 225.6(i)(7)(v) and in a new § 225.16(g).

ii. Timeline for Reimbursements to Sponsors

Current regulations in § 225.9(d)(4) require that State agencies must forward reimbursements to sponsors within 45 calendar days of receiving a valid claim. The regulations also require that if a sponsor submits a claim for reimbursement that is incomplete or invalid, the State agency must return the claim to the sponsor within 30 calendar days with an explanation of the reason for disapproval. If the sponsor submits a complete revised claim, the State agency must take final action within 45

calendar days of receipt. These requirements are necessary to ensure that sponsors receive reimbursement for meals served in a timely manner.

However, in recent years, USDA has received numerous inquiries and waiver requests to extend the timeline for taking final action on a claim for reimbursement beyond 45 calendar days of receiving a revised claim, due to concerns that the sponsor may have engaged in unlawful acts such as fraud. State agencies have stated that the 45 calendar day timeline to complete a final action is not sufficient to conduct a thorough review of all the sponsor's records and make a determination that the claim is valid.

While § 225.9(d)(10) of the regulations provides State agencies with the ability to use evidence found in audits, reviews, or investigations as the basis for nonpayment of a claim for reimbursement, the State agency may not be able to make this determination within the given timeframe. Therefore, the proposed rule exempted the State agency from requirements in § 225.9(d)(4) to take final action on a claim within 45 calendar days of receipt of a revised claim if the State agency has reason to believe that the sponsor has engaged in unlawful acts that would necessitate an expanded review. In addition, the proposed rule clarified that even if a State agency determines, in accordance with § 225.9(d)(10), that there is reason to believe the sponsor has engaged in unlawful acts, the State agency must still return the claim to the sponsor within 30 calendar days with an explanation of the reason for disapproval.

Public Comments

USDA received 21 comments on the proposed changes to the timeline for reimbursement to sponsors, including three form letter copies. Of these, 18 were supportive, and three were mixed. Proponents stated that the exemption would allow State agencies the flexibility to further investigate questionable sponsor claims, particularly in instances requiring thorough and complex reviews.

Several of the respondents provided comments on specific aspects of the provision. One commenter expressed concern about the 30 calendar day timeline to disapprove a sponsor's claim, stating that it may lead States to deny claims that may be valid and as a result increase appeals. Another commenter wrote that the 30 calendar day timeline would put State agencies in the position of processing a claim they are concerned is invalid to meet a regulatory timeframe. One respondent suggested that the State agency be given 45 days from receipt of the original claim to approve or deny the claim, rather than 30 days. The commenter also suggested that the disapproval be included in the exemption as well.

Two State agencies supported the proposal, but requested clarification on the process for requesting an exemption. Another State agency asked if State agencies must take final action within the 30 days of receipt, and if appeal rights must be issued within the 30 day timeframe as well even when the State agency elects to conduct an expanded review.

USDA Response

This final rule codifies the proposed changes to the timeline for reimbursement to sponsors and adds additional clarity on providing notification to the sponsor and to USDA. Consistent with the proposed rule, the final rule exempts the State agency from requirements in § 225.9(d)(4) to take final action on a claim within 45 calendar days of receipt of a revised claim if the State agency has reason to believe that the sponsor has engaged in unlawful acts that would necessitate an expanded review. In addition, the final rule clarifies that even if a State agency determines, in accordance with § 225.9(d)(10), that there is reason to believe the sponsor has engaged in unlawful acts, the State agency must still return the claim to the sponsor within 30 calendar days with an explanation of the reason for disapproval, and allow the sponsor to submit a revised claim as allowed by § 225.9(d)(4). The State agency must complete final action on the revised claim once the review has concluded. Once final action is taken, the final rule specifies that the State agency must advise the sponsor of its rights to appeal consistent with the due process provided by the regulations in § 225.13(a).

In addition, the final rule provides more clarity on the process for a State agency to request an exemption provided under this provision. Consistent with current guidance on other one-time exceptions for claims, State agencies must notify the appropriate FNS Regional Office (FNSRO) that they suspect fraud and will be taking the exemption to the 45 day timeline to conduct an expanded review by submitting to the FNSRO a copy of the claim disapproval at the same time as it is provided to the sponsor.

Some comments expressed concerns that the 30 calendar day timeframe forces State agencies to incorrectly process a claim. However, it appears that these commenters misunderstood the proposal. The proposed rule did not seek to make changes to the current regulations seen at § 225.4(d)(4), but rather to clarify the responsibility of the State agency in this process, even when they suspect fraud. While USDA understands the commenters concerns, the process is consistent with other Child Nutrition Programs where the administering agency has a period of time in which they must notify the institution of an incomplete or incorrect claim that must be revised for payment. The purpose of this timeframe is to prevent withholding of a claim without notifying the sponsor that the claim is invalid or allowing the sponsor to submit a revised claim in a timely manner. After notifying the sponsor of disapproval of the claim within 30 calendar days of receipt, the State agency can extend the review and meal claims validations to determine if it is incomplete or invalid, and if the claim should be denied, in order to prevent the potential payment of a suspected unlawful claim. To aid sponsors whose claims are initially disapproved, this final rule adds additional language to clarify that, when returning the claim to the sponsor with an explanation of the reason for disapproval, the State agency must indicate how the claim must be revised in order for it to be payable.

Accordingly, this rule amends regulations found in § 225.9(d)(4) to indicate that if a claim is determined to be potentially unlawful based on § 225.9(d)(10), the State agency must still disapprove the claim within 30 calendar days with an explanation of the reason for disapproval and how the claim must be revised for payment. Additional changes to § 225.9(d)(4) specify that the State agency notify the sponsor of its right under § 225.13(a) to appeal a denied claim. This rule also amends § 225.9(d)(10) to clarify that State agencies may be exempt from the 45 calendar day timeframe for final action in § 225.9(d)(4) if more time is needed to complete a thorough examination of the sponsor's claim. In addition, this rule clarifies in § 225.9(d)(10) that a State agency must provide notification to the FNSRO that it is taking the exemption to the 45 calendar day timeframe at the same time as the sponsor's claim is disapproved.

iii. Requirements for Media Release

Current regulations at § 225.15(e) require all sponsors operating the SFSP, including sponsors of open sites, camps, and closed enrolled sites, to annually announce the availability of free meals in the media serving the area from

which the sponsor draws its attendance. The regulations specify that media releases issued by sponsors of camps or closed enrolled sites must include income eligibility standards, a statement about automatic eligibility to receive free meal benefits at eligible program sites, and a civil rights statement. However, USDA received questions from State agencies and analyzed data from management evaluations that show the current requirements are difficult to understand and implement correctly, leaving some State agencies and sponsors to make inadvertent errors in fulfilling the requirements. To assist sponsors, USDA issued guidance and resources encouraging State agencies to complete this requirement on behalf of all sponsors of open sites in their State through an all-inclusive Statewide media release (SFSP 07–2014, *Expanding Awareness and Access to Summer Meals,* November 12, 2013).

USDA proposed codifying current guidance allowing State agencies the discretion to issue a media release on behalf of all sponsors operating SFSP sites, including camps, in the State. The proposed rule clarifies that, in the absence of a Statewide notification, sponsors of camps and other sites not eligible under § 225.2, sub-sections (a) through (c), in the definition of ''areas in which poor economic conditions exist,'' are only required to notify participants or enrolled children of the availability of free meals and do not need to issue a media release to the public at large. Finally, the proposed rule renames the section, ''Notification to the Community,'' to more accurately describe the types of activities required of sponsors.

Public Comments

USDA received 28 comments addressing the proposed changes to requirements for media release, including three form letter copies. Of these, 21 were supportive, and two were mixed. The remaining five comments supported the proposed changes, but expressed concerns with certain aspects of the provision.

Proponents stated that the proposed changes would relieve administrative burden for State agencies and sponsors. Proponents also agreed that sponsors of camps and other sites not eligible under the definition of ''areas in which poor economic conditions exist'' must only notify participants or enrolled children of the availability of free meals. One respondent wrote that restructuring the language to clearly identify that sponsors of closed enrolled and camp sites only need to notify participants or enrolled children of the availability of free meals would help alleviate some of the current confusion around the media release requirement for these types of sites. However, several comments expressed concern about aspects of the proposed changes for sponsors of closed enrolled sites. One commenter wrote that the stipulation should be required for sponsors of all closed enrolled sites and not just those that are not eligible under § 225.2, sub-sections (a) through (c), in the definition of ''areas in which poor economic conditions exist.'' Several commenters supported the statewide media release, but requested that State agencies be able to use a statewide media release without being required to include closed enrolled sites and camps since the release is for the public at large.

Several respondents voiced concerns over the public receiving the correct information if site information is released at the state level. Two State agencies wrote that a media release should still be required for open sites in some format. One State agency reasoned that State agencies do not have knowledge of local media outlets needed for a successful media release campaign. Another State agency supported the proposed provision, but would want to train sponsors on the benefit of submitting individual media releases to assist with local level promotion efforts.

USDA Response

In accordance with the proposed rule, this final rule codifies current guidance allowing State agencies the discretion to issue a media release on behalf of all sponsors operating SFSP sites in the State, including camps and closed enrolled sites. In addition, this final rule modifies the proposed language to make clear that closed enrolled sites are only required to notify participants or enrolled children of the availability of free meals and if a free meal application is needed. Finally, this final rule renames this section, ''Notification to the Community,'' to more accurately describe the types of activities required of sponsors.

This final rule requires State agencies using the option to issue a statewide media release to ensure that all notification requirements for camps and closed enrolled sites are met. USDA acknowledges commenters' concerns regarding State agencies' ability to effectively communicate information for particular site types in a statewide media release, and emphasizes that this is an optional flexibility. State agencies have the discretion to require sponsors to follow the requirements for notification to the community if deemed appropriate. As a best practice, USDA encourages sponsors to maintain promotion and outreach efforts at the local level, even when the State agency elects to issue a statewide notification. In all cases, State agencies and sponsors have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by people with limited English proficiency and those with disabilities, in accordance with 7 CFR 225.7(g) and FNS Instruction 113–1. This includes providing notification in the languages of the individuals in the community that a site will serve, and in alternative formats for persons with disabilities.

USDA understands the concerns of commenters who said that it would be confusing to require closed enrolled sites that are eligible under § 225.2, sub-sections (a) through (c), in the definition of ''areas in which poor economic conditions exist,'' (*i.e.,* those that use community data to determine area eligibility) to provide notification to the public at large in the same manner as an open site. Such notifications would not benefit the public because the advertised meal service at these sites is not open to the public. The final rule clarifies that, in the absence of a Statewide notification, sponsors of camps and all closed enrolled sites are only required to notify participants or enrolled children of the availability of free meals and do not need to issue a media release to the public at large. However, closed enrolled sites must also notify participants or enrolled children if a free meal application is needed so that the participants or their families know if they are expected to submit a free meal application. These modifications limit the sponsor's responsibility to notify only those who could potentially receive meals at the site.

A State agency suggested modifying the press release that State agencies are required to submit prior to February 1st each year (7 CFR 225.6(a)(2)) to fulfill the requirement in § 225.15(e) to announce the availability of free meals in the media serving the area from which the sponsor draws its attendance. While USDA appreciates the suggestion, the two releases serve different, but equally important purposes, and therefore, it is necessary to issue these releases separately. The February 1st press release is used to actively seek eligible applicant sponsors to serve priority outreach areas. The notification to the community alerts the community about the availability of meals, and may provide information about sites that is generally unavailable or unknown prior to the February 1st press release.

Finally, the final rule renames this section, ''Notification to the Community,'' to more accurately describe the types of activities required of sponsors, including sponsors of camps and closed enrolled sites that will no longer be required to issue a media release.

Accordingly, this rule amends § 225.15(e) by renaming the subsection ''Notification to the Community,'' specifying that State agencies may issue a media release on behalf of all sponsors operating open SFSP sites in the State, and clarifying that sponsors of camps and closed enrolled sites must only notify participants or enrolled children of the availability of free meals.

iv. Annual Verification of Tax-Exempt Status

In order to be eligible to participate in the SFSP, sponsors must maintain their nonprofit status (§§ 225.2 and 225.14(b)(5)). In 2011, the Internal Revenue Service (IRS) changed its filing requirements for some tax-exempt organizations. Failure to comply with these requirements could result in the automatic revocation of an organization's tax-exempt status. Due to this change, USDA released guidance for confirming sponsors' tax-exempt status, which requires that State agencies annually review a sponsor's tax-exempt status (SFSP 04–2017, *Automatic Revocation of Tax-Exempt Status—Revised,* December 1, 2016).

To ensure compliance with the filing requirements, the proposed rule amends § 225.14(b)(5) to codify the requirement for annual confirmation of tax-exempt status at the time of application.

Public Comments

USDA received 18 comments addressing the annual verification of sponsors' tax-exempt status including three form letter comments. All of the comments were supportive of the proposal. One respondent supported the proposed provision, but suggested that USDA work with the IRS to streamline the process for State agencies to determine an applicant's nonprofit status.

USDA Response

All comment submissions expressed support for the proposal without opposition. Thus, this final rule makes no changes from the proposed rule. USDA acknowledges that annually verifying the tax-exempt status of nonprofit organizations may be time consuming for State agencies, however, modifying filing requirements is outside the scope of USDA's authority. State agencies are responsible for approving and overseeing sponsors to operate the SFSP, and thus play an integral part in maintaining program integrity. This requirement is necessary to ensure program compliance, protection of Federal funds, and fiscal responsibility. Accordingly, this rule codifies the requirement for annual confirmation of tax-exempt status at the time of application by amending § 225.14(b)(5).

F. Important Definitions in the SFSP

i. Self-Preparation Versus Vended Sites

Current regulations in § 225.2 define the terms ''self-preparation sponsor'' and ''vended sponsor.'' These definitions are critical to the proper administration of the SFSP because reimbursement rates are determined, in part, by the sponsor's classification as either self-preparation or vended. Per statutory requirements, reimbursement rates are calculated using operating and administrative costs (42 U.S.C. 1761(b)(1) and 42 U.S.C. 1761(b)(3)) to determine a reimbursement rate for each meal served. Rates are higher for sponsors of sites located in rural areas and for ''self-preparation'' sponsors that prepare their own meals at sites or at a central facility instead of purchasing from vendors. This is due to the higher administrative costs associated with program operation in rural areas and preparing meals rather than contracting with a food service management company. Therefore, correct classification of self-preparation or vended sponsors is necessary for proper program management and maintaining the fiscal integrity of the Program when site-based claiming is not feasible.

Advances in technology have allowed State agencies and sponsors to develop increasingly sophisticated reporting systems that are capable of collecting detailed information on the number and type of meals being served. Many State agencies have developed the ability to classify individual sites as self-preparation or vended, rather than classifying a sponsor and all of its sites as one type or the other. USDA is aware that some State agencies that have these capabilities also provide reimbursements based on the classification of the individual sites. This is significant because providing reimbursements to sponsors that operate a mix of sites based on the individual site classification is more accurate and helps protect the integrity of the SFSP.

In recognition of the advances being made at the State agency and local level, USDA proposed to add definitions for ''self-preparation site'' and ''vended site,'' and to require that sponsors and sites include information about how meals will be obtained for each site in their application to participate in the SFSP.

Further, to better understand the current state of claiming systems nationwide and the implications for policy development, including potential changes to regulatory requirements, USDA requested specific comments on the following questions:

- How many State agencies have systems that are capable of receiving claims at the site level? Are any State agencies currently receiving claims at the site level and providing reimbursement based on the individual site classification?
- What are the costs and benefits of implementing systems that can receive claims at the site level?
- How common or uncommon is it for a site to use two different methods of obtaining meals (*e.g.,* offering a self-prepared breakfast and a vended lunch)?
- Do any State agencies have systems that are able to account for different methods of obtaining meals within the same site?
- What would be the impact on claiming and monitoring of collecting and paying claims at the site level?

Public Comments

USDA received 29 comments regarding the addition of these definitions, including three form letter copies. Of these comments, 11 were supportive, two were partially supportive, and 16 comments had mixed or neutral opinions regarding the proposal.

Stakeholders also submitted comments responding to specific questions posed in the proposed rule. USDA received:

- 22 comments regarding how many State agencies have systems that are capable of receiving claims at the site level, and whether any State agencies are currently receiving claims at the site level and providing reimbursement based on the individual site classification.
- 12 comments regarding the costs and benefits of implementing systems that can receive claims at the site level.
- 17 comments regarding how common or uncommon is it for a site to use two different methods of obtaining meals (*e.g.,* offering a self-prepared breakfast and a vended lunch).
- 17 comments regarding whether any State agencies have systems that are able to account for different methods of obtaining meals within the same site.
- 13 comments regarding the potential the impact on claiming and monitoring of collecting and paying claims at the site level.

Proponents of these definitions included an advocacy group and State agencies, who stated that their systems are already equipped to process reimbursement for site-level claims.

Proponents that partially supported the definitions voiced concerns about some of the terminology used. Specifically, these commenters highlighted that use of the term ''food service management company'' could generate confusion because it is used in other Child Nutrition Programs where the meaning is slightly different. A State agency also believed that the proposed definition overlooked instances in which a self-preparation site received meals that were prepared at a sponsor organization's central kitchen.

State agencies also submitted mixed or neutral opinions on the definitions. While some of these comments echoed concerns about the use of the term ''food service management company,'' other comments centered on the specific requests for comments presented in the proposed rule. Most of the responses indicated that State agency systems already include mechanisms to receive reimbursement claims at the site level. Few State agencies provided information on the cost to upgrade systems because many State agencies noted that there would be zero cost as their systems can currently collect site-level claims. However, others estimated that it could be costly, but that actual expenses would ultimately be determined by whether the system is developed in-house or by an external entity. Responses also indicated that it was not common for sites to utilize two different methods of attaining meals, and thus very few State agencies reported having systems capable of making this sort of distinction. Finally, State agencies noted that they did not anticipate an impact on claiming and monitoring from collecting and paying claims at the site level because these State agencies already had site-level claiming mechanisms. A State agency also expressed that the impact would be positive because collecting and paying claims at the site level would increase integrity. However, two State agencies wrote that site-level claiming posed a significant administrative burden as the agencies would need to update their systems and increase monitoring. These comments further noted that there may be an increase in claim processing costs due to the increase in entities that would need to be paid directly.

USDA Response

This final rule codifies the definitions of self-preparation and vended sites with revisions to provide additional clarity, and codifies as proposed the requirement that sponsors provide a summary of how meals will be obtained at each site when applying to participate in the SFSP.

USDA seeks to increase program integrity through this rulemaking. To satisfy this goal, any added definitions must be as clear as possible. In order to avoid the potential terminology confusion cited by the comments, USDA re-examined the proposed definitions and has modified the language to better reflect the types of arrangements found in SFSP operations. While the term ''food service management company'' is still used in the definitions, the revised language clarifies its applicability. Likewise, the definition of a self-prep site has been amended to indicate that these sites may receive meals prepared at their sponsor's central kitchen. Establishing clear definitions of self-prep and vended sites will help ensure that site-based claims are accurate for States that provide reimbursements based on the classification of the individual sites.

Commenters and USDA's own monitoring activities have indicated that all but several State agencies have systems that are equipped with site-level claiming mechanisms. USDA appreciates the efforts that State agencies have made to employ technological advances to modernize agency systems. Comments also indicated that there would be no impact on program operations in most States to implement site-level claiming because of this. However, among several State agencies with systems that are not currently configured for site-level claiming, State agencies noted a belief that implementation would result in increased costs due to additional monitoring and system requirements.

Collecting information about how sites will obtain their meals as part of the sponsor's application will aid State agencies to ensure proper accounting during claims processing. States that process claims at the site level need this information to determine the rate at which meals will be reimbursed for each site. For States that process claims at the sponsor level, information on the sponsor's sites is critical to determining whether the sponsor should be deemed self-prep or vended. Thus, although USDA is not requiring State agencies to collect site-level claims at this time, sponsors will be required to submit a summary of how meals will be obtained by a site as part of their application for program participation.

Finally, USDA is aware that most States are currently able to process site-based claims for SFSP sponsors, which makes the classification of sponsors as being either self-prep or vended no longer relevant for those States. However, sponsor classifications are still needed for State agencies that are not yet able to process claims at the site level. Therefore, although this rule establishes definitions for self-prep and vended sites, USDA is retaining the sponsor level definitions, which apply for States that are claiming at the sponsor level. However, because site-level claiming is a more accurate and efficient means of determining reimbursements, USDA encourages all State agencies to work toward adopting that method. USDA has created these site definitions to complement existing site-level claiming processes and ensure that State agencies categorize sites accurately and consistently.

Accordingly, this rule adds definitions to § 225.2 for ''self-preparation site'' and ''vended site.'' In addition, this rule amends §§ 225.6(c)(2)(viii) and 225.6(c)(3)(vi) to require a summary of how meals will be obtained at each site as part of the sponsor application.

ii. Eligibility for Closed Enrolled Sites

The current definition of closed enrolled sites included in § 225.2 requires that at least 50 percent of the enrolled children at the site are eligible for free or reduced-price meals under the NSLP and the SBP, as determined by approval of applications in accordance with § 225.15(f). This provision outlines the requirement to use income eligibility forms to ''determine the eligibility of children attending camps and the eligibility of sites that are not open sites as defined in paragraph (a) of the definition of 'areas in which poor economic conditions exist' in § 225.2''. To reduce administrative burden on sponsors, USDA published guidance in 2002 that permitted closed enrolled sites to establish eligibility based on data of children eligible for free and reduced-priced meals in the area where the site was located (*Summer Food Service Program (SFSP) Waiver for Closed Enrolled Sites,* November 17, 2002). During the 15 years in which this nationwide waiver was active, this flexibility was shown to reduce administrative burden on sponsors of closed enrolled sites and eliminate barriers to participation for children and families enrolled at these sites.

The waiver noted above was rescinded in 2018, as discussed in the background section of this final rule. Beginning in summer, 2019 State agencies and program operators were allowed to request a waiver on an individual basis. Between summers

2019 and 2020, 43 States requested waivers for area eligibility for closed enrolled sites. Feedback received during the waiver process confirms that a reduction in administrative burden and elimination of barriers to participation remain the principal benefits of permitting closed enrolled sites to rely on area eligibility rather than applications. Requests from 36 out of 40 State agencies that requested waivers in 2019 noted that the reduction in administrative costs can be more productively invested in technical assistance and oversight to improve the quality of services provided to participants. Further, the Healthy, Hunger-Free Kids Act of 2010, Public Law 111–296, amended the definition of ''areas in which poor economic conditions exist'' in the NSLA. This revised definition allows for enrolled sites to demonstrate eligibility through ''other means approved by the Secretary.'' As a result, USDA proposed to codify the flexibility allowing use of area eligibility to determine eligibility for closed enrolled sites.

Public Comments

USDA received 52 comments on this provision, including nine form letter copies. Of these, 45 were in support, three expressed partial support, three were in opposition, and one expressed a mixed opinion.

Proponents of the provision cited the benefits to program participants and administrators, including reduced administrative burden and increased program access. Commenters who partially supported the provision requested that the 50 percent threshold required in the definition of ''area in which poor economic conditions exist'' be decreased to 40 percent. A commenter also stated that the proposed description of closed enrolled sites in subpart (d) of the definition of ''areas in which poor economic conditions exist'' could be confusing because closed enrolled sites do not need to be located in such an area.

Opponents voiced concerns that the provision could increase incidence of sites that would otherwise have operated as an open site, electing to operate as a closed enrolled site, thereby decreasing program access for children who live in the community but are not enrolled at the site. The commenters also expressed apprehension that the reference population used to qualify for closed enrolled status would not be the population that is ultimately served by the site.

USDA Response

This final rule codifies, as proposed, changes allowing closed enrolled sites to use area eligibility to determine site eligibility. This rule also includes additional changes which require State agencies to have criteria for approving closed enrolled sites to ensure operation of a site as closed enrolled does not limit access to the community at large.

USDA strives to streamline and reduce administrative burden where possible. Codifying guidance permitting closed enrolled sites to establish eligibility based on data of local children eligible for free and reduced-price meals supports that goal.

In response to commenters who suggested lowering the threshold for area eligibility to 40 percent, changes to how area eligibility is determined are beyond the scope of this rulemaking. Further, the 50 percent threshold outlined in the definition of ''areas where poor economic conditions exist'' is a statutory limit found at 42 U.S.C. 1761(a)(1)(i). USDA is not permitted to regulate against the authority delegated to the Department through statute. USDA is obligated to observe this threshold and cannot lower it. Therefore, this rule codifies previous guidance with no further modifications.

USDA also understands the concerns associated with the correlation between potential increases in closed enrolled site locations and decreases in program access. However, in approving sponsor applications for SFSP participation, State agencies play a central role in safeguarding program access. State agencies should closely examine each closed enrolled site application, and assess the effect that approving the application could have on program access in the area the site is located. Operating as an open site should be encouraged where possible, thus State agencies should discuss with the respective sponsoring organization whether a closed enrolled designation for a potential site is absolutely necessary. As such, USDA is requiring that State agencies establish criteria for approving closed enrolled sites to ensure operation of a site as closed enrolled does not limit program access to the community at large.

Accordingly, this final rule amends the definitions of ''areas in which poor economic conditions exist'' and ''closed enrolled site'' in § 225.2 to clarify eligibility requirements and include eligibility determination based on area data of children eligible for free and reduced-price meals. This final rule also updates redesignated §§ 225.6(g)(1)(ix) and 225.6(g)(2)(iii) to establish the frequency at which the site must re-establish eligibility, if based on area data as described in section III. G. ii of this final rule. Further, this rule makes a technical correction to § 225.15(f) to reflect changes made to the definition of ''areas in which poor economic conditions exist.'' Finally, this rule amends § 225.6(a)(2) to require State agencies to establish criteria for closed enrolled sites.

iii. Roles and Responsibilities of Site Supervisors

The site supervisor plays a critical role in managing and maintaining quality at an SFSP site. Although USDA has provided technical assistance to aid site supervisors to perform their jobs, regulations did not include a definition of site supervisor that clearly addresses their core responsibilities, including the requirement that the site supervisor is on site during the meal service. Providing such a definition would help sponsors and sites comply with program requirements and improve program integrity. Therefore, USDA proposed to add a definition of ''site supervisor'' to clarify this role and its relationship to program operations.

Public Comments

USDA received 19 comments on this provision, including three form letter copies. Of these, 14 were in support, four expressed partial support, and one was in opposition.

Proponents expressed that the addition of this definition would provide clarity for State agencies and sponsors. Comments that partially supported the provision stated that the proposed definition presumed that one person undertakes all activities listed for the site supervisor, which may not be the case at some sites. Specifically, commenters noticed that the definition requires site supervisors to order meals, and noted that, in some instances, meal counts are handled by the sponsor or the sponsor's central kitchen. Another commenter recommended adding a reference to the term ''site supervisor'' in § 225.14 of the regulations to prevent relevant parties from failing to notice the addition of the definition.

A State agency opposed the provision citing their belief that the requirement that the site supervisor remain on site for the duration of the meal service is burdensome. A State agency also expressed concern that the definition precluded the site supervisor's ability to delegate functions as needed, and asserted that supervisors may be in charge of multiple sites with similar meal times that require their attention.

USDA Response

This final rule codifies the definition of site supervisor as proposed, with a minor change added to the regulations to support the definition's inclusion.

USDA agrees that the roles and responsibilities of sponsor and site staff vary across different sites. However, in all cases, the site supervisor plays an integral role in supporting the SFSP, and provides front-line assistance in maintaining program integrity and efficient operations. USDA recognizes that the duties that are included in the definition of site supervisor may need to be performed by more than one staff member at the site. The site supervisor is the individual ultimately responsible for overseeing operations at the site and must be on site for the duration of every meal service. However, the site supervisor may delegate tasks to another staff member so long as that staff member is overseen by the site supervisor and has appropriate training for the role that the individual is expected to fill. It is at the State agency's discretion whether the sponsor must inform that State agency when a site supervisor delegates their duties to another staff member.

Additionally, USDA understands that the site supervisor may not be the individual responsible for ordering meals, and has revised the definition to more accurately reflect the site supervisor's duties including maintaining documentation of meal deliveries, ensuring that all meals served are safe, and maintaining accurate point of service meal counts.

USDA also recognizes the usefulness of having a reference to the term ''site supervisor'' in a portion of the regulation that is likely to be reviewed by relevant parties. Therefore, USDA had added such a reference to *Requirements for sponsor participation* at § 225.14(c)(4).

Accordingly, this final rule adds a definition of ''site supervisor'' at § 225.2 and adds a reference to ''site supervisor'' at § 225.14(c)(4).

iv. Unaffiliated Sites

SFSP sponsors often have a legal affiliation with their sites, such as a Department of Parks and Recreation sponsoring the SFSP at one of its recreation centers. However, a sponsor may have no legal affiliation with a site that it is sponsoring other than an agreement to conduct a meal service at the site. For example, a Department of Parks and Recreation sponsoring the SFSP at a church. Section III. C. iii. of this final rule codifies new site selection criteria for State agencies to use during sponsor reviews, and includes affiliation with the sponsor as a characteristic that will be reflected in a sponsor's sample of sites. The regulations lacked a definition of an unaffiliated site, and so USDA proposed to add a definition that an ''unaffiliated site'' means a site that is legally distinct from the sponsor.

Public Comments

USDA received 29 comments on this provision, including 10 form letter copies. Of these, 13 were supportive, one was opposed, and 15 were mixed. Proponents, all of whom were State agencies, appreciated the clarification provided by defining an unaffiliated site. Opponents included sponsoring organizations, general advocacy groups, and a few State agencies. These commenters expressed concern that the proposal would change the way that unaffiliated sites are approved or monitored, making it more difficult for sponsors to serve them. Some cited challenges for unaffiliated centers to participate in the CACFP, and expressed concerns that unaffiliated sites in the SFSP may face similar challenges. Commenters noted that the SFSP has many small sites which are not capable of administering the Program on their own, but can offer a vital service to their communities with the help of sponsors with which they have no legal affiliation. A few commenters asked for more information about the relationship between unaffiliated sites and their sponsors, and how to distinguish unaffiliated sites. One State agency that opposed the provision expressed concern about USDA adding this definition before publishing a final Child Nutrition Program Integrity rule, since the proposed rule included provisions related to unaffiliated centers in the CACFP.

USDA Response

This final rule codifies the definition of ''unaffiliated site'' as proposed. The purpose of adding this definition is simply to provide a name for a type of business arrangement that currently exists in the SFSP. The addition of this definition does not change anything about how unaffiliated sites may participate in the SFSP or how they are monitored. There are many different ways that a sponsor and the unaffiliated sites that it sponsors may structure their relationship, none of which will change with the addition of this definition. In response to the commenters who asked for guidance on identifying an unaffiliated site, in general, affiliated sites are part of the same legal entity as the sponsoring organization, while an unaffiliated site is not generally part of the same legal entity as its sponsoring organization.

Although the term 'unaffiliated site' is used in the CACFP to describe a similar type of business arrangement, the CACFP has different program requirements that affect a sponsor's relationship with its centers. As a result, it does not follow that unaffiliated SFSP sites will have the same challenges as unaffiliated centers in the CACFP, nor it is necessary for USDA to wait for publication of a final Child Nutrition Integrity rule to codify this definition.

Accordingly, this rule codifies the following definition in § 225.2 for ''unaffiliated site:'' a site that is legally distinct from the sponsor.

v. Unanticipated School Closure

The primary purpose of the SFSP is to maintain meal service for children during the summer months when school is not in session. However, the SFSP also plays an important role in serving children during the school year in times of emergency or unexpected incidents that disrupt school meals programs. The NSLA permits service institutions to provide meal services to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. The statute further requires that the meal service must take place at non-school sites. While the regulations provided requirements for approving sponsors to serve during unanticipated school closures, there was not a specific regulatory definition of unanticipated school closure. USDA proposed adding a definition of ''unanticipated school closure'' that aligns with statutory requirements outlined in section 13(c)(1) of the NSLA, 42 U.S.C. 1761(c)(1), and existing regulatory provisions related to unanticipated school closures. Including this definition would also allow regulatory text to be streamlined and remove duplicative and repetitive references throughout the regulations. It is important to note that the proposed rule was published in January 2020, before the COVID–19 public health emergency triggered school closures nationwide, causing schools to serve SFSP meals during unanticipated school closures, in conjunction with Families First Coronavirus Response Act (FFCRA) Nationwide Waiver authority, on a scale and for a duration that was without precedent. However, the COVID–19 public health emergency was declared at the beginning of the comment period, so some commenters discussed the

impacts of COVID–19 in their submissions.

Public Comments

USDA received 22 comments on this provision, including four form letter copies. Of these, five were in support, 15 expressed partial support, and two held a mixed or unclear position.

Proponents, all of whom were State agencies, expressed a belief that the definition aligns with existing policy and would provide clarity for program operators and administrators.

Commenters who partially supported the definition included State agencies, sponsors, general advocacy groups, individuals, and a Federal elected official. These commenters and a State agency whose comment was mixed voiced a desire for schools to be permitted to operate as sites during unanticipated school closures. The commenters placed particular emphasis on sites sponsored by SFAs in good standing, and schools that were not affected by the cause of the school closure. Additionally, these commenters suggested that, in recognition of the ongoing pandemic and the potential for similar events to occur in the future, the definition be modified to include public health emergencies, and State-level disasters or emergencies as justification for SFSP use.

One commenter whose feedback was mixed suggested that USDA reconsider the proposed definition because it is ill suited for the circumstances, without offering specific recommendations for improvements.

USDA Response

This final rule codifies the definition of ''unanticipated school closure'' as proposed.

USDA understands why some commenters requested that sponsors be able to serve meals at school sites during unanticipated school closures. In some situations, the school site is safe for a meal service and would be an efficient place for children to receive a meal. However, the NSLA clearly limits meal service locations during an unanticipated school closure to ''non-school sites.'' USDA has, at times, allowed implementation practices that are contrary to the statute. When such practices are discovered, USDA revises program guidance and provides training and technical assistance to ensure that State agencies and program operators implement the Program in accordance with the law. In the past, USDA issued guidance permitting SFA sites to serve meals during unanticipated school closures, which was inconsistent with the law; this guidance has since been corrected. Due to the exceptional circumstances of the COVID–19 pandemic, USDA used the authority provided by the Families First Coronavirus Response Act (FFCRA), as amended, to allow meal service during unanticipated school closures at schools. Likewise, USDA has the ability to issue similar waivers on an individual basis through its waiver authority in section 12(l) of the NSLA (42 U.S.C. 1760(l)). However, USDA intends for SFSP regulations to remain in agreement with the statue and will not codify a rule allowing meal service at school sites during unanticipated school closures because this practice is not supported by the NSLA.

Some commenters suggested that the definition of ''unanticipated school closure'' should be revised to reference public health emergencies and State-level disasters or emergencies. USDA does not find this specificity is needed as the ''similar cause'' clause of the proposed definition provides State agencies the discretion to approve program operators to serve SFSP meals during unanticipated school closures in circumstances including public health emergencies and State-level disasters or emergencies. Therefore, these references are not necessary for continued use of the SFSP in this manner. Further, FNS did not propose substantive changes to the regulatory requirements for meal service during unanticipated school closures in this rulemaking. Given the public's strong interest in meal service options during school closures after the COVID–19 public health emergency caused nationwide school disruptions, USDA has determined that it would not be appropriate to make changes to policies on meal service during unanticipated school closures without first proposing and soliciting comments on such changes. For this reason, USDA is codifying the proposed changes, which add a new definition, but otherwise maintaining current policy for meal service during unanticipated school closures. State agencies and program operators may refer to current guidance on meal service during unanticipated school closures (SFSP 04–2020, *Meal Service During Unanticipated School Closures,* November 5, 2019) and on the process for requesting a waiver of these requirements as discussed in section G.i of this rule. Accordingly, this rule adds to § 225.2 a definition of ''unanticipated school closure.'' In addition, this final rule revises all references to unanticipated school closures in § 225.

vi. Nonprofit Food Service, Nonprofit Food Service Account, Net Cash Resources

The proposed rule included definitions of ''nonprofit food service,'' ''nonprofit food service account,'' and ''net cash resources.'' Proper administration of a nonprofit food service and appropriate management of program funds are critical to the integrity of the SFSP. Therefore, providing clear and consistent definitions for these terms will promote program integrity. To create consistency across Child Nutrition Programs, the proposed definitions also align with the terms already defined under the NSLP in 7 CFR 210.2.

Public Comments

USDA received 16 comments on this provision, including three form letter copies. Of these, 15 were supportive, one was opposed, and none were mixed. Proponents said that State agencies and sponsors will benefit from the addition of consistent definitions. However, one State Agency asked for additional resources to train sponsors on these concepts.

Several commenters, including one who was opposed, expressed concern that the addition of these definitions would impact existing requirements related to excess funds and allowable levels of net cash resources. One commenter wrote that the proposed definition for net cash resources implies that only zero net cash resources are allowable and asked USDA to retain the current requirements for net cash resources limits.

One commenter pointed out an inconsistency with the proposed definitions: the definition of ''nonprofit food service'' references ''schoolchildren,'' while the definition of ''nonprofit food service account'' references ''children.''

USDA Response

This final rule codifies the definitions of ''nonprofit food service account'' and ''net cash resources'' as proposed. The definition of ''nonprofit food service'' is codified with a technical correction.

USDA appreciates the commenter who pointed out that the definition of ''nonprofit food service account'' references ''schoolchildren.'' This definition should reference ''children'' since the SFSP is not available to children when they are in school. This final rule corrects the definition.

The addition of these definitions does not change the requirement for a sponsor to maintain a nonprofit food service in accordance with redesignated

§ 225.6(i)(1), nor does it change the requirement in § 225.15(a)(4) that a sponsor may not exceed one month's average expenditures for sponsors operating only during the summer months and three months' average expenditures for sponsors operating Child Nutrition Programs throughout the year. Likewise, the requirements in § 225.9(c)(6) related to excess advanced payments remain unchanged.

Accordingly, this final rule amends regulations found at § 225.2 to add definitions for ''nonprofit food service,'' ''nonprofit food service account,'' and ''net cash resources.''

G. Miscellaneous

i. Authority To Waive Statute and Regulations

Section 12(l) of the NSLA (42 U.S.C 1760(l)) provides the Secretary with the authority to waive program requirements for States or eligible service providers if it is determined that the waiver would facilitate the ability of the States or eligible service provider to carry out the purpose of the Program, and the waiver will not increase the overall cost of the Program to the Federal Government. This waiver authority applies to statutory requirements under the NSLA or the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1771 *et seq.*) and any regulations issued under either Act. The Secretary does not have the authority to waive certain requirements including, but not limited to, the nutritional content of the meals served, Federal reimbursement rates, or the enforcement of any statutory right of any individual. In addition, the Secretary may not waive program requirements that originate in other laws such as the Civil Rights Act of 1964. It is important to note that, although this rule primarily affects the SFSP, the Secretary's waiver authority applies to all Child Nutrition Programs including the SFSP, NSLP, SBP, Special Milk Program, Fresh Fruit and Vegetable Program, and the CACFP. Although regulations are not needed to continue implementing waivers, adding waiver authority to the regulations provides clarity for States and program operators.

The State is responsible for the overall administration of Child Nutrition Programs and is in the best position to understand the needs of its service providers and communities with regard to the need for a waiver of statutory or regulatory requirements. In addition, the State is responsible for monitoring program implementation and determining when programmatic changes or corrective actions are needed to ensure the Child Nutrition Programs are operated with high levels of integrity. As such, the State agency plays a critical role in requesting and overseeing implementation of a waiver. USDA has long relied on State agencies to determine when and how waiver authority can best be applied to improve program operations, and if a waiver can be implemented with integrity. The responsibilities of the State agency were outlined in technical assistance issued in 1996, and again in 2018 guidance on the process for requesting a waiver and data reporting requirements for approved waivers (SFSP 05–2018, *Child Nutrition Program Waiver Request Guidance and Protocol—Revised,* May 24, 2018).

Under current guidance, State agencies are responsible for requesting waivers for the State and submitting waiver requests on behalf of eligible service providers. State agencies do not have the discretion to deny or approve waivers submitted on behalf of eligible service providers but are expected to recommend a course of action to USDA. The Department does not have a direct relationship with eligible service providers and does not have a reliable means to make final determinations on waiver requests absent the input of the State agency. As a practical matter, USDA denies waiver requests from eligible service providers when the State agency determines that the request does not meet the requirements for a waiver or cannot be implemented effectively. Therefore, USDA proposed to grant the States the maximum administrative discretion possible regarding waiver requests from eligible service providers. The proposed rule stated that the State agency should review waiver requests from eligible service providers and make its own determination as to whether a request meets the requirements for a waiver as described in section 12(l) of the NSLA, can be implemented with a high level of integrity, can be effectively monitored, and will provide data on the impacts of the waiver. Concurring requests must be forwarded to the FNSRO with a rationale supporting the request for USDA to consider when making the final determination.

USDA also proposed to provide the State agency the discretion to deny a waiver submitted by an eligible service provider. In some instances, a waiver request may not meet the requirements outlined in section 12(l) of the NSLA. In these cases, the State agency must deny the request, and should work with the eligible service provider and the FNSRO, if necessary, to improve the request, or identify other options to meet their programmatic needs without the use of a waiver. In other instances, the State agency may deny a waiver request if it determines that the waiver could not be properly implemented or monitored, or if other measures could be taken to meet the needs of the Program without the use of a waiver. USDA relies on State agencies to recommend whether a waiver meets statutory requirements and can be implemented effectively. If the State determines that a request does not meet this standard, there is no reason for USDA to review it.

To ensure the waiver process is efficient and adheres to the statutory requirements for a waiver, USDA specifically requested comments on the process of requesting a waiver, monitoring implementation of the waiver, and reporting data on waivers issued through this authority.

Accordingly, USDA proposed to add the following new paragraphs to codify USDA's authority to waive statutory and regulatory requirements for all Child Nutrition Programs:

- § 210.3(d);
- § 215.3(e);
- § 220.3(d);
- § 225.3(d); and
- § 226.3(e).

Public Comments

USDA received 35 comments on this provision, including nine form letter copies. Of these, 11 offered support, six partially supported the proposal, 10 opposed, and eight were mixed. Proponents, who were all State agencies, supported the inclusion of USDA's waiver authority in the regulations, and several voiced specific support for providing State agencies the discretion to deny a waiver request from an eligible service provider. These commenters said that State agencies are in the best position to assess a service provider's ability to properly implement a waiver and provide necessary program data, as well as the State's own ability to monitor program operations under a waiver. One proponent requested that USDA specify that waiver authority is limited to requirements under the NSLA and CNA, and not to other laws affecting the Child Nutrition Programs.

Commenters who offered partial support included a State agency, sponsors, a general advocacy organization, and an individual. These commenters were pleased to see waiver authority added to the regulations and generally supported the role of State agencies in monitoring and reporting on waivers. However, most expressed opposition to providing State agencies the authority to deny waiver requests from eligible service providers.

Opponents were primarily sponsor and general advocacy organizations, and expressed concern about the ability of State agencies to deny a waiver request from an eligible service provider. Some worried that State agencies could interpret the regulations differently, leading to inconsistent implementation within and across States. Commenters suggested that the regulations should include additional guidelines and specific criteria for States to use when evaluating waiver requests, a timeline for State agency reviews, and the requirement that States provide objective evidence to support a waiver denial. Some requested an appeal process that is decided or reviewed by USDA. One commenter objected to providing States the discretion to deny a waiver, stating that this authority is not found in the statute.

In response to USDA's request for specific comments, several State agencies also remarked on the process of requesting and reporting on a waiver. Some of these commenters said that the process for requesting a waiver is straightforward and appreciated the template USDA has provided, while others found the process to be burdensome and time consuming, especially when multiple waivers are being requested. Those who commented on monitoring of waivers stated that monitoring is conducted during the Administrative Review, technical assistance visits, and at the time of data collection. Several commenters said that completing data reporting requirements is burdensome and difficult. Some requested that USDA simplify reporting requirements and provide templates ahead of time to facilitate compliance. One commenter suggested that waivers should be renewable for multiple year to reduce burden.

USDA Response

The final rule codifies USDA's waiver authority for Child Nutrition Programs with several revisions. In response to a commenter who suggested that USDA specify that waiver authority only applies to requirements under the NSLA and CNA, the regulations are amended to clarify that waivers issued pursuant to these regulations must be consistent with current 12(l) requirements, which includes a prohibition on waivers relating to the Civil Rights Act of 1964. In addition, program requirements that derive from other statutes or regulations may not be waived under this authority. For example, USDA may not waive standards for financial and program management that are required in 2 CFR part 200. With regard to a commenter who requested that States provide objective evidence to support a waiver denial, this final rule is revised to require that, when States provide written notice to an eligible service provider that a waiver is denied, they must include the reason for denying the request. USDA is also adding language clarifying that the Department may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that USDA may not grant a waiver that increases Federal costs. Finally, other minor revisions will ensure continuity with section 12(l).

As discussed in the background section of this rule, in 2018, USDA rescinded several nationwide waivers in response to an audit by the USDA OIG. Following that action, USDA approved more than 230 individual requests in 2019 from States and eligible service providers for waivers primarily related to first week site visits, meal service times, OVS, and eligibility for closed enrolled sites. Through this process, USDA gained critical insight into the use of these waivers and the ability of individual States and eligible service providers to comply with waiver requirements. USDA developed the proposed rule based on these lessons learned, including the importance of State agency input on the viability of waiver requests from eligible service providers.

Historically, waivers approved through section 12(l) of the NSLA have been rare. The statute and regulations are intended to govern all Child Nutrition Program operators in a consistent manner. Exceptions to the statute and regulations should be limited to exceptional circumstances that were not contemplated during development of the statute and regulations and for which a timely remedy is needed. USDA has approved a large number of waivers of SFSP requirements over the last few years to support States and SFSP sponsors that had previously used the nationwide waivers that were rescinded in 2018 to administer their programs. The four most commonly requested of these waivers are being addressed through this rulemaking. Once this rule is finalized, the majority of Child Nutrition Program waivers requested in the last few years related to typical program operations will no longer be needed. USDA anticipates that waivers of statute and regulations will again become a rare occurrence.

USDA understands the concerns of commenters who said that State agencies could apply 12(l) wavier regulations inconsistently and without recourse for program operators. Many of these commenters requested additional guidelines for State agencies and an appeals process decided at the Departmental level. State agencies play a critical role in vetting requests from eligible service providers and USDA relies on their input to determine if a request could be properly implemented and appropriately monitored. State agencies are solely responsible for approving and monitoring eligible service providers such as SFAs, CACFP institutions, and SFSP sponsors. USDA has no direct connection with these program operators except through the State agency and is not in a position to assess the appropriateness of an eligible service provider's waiver request without input from the State agency. Because the Department lacks a relationship with, or firsthand information about, the service provider, it would be unproductive for USDA to review applications that the State does not support. If a State agency concludes that a waiver should not be approved, USDA typically would not have a basis for determining otherwise, and as such, will honor the State's determination. State agencies are required to forward concurring requests to the FNSRO with a rationale supporting the request, at which point USDA will make the final determination on the request. Although the USDA has determined that this approach will best enable the Department to fulfill the requirements of the statute, we recognize that we must remain actively involved with program implementation to ensure the regulations are carried out as intended and consistent with the regulations. When used appropriately, section 12(l) is a tool that allows States and service providers to respond to local conditions and meet the needs of the communities they serve. For this reason, it is important that States and service providers have access to waivers through a transparent and consistent waiver request process. USDA is responsible for providing technical assistance to, and monitoring of, the State agencies. FNSROs are in regular contact with the States to provide support and oversight and are generally aware of trends in program implementation at the State level. As with other regulatory requirements, FNSROs will work with the State agency to correct any misapplication of this provision and support correct and consistent implementation of these waiver requirements.

As stated above, the number of waiver requests is anticipated to reduce substantially once this rule goes into

effect and flexibilities that were previously made available through individual section 12(l) waivers are codified. With fewer waiver requests from eligible service providers, State agencies should be able to provide more technical assistance to the requester to help them improve their request or determine alternative approaches to meet the needs of the programs without the use of a waiver; technical assistance of this type is a core requirement of State agencies. USDA already provides a waiver request template and instructions that include the type of information USDA needs in order to approve a request. State agencies may choose to use that as a guide when reviewing waiver requests from eligible service providers. As stated above, waivers are intended to provide exemptions from statute and regulations in limited circumstances; State agencies and eligible service providers are not entitled to waivers of program requirements. Therefore, State agencies are not entitled to appeal a waiver denial by USDA, nor are eligible service providers entitled to appeal a waiver denial by the State agency. In response to commenters who requested timelines for States to review waiver requests, the proposed regulatory text already includes the requirement that States must forward a waiver request from an eligible service provider to USDA within 15 calendar days of receipt, or notify the requesting eligible service provider in writing within 30 calendar days of receipt of the request if the request is denied.

USDA agrees that improving the process for requesting and reporting on waivers will reduce burden at all levels and support proper program administration. Processing a high volume of waiver requests and collecting data on approved waivers in 2019 highlighted the need to refine the waiver process. USDA is using the lessons learned since 2019 to inform ongoing efforts to streamline the waiver process.

Neither the regulatory text nor section 12(l) of the NSLA place limits on the duration of waivers, meaning that USDA has the authority to approve multiyear waivers or extend a waiver if the waiver continues to meet all necessary requirements, as requested by one commenter.

Accordingly, USDA will add the following new paragraphs to codify USDA's authority to waive statutory and regulatory requirements for all Child Nutrition Programs:

- § 210.3(e);
- § 215.3(e);
- § 220.3(f);
- § 225.3(d); and
- § 226.3(e).

ii. Duration of Eligibility

Statutory requirements found in the NSLA at 42 U.S.C. 1761(a)(1)(A)(i)(I–II) authorize the use of school data and census data to establish area eligibility in the SFSP. The NSLA also establishes that area eligibility determinations made using school or census data must be redetermined every five years.

Regulations at 7 CFR 225.6(c)(3)(i)(B) have required that documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist be submitted every three years for open sites and restricted open sites. Therefore, the proposed rule amended the duration of eligibility for open sites and restricted open sites based on school and census data from three years to five years, in accordance with the NSLA. The proposed rule also extended this requirement for closed enrolled sites contingent on the proposed changes to eligibility of closed enrolled sites described in section III. H. ii. of this final rule.

Public Comments

USDA received 21 comments, including three form letter copies, addressing the proposed changes to duration of eligibility, the majority of which were from State agencies. All comment submissions were in favor of the proposed changes. Proponents noted that these changes minimize administrative burden, align with other eligibility determinations, and are consistent with CACFP requirements. One commenter underscored that the final rule should extend the changes to duration of eligibility to closed enrolled sites if sponsors are able to establish area eligibility for closed enrolled sites under this rule.

USDA Response

All comment submissions expressed support for the proposal without concern or opposition. Thus, this final rule makes no changes to the proposed amendment. Accordingly, this rule changes the regulations in redesignated § 225.6(g)(1)(viii) and (g)(2)(ii) for open and restricted open sites and § 225.6(g)(1)(ix) and (g)(2)(iii) for closed enrolled sites to require submission of eligibility documentation every five years.

iii. Methods of Providing Training

Current regulations at § 225.7(a) require State agencies to make training available at convenient locations. As technology has advanced, sponsors and State agencies have the capability to provide mandatory trainings via the internet. Since 2011, USDA has encouraged State agencies to provide multiple options for training, including online or by video conference or webinars, in order to accommodate varying sponsor needs, while at the same time minimizing the time and expense incurred by the State agency (SFSP 14–2011, *Existing Flexibilities in the Summer Food Service Program,* May 9, 2011). Therefore, USDA took the opportunity with the proposed rule to update the regulations at § 225.7(a) to include the flexibility for training to be conducted via the internet.

Public Comments

USDA received 26 comments, including three form letter copies, addressing the methods of providing training. Of these, 25 were supportive, and one was mixed. Proponents, who were primarily State agencies and included two general advocacy organizations, a sponsor and an individual, supported the option for training to be conducted via the internet, writing that it provides clarity for State agencies and sponsors, accommodates sponsors' needs, and minimizes time and expenses to State agencies in providing trainings. A State agency added that online training software is more cost-effective, readily available, and easy to implement and use. However, the State agency requested USDA further clarify whether training must be conducted in ''real time'' with live webinars or if trainings could be prerecorded. Another State agency asked whether the intent of the provision is to replace in-person training.

USDA Response

This final rule makes no changes from the proposed rule. USDA agrees with commenters that having a variety of training opportunities and formats can accommodate varying sponsor needs, while at the same time minimizing the time and expense incurred by the State agency. This amendment is intended to update regulations with the advancement of technology by codifying flexibilities for training in current guidance (SFSP 14–2011, *Existing Flexibilities in the Summer Food Service Program,* May 9, 2011). It is not intended to replace in-person or face-to-face trainings. State agencies that elect to use this option have the discretion to offer online training in any format that best suits sponsors' needs provided that it is made available through accessible electronic means, is provided in the languages of those for whom the training is intended and in alternative

formats for persons with disabilities in accordance with 7 CFR 225.7(g) and FNS Instruction 113–1, and it delivers proper and comprehensive training to operate the SFSP.

Accordingly, this final rule amends regulations in § 225.7(a) to include the option for training to be conducted via the internet.

iv. Meal Preparation Facility Reviews

Current regulations require that as part of any vended sponsor review, State agencies must inspect the facilities of any food service management company (FSMC) with which a vended sponsor contracts for the preparation of meals. The proposed rule renamed the section title from ''Food Service Management Company Visits'' in current regulations at § 225.7(d)(6) to ''Meal Quality Facility Review'' in redesignated § 225.7(i), and clarified that each facility should be reviewed at least one time during the program year.

Public Comments

USDA received 18 comments, including three form letter copies, addressing the proposed changes to FSMC facility visits, of which, eight were supportive, two provided partial support, one was opposed, and seven were mixed.

The majority of proponents provided general support for the proposed changes. Several proponents specified that they supported renaming the section in order to better clarify the purpose of the provision. One commenter supported the proposal but recommended amending the section name to read ''Meal Preparation Facility Review.''

A respondent pointed out that the proposed regulatory language does not tie this requirement to a sponsor review, which could result in State agencies reviewing these facilities every program year. Other commenters pointed out this concern as well. One commenter agreed with the proposal but wrote that an annual visit may increase the burden to State agencies. A commenter in opposition to the proposed changes agreed, writing that an annual visit would place an undue administrative burden on State agencies.

Commenters who provided mixed positions also expressed concerns over requirements of this provision, and requested further clarification from USDA. Several respondents wrote that the proposed rule is unclear as to who is responsible for the facility reviews. One commenter wrote that it is the responsibility of state and local health agencies to review food safety, so SFSP administering agencies should not be responsible for this review. Another commenter asked if funding provided for health inspections could be utilized to complete this requirement. One respondent asked for clarification on when a facility review is necessary as many facilities in their State are inspected regularly. Another respondent asked if the facilities are to be reviewed at least once per year, could facility reviews in other Child Nutrition Programs satisfy these review requirements.

USDA Response

The final rule addresses oversight in the proposed rule by modifying the proposed language to clarify who is required to receive a review under this requirement, the purpose of these reviews, how often these reviews are required to take place, and who is responsible to conduct these reviews. In addition, the final rule renames this section to better describe the purpose of this visit.

Through management evaluations and technical assistance, USDA learned that requirements for the FSMC facility visits are unclear and place undue burden on State agencies. In an effort to provide clarity to this provision, USDA proposed to revise the regulation; however, it appears the proposed changes did not adequately address ambiguity around the regulation, and perhaps introduced more confusion. Therefore, this final rule addresses oversights in the proposed rule.

The final rule clarifies that, as part of the review of any vended sponsor that purchases unitized meals, with or without milk, to be served at a SFSP site, the State agency must review the facilities and meal production documentation of any FSMC from which the sponsor purchases meals. If the sponsor does not purchase meals but does purchase management services within the restrictions specified in § 225.15, the State agency is not required to conduct a facility review. In the SFSP, an FSMC is any entity from which a vended sponsor procures unitized meals, through either a formal agreement or contract, regardless of the type of entity (public agencies including SFAs, private, nonprofit organizations; or private, for-profit companies). The purpose of the review is to verify that meals being served are prepared, stored, and transported in such a manner that complies with local health and safety standards, and with SFSP requirements. A facility review can include, but is not limited to:

- Observation of unitized meal preparation
- Review of menu planning and meal pattern
- Method of meal packaging
- General health and sanitation practices
- Delivery to SFSP meal sites
- Recordkeeping

One commenter suggested that USDA rename the section, ''Meal Preparation Facility Review,'' to better describe the purpose of this visit. USDA agrees, and thus, this final rule renames the section, ''Meal Preparation Facility Review.''

In addition, this final rule also clarifies how often the reviews are required to take place, particularly, when multiple vended sponsors use the same FSMC. As several commenters pointed out, the proposed changes mistakenly removed this requirement as part of a vended sponsor review, and instead, clarified that the facility should be reviewed at least one time during program year. USDA did not intend to change current requirements with this rulemaking. Therefore, this final rule clarifies that the facility review must be conducted at least one time within the appropriate review cycle for each vended sponsor. If multiple vended sponsors use the same FSMC and are being reviewed in the same review cycle, a single facility review will fulfill the review requirements for those vended sponsors.

Furthermore, comments pointed to concerns over who is responsible for these reviews, and questioned why these reviews are required if they are already frequently inspected by local health departments. As stated above, the purpose of the facility review is to view the FSMC's practices of preparing meals for the SFSP. A facility review differs from health inspections as the primary purpose of a facility review is to ensure that the FSMC facilities are operating at a capacity to adequately produce, store, supply, and deliver meals in accordance with program requirements. Therefore, State agencies are responsible for these reviews and are required to complete the facility review as a part of the vended sponsor review. This final rule clarifies that the State agency can use funds provided in § 225.5(f) to conduct these reviews, however, if the State agency chooses to contract with State or local health authorities to complete the facility reviews, the State agency must provide adequate training for these individuals as required by § 225.7(a).

Accordingly, this rule renames the section title from ''Food Service Management Company Visits'' in current § 225.7(d)(6) to ''Meal Preparation Facility Review,'' and clarifies the review requirements in redesignated § 225.7(i).

v. Technical Changes

In this final rule, USDA is including several technical changes to update proper program and publication names, and to revise regulatory language to provide consistency.

Current regulations at § 225.2 include a definition of ''Areas in which poor economic conditions exist,'' and this definition is referenced in numerous places throughout Part 225. The designation of subparagraphs in this definition is changed from (a)–(d) to (1)–(4) to comply with current paragraph structure requirements for the Code of Federal Regulations. Accordingly, the definition of ''Areas in which poor economic conditions exist'' is corrected in § 225.2 and wherever else it is referenced in Part 225.

Current regulations in § 225.2 reference the ''Secretary's Guidelines for Determining Eligibility for Reduced Price School Meals'' in the definition ''needy children.'' The official title of this annual publication is the ''Child Nutrition Programs: Income Eligibility Guidelines.'' Accordingly, the definition of ''needy child'' is amended to reference the correct title of this publication.

Current regulations at § 225.2 include a definition of the ''State Children's Health Insurance Program (SCHIP),'' and this program is referenced in numerous places throughout part 225. As a result of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (Pub. L. 111–3), the official name of SCHIP was revised to the ''Children's Health Insurance Program (CHIP).'' Accordingly, the title of this program is corrected in § 225.2 and wherever else it appears in part 225.

Section 225.6(h)(2)(xvi) references bonding requirements, and states that the requirements can be found at § 225.15(h)(6) through (8). This citation is inaccurate, as bond requirements are found at § 225.15(m)(5) through (7). Additionally, this rulemaking redesignated § 225.6(h) as § 225.6(l). Accordingly, the reference has been updated to reflect the correct citation at newly designated § 225.6(l)(2)(xvi).

Section 225.7(n)(2), as redesignated in this rule, references ''handicap discrimination.'' This text is changed to ''disability discrimination'' to be consistent with other references in § 225.

Section 225.16(d) references ''boys and girls.'' This text is changed to ''children'' to be consistent with other references in § 225.

The terms ''shall'' and ''must'' are used interchangeably in § 225 to indicate that compliance with a provision is required. In the interest of consistency and using plain language, this final rule makes a non-substantive technical change from ''shall'' to ''must'' where it appears in the subsections of § 225 that are amended by this rule.

IV. Procedural Matters

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This final rule was determined to be significant and was reviewed by the Office of Management and Budget (OMB).

Regulatory Impact Analysis

Economic Summary for ''Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program'' Final Rule

Public Comments on the Economic Summary for the Proposed Rule

USDA did not receive any public comments on the economic summary for the proposed rule.

As described in the preamble to the final rule, changes made by the final rule ''streamline requirements among Child Nutrition Programs, simplify the application process, enhance monitoring requirements, offer more clarity on existing requirements, and provide more discretion at the State agency level to manage program operations.''

We estimate no costs, savings, participation, or program impacts beyond the decrease in burden hours outlined in the Paperwork Reduction Act (PRA) analysis of this rule and in the associated ICR. This rule is estimated to save the affected parties at least $0.5–$1 million annually, or at least $2.7–$5.2 million over the next five years. A detailed cost estimate is available in table 1 below. (A table with all of the burden changes is provided in the PRA analysis of this rule and in the associated ICR.)

The final rule codifies in regulations several operational options that have been available through waivers and policy guidance and that streamline program requirements. The final rule also includes provisions and flexibilities to strengthen SFSP program integrity or clarify existing program requirements.

Although not in regulations prior to the publication of this final rule, many of the changes made by the final rule have already been implemented in the operation of the SFSP through policy guidance, so they will remain available to program operators without interruption. Other changes were previously implemented through policy guidance but were rescinded in October 2018. These rescinded policies are currently in effect through approved individual waivers or nationwide waivers authorized in legislation responding to COVID–19. Other changes are new and have not been implemented in program operations through policy guidance or waivers, as described below. Each provision includes a description of the expected impact to the program.

1. Streamlining Program Requirements

a. Application Procedures for New Sponsors

i. *Program Impact:* This provision codifies flexibilities currently outlined in several policy memoranda for NSLP and CACFP sponsors in good standing (SFSP 05–2012, *Simplifying Application Procedures in the Summer Food Service Program,* October 31, 2011 and SFSP 04–2013, *Summer Feeding Options for School Food Authorities,* November 23, 2012). Specifically, it codifies flexibilities for school food authorities (SFAs) administering the NSLP or SBP and CACFP institutions in good standing that are applying to serve SFSP meals at the same sites where they provide meal services through the NSLP, SBP, or CACFP during the school year. These institutions will be permitted to follow the application requirements for experienced SFSP sponsors currently found in § 225.6(c)(3) instead of the application requirements for new sponsors and sites currently found in § 225.6(c)(2).

ii. *Cost Impact:* This flexibility is currently implemented in policy guidance, and therefore we do not estimate that this provision will affect participation or program costs since it is already in force in the program. We do not estimate any savings or costs associated with this provision, beyond the burden hour savings as detailed in the table in the PRA analysis on p. 161–174. This provision reduces the burden on sponsors already participating in other CN programs who also want to participate in CACFP; since these sponsors are likely to perform well in the operation of the SFSP, this provision reduces burden on these experienced

CN sponsors without compromising program integrity.

b. Demonstration of Financial and Administrative Capability

i. *Program Impact:* In order to streamline Child Nutrition Program requirements and encourage participation, this provision codifies previously-issued policy guidance that provided that NSLP and SBP SFAs and CACFP institutions in good standing applying to participate in the SFSP are not required to submit further evidence of financial and administrative capability, as required in § 225.14(c)(1) (SFSP 05–2012, *Simplifying Application Procedures in the Summer Food Service Program,* October 31, 2011 and SFSP 04–2013, *Summer Feeding Options for School Food Authorities,* November 23, 2012). NSLP and SBP SFAs and CACFP institutions already undergo a rigorous application process in order to participate in the NSLP, SBP, and CACFP, and have demonstrated that they have the financial and organizational viability, capability, and accountability necessary to operate a Child Nutrition Program; therefore, they have the capacity to operate the SFSP as well. The final rule clarifies that these sponsors are not required to submit a management plan unless requested by the State agency. The final rule also codifies as proposed a requirement that State agencies develop an information sharing process if programs are administered by separate agencies within the State.

ii. *Cost Impact:* Most of this provision has already been implemented through policy guidance, so we do not estimate any participation or cost impacts as a result of this provision. The information sharing process requirement is new, but USDA does not intend for this provision to require States to invest in new information technology systems or modify existing IT systems. Information can be shared through any method that is mutually agreed upon by the participating agencies, which could include a method as non-burdensome as agreeing to share the outcome of reviews, corrective actions, or other monitoring activities upon request, so we do not estimate additional costs as a result of this provision.

c. Clarifying Performance Standards for Evaluating Sponsor Viability, Capability, and Accountability

i. *Program Impact:* This rule adds performance standards for organizations applying to participate as SFSP sponsors that correspond to standards currently in place at § 226.6 for organizations applying to participate as CACFP sponsoring organizations. These standards are provided in response to State agency requests to provide additional clarity on application requirements, and in an effort to streamline requirements across programs. These detailed performance standards under § 225.6(d) must be addressed in a management plan, which will assist State agencies in assessing an applicant's financial viability and financial management, administrative capability, and accountability. Experienced sponsors that have not demonstrated significant operational problems in the prior year may submit a simplified management plan instead of a full management plan. However, a full management plan must be submitted at least once every three years to ensure that State agencies periodically conduct a full review and assessment of a sponsor's financial and administrative capability. The State agency may require submission of a full plan more frequently if it determines that more information is needed to evaluate the sponsor's capabilities. It is possible that this requirement could incentive SFAs and CACFP operators to start a summer program, but the potential effects on participation are too speculative to estimate. We note that some commenters expressed concern that meeting these detailed performance standards will be challenging, particularly for small sponsors. According to an internal USDA study of sponsors in 2015, approximately 45% of SFSP sponsors were SFAs and 23% of SFSP sponsors reported participating in the CACFP, so those sponsors are already meeting these requirements and are not required to submit a management plan unless requested by the State agency, as discussed in section III. B. ii. of this final rule. We are not certain of the exact number of sponsors to which this provision applies, but many sponsors either already meet this requirement or are certain to be able to meet it with minimum additional effort. Finally, as of 2015, the average sponsor has participated in SFSP for 9 summers, and the median sponsor for 6 summers, so the average sponsor has significant experience with the SFSP already, and could submit a simplified management plan most years.

ii. *Cost Impact:* USDA recognizes that including these detailed performance standards in the management plan may require some State agencies and sponsors to modify current practices. Although USDA prioritizes flexibility for stakeholders to the greatest extent possible, these changes will bolster program integrity by supporting the ability of State agencies to more efficiently and consistently evaluate an applicant sponsor's financial and administrative capability. However, we do not estimate any cost or participation effects. It is possible that adopting these performance standards could generate program efficiencies and potential savings in the long-term, as applicants to sponsor the Program must demonstrate their ability to meet the performance standards for financial viability, administrative capability, and Program accountability to be able to operate the program. Cost impacts are difficult to quantify because any savings directly tied to the performance standards would be challenging to isolate.

2. Facilitating Compliance With Program Monitoring Requirements

a. First Week Site Visits

i. *Program Impact:* Existing regulations at § 225.15(d)(2) state that sponsors are required to visit each of their sites at least once during the first week of operation under the program and must promptly take such actions as are necessary to correct any deficiencies. Although USDA had previously waived this requirement on a nationwide basis for sponsors in good standing in the NSLP or CACFP, and sites that had operated successfully the previous year, these waivers were rescinded in 2018. USDA has also used COVID–19-related authority to waive first week site visit requirements nationwide, but this authority is not permanent and is intended to aid program operators during the public health emergency and as they transition back to normal operations. This final rule increases flexibility by requiring a site visit during the first two weeks of program operations for new sites, sites with operational problems in the prior year, and any site where the State agency determines a visit is needed. In addition, each State agency must establish criteria for what constitutes operational problems in order to help sponsors determine which of their returning sites are required to receive a site visit during first two weeks of program operations.

ii. *Cost Impact:* We estimate minimal changes in costs due to this provision. It provides additional flexibility to sponsors; therefore, this provision may create cost savings for sponsors, though we are not able to estimate any possible savings. While we are providing more flexibility to sponsors, which may appear to relax program integrity, this provision is adopting a risk-based approach to identifying sites to review,

an approach that has been recommended by recent research in the school meal programs to better target resources.[2]

b. Establishing the Initial Maximum Approved Level of Meals for Sites of Vended Sponsors

i. *Program Impact:* In order to allow sponsors of vended sites to make timely adjustments to program operations, USDA previously issued policy guidance clarifying that sponsors may request an increase to existing site caps at any time prior to the submission of the meal claim forms for reimbursement that includes meals served in excess of the site cap (SFSP 16–2015, *Site Caps in the Summer Food Service Program—Revised,* April 21, 2015). This rule codifies this flexibility in regulation, though State Agencies have the discretion to approve or deny the request.

ii. *Cost Impact:* This provision has already been implemented through policy guidance, so we do not estimate any participation or cost impacts as a result of this provision.

c. Statistical Monitoring Procedures, Site Selection, and Meal Claim Validation for Site Reviews

i. *Program Impact:* In order to provide flexibility to State agencies conducting sponsor and site reviews, current regulations at § 225.7(d)(8) provide State agencies with the flexibility to use statistical monitoring procedures in lieu of the site monitoring requirements found in § 225.7(d)(2). After significant research and feedback from State agencies obtained through various workgroups, USDA has determined that it is not feasible to develop a measure or formula that would be statistically significant and thus provide adequate monitoring of site meal claim forms. Accordingly, USDA is removing the provision at § 225.7(d)(8) allowing the use of statistical monitoring during site reviews and validation of meal claims. This rule also codifies the requirement that State agencies must create criteria for site selection using the site characteristics suggested by USDA as a guide. State agencies may, in selecting sites for review, use additional criteria including, but not limited to, findings of other audits or reviews, or any indicators of potential error in daily meal counts (*e.g.,* identical, questionable, or very similar claiming patterns, or large changes in meal counts). Further, the Department recognizes that the guidance for conducting 100 percent meal claim validations may be burdensome for some State agencies. Therefore, this rule recommends a stepped increase for meal claim validations (*e.g.,* if the State agency reviews 10 percent of a sponsor's sites and finds a 5 percent or greater error rate, the State agency must take fiscal action and expand the meal validation review to 25 percent of the sponsor's sites; if a 5 percent or greater error rate is found, the State agency must then review 50 percent of the sponsor's sites; and if a 5 percent or greater rate continues to be found, then the State agency must review 100 percent of a sponsor's sites). This incremental approach will use State agency resources more efficiently, will provide State agencies a more targeted method for review, and will serve as the baseline for the minimum method of meal claim validation required; however, States have the flexibility to complete stricter validations as determined necessary, without approval as an additional State agency requirement.

ii. *Cost Impact:* These changes remove an unused option for site monitoring (statistical monitoring procedures) and increase State flexibility in how to conduct meal validation reviews. This provision impacts sponsors with more than one site (in 2015, 57 percent of sponsors had one site, while 43 percent of sponsors had more than one site).[3] The impact of the meal claim validation process will depend on the average error rate, which determines how many claims the State will ultimately review. USDA does not know the distribution of meal claim error rates in SFSP and cannot estimate how many fewer claims will be reviewed under this final rule and any corresponding administrative savings for the States. We note that there is some small potential for increased error in meal claims since this change leads to fewer meals being validated by the State agencies that might otherwise have chosen to validated all claims; however, this more targeted approach is an attempt to reduce burden on State agencies and sponsors while still identifying potential systemic issues and maintaining program integrity.

3. Providing a Customer-Service Friendly Meal Service

a. Meal Service Times

i. *Program Impact:* Section 225.16(c) of the regulations sets forth restrictions on when meals can be served in the SFSP. Dating as far back as 1998, USDA has issued guidance that waived these requirements at certain sites where the requirements proved to create significant barriers to efficient program operations and good customer service for the communities served. The waiver of meal time restrictions helped decrease administrative burden and provided more local level control to sponsors to plan the most effective meal services, thereby improving program operations. In 2011, USDA published guidance that waived the meal service time restrictions for all SFSP sites while still requiring sponsors to submit meal service times to the State agency for approval (originating guidance has since been superseded and incorporated into SFSP 06–2017, *Meal Service Requirements in the Summer Meal Programs, with Questions and Answers—Revised,* December 05, 2016). These waivers were rescinded in 2018, as discussed in the background section of this final rule. In 2019, 42 State agencies requested a waiver of meal time restrictions to allow them to continue implementation of what had previously been in effect through guidance. Similar to the other rescinded waivers, USDA has used COVID–19-related authority to waive meal service time requirements nationwide during the public health emergency and as sponsors transition back to normal operations. This final rule amends § 225.16(c) to codify the previously available guidance into regulations, specifically to remove meal service time restrictions; add a requirement that a minimum of one hour elapse between the end of one meal service and the beginning of another (except for residential camps); allow a State agency to approve for reimbursement meals served outside of the approved meal service time if an unanticipated event occurs; and clarify that meals claimed as a breakfast must be served at or close to the beginning of a child's day, and prohibit a three component meal from being claimed for reimbursement as a breakfast if it is served after a lunch or supper is served.

ii. *Cost Impact:* This provision has already been implemented through waivers, so we do not estimate any participation or cost impacts as a result of this provision. When originally implemented, there did not appear to be major increases in service, but these waivers made operations smoother and decreased burden on program sponsors and sites.

b. Off-Site Consumption of Food Items

i. *Program Impact:* Regulations require that sponsors must agree to

[2] Rothstein, Melissa et al., *Assessment of the Administrative Review Process in School Meal Programs,* 2020, available online at *https://www.fns.usda.gov/cn/assessment-administrative-review-process-school-meal-programs.*

[3] 2015 USDA internal SFSP study.

''maintain children on site while meals are consumed'' (§ 225.6(e)(15)). USDA has heard from stakeholders that, in some cases, the congregate feeding requirement poses a barrier to participation and compliance with program requirements. USDA initially issued guidance in 1998 that provided flexibilities for a fruit or vegetable item of the meal to be taken off-site for later consumption, with State agency approval, for sponsors with adequate staffing to administer this option (originating guidance has since been superseded and incorporated into SFSP 06–2017—*Meal Service Requirements in the Summer Meal Programs, with Questions and Answers—Revised,* December 5, 2016), which is still in effect. USDA subsequently amended this flexibility in response to stakeholder feedback that it could be implemented in a way that maintained health and safety requirements. This final rule codifies the flexibility for sponsors to allow children to take a single fruit, vegetable, or grain item off-site for later consumption, subject to State Agency approval.

ii. *Cost Impact:* This provision has already been implemented through policy guidance, so we do not estimate any participation or cost impacts as a result of this provision. This guidance (and now this provision) has almost certainly decreased food waste and provided flexibility for parents of young children participating in the program, though we are not able to estimate the value of food saved by this provision.

a. Offer Versus Serve

i. *Program Impact:* Current regulations in § 225.16(f)(1)(ii) allow SFAs that are program sponsors to ''permit a child to refuse one or more items that the child does not intend to eat.'' This concept is known as ''offer versus serve'' (OVS). The regulations also require that an SFA using the OVS option must follow the requirements for the NSLP set out in § 210.10. After observing SFA sponsors successfully utilizing the option for many years and receiving significant feedback from stakeholders, including Congressional testimony about the positive effects of OVS on reducing food waste and containing program costs, USDA extended the option to use OVS to non-SFA sponsors (SFSP 11–2011, *Waiver of Meal Time Restrictions and Unitized Meal Requirements in the Summer Food Service Program,* October 31, 2011). USDA continued to clarify policies surrounding OVS, including guidelines for required meal service components under the SFSP meal pattern (SFSP 08–2014, *Meal Service Requirements,* November 12, 2013) and extending the use of the SFSP OVS meal pattern guidelines to SFA sponsors that had previously been required to follow the OVS requirements for the NSLP (SFSP 05–2015 (v.2), *Summer Meal Programs Meal Service Requirements Q&As—Revised,* January 12, 2015). These waivers and extensions of statutory and regulatory requirements pertaining to OVS were rescinded in 2018. In 2019, 37 State agencies requested a waiver of programs requirements to allow them to continue utilizing OVS as had previously been permitted through guidance. Nationwide waivers issued pursuant to COVID–19-related authorities have also been used to allow the continued use of these OVS options. However, section 13(f)(7) of the NSLA only authorizes SFAs to use OVS. The Department also has some concerns about the effective implementation of OVS by non-SFA sponsors based on on-site reviews and comments received. In light of these findings, and in order to ensure that program regulations remain in agreement with statute, this rule retains the requirement that only SFA sponsors may utilize the OVS option. This rule also allows SFA sponsors electing to use the SFSP meal pattern to use SFSP OVS guidelines.

ii. *Cost Impact:* It is possible that this provision has resulted in a small decrease in reimbursements for ineligible meals (which would have decreased improper payments to sponsors, resulting in a cost savings to the Federal Government), though we are unable to estimate this potential cost savings. Furthermore, it is possible that expanded use of OVS would decrease food waste in the SFSP, as recent research has found that the use of OVS in the NSLP is associated with decreased food waste in elementary schools.[4] However, no research exists that explicitly links the use of OVS to decreased costs, nor does any existent research show a link between the use of OVS and participation by students in NSLP. Therefore, we do not include any cost or participation effects associated with this provision. It is also possible that some SFA sponsors who would otherwise operate the SSO may switch to the SFSP to receive a higher reimbursement rate after this provision is codified, but since this provision has already been implemented via waivers, we assume that most sponsors who would want to switch to the SFSP have already done so. We do note that a small percentage of total sites (9.6% of all sites) who were previously using OVS will no longer be eligible to use OVS, though we are not certain of the cost impacts on these sites, as we do not have any evidence on the cost impacts of OVS on program operators.[5]

4. Clarification of Program Requirements

a. Reimbursement Claims for Meals Served Away From Approved Locations

i. *Program Impact:* SFSP meals are reimbursable only at approved sites. Via policy guidance, USDA granted State agencies the flexibility to approve exceptions to this requirement for the operation of field trips. This rule clarifies the regulatory requirements that if an SFSP sponsor wishes to serve a meal away from the approved site location, they are required to notify the State agency, but formal approval of the alternative meal service is not a federal requirement; however, the States have the discretion to require formal approval. The final rule grants State Agencies discretion on the condition for open sites. For example, if the State Agency permits an open site to close, the sponsor would still be required to notify the community of the change in meal service and provide information about alternative open sites. While USDA recognizes the additional burden this stipulation may place on some sponsors, sponsors enter into a written agreement with State agencies that attests they are capable of operating the program, and the site type they oversee. In consideration of this change, administering agencies should work closely with sponsors electing to operate a field trip and exercise special care to ensure that the sponsors of open sites have developed adequate procedures to resolve any potential issues. When it is not possible to continue operating at the approved site location, sponsors should have plans to ensure that children in the community are provided ample notification of changes in meal service and are directed to alternate sites to obtain a meal. Furthermore, State

[4] See U.S. Department of Agriculture, Food and Nutrition Service, Office of Policy Support, *School Nutrition and Meal Cost Study, Final Report Volume 4: Student Participation, Satisfaction, Plate Waste, and Dietary Intakes* by Mary Kay Fox, Elizabeth Gearan, Charlotte Cabili, Dallas Dotter, Katherine Niland, Liana Washburn, Nora Paxton, Lauren Olsho, Lindsay LeClair, and Vinh Tran, Project Officer: John Endahl, Alexandria, VA: 2019, p. 78.

[5] According to the most recently available USDA administrative data, approximately 60% of sites were SFA sites in July 2021. According to the Summer Meals Study (Report Volume 3, page 3–15), only 24% of non-SFA sites used OVS in 2018. This gives a total of 9.6% of all sites who will need to transition to meal service without the use OVS as a result of this rule (40% × 24% = 9.6%). The Summer Meals Study is available online at *https://www.fns.usda.gov/cn/usda-summer-meals-study.*

agencies should consider site type during application to make sure sites are correctly classified and serving the community as intended.

ii. *Cost Impact:* This provision may reduce the burden on both State agencies and sponsors, if State agencies had interpreted previous guidance to mean that State agencies had to formally approve field trips, instead of simply receiving notification of the field trip. According to an internal USDA analysis, 76 percent of sponsors and 63 percent of sites reported serving program meals during off-site field trips at some point in time during the summer.[6] However, estimating any potential burden reduction is difficult because prior policy guidance on State approval for serving meals at an alternate location may have varied. As a result, this provision will provide a minimal reduction in burden for some States (*i.e.,* States that currently allow for service of field trip meals with just a notice to the State agency) and a larger impact for States that move from using a formal approval process to a notification-only process. This final rule codifies the flexibility to allow sponsors the option to receive reimbursement for meals served away from the approved site, and provides clarity on the requirement currently provided through policy guidance.

b. Timeline for Reimbursements to Sponsors

i. *Program Impact:* This provision clarifies a point of confusion for State agencies not addressed in existing regulations. The final rule states that if a sponsor's claim is determined to be potentially unlawful based on § 225.9(d)(10), the State agency must still disapprove the claim within 30 calendar days with an explanation of the reason for disapproval. This rule also amends regulations in § 225.9(d)(10) to clarify that State agencies may be exempt from the 45 calendar day timeframe for final action in § 225.9(d)(4) if more time is needed to complete a thorough examination of the sponsor's claim. Consistent with current guidance on other one-time exceptions for claims, State agencies must notify the appropriate FNS Regional Office (FNSRO) that they suspect fraud and will be taking the exemption to the 45 day timeline to conduct an expanded review by submitting to the FNSRO a copy of the claim disapproval at the same time as it is provided to the sponsor.

ii. *Cost Impact:* We estimate no change in cost associated with this provision, as it merely allows States more time to investigate claims, which may increase program integrity.

c. Requirements for Media Release

i. *Program Impact:* Current regulations at § 225.15(e) outline the requirement for each sponsor operating the SFSP to annually announce the availability of free meals in the media serving the area from which it draws its attendance. However, USDA received questions from State agencies and analyzed data from management evaluations that show the current requirements are difficult to understand and implement correctly, leaving some State agencies and sponsors to make inadvertent errors in fulfilling the requirements. In accordance with the proposed rule, this final rule codifies current guidance allowing State agencies the discretion to issue a media release on behalf of all sponsors operating SFSP sites in the State, including camps and closed enrolled sites. In addition, this final rule modifies the proposed language to make clear that closed enrolled sites are only required to notify participants or enrolled children of the availability of free meals and if a free meal application is needed.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. It should be noted that this requirement will likely result in a burden reduction, especially for sponsors of closed sites, such as camps, and potentially on all sponsors in a State, if the State agency issues a compliant statewide notification.

d. Annual Verification of Tax-Exempt Status

i. *Program Impact:* In order to be eligible to participate in the SFSP, sponsors must maintain their nonprofit status (§§ 225.2 and 225.14(b)(5)). In 2011, the Internal Revenue Service changed its filing requirements for some tax-exempt organizations. Failure to comply with these requirements could result in the automatic revocation of an organization's tax-exempt status. Due to this change, USDA released guidance for confirming sponsors' tax-exempt status, which requires that State agencies annually review a sponsor's tax-exempt status (SFSP 04–2017, *Automatic Revocation of Tax-Exempt Status—Revised,* December 1, 2016). Accordingly, this rule codifies the requirement for annual confirmation of tax-exempt status at the time of application by amending § 225.14(b)(5).

ii. *Cost Impact:* This provision has already been implemented through policy guidance, so we do not estimate any participation or cost impacts as a result of this provision.

4. Important Definitions in the SFSP

a. Self-Preparation Versus Vended Sites

i. *Program Impact:* As sponsor sophistication and technology have developed, the operation of SFSP has shifted. Most State agencies have systems that allow for site-based claiming, which provides more granular information about the number and types of meals being served at individual sites, rather than aggregating this information at the sponsor level. Additionally, as sponsors have grown, many used a mixed model of sponsorship, with some sites self-preparing meals and others utilizing a vendor contract to receive meals. In light of these changes, many State agencies have developed the ability to classify individual sites as self-preparation or vended, rather than classifying a sponsor and all of its sites as one type or the other. USDA is aware that some State agencies that have these capabilities also provide reimbursements based on the classification of the individual sites. This is important because providing reimbursements to sponsors that operate a mix of sites based on the individual site classification is more accurate and helps protect the integrity of the SFSP. As such, the regulations require updates that reflect the current nature of program operations. Accordingly, this rule adds definitions to § 225.2 for ''self-preparation site'' and ''vended site''. Additionally, this rule clarifies requirements at § 225.6(c)(2) to require a summary of how meals will be obtained at each site as part of the sponsor application.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. This change merely updates program definitions to align with the current nature of program operations. Commenters and USDA's own monitoring activities have indicated that all but several State agencies have systems that are equipped with site-level claiming mechanisms. USDA appreciates the efforts that State agencies have made to employ technological advances to modernize agency systems. Comments also indicated that there would be no impact on program operations in most States to implement site-level claiming because of this. However, among several State

[6] 2015 USDA internal SFSP study. (In 2015, USDA collected information about SFSP operations, sponsors, and sites through a nationally representative survey administered to State agencies, SFSP sponsors, and SFSP sites.)

agencies with systems that are not currently configured for site-level claiming, State agencies noted a belief that that implementation would result in increased costs due to additional monitoring and system requirements. However, sponsor classifications are still needed for State agencies that are not yet able to process claims at the site level. Therefore, although this rule establishes definitions for self-prep and vended sites, USDA is retaining the sponsor level definitions, which apply for States that are claiming at the sponsor level.

b. Eligibility for Closed Enrolled Sites

i. *Program Impact:* The definition of closed enrolled sites included in § 225.2 requires that at least 50 percent of the enrolled children at the site are eligible for free or reduced-price meals under the NSLP and the SBP, as determined by approval of applications in accordance with § 225.15(f). To reduce administrative burden on sponsors, USDA published guidance in 2002 that permitted closed enrolled sites nationwide to establish eligibility based on data of children eligible for free and reduced priced meals in the area where the site was located (*Summer Food Service Program (SFSP) Waiver for Closed Enrolled Sites,* November 17, 2002). This nationwide waiver was rescinded in 2018, as discussed in the background section of this final rule. After over 15 years of implementing this waiver, this flexibility has been shown to reduce administrative burden on sponsors of closed enrolled sites and eliminate barriers to participation for children and families enrolled at these sites. State agency requests for individual waivers for Program year 2019 confirm that these remain the principal benefits of permitting closed enrolled sites to rely on area eligibility rather than applications. Nationwide waivers issued pursuant to COVID–19-related authorities have also been used to allow the continued use of these policy options. Accordingly, this rule amends the definitions of ''areas in which poor economic conditions exist'' and ''closed enrolled site'' in § 225.2 to clarify eligibility requirements and include eligibility determination based on area data of children eligible for free and reduced-price meals. This rule also includes additional changes which require State agencies to have criteria for approving closed enrolled sites to ensure operation of a site as closed enrolled does not limit access to the community at large.

ii. *Cost Impact:* This definition has already been implemented through waivers, so we do not estimate any participation or cost impacts as a result of this provision. The addition of the provision requiring States to ensure community access to meals during the approval of a closed site will ensure that program access will not be impacted if this provision results in an increase in closed sites; indeed, this requirement may lead to slightly more sites operating overall, though we are not able to estimate this potential effect.

c. Roles and Responsibilities of Site Supervisors

i. *Program Impact:* SFSP regulations did not have a singular definition outlining the roles and responsibilities of site supervisors. However, USDA does publish guidance specifically for site supervisors as a tool to facilitate program operations that are in compliance with regulations. The role of the site supervisor is critically important to proper management of the SFSP. Using a variety of methods (including nationwide studies conducted by the department), USDA has received the feedback that clearly defining the role of the site supervisor, including requiring that the site supervisor must be on site during the meal service, would greatly facilitate sponsors' ability to comply with requirements and improve program integrity. However, the site supervisor may delegate tasks to another staff member so long as that staff member is overseen by the site supervisor and has appropriate training for the role that the individual is expected to fill. It is at the State agency's discretion whether the sponsor must inform that State agency when a site supervisor delegates their duties to another staff member. Accordingly, this rule adds a definition at § 225.2 for site supervisor, which outlines the role and responsibilities required of a site supervisor.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. This change merely adds a definition to align with the current nature of program operations.

d. Unaffiliated Sites

i. *Program Impact:* In the SFSP, many sponsors operate sites with which they have a legal affiliation. However, there are instances when a sponsor will provide meals to a site with which it has no legal affiliation other than an agreement to conduct a meal service. Section IV. C of this rule includes this type of situation as a characteristic that should be taken into consideration when determining which sites a State agency should choose to review during a sponsor review in order to fulfill requirements set forth in § 225.7(e)(4)(v). The regulations under § 225.2 did not include a definition for unaffiliated site. Therefore, this rule adds a definition for unaffiliated site (*i.e.,* a site that is legally distinct from the sponsor) to help State agencies determine which sites should be selected for review when conducting a sponsor review.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. As stated in the rule, this definition is added to clarify existing program requirements, not to change program requirements.

e. Unanticipated School Closure

i. *Program Impact:* The NSLA allows service institutions to provide meal services to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. The statute further requires that the meal service must take place at non-school sites. While the regulations currently provide requirements for approving sponsors to serve during unanticipated school closures, there is not a specific regulatory definition of unanticipated school closure. This rule adds a definition of ''unanticipated school closure'' that aligns with statutory requirements outlined in section 13(c)(1) of the NSLA, 42 U.S.C. 1761(c)(1), and existing regulatory provisions related to unanticipated school closures.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. As stated in the rule, this is a change in definition to clarify existing program requirements, not to change program requirements.

f. Nonprofit Food Service, Nonprofit Food Service Account, Net Cash Resources

i. *Program Impact:* Financial management in the SFSP is critical to the success of the program, especially considering the short duration during which most summer programs operate. As such, it is important that key terms related to financial management are clearly defined. To create consistency across Child Nutrition Programs, this rule includes definitions of nonprofit food service, nonprofit food service account, and net cash resources that align with the terms already defined under the National School Lunch Program in part 210.

ii. *Cost Impact:* We estimate no change in cost associated with this provision, as this provision is not changing the program requirements.

Providing these definitions ensures consistency across the SFSP and NSLP.

5. Miscellaneous

a. Authority To Waive Statute and Regulations

i. *Program Impact:* Section 12(l) of the NSLA, (42 U.S.C 1760(l)), provides the Secretary with the authority to waive statutory requirements under the NSLA or the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*), and any regulations issued under either Act for State agencies and eligible service providers if certain conditions are met. Although regulations are not needed to continue implementing waivers, this final rule adds waiver authority to the regulations to provide clarity for States and program operators. USDA routinely works with State agencies to determine when and how waiver authority can best be applied to improve program operations, and State agencies are responsible for monitoring sponsor activities, including the implementation of waivers. Under the changes in this rule, the State agency will also have the discretion to deny a waiver submitted by an eligible service provider—for example, if statutory requirements are not met, if the State agency does not have confidence that the sponsor has the capability to implement the waiver while maintaining a high level of program integrity, or if the State agency or the sponsor does not have the resources to properly implement, monitor, and evaluate the impacts of the waiver.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. As stated in the rule, waiver authority already exists in the statute and adding it to the regulations does little to change how this process operates.

b. Duration of Eligibility

i. *Program Impact:* Statutory requirements found in the NSLA at 42 U.S.C. 1761(a)(1)(A)(i)(I–II) authorize the use of school data and census data to establish area eligibility in the SFSP. The NSLA also establishes that area eligibility determinations made using school or census data must be redetermined every five years. This rule amends the duration of eligibility for open sites and restricted open sites for school and census data from three years to five years, in accordance with the NSLA. Accordingly, this rule changes the regulations in redesignated §§ 225.6(g)(1)(ix) and 225.6(g)(2)(iii) to require submission of eligibility documentation every five years.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. The change will decrease the burden on sponsors using school or census data for area eligibility determinations of sites. We are not able to estimate any potential participation effects, but we note that there is very little annual variation in the census data, so any participation or eligibility effects are likely to be minimal.

c. Methods of Providing Training

i. *Program Impact:* As technology has advanced, sponsors and State agencies have the capability to provide mandatory trainings via the internet. Accordingly, this rule updates regulations at § 225.7(a) to include the option for training to be conducted via the internet.

ii. *Cost Impact:* The change may decrease training costs for State agencies and sponsors who switch from in-person trainings to online trainings, though we are not able to estimate this potential savings.

d. Meal Preparation Facility Review

i. *Program Impact:* Current regulations require that part of any review of a vended sponsor must include a food service management company facility visit. In order to clarify review requirements, this rule renames the section titled 'Food Service Management Company Visits' in current § 225.7(d)(6) to 'Meal Preparation Facility Review.' This rule also reorganizes the requirements in a more logical manner, amends this provision to clarify that each facility should be reviewed at least one time within the appropriate review cycle for each vended sponsor, and redesignate it as § 225.7(i). The final rule addresses oversight in the proposed rule by modifying the proposed language to clarify who is required to receive a review under this requirement, the purpose of these reviews, how often these reviews are required to take place, and who is responsible to conduct these reviews. The final rule clarifies that as part of the review of any vended sponsor that purchases unitized meals, with or without milk, to be served at a SFSP site, the State agency must review the facilities and meal production documentation of any food service management company from which the sponsor purchases meals. If the sponsor does not purchase meals but does purchase management services within the restrictions specified in § 225.15, the State agency is not required to conduct a facility review. The final rule clarifies that State agencies are responsible for these reviews and are required to complete the facility review as a part of the vended sponsor review.

ii. *Cost Impact:* We estimate no change in cost associated with this provision. The change clarifies current requirements; it makes no changes to current requirements.

For the reasons stated above, we estimate that these new changes will not measurably impact participation, meal costs, or costs to State agencies, sponsors, or sites, beyond accounting for the decreased burden needed to fulfill program requirements under the changes, as the changes streamline and/or decrease administrative requirements, increase flexibilities for State agencies and/or sponsors, and/or provide clarity where current program requirements are unclear.

More generally, this action streamlines SFSP operations for both State agencies and program operators. It codifies policies that have proven effective in improving efficiencies in the operation of the SFSP. These flexibilities have provided significant relief from some program administrative burdens and have reduced paperwork for those sponsors experienced in other Child Nutrition Programs that wish to be SFSP operators. We estimate that there are no measurable increased costs to State agencies or SFSP operators and no Federal costs associated with implementation of this rule.

There may be some savings associated with this rule due to the reduction in burden associated with streamlining operations and reducing SFSP paperwork for experienced sponsors. Depending on the position of the staff person submitting the paperwork, this action is estimated to save approximately $0.5 million annually if performed by an administrative-level position, or about $1 million annually if performed by a director-level position. This will result in approximately $2.7 million to $5.2 million in savings over five years, depending on the position level of the person submitting the paperwork.[7] See the following tables for the detailed savings streams.

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Table 1: Estimated Savings from Reduced Reporting and Recordkeeping Costs

	Fiscal Year ($ millions, nominal savings)					
	2023	**2024**	**2025**	**2026**	**2027**	**Total**
Estimated Savings from Reduced Reporting and Recordkeeping Costs						
High Estimate (director-level position)	-$1.0	-$1.0	-$1.0	-$1.1	-$1.1	**-$5.2**
Low Estimate (administrative assistant-level position)	-$0.5	-$0.5	-$0.5	-$0.6	-$0.6	**-$2.7**

Table 2: Discounted Savings Streams

	Fiscal Year ($ millions, 2022 dollars)					
	2023	**2024**	**2025**	**2026**	**2027**	**Total**
Discounted savings stream						
Low Estimate (administrative assistant-level position)						
3 percent	-$0.5	-$0.5	-$0.5	-$0.5	-$0.5	-$2.5
7 percent	-$0.5	-$0.5	-$0.4	-$0.4	-$0.4	-$2.2
High Estimate (director-level position)						
3 percent	-$1.0	-$1.0	-$1.0	-$1.0	-$1.0	-$4.8
7 percent	-$0.9	-$0.9	-$0.9	-$0.8	-$0.8	-$4.3

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Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities. The totality of the changes made by the final rule aim to decrease overall burden on the affected parties, which include the small entities covered by the final rule (*i.e.,* small sponsors and sites). However, the majority of the rule's provisions are currently in effect via policy guidance or State waivers. In addition, changes that will affect burden primarily impact State agencies and larger sponsors, such as the requirement

[7] These ranges were calculated by taking the hourly total compensation from BLS for FY2021 (for all State and Local workers for the director-level position estimate, and for a private administrative assistant for the administrative-level estimate) and inflating that hourly total compensation figure according to the CPI–W increase in OMB's economic assumptions for the FY2023 President's Budget for years FY2023–FY2027. That hourly compensation figure was then multiplied by the decrease in burden hours as estimated in the ICR to generate the yearly and 5-year savings estimate.

that State agencies share information and the multi-step approach for States conducting claim validations.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, USDA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at *http://www.bea.gov/iTable*) in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the most cost-effective or least burdensome alternative that achieves the objectives of the rule. This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SFSP is listed in the Assistance Listings under the Catalog of Federal Domestic Assistance Number 10.559 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (see 2 CFR chapter IV). Since SFSP is State-administered, USDA has formal and informal discussions with State and local officials, including representatives of Indian tribal organizations, on an ongoing basis regarding program requirements and operations. This provides USDA with the opportunity to receive regular input from State administrators and local program operators, which contributes to the development of feasible requirements.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications and either impose substantial direct compliance costs on State and local governments or preempt State law, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. USDA has determined that this rule does not have Federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, nor does it impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a Federalism summary impact statement is not required.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the application of the provisions of this rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed the final rule, in accordance with the Department Regulation 4300–004, ''Civil Rights Impact Analysis'' to identify and address any major civil rights impacts the final rule might have on participants on the basis of age, race, color, national origin, sex, or disability. Due to the unavailability of data, USDA is unable to determine whether this rule will have an adverse or disproportionate impact on protected classes among entities that administer and participate in the Child Nutrition Programs. However, FNS Civil Rights Division finds that the current mitigation and outreach strategies outlined in the regulation and this CRIA are intended to minimize the impacts on Child Nutrition program participants if implemented. If deemed necessary, the FNS Civil Rights Division will propose further mitigation to alleviate impacts that may result from the implementation of the final rule.

Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Food and Nutrition Service hosted a listening session to inform Tribal Nations about this rulemaking. When considering the promulgation of this rule to impact State authority in Tribal issues, the fulfillment of tribal treaty rights on the provision of food, and the relinquishment of USDA's authority to review tribal waivers as directed by Executive Order 13175, Sec. 6, USDA has determined that this rule does have substantial direct effects on one or more Tribes. FNS will work with the USDA Office of Tribal Relations to ensure that meaningful consultation occurs.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part 1320) requires the Office of Management and Budget (OMB) to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this final rule will create information collection requirements and revise existing information collection burdens for OMB Control Number 0584–0280 7 CFR part 225, Summer Food Service Program, that are subject to review and approval by OMB. In connection with the proposed rule, ''Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program'', published in the **Federal Register** on January 23, 2020 (85 FR 4064), USDA submitted an Information Collection Request (ICR) discussing the information requirements impacted by the rule to OMB for review. The final rule codifies into regulations many of the provisions incorporated under the proposed rule, as well as modifies some to ensure compliance by State agencies and program operators. It also adds additional integrity safeguards that were not incorporated under the proposed rule. The majority of the information collection requirements and associated burdens will remain the same as previously proposed; however, there are a few changes in the requirements and

burden, which are outlined below and in the associated ICR.

Explanatory Note on Existing Information Collection Requirements Without OMB Approval and Rounding Revisions (OMB#0584–0280)

USDA published a 60-day **Federal Register** Notice (FRN) on July 23, 2021 (86 FR 38974) for public comment on the proposed revision to include existing information collection requirements in use without OMB approval into OMB control number 0584–0280. In addition, FNS took the opportunity provided by this proposed revision to correct for rounding errors in the total estimated burden hours currently approved for the collection. The 60-day FRN (86 FR 38974) outlines the previous reporting burden being used without OMB approval, and the estimated changes in burden to the collection under the revision request. The public comment period for the 60-day FRN ended on September 21, 2021. USDA is submitting the revision request to OMB for review and approval. Once approved, the revision request will establish the baseline burden for this final rule ICR, and as such, this PRA summary and associated ICR assume approval for the revisions under the standalone revision request.

In addition, this final rule is expected to reduce the reporting burden associated with one of the information collection requirements being incorporated under the revision request. Under current regulations, sponsors are required to visit each of their sites at least once during the first week of operation under the Program (7 CFR 225.15(d)(2)). The burden associated with this existing monitoring requirement was overlooked in the previous approval of 0584–0280. A revised 0584–0280 package will be submitted that will include the burden for the existing monitoring requirement.

As a result of the program changes and adjustments discussed in the aforementioned 60 day FRN, due to the addition of previously omitted reporting requirements and the administrative adjustment for rounding errors, the revised burden for the collection increased to a total of 462,699 hours and 391,795 responses. These figures are included in the section below entitled ''Summary of OMB Approval Prior to Rule and Impact of Final Rule.''

For transparency and to provide clarity regarding the impact of the changes in this rulemaking, the table below shows the impact that the final rule will have once the estimated burden changes in the revision request are reviewed by OMB and are incorporated into the new baseline estimates for OMB control number 0584–0280.

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Estimated Changes to the Estimated Baseline in Reporting Burden under OMB# 0584-0280 as a Result of the Final Rule

Description of activities	Regulation citation	Estimated number of respondents	Frequency of response	Total annual responses	Average burden hours per response	Estimated total annual burden hours	Hours currently approved	Estimated change in burden hours due to rulemaking
State/Local/Tribal Government Level (sponsors)								
Sponsors must visit each of their sites, as specified, at least once during the first two weeks of operation under the program.	225.15(d)(2)	3,314	5	16,570	0.5	8,285	14,913	-6,628
Businesses or Other For Profit, or Not for Profit (sponsors)								
Sponsors must visit each of their sites, as specified, at least once during the first two weeks of operation under the program.	225.15(d)(2)	2,210	5	11,050	0.5	5,525	9,945	-4,420
Total reporting burden for 225.15(d)(2) under the final rule		5,524	5	27,620	0.5	13,810		

Total reporting burden for 225.15(d)(2) under revision request to 0584-0280*		5,524	9	49,716	0.5	24,858		
Total change in reporting burden due to the rule				-22,096		-11,048		-11,048

* the standalone revision request estimates that incorporation of the first week site visit requirements will add 29,826 responses for local and tribal government sponsors and 19,890 responses for business sponsors, for a total of 49,716 responses.

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Relative to these corrected burden estimates for the site visit requirements under 7 CFR 225.15(d)(2) specifically, USDA estimates that this final rule will decrease the reporting burden by 11,048 hours ((8,285–14,913) + (5,525–9,945)) and 22,096 responses ((16,570–29,826) + (11,050–19,890)) from the estimated reporting burden shown in the baseline revision to OMB control number 0584–0280.

The final rule makes other changes to reporting requirements that result in increases in burden hours and responses; however, in total, the changes codified through this rulemaking will result in a total reduction in burden. Under the proposed rule ICR, USDA estimated the changes would reduce the burden by 6,590 hours and 21,298 responses. With the additional changes under the final rule, USDA estimates the rulemaking will reduce the total burden by 17,166 hours and 37,814 responses. Specific changes to the existing burdens above are explained in the summary table for 0584–0280 below, and in the associated ICR.

Thus, in accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with this final rule, which were filed under OMB control number 0584–0280, have been (or will be) submitted for approval to OMB. When OMB notifies USDA of its decision, USDA will publish a notice in the **Federal Register** of the action.

Title: 7 CFR part 225, Summer Food Service Program.

OMB Control Number: 0584–0280.

Expiration Date: 12/31/2022.

Type of Request: Revision.

Abstract: This is a revision of existing information collection requirements under OMB Control Number 0584–0280 that are being impacted by this final rulemaking as well as new information collection requirements. This final rule impacts information reporting burdens for State agencies and sponsors in SFSP by codifying into regulations changes that have been tested through policy guidance to streamline program requirements and facilitate program compliance, and by adding additional safeguards to ensure program integrity. Some of the provisions modify current regulations, resulting in revisions to existing requirement burdens, while other provisions are new and result in new mandatory reporting burdens.

First, at 7 CFR 225.15(d)(2), this final rule amends current regulations which require sponsors to visit each of their sites at least once during the first week of operation in the program. USDA proposed to amend this requirement to provide flexibility in the timeframe during which these site visits took place for larger sponsors. However, in response to comments on the proposed changes, USDA revised its initial proposal in a way that balances program integrity and administrative flexibilities. Under this final rule, sponsors must conduct a site visit in the first two weeks of operation for all new sites, sites that had operational problems in the prior year, and any or all sites the State agency determines need a visit. Under the proposed rule, the changes were not anticipated to result in a change in burden; therefore, the burden associated with this requirement was not included in the proposed rule ICR. USDA expects this final rule action to decrease the reporting burden for SFSP sponsors.

In addition, this final rule adds the new requirement that each State agency must establish criteria for sponsors to follow when determining which of their returning sites with operational problems noted in the prior year are required to receive a site visit during the first two weeks of program operations in a new § 225.7(o). This requirement is expected to result in an increase in reporting burden for State agencies.

Second, this final rule codifies new requirements at § 225.6(i)(7)(v), and adds a new § 225.16(g) to allow sponsors the option to receive reimbursement for meals served away from the approved site. Consistent with the proposed rule, sponsors are required to notify the State agency in advance that meals will be served away from the site, but formal approval of the alternative meal service is not a requirement. However, the burden associated with the requirement for advanced notification was not accounted for in the proposed rule ICR. Therefore, USDA is adding this burden in the final rule ICR as a new reporting burden for sponsors. The requirement is expected to increase the reporting burden for sponsors.

And third, at § 225.9(d)(10), this final rule will codify that, in cases where the State agency needs to complete an extended review of a claim submitted for reimbursement due to concerns of unlawful acts, the State agency may be exempt from the 45 calendar day timeframe to forward reimbursement to sponsors specified in § 225.9(d)(4). In such cases, under the final rule, the State agency is required to send notification to the FNS Regional Office (FNSRO) that they suspect fraud and will be taking the exemption to the timeline to conduct an expanded review. This is a change from the proposed rule ICR in response to public comments received, and is expected to result in an increase in reporting burden for approximately four State agencies annually.

The final rule codifies the proposed changes that streamline application requirements for experienced SFSP sponsors, and school food authorities and Child and Adult Care Food Program institutions in good standing applying to participate in SFSP, which will

eliminate duplicative documentation and paperwork and decrease the time needed to apply to participate and enter into a written agreement with the State. The streamlined application process includes the proposed changes to the submission of site information and demonstration of financial and administrative capability (§§ 225.6(c)(1)-(4), 225.6(i), 225.14(a), and 225.14(c)). In addition, the rule codifies a modification to the proposed meal claim validation method that reduces the portion of meal claims that need to be validated as part of the sponsor review (based on the amount of error detected) (§ 225.7(e)(6)). The impact of these changes are expected to be consistent with the proposed rule ICR burden estimates, and thus, these burden estimates have not changed from the proposed rule ICR. However, the proposed rule burden chart incorrectly reported an estimated average of one hour per response for new and experienced business sponsors to submit site information (§ 225.6(c)(2)-(3)). The changes under the final rule are expected to decrease the time to submit site information from one hour to approximately 53 minutes (0.89 hours), as it was proposed and correctly reported for local and tribal government sponsors in the proposed rule PRA summary and ICR. The estimates for these requirements are presented along with the changes due to the final rulemaking in the summary tables below, and in the associated ICR.

Furthermore, under this rule, USDA is codifying current guidance allowing State agencies the discretion to issue a media release on behalf of all sponsors operating SFSP sites, including camps, in the State. This burden is reflected in OMB control number 0584–0280. As with the proposed rule, USDA does not expect the provisions outlined in this rule to have any impact on the burden related to the media releases; therefore, as with the proposed rule, they are not included as part of rulemaking submission for PRA approval.

Finally, as noted in the explanatory note above, the standalone revision request corrected rounding errors to the baseline burden for the collection. Also, some of the estimates presented in the summary table of the proposed rule PRA were rounded. Therefore, the totals in the summary table below and in the associated ICR may differ slightly from those presented in the proposed rule PRA summary and ICR tables.

Summary of OMB Approval Prior to Rule and Impact of Final Rule

OMB control number 0584–0280 is currently approved with 63,942 respondents, 391,795 responses, and 462,699 burden hours. USDA estimates that the final rule will decrease the reporting burden by 17,166 hours and 37,814 responses, resulting in a total revised burden of 445,533 hours and 353,981 responses for OMB control number 0584–0280. The total burden inventory for this final rule is 233,537 hours. The average burden per response and the annual burden hours are explained below and summarized in the charts which follow.

Estimated Annual Burden Change as a Result of Rule

Affected Public: State, Local, or Tribal Government and Businesses or Other For Profit, or Not for Profit. Respondent groups identified include State Agencies and local, tribal, and business sponsors.

Estimated Number of Respondents: 5,577, which includes 53 State Agencies and 5,524 sponsors (3,314 Local and Tribal Government sponsors and 2,210 business sponsors).

Estimated Number of Responses per Respondent: 8.65.

Estimated Total Annual Responses: 48,267.14.

Estimated Time per Response: 4.84.

Estimated Burden Hours: 233,537.23.

Estimated Total Annual Burden on Respondents: 445,533.

Current OMB Inventory: 462,699.

Difference (Burden Revisions Requested): −17,166.

BILLING CODE 3410–30–P

Estimated Annual Reporting Burden for 0584-0280 as a Result of the Rule								
Regulation citation	Description of activities	Estimated number of respondents	Frequency of responses	Total annual responses	Average burden hours per response	Estimated total annual burden hours	Hours currently approved under OMB #0584-0280	Estimated change in burden hours due to rulemaking
Reporting								
State/Local/Tribal Government								
State Agencies								
225.7(e)(6)	State agencies utilize a multi-step process for meal claim validation based on amount of error detected.	53	65.38	3,465.14	.083	287.61	2,055.39	-1767.78
225.7(o)	State agencies establish criteria for sponsors to use when determining which sites with operational problems in the prior year are required to receive a site visit within the first two weeks of operation.	53	1.00	53	0.25	13.25	0	13.25
225.9(d)(10)	State agency notify FNSRO of taking exemption to 45 day calendar day timeframe for final action on a claim to conduct expanded	4	1	4	0.083	0.33	0	0.33

	review of suspected fraud.							
Local and Tribal Governments								
225.6(c)(1) and (4), 225.14(a), 225.14(c)	Sponsors submit written application to State agencies for participation in SFSP.	3,314	1	3,314	38.74	128,384.36	130,903.00	-2,518.64
225.6(c)(2) and (3)	Sponsors submit site information for each site where a food service operation is proposed.	640	1	640	0.89	569.60	640	-70.40
225.6(c)(2) and (3)	Experienced Sponsors submit site information for each site where a food service operation is proposed.	2,675	1	2,675	0.89	2,380.75	2,675	-294.25
225.6(i), 225.14(c)(7)	Sponsors approved for participation in SFSP enter into written agreements with State agencies to operate program in accordance with regulatory requirements.	332	1	332	0.093	30.88	40.84	-9.96
225.15(d)(2)	Sponsors must conduct a site visit during the first two weeks of operation for new sites, sites with operational problems, and any site	3,314	5	16,570	0.50	8,285	14,913	-6,628

	where the State agency deems a visit is necessary.							
225.16(g)	Sponsor must provide advanced notification to State agency about meals served away from approved locations.	3,314	1	3,314	0.083	275.06	0	275.06
State/ Local/ Tribal Govt. Change		3,367	9.02	30,367.14	4.62	140,226.84	151,227.23	-11,000.39
Businesses or Other For Profit, or Not for Profit								
Sponsors (Non-profit institutions and camps)								
225.6(c)(1) and (4), 225.14(a), 225.14(c)	Sponsors submit written application to State agencies for participation in SFSP.	2,210	1	2,210	38.74	85,615.40	87,295.00	-1,679.60
225.6(c)(2) and (3)	Sponsors submit site information for each site where a food service operation is proposed.	426	1	426	0.89	379.14	426	-46.86
225.6(c)(2) and (3)	Experienced Sponsors submit site information for each site where a food service operation is proposed.	1,783	1	1,783	0.89	1,586.87	1,783	-196.13
225.6(i), 225.14(c)(7)	Sponsors approved for participation in SFSP enter into written agreements with State agencies to operate program in	221	1	221	0.093	20.55	27.18	-6.63

	accordance with regulatory requirements.							
225.15(d)(2)	Sponsors must conduct a site visit during the first two weeks of operation for new sites, sites with operational problems, and any site where the State agency deems a visit is necessary.	2,210	5	11,050	0.50	5,525	9,945	-4,420
225.16(g)	Sponsor must provide advanced notification to State agency about meals served away from approved locations.	2,210	1	2,210	0.083	183.43	0	183.43
Business Change		2,210	8.10	17,900	5.21	93,310.39	99,476.18	- 6,165.79
Total Reporting		5,577	8.65	48,267.14	4.84	233,537.23	250,703.41	-17,166.18

*Totals may differ due to rounding

SUMMARY OF BURDEN (OMB #0584-0280)	
TOTAL NO. RESPONDENTS	63,942
AVERAGE NO. RESPONSES PER RESPONDENT	5.54
TOTAL ANNUAL RESPONSES	353,981
AVERAGE HOURS PER RESPONSE	1.26
TOTAL ANNUAL BURDEN HOURS REQUESTED	445,533
CURRENT OMB INVENTORY	462,699
DIFFERENCE	-17,166

BILLING CODE 3410–30–C

E-Government Act Compliance

USDA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant program—health, Infants and children, Milk,

Reporting and recordkeeping requirements.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 225

Food assistance programs, Grant programs—health, Infants and children, Labeling, Reporting and recordkeeping requirements.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 210, 220, 215, 225, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.3, add paragraph (e) to read as follows:

§ 210.3 Administration.

* * * * *

(e) *Authority to waive statute and regulations.* (1) As authorized under section 12(l) of the Richard B. Russell National School Lunch Act, FNS may waive provisions of such Act or the Child Nutrition Act of 1966, as amended, and the provisions of this part with respect to a State agency or eligible service provider. The provisions of this part required by other statutes may not be waived under this authority. FNS may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that FNS may not grant a waiver that increases Federal costs.

(2)(i) A State agency may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l)(2) and the provisions of this part.

(ii) A State agency may submit a request to waive specific statutory or regulatory requirements on behalf of eligible service providers that operate in the State. Any waiver where the State concurs must be submitted to the appropriate FNSRO.

(3)(i) An eligible service provider may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l) and the provisions of this part. Any waiver request submitted by an eligible service provider must be submitted to the State agency for review. A State agency must act promptly on such a waiver request and must deny or concur with a request submitted by an eligible service provider.

(ii) If a State agency concurs with a request from an eligible service provider, the State agency must promptly forward to the appropriate FNSRO the request and a rationale, consistent with section 12(l)(2), supporting the request. By forwarding the request to the FNSRO, the State agency affirms:

(A) The request meets all requirements for waiver submissions; and,

(B) The State agency will conduct all monitoring requirements related to regular Program operations and the implementation of the waiver.

(iii) If the State agency denies the request, the State agency must notify the requesting eligible service provider and state the reason for denying the request in writing within 30 calendar days of the State agency's receipt of the request. The State agency response is final and may not be appealed to FNS.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 3. The authority citation for part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

■ 4. In § 215.3, add paragraph (e) to read as follows:

§ 215.3 Administration.

* * * * *

(e) *Authority to waive statute and regulations.* (1) As authorized under section 12(l) of the Richard B. Russell National School Lunch Act, FNS may waive provisions of such Act or the Child Nutrition Act of 1966, as amended, and the provisions of this part with respect to a State agency or eligible service provider. The provisions of this part required by other statutes may not be waived under this authority. FNS may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that FNS may not grant a waiver that increases Federal costs.

(2)(i) A State agency may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l)(2) and the provisions of this part.

(ii) A State agency may submit a request to waive specific statutory or regulatory requirements on behalf of eligible service providers that operate in the State. Any waiver where the State concurs must be submitted to the appropriate FNSRO.

(3)(i) An eligible service provider may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l) and the provisions of this part. Any waiver request submitted by an eligible service provider must be submitted to the State agency for review. A State agency must act promptly on such a waiver request and must deny or concur with a request submitted by an eligible service provider.

(ii) If a State agency concurs with a request from an eligible service provider, the State agency must promptly forward to the appropriate FNSRO the request and a rationale, consistent with section 12(l)(2), supporting the request. By forwarding the request to the FNSRO, the State agency affirms:

(A) The request meets all requirements for waiver submissions; and,

(B) The State agency will conduct all monitoring requirements related to regular Program operations and the implementation of the waiver.

(iii) If the State agency denies the request, the State agency must notify the requesting eligible service provider and state the reason for denying the request in writing within 30 calendar days of the State agency's receipt of the request. The State agency response is final and may not be appealed to FNS.

PART 220—SCHOOL BREAKFAST PROGRAM

■ 5. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 6. In § 220.3, add paragraph (f) to read as follows:

§ 220.3 Administration.

* * * * *

(f) *Authority to waive statute and regulations.* (1) As authorized under section 12(l) of the Richard B. Russell National School Lunch Act, FNS may waive provisions of such Act or the Child Nutrition Act of 1966, as amended, and the provisions of this part with respect to a State agency or eligible

service provider. The provisions of this part required by other statutes may not be waived under this authority. FNS may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that FNS may not grant a waiver that increases Federal costs.

(2)(i) A State agency may submit a request for a waiver under paragraph (f)(1) of this section in accordance with section 12(l)(2) and the provisions of this part.

(ii) A State agency may submit a request to waive specific statutory or regulatory requirements on behalf of eligible service providers that operate in the State. Any waiver where the State concurs must be submitted to the appropriate FNSRO.

(3)(i) An eligible service provider may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l) and the provisions of this part. Any waiver request submitted by an eligible service provider must be submitted to the State agency for review. A State agency must act promptly on such a waiver request and must deny or concur with a request submitted by an eligible service provider.

(ii) If a State agency concurs with a request from an eligible service provider, the State agency must promptly forward to the appropriate FNSRO the request and a rationale, consistent with section 12(l)(2), supporting the request. By forwarding the request to the FNSRO, the State agency affirms:

(A) The request meets all requirements for waiver submissions; and,

(B) The State agency will conduct all monitoring requirements related to regular Program operations and the implementation of the waiver.

(iii) If the State agency denies the request, the State agency must notify the requesting eligible service provider and state the reason for denying the request in writing within 30 calendar days of the State agency's receipt of the request. The State agency response is final and may not be appealed to FNS.

PART 225—SUMMER FOOD SERVICE PROGRAM

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

Authority: Secs. 9, 13 and 14, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

■ 8. In part 225, revise all references to ''State Children's Health Insurance Program'' and ''SCHIP'' to read ''Children's Health Insurance Program'' and ''CHIP'', respectively.

■ 9. In § 225.2:

■ a. Revise the definitions of ''Areas in which poor economic conditions exist'' and ''Closed enrolled site'', ;

■ b. In the definition of ''Documentation'', redesignate paragraphs (a)(1) through (4) as paragraphs (1)(i) through (iv), respectively, and redesignate paragraphs (b)(1) and (2) as paragraphs (2)(i) and (ii), respectively;

■ c. Revise the definition of ''Needy children'';

■ d. Add in alphabetical order definitions for ''Net cash resources'', ''Nonprofit food service'', and ''Nonprofit food service account''; and

■ e. Revise the definitions of ''Open site'' and ''Restricted open site'';

■ f. Add in alphabetical order definitions for ''Self-preparation site'', ''Site supervisor'', ''Unaffiliated site'', ''Unanticipated school closure'', and ''Vended site''.

The revisions and additions read as follows:

§ 225.2 Definitions.

* * * * *

Areas in which poor economic conditions exist means:

(1) The attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program;

(2) A geographic area where, based on the most recent census data available or information provided from a department of welfare or zoning commission, at least 50 percent of the children residing in that area are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program;

(3) A geographic area where a site demonstrates, based on other approved sources, that at least 50 percent of the children enrolled at the site are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program; or

(4) A closed enrolled site in which at least 50 percent of the enrolled children at the site are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program, as determined by approval of applications in accordance with § 225.15(f).

* * * * *

Closed enrolled site means a site which is open only to enrolled children, as opposed to the community at large, and in which at least 50 percent of the enrolled children at the site are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program, as determined by approval of applications in accordance with § 225.15(f), or on the basis of documentation that the site meets paragraph (1), (2), or (3) of the definition of ''Areas in which poor economic conditions exist'' as provided in this section.

* * * * *

Needy children means children from families whose incomes are equal to or below the Secretary's published Child Nutrition Programs: Income Eligibility Guidelines.

Net cash resources means all monies, as determined in accordance with the State agency's established accounting system that are available to or have accrued to a sponsor's nonprofit food service at any given time, less cash payable. Such monies may include, but are not limited to, cash on hand, cash receivable, earnings on investments, cash on deposit and the value of stocks, bonds, or other negotiable securities.

* * * * *

Nonprofit food service means all food service operations conducted by the sponsor principally for the benefit of children, all of the revenue from which is used solely for the operation or improvement of such food services.

Nonprofit food service account means the restricted account in which all of the revenue from all food service operations conducted by the sponsor principally for the benefit of children is retained and used only for the operation or improvement of the nonprofit food service. This account must include, as appropriate, non-Federal funds used to support program operations, and proceeds from non-program foods.

* * * * *

Open site means a site at which meals are made available to all children in the area and which is located in an area in which at least 50 percent of the children are from households that would be eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined in accordance with paragraph (1), (2), or (3) of the definition of ''Areas in which poor economic conditions exist.''

* * * * *

Restricted open site means a site which is initially open to broad community participation, but at which the sponsor restricts or limits attendance for reasons of security, safety

or control. Site eligibility for a restricted open site shall be documented in accordance with paragraph (1), (2), or (3) of the definition of ''Areas in which poor economic conditions exist.''

* * * * *

Self-preparation site means a site that prepares the majority of meals that will be served at its site or receives meals that are prepared at its sponsor's central kitchen. The site does not contract with a food service management company for unitized meals, with or without milk, or for management services.

* * * * *

Site supervisor means the individual on site for the duration of the meal service, who has been trained by the sponsor, and is responsible for all administrative and management activities at the site, including, but not limited to: maintaining documentation of meal deliveries, ensuring that all meals served are safe, and maintaining accurate point of service meal counts.

* * * * *

Unaffiliated site means a site that is legally distinct from the sponsor.

* * * * *

Unanticipated school closure means any period from October through April (or any time of the year in an area with a continuous school calendar) during which children who are not in school due to a natural disaster, building repair, court order, labor-management disputes, or, when approved by the State agency, similar cause, may be served meals at non-school sites through the Summer Food Service Program.

* * * * *

Vended site means a site that serves unitized meals, with or without milk, that are procured through a formal agreement or contract with:

(1) Public agencies or entities, such as a school food authority;

(2) Private, nonprofit organizations; or

(3) Private, for-profit companies, such as a commercial food distributor or food service management company.

* * * * *

■ 10. In § 225.3, add paragraph (d) to read as follows:

§ 225.3 Administration.

* * * * *

(d) *Authority to waive statute and regulations.* (1) As authorized under section 12(l) of the Richard B. Russell National School Lunch Act, FNS may waive provisions of such Act or the Child Nutrition Act of 1966, as amended, and the provisions of this part with respect to a State agency or eligible service provider. The provisions of this part required by other statutes may not be waived under this authority. FNS may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that FNS may not grant a waiver that increases Federal costs.

(2)(i) A State agency may submit a request for a waiver under paragraph (d)(1) of this section in accordance with section 12(l)(2) and the provisions of this part.

(ii) A State agency may submit a request to waive specific statutory or regulatory requirements on behalf of eligible service providers that operate in the State. Any waiver where the State concurs must be submitted to the appropriate FNSRO.

(3)(i) An eligible service provider may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l) and the provisions of this part. Any waiver request submitted by an eligible service provider must be submitted to the State agency for review. A State agency must act promptly on such a waiver request and must deny or concur with a request submitted by an eligible service provider.

(ii) If a State agency concurs with a request from an eligible service provider, the State agency must promptly forward to the appropriate FNSRO the request and a rationale, consistent with section 12(l)(2), supporting the request. By forwarding the request to the FNSRO, the State agency affirms:

(A) The request meets all requirements for waiver submissions; and,

(B) The State agency will conduct all monitoring requirements related to regular Program operations and the implementation of the waiver.

(iii) If the State agency denies the request, the State agency must notify the requesting eligible service provider and state the reason for denying the request in writing within 30 calendar days of the State agency's receipt of the request. The State agency response is final and may not be appealed to FNS.

§ 225.4 [Amended]

■ 11. In § 225.4, amend paragraph (d)(7) by removing the term ''§ 225.6(h)'' and adding in its place the term ''§ 225.6(l)''.

■ 12. In § 225.6:

■ a. Revise the last sentence of paragraph (a)(2);

■ b. In paragraphs (b)(1) and (4), remove the words ''during the period from October through April (or at any time of the year in an area with a continuous school calendar)'';

■ c. Revise paragraph (c);

■ d. Redesignate paragraphs (d) through (i) as paragraphs (h) through (m), respectively, and add new paragraphs (d) through (g);

■ e. Revise newly redesignated paragraphs (h)(2)(i) and (iii);

■ f. Revise newly redesignated paragraphs (i)(7) and (15);

■ g. In newly designated paragraph (l)(2)(i), remove the term ''(h)(3)'' and add in its place the term ''(l)(3)'';

■ h. In newly designated paragraph (l)(2)(iii), remove the term ''§ 225.6(d)(2)'' and add in its place the term ''§ 225.6(h)(2)'';

■ i. In newly designated paragraph (l)(2)(xiv), remove the term ''§ 225.6(f)'' and add in its place the term ''§ 225.6(j)''; and

■ j. In newly designated paragraph (l)(2)(xvi), remove the phrase ''§ 225.15(h)(6) though (h)(8)'' and add in its place the phrase ''§ 225.15(m)(5) through (7)''.

The revisions and additions read as follows:

§ 225.6 State agency responsibilities.

(a) * * *

(2) * * * State agencies must have established criteria for approving closed enrolled sites to ensure that operation of a site as closed enrolled does not limit Program access in the area that the site is located.

* * * * *

(c) *Content of sponsor application*—(1) *Application form.* (i) The sponsor must submit a written application to the State agency for participation in the Program. The State agency may use the application form developed by FNS, or develop its own application form. Application to sponsor the Program must be made on a timely basis within the deadlines established under paragraph (b)(1) of this section.

(ii) At the discretion of the State agency, sponsors proposing to serve an area affected by an unanticipated school closure may be exempt from submitting a new application if they have participated in the Program at any time during the current year or in either of the prior two calendar years.

(iii) Requirements for new sponsors and sponsors that have experienced significant operational problems in the prior year, as determined by the State agency, are found under paragraph (c)(2) of this section.

(iv) Requirements for experienced sponsors are found under paragraph (c)(3) of this section.

(2) *Application requirements for new sponsors and sponsors that have experienced significant operational problems in the prior year.* New

sponsors and sponsors that have experienced significant operational problems in the prior year, as determined by the State agency, must include the following information in their applications:

(i) A full management plan, as described in paragraph (e) of this section;

(ii) A free meal policy statement, as described in paragraph (f) of this section;

(iii) A site information sheet for each site where a food service operation is proposed, as described in paragraph (g)(1) of this section;

(iv) Information in sufficient detail to enable the State agency to determine that the sponsor meets the criteria for participation in the Program, as described in § 225.14;

(v) Information on the extent of Program payments needed, including a request for advance payments and start-up payments, if applicable;

(vi) A staffing and monitoring plan;

(vii) A complete administrative budget for State agency review and approval, which includes:

(A) The projected administrative expenses that the sponsor expects to incur during the operation of the Program, and

(B) Information in sufficient detail to enable the State agency to assess the sponsor's ability to operate the Program within its estimated reimbursement;

(viii) A summary of how meals will be obtained at each site (*e.g.,* self-prepared at each site, self-prepared and distributed from a central kitchen, purchased from a school food authority, competitively procured from a food service management company);

(ix) If an invitation for bid is required under § 225.15(m), a schedule for bid dates and a copy of the invitation for bid; and

(x) For each sponsor which seeks approval as a unit of local, municipal, county or State government under § 225.14(b)(3) or as a private nonprofit organization under § 225.14(b)(5), certification that the sponsor has administrative oversight, as required under § 225.14(d)(3).

(3) *Application requirements for experienced sponsors.* The following information must be included in the applications of experienced sponsors:

(i) A simplified or full management plan, as described in paragraph (e) of this section;

(ii) A site information sheet for each site where a food service operation is proposed, as described under paragraph (g)(2) of this section;

(iii) Information on the extent of Program payments needed, including a request for advance payments and start-up payments, if it is applicable;

(iv) A staffing and monitoring plan;

(v) A complete administrative budget for State agency review and approval, which includes:

(A) The projected administrative expenses which a sponsor expects to incur during the operation of the Program; and

(B) Information in sufficient detail to enable the State agency to assess the sponsor's ability to operate the Program within its estimated reimbursement.

(vi) If the method of obtaining meals is changed, a summary of how meals will be obtained at each site (*e.g.,* self-prepared at each site, self-prepared and distributed from a central kitchen, purchased from a school food authority, competitively procured from a food service management company); and

(vii) If an invitation for bid is required under § 225.15(m), a schedule for bid dates, and a copy of the invitation for bid, if it is changed from the previous year.

(4) *Applications for school food authorities and Child and Adult Care Food Program institutions.* At the discretion of the State agency, school food authorities in good standing in the National School Lunch Program or School Breakfast Program, as applicable, and institutions in good standing in the Child and Adult Care Food Program may apply to operate the Summer Food Service Program at the same sites where they provide meals through the aforementioned Programs by following the procedures for experienced sponsors outlined in paragraph (c)(3) of this section.

(d) *Performance standards.* The State agency may only approve the applications of those sponsors that meet the three performance standards outlined in this section: financial viability, administrative capability, and Program accountability. The State agency must deny applications that do not meet all of these standards. The State agency must consider past performance in the SFSP or another Child Nutrition Program, and any other factors it deems relevant when determining whether the sponsor's application meets the following standards:

(1) *Performance standard 1.* The sponsor must be financially viable. The sponsor must expend and account for Program funds, consistent with this part; FNS Instruction 796–4, Financial Management in the Summer Food Service Program; 2 CFR part 200, subpart D; and USDA regulations 2 CFR parts 400 and 415. To demonstrate financial viability and financial management, the sponsor's management plan must:

(i) Describe the community's need for summer meals and the sponsor's recruitment strategy:

(A) Explain how the sponsor's participation will help ensure the delivery of Program benefits to otherwise unserved sites or children; and

(B) Describe how the sponsor will recruit sites, consistent with any State agency requirements.

(ii) Describe the sponsor's financial resources and financial history:

(A) Show that the sponsor has adequate sources of funds available to operate the Program, pay employees and suppliers during periods of temporary interruptions in Program payments, and pay debts if fiscal claims are assessed against the sponsor; and

(B) Provide audit documents, financial statements, and other documentation that demonstrate financial viability.

(iii) Ensure that all costs in the sponsor's budget are necessary, reasonable, allowable, and appropriately documented.

(2) *Performance standard 2.* The sponsor must be administratively capable. Appropriate and effective management practices must be in effect to ensure that Program operations meet the requirements of this part. To demonstrate administrative capability, the sponsor must:

(i) Have an adequate number and type of qualified staff to ensure the operation of the Program, consistent with this part; and

(ii) Have written policies and procedures that assign Program responsibilities and duties and ensure compliance with civil rights requirements.

(3) *Performance standard 3.* The sponsor must have internal controls and other management systems in place to ensure fiscal accountability and operation of the Program, consistent with this part. To demonstrate Program accountability, the sponsor must:

(i) Demonstrate that the sponsor has a financial system with management controls specified in written operational policies that will ensure that:

(A) All funds and property received are handled with fiscal integrity and accountability;

(B) All expenses are incurred with integrity and accountability;

(C) Claims will be processed accurately, and in a timely manner;

(D) Funds and property are properly safeguarded and used, and expenses incurred, for authorized Program purposes; and

(E) A system of safeguards and controls is in place to prevent and detect improper financial activities by employees.

(ii) Maintain appropriate records to document compliance with Program requirements, including budgets, approved budget amendments, accounting records, management plans, and site operations.

(e) *Management plan*—(1) *Compliance.* The State agency must require the submission of a management plan to determine compliance with performance standards established under paragraph (d) of this section.

(i) Requirements for new sponsors and sponsors that have experienced significant operational problems in the prior year, as determined by the State agency, are found under paragraph (e)(2) of this section.

(ii) Requirements for experienced sponsors are found under paragraph (e)(3) of this section.

(iii) Requirements for school food authorities in good standing in the National School Lunch Program or School Breakfast Program, as applicable, or institutions in good standing in the Child and Adult Care Food Program are found under paragraph (e)(4) of this section.

(2) *Requirements for new sponsors and sponsors that have experienced significant operational problems in the prior year.* Sponsors must submit a complete management plan that includes:

(i) Detailed information on the sponsor's management and administrative structure, including information that demonstrates the sponsor's financial viability and financial management described under paragraph (d)(1) of this section;

(ii) Information that demonstrates compliance with each of the performance standards outlined under paragraph (d) of this section;

(iii) A list or description of the staff assigned to perform Program monitoring required under § 225.15(d)(2) and (3); and

(iv) For each sponsor which submits an application under paragraph (c)(1) of this section, information in sufficient detail to demonstrate that the sponsor will:

(A) Provide adequate and not less than annual training of sponsor's staff and sponsored sites, as required under § 225.15(d)(1);

(B) Perform monitoring consistent with § 225.15(d)(2) and (3), to ensure that all site operations are accountable and appropriate;

(C) Accurately classify sites consistent with paragraphs (g)(1) and (2) of this section;

(D) Demonstrate the sponsor's compliance with meal service, recordkeeping, and other operational requirements of this part;

(E) Provide meals that meet the meal patterns set forth in § 225.16;

(F) Have a food service that complies with applicable State and local health and sanitation requirements;

(G) Comply with civil rights requirements;

(H) Maintain complete and appropriate records on file; and

(I) Claim reimbursement only for eligible meals.

(3) *Requirements for experienced sponsors.* Experienced sponsors must submit a management plan. At the discretion of the State agency, experienced sponsors may submit a full management plan or a simplified management plan. A full management plan must be submitted at least once every 3 years. The simplified management plan must include a certification that any information previously submitted to the State to satisfy the eligibility requirements, set forth in paragraph (d) of this section, for the sponsor, its sites, and all of its current principals is current, or that the sponsor has submitted any changes or updates to the State. This certification must address all required elements of each performance standard.

(4) *Requirements for school food authorities in good standing in the National School Lunch Program or School Breakfast Program, as applicable, or institutions in good standing in the Child and Adult Care Food Program.* These sponsors are not required to submit a management plan unless requested by the State agency. The State agency may request additional evidence of financial and administrative capability sufficient to ensure that the school food authority or institution has the ability and resources to operate the Program if the State agency has reason to believe that this would pose significant challenges for the applicant.

(f) *Free meal policy statement*—(1) *Nondiscrimination statement.* (i) Each sponsor must submit a nondiscrimination statement of its policy for serving meals to children. The statement must consist of:

(A) An assurance that all children are served the same meals and that there is no discrimination in the course of the food service; and

(B) Except for camps, a statement that the meals served are free at all sites.

(ii) A school sponsor must submit the policy statement only once, with the initial application to participate as a sponsor. However, if there is a substantive change in the school's free and reduced-price policy, a revised policy statement must be provided at the State agency's request.

(iii) In addition to the information described in paragraph (i) of this section, the policy statement of all camps that charge separately for meals must also include:

(A) A statement that the eligibility standards conform to the Secretary's family size and income standards for reduced-price school meals;

(B) A description of the method to be used in accepting applications from families for Program meals that ensures that households are permitted to apply on behalf of children who are members of households receiving SNAP, FDPIR, or TANF benefits using the categorical eligibility procedures described in § 225.15(f);

(C) A description of the method to be used by camps for collecting payments from children who pay the full price of the meal while preventing the overt identification of children receiving a free meal;

(D) An assurance that the camp will establish hearing procedures for families requesting to appeal a denial of an application for free meals. These procedures must meet the requirements set forth in paragraph (f)(2) of this section;

(E) An assurance that, if a family requests a hearing, the child will continue to receive free meals until a decision is rendered; and

(F) An assurance that there will be no overt identification of free meal recipients and no discrimination against any child on the basis of race, color, national origin, sex, age, or disability.

(2) *Hearing procedures statement.* Each camp must submit a copy of its hearing procedures with its application. At a minimum, the camp's procedures must provide that:

(i) A simple, publicly announced method will be used for a family to make an oral or written request for a hearing;

(ii) The family will have the opportunity to be assisted or represented by an attorney or other person (designated representative);

(iii) The family or designated representative will have an opportunity to examine the documents and records supporting the decision being appealed, both before and during the hearing;

(iv) The hearing will be reasonably prompt and convenient for the family or designated representative;

(v) Adequate notice will be given to the family or designated representative of the time and place of the hearing;

(vi) The family or designated representative will have an opportunity to present oral or documented evidence and arguments supporting its position;

(vii) The family or designated representative will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(viii) The hearing will be conducted and the decision made by a hearing official who did not participate in the action being appealed;

(ix) The decision will be based on the oral and documentary evidence presented at the hearing and made a part of the record;

(x) The family or designated representative will be notified in writing of the decision;

(xi) A written record will be prepared for each hearing, which includes the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family or designated representative; and

(xii) The written record will be maintained for a period of three years following the conclusion of the hearing and will be available for examination by the family or designated representative at any reasonable time and place.

(g) *Site information sheet.* The State agency must develop a site information sheet for sponsors.

(1) *New sites.* The application submitted by sponsors must include a site information sheet for each site where a food service operation is proposed. At a minimum, the site information sheet must demonstrate or describe the following:

(i) An organized and supervised system for serving meals to children who come to the site;

(ii) The estimated number of meals to be served, types of meals to be served, and meal service times;

(iii) Whether the site is rural, as defined in § 225.2, or non-rural;

(iv) Whether the site's food service will be self-prepared or vended, as defined in § 225.2;

(v) Arrangements for delivery and holding of meals until meal service times and storing and refrigerating any leftover meals until the next day, within standards prescribed by State or local health authorities;

(vi) Access to a means of communication to make necessary adjustments in the number of meals delivered, based on changes in the number of children in attendance at each site;

(vii) Arrangements for food service during periods of inclement weather; and

(viii) For open sites and restricted open sites:

(A) Documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist;

(B) When school data are used, new documentation is required every five years;

(C) When census data are used, new documentation is required every five years, or earlier, if the State agency believes that an area's socioeconomic status has changed significantly since the last census; and

(D) At the discretion of the State agency, sponsors proposing to serve an area affected by an unanticipated school closure may be exempt from submitting new site documentation if the sponsor has participated in the Program at any time during the current year or in either of the prior 2 calendar years.

(ix) For closed enrolled sites:

(A) The projected number of children enrolled and the projected number of children eligible for free and reduced-price school meals for each of these sites; or documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist;

(B) When school data are used, new documentation is required every five years;

(C) When census data are used, new documentation is required every five years, or earlier, if the State agency believes that an area's socioeconomic status has changed significantly since the last census.

(x) For NYSP sites, certification from the sponsor that all of the children who will receive Program meals are enrolled participants in the NYSP.

(xi) For camps, the number of children enrolled in each session who meet the Program's income standards. If such information is not available at the time of application, this information must be submitted as soon as possible thereafter, and in no case later than the filing of the camp's claim for reimbursement for each session;

(xii) For sites that will serve children of migrant workers:

(A) Certification from a migrant organization, which attests that the site serves children of migrant workers; and

(B) Certification from the sponsor that the site primarily serves children of migrant workers, if non-migrant children are also served.

(2) *Experienced sites.* The application submitted by sponsors must include a site information sheet for each site where a food service operation is proposed. The State agency may require sponsors of experienced sites to provide information described in paragraph (g)(1) of this section. At a minimum, the site information sheet must demonstrate or describe the following:

(i) The estimated number of meals, types of meals to be served, and meal service times; and

(ii) For open sites and restricted open sites:

(A) Documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist;

(B) When school data are used, new documentation is required every 5 years;

(C) When census data are used, new documentation is required every 5 years, or earlier, if the State agency believes that an area's socioeconomic status has changed significantly since the last census; and

(D) Any site that a sponsor proposes to serve during an unanticipated school closure, which has participated in the Program at any time during the current year or in either of the prior 2 calendar years, is considered eligible without new documentation.

(iii) For closed enrolled sites:

(A) The projected number of children enrolled and the projected number of children eligible for free and reduced-price school meals for each of these sites; or documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist;

(B) When school data are used, new documentation is required every 5 years;

(C) When census data are used, new documentation is required every 5 years, or earlier, if the State agency believes that an area's socioeconomic status has changed significantly since the last census.

(iv) For NYSP sites, certification from the sponsor that all of the children who will receive Program meals are enrolled participants in the NYSP.

(v) For camps, the number of children enrolled in each session who meet the Program's income standards. If such information is not available at the time of application, this information must be submitted as soon as possible thereafter, and in no case later than the filing of the camp's claim for reimbursement for each session.

* * * * *

(h) * * *

(2) * * *

(i) The initial maximum approved level must be based upon the historical

record of attendance at the site if such a record has been established in prior years and the State agency determines that it is accurate. The State agency must develop a procedure for establishing initial maximum approved levels for sites when no accurate record from prior years is available. The State agency may consider participation at other similar sites located in the area, documentation of programming taking place at the site, statistics on the number of children residing in the area, and other relevant information.

* * * * *

(iii) The sponsor may seek an upward adjustment in the approved level for its sites by requesting a site review or by providing the State agency with evidence that attendance exceeds the sites' approved levels. The sponsor may request an upward adjustment at any point prior to submitting the claim for the impacted reimbursement period.

* * * * *

(i) * * *

(7) Claim reimbursement only for the types of meals specified in the agreement that are served:

(i) Without charge to children at approved sites, except camps, during the approved meal service time;

(ii) Without charge to children who meet the Program's income standards in camps;

(iii) Within the approved level for the maximum number of children's meals that may be served, if a maximum approved level is required under paragraph (h)(2) of this section;

(iv) At the approved meal service time, unless a change is approved by the State agency, as required under § 225.16(c); and

(v) At the approved site, unless the requirements in § 225.16(g) are met.

* * * * *

(15) Maintain children on site while meals are consumed. Sponsors may allow a child to take one fruit, vegetable, or grain item off-site for later consumption if the requirements in § 225.16(h) are met; and

* * * * *

■ 13. In § 225.7:

■ a. Revise the last two sentences of paragraph (a);

■ b. Revise paragraph (d);

■ c. Redesignate paragraphs (e), (f), and (g) as paragraphs (l), (m), and (n), respectively;

■ d. Add new paragraphs (e) through (k) and paragraph (o); and

■ e. Revise newly designated paragraphs (l), (m), and (n).

The revisions and additions read as follows:

§ 225.7 Program monitoring and assistance.

(a) * * * Training should be made available at convenient locations or via the internet. State agencies are not required to conduct this training for sponsors operating the Program during unanticipated school closures.

* * * * *

(d) *Pre-approval visits.* The State agency must conduct pre-approval visits of sponsors and sites, as specified below, to assess the applicant sponsor's or site's potential for successful Program operations and to verify information provided in the application. The State agency must visit prior to approval:

(1) All applicant sponsors that did not participate in the program in the prior year. However, if a sponsor is a school food authority, was reviewed by the State agency under the National School Lunch Program during the preceding 12 months, and had no significant deficiencies noted in that review, a pre-approval visit may be conducted at the discretion of the State agency. In addition, pre-approval visits of sponsors proposing to operate the Program during unanticipated school closures may be conducted at the discretion of the State agency;

(2) All applicant sponsors that had operational problems noted in the prior year; and

(3) All sites that the State agency has determined need a pre-approval visit.

(e) *Sponsor and site reviews*—(1) *Purpose.* The State agency must review sponsors and sites to ensure compliance with Program regulations, the Department's non-discrimination regulations (7 CFR part 15), and any other applicable instructions issued by the Department.

(2) *Sample selection.* In determining which sponsors and sites to review, the State agency must, at a minimum, consider the sponsors and sites' previous participation in the Program, their current and previous Program performance, and the results of previous reviews.

(3) *School food authorities.* When the same school food authority personnel administer this Program as well as the National School Lunch Program (7 CFR part 210), the State agency is not required to conduct a sponsor or site review in the same year in which the National School Lunch Program operations have been reviewed and determined to be satisfactory.

(4) *Frequency and number of required reviews.* State agencies must:

(i) Conduct a review of every new sponsor at least once during the first year of operation;

(ii) Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year;

(iii) Annually review every sponsor that experienced significant operational problems in the prior year;

(iv) Review each sponsor at least once every three years; and

(v) As part of each sponsor review, conduct reviews of at least 10 percent of each reviewed sponsor's sites, or one site, whichever number is greater.

(5) *Site selection criteria.* (i) State agencies must develop criteria for site selection when selecting sites to meet the minimum number of sites required under paragraph (e)(4)(v) of this section. State agencies should, to the maximum extent possible, select sites that reflect the sponsor's entire population of sites. Characteristics that should be reflected in the sites selected for review include:

(A) The maximum number of meals approved to serve under § 225.6(h)(1) and (2);

(B) Method of obtaining meals (*i.e.,* self-preparation or vended meal service);

(C) Time since last site review by State agency;

(D) Type of site (*e.g.,* open, closed enrolled, camp);

(E) Type of physical location (*e.g.,* school, outdoor area, community center);

(F) Rural designation (*i.e.,* rural, as defined in § 225.2, or non-rural); and

(G) Affiliation with the sponsor, as defined in § 225.2.

(ii) The State agency may use additional criteria to select sites including, but not limited to: recommendations from the sponsor; findings from other audits or reviews; or any indicators of potential error in daily meal counts (*e.g.,* identical or very similar claiming patterns, large changes in free meal counts).

(6) *Meal claim validation.* As part of every sponsor review under paragraph (e)(4) of this section, the State agency must validate the sponsor's meal claim utilizing a record review process.

(i) The State agency must develop a record review process. This process must include, at a minimum, reconciliation of delivery receipts, daily meal counts from sites, and the comparison of the sponsor's claim consolidation spreadsheet with the meals claimed for reimbursement by the sponsor for the period under review.

(ii) For the purposes of this paragraph (e)(6), the percent error includes both overclaims and underclaims. Claims against sponsors as a result of meal

claim validation should be assessed after the conclusion of the meal claim validation process in accordance with § 225.12.

(iii) In determining the sample size for each step of this process, fractions must be rounded up (≥0.5) or down (<0.5) to the nearest whole number.

(iv) State agencies must at a minimum follow the process to conduct the meal claim validation as described in table 1.

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Table 1 to Paragraph (e)(6)(iv)

Steps	Outcome	Result
Step 1: The State agency must complete an initial validation of the sites under review to satisfy the requirements outlined in paragraph (e)(4)(v) of this section. The State agency must validate all meals served by these sites for the review period. Then, calculate the percentage of error of the sites in this step as described in (v) of this section.	Validation of sites in step 1 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 1 yields a five percent error or more.	The State agency must move to step 2.
Step 2: Expand the validation of meal claims to 25 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period. Then, calculate the percentage of error of the sites in this step as described in (v) of this section.	Validation of sites in step 2 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 2 of this section	The State agency must move to step 3.

Steps	Outcome	Result
	yields a five percent error or more.	
Step 3: Expand the validation of meal claims to 50 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period. Then, calculate the percentage of error of the sites in this step as described in (v) of this section.	Validation of sites in step 3 yields less than a five percent error.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.
	Validation of sites in step 3 yields a five percent error or more.	The State agency must move to step 4.
Step 4: Expand the validation of meal claims to 100 percent of the sponsor's total sites. The State agency must validate all meals served by these sites for the review period.	The review of meal claims for this sponsor is complete. If necessary, the State agency must disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable in accordance with § 225.12.	

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(v) In determining the percentage of error, under paragraphs (e)(6)(i) through (iv) of this section, fractions must be rounded up (≥0.5) or down (<0.5) to the nearest whole number. Percentage of error is calculated for each step as follows:

(A) *Determining the meal counting and claiming discrepancy for each site validated.* Subtract the total meals validated from the total meals claimed by the sponsor for each validated site. Take the absolute value of each discrepancy. By applying the absolute value, the numbers will be expressed as positive valued numbers.

(B) *Calculating total discrepancy.* Add together all discrepancies from each site as determined in paragraph (e)(6)(v)(A) of this section to calculate the total discrepancies for sites validated in the given step.

(C) *Calculating percent error.* Divide the total discrepancies as determined in paragraph (e)(6)(v)(B) of this section by the total meals claimed by the sponsor for all reviewed sites within the validation sample for the given step. Multiply by 100 to calculate the percentage of error.

(vi) The State agency may expand the validation of meal claims beyond the review period or to include additional sites if the State agency has reason to believe that the sponsor has engaged in unlawful acts in connection with Program operations.

(vii) In lieu of the meal claim validation process described in table 1 to paragraph (e)(6)(iv) of this section, the State agency may complete a validation which includes all meals served on all operating days for all sites under a sponsor for the review period.

(7) *Review of sponsor operations.* State agencies should determine if:

(i) Expenditures are allowable and consistent with FNS Instructions and guidance and all funds accruing to the food service are properly identified and recorded as food service revenue;

(ii) Expenditures are consistent with budgeted costs, and the previous year's expenditures taking into consideration any changes in circumstances;

(iii) Reimbursements have not resulted in accumulation of net cash resources as defined in paragraph (m) of this section; and

(iv) The level of administrative spending is reasonable and does not affect the sponsor's ability to operate a nonprofit food service and provide a quality meal service.

(f) *Follow-up reviews.* The State agency must conduct follow-up reviews of sponsors and sites as necessary.

(g) *Monitoring system.* Each State agency must develop and implement a monitoring system to ensure that sponsors, including site personnel, and the sponsor's food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance.

(h) *Records.* Documentation of Program assistance and the results of such assistance must be maintained on file by the State agency 3 years after submission in accordance with § 225.8(a).

(i) *Meal preparation facility reviews.* As part of the review of any vended sponsor that purchases unitized meals, with or without milk, to be served at a SFSP site, the State agency must review the meal production facility and meal production documentation of any food service management company from which the sponsor purchases meals for compliance with program requirements. If the sponsor does not purchase meals but does purchase management services within the restrictions specified in § 225.15, the State agency is not required to conduct a meal preparation facility review.

(1) Each State agency must establish an order of priority for visiting facilities at which food is prepared for the Program. The facility review must be conducted at least one time within the appropriate review cycle for each vended sponsor. If multiple vended sponsors use the same food service management company and are being reviewed in the same review cycle, a single facility review will fulfill the review requirements for those vended sponsors.

(2) The State agency must respond promptly to complaints concerning facilities. If the food service management company fails to correct violations noted by the State agency during a review, the State agency must notify the sponsor and the food service management company that reimbursement must not be paid for meals prepared by the food service management company after a date specified in the notification.

(3) Funds provided in § 225.5(f) may be used for conducting meal preparation facility reviews.

(j) *Forms for reviews by sponsors.* Each State agency must develop and provide monitor review forms to all approved sponsors. These forms must be completed by sponsor monitors. The monitor review form must include, but not be limited to, the time of the reviewer's arrival and departure, the site supervisor's printed name and signature, a certification statement to be signed by the monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, the corrective actions taken by the sponsor, and the date of such actions.

(k) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in § 225.11. The State agency must conduct follow-up reviews as appropriate when corrective actions are required.

(l) *Other facility inspections and meal quality tests.* In addition to those inspections required by paragraph (i) of this section, the State agency may also conduct, or arrange to have conducted: inspections of self-preparation and vended sponsors' food preparation facilities; inspections of food service sites; and meal quality tests. The procedures for carrying out these inspections and tests must be consistent with procedures used by local health authorities. For inspections of food service management companies' facilities not conducted by State agency personnel, copies of the results must be provided to the State agency. The company and the sponsor must also immediately receive a copy of the results of these inspections when corrective action is required. If a food service management company fails to correct violations noted by the State agency during a review, the State agency must notify the sponsor and the food service management company that reimbursement must not be paid for meals prepared by the food service management company after a date specified in the notification. Funds provided for in § 225.5(f) may be used for conducting these inspections and tests.

(m) *Financial management.* Each State agency must establish a financial management system, in accordance with 2 CFR part 200, subparts D and E, and USDA implementing regulations 2 CFR parts 400 and 415, as applicable, and FNS guidance, to identify allowable Program costs and to establish standards for sponsor recordkeeping and reporting. The State agency must provide guidance on these financial management standards to each sponsor. Additionally, each State agency must establish a system for monitoring and reviewing sponsors' nonprofit food service to ensure that all Program reimbursement funds are used solely for the conduct of the food service operation. State agencies must review the net cash resources of the nonprofit food service of each sponsor participating in the Program and ensure that the net cash resources do not exceed one months' average expenditures for sponsors operating only during the summer months and three months' average expenditure for sponsors operating Child Nutrition Programs throughout the year. State agency approval must be required for net cash resources in excess of requirements set forth in this paragraph (m). Based on this monitoring, the State agency may provide technical assistance to the sponsor to improve meal service quality or take other action designed to improve the nonprofit meal service quality under the following conditions, including but not limited to:

(1) The sponsor's net cash resources exceed the limits included in this paragraph (m) for the sponsor's nonprofit food service or such other amount as may be approved in accordance with this paragraph;

(2) The ratio of administrative to operating costs (as defined in § 225.2) is high;

(3) There is significant use of alternative funding for food and/or other costs; or

(4) A significant portion of the food served is privately donated or purchased at a very low price.

(n) *Nondiscrimination.* (1) Each State agency must comply with all requirements of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Department's regulations concerning nondiscrimination (7 CFR parts 15, 15a, and 15b), including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person must, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, the Program.

(2) Complaints of discrimination filed by applicants or participants must be referred to FNS or the Secretary of Agriculture, Washington, DC 20250. A State agency which has an established grievance or complaint handling procedure may resolve sex and disability discrimination complaints before referring a report to FNS.

(o) *Sponsor site visit.* Each State agency must establish criteria that sponsors will use to determine which sites with operational problems in the

prior year are required to receive a site visit during the first two weeks of program operations in accordance with § 225.15(d)(2).

* * * * *

■ 14. In § 225.9:

■ a. Revise paragraphs (d)(4) and (10); and

■ b. Amend paragraph (f), by removing the term ''§ 225.6(d)(2)'' and adding in its place the term ''§ 225.6(h)(2)''.

The revisions read as follows:

§ 225.9 Program assistance to sponsors.

* * * * *

(d) * * *

(4) The State agency must forward reimbursements within 45 calendar days of receiving valid claims. If a claim is incomplete, invalid, or potentially unlawful per paragraph (d)(10) of this section, the State agency must return the claim to the sponsor within 30 calendar days with an explanation of the reason for disapproval and how such claim must be revised for payment. If the sponsor submits a revised claim, final action must be completed within 45 calendar days of receipt unless the State agency has reason to believe the claim is unlawful per paragraph (d)(10) in this section. If the State agency disallows partial or full payment for a claim for reimbursement, it must notify the sponsor which submitted the claim of its right to appeal under § 225.13(a).

* * * * *

(10) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations must be a basis for nonpayment of the applicable sponsor's claims for reimbursement. The State agency may be exempt from the requirement stated in paragraph (d)(4) of this section that final action on a claim must be complete within 45 calendar days of receipt of a revised claim if the State agency determines that a thorough examination of potentially unlawful acts would not be possible in the required timeframe. The State agency must notify the appropriate FNSRO of its election to take the exemption from the requirement stated in paragraph (d)(4) of this section by submitting to the FNSRO a copy of the claim disapproval at the same time as it is provided to the sponsor.

* * * * *

§ 225.11 [Amended]

■ 15. In § 225.11, amend paragraph (e)(3) by removing the term ''§ 225.6(d)(2)'' and adding in its place the term ''§ 225.6(h)(2)''.

§ 225.13 [Amended]

■ 16. In § 225.13, amend paragraph (c) by removing the term ''§ 225.6(g)'' and adding in its place the term ''§ 225.6(k)''.

■ 17. In § 225.14:

■ a. Revise paragraphs (a), (b)(5), and (c)(1) and (4); and

■ b. Amend paragraph (c)(7), by removing the term ''§ 225.6(e)'' and adding in its place the term ''§ 225.6(i)''.

The revisions read as follows:

§ 225.14 Requirements for sponsor participation.

(a) *Applications.* Sponsors must make written application to the State agency to participate in the Program which must include all content required under § 225.6(c). Such application must be made on a timely basis in accordance with the requirements of § 225.6(b)(1). Sponsors proposing to operate a site during an unanticipated school closure may be exempt, at the discretion of the State agency, from submitting a new application if they have participated in the program at any time during the current year or in either of the prior 2 calendar years.

* * * * *

(b) * * *

(5) Private nonprofit organizations as defined in § 225.2, as determined annually.

(c) * * *

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service in accordance with the performance standards described under § 225.6(d) of this part.

(i) In general, an applicant sponsor which is a school food authority in good standing in the National School Lunch Program or an institution in good standing in the Child and Adult Care Food Program applying to operate the Program at the same sites where they provide meals through the aforementioned Programs, is not required to submit a management plan as described under § 225.6(e) or further demonstrate financial and administrative capability for Program operations.

(ii) If the State agency has reason to believe that financial or administrative capability would pose significant challenges for an applicant sponsor which is a school food authority in the National School Lunch Program or School Breakfast Program, as applicable, or an institution in the Child and Adult Care Food Program, the State agency may request a Management plan or additional evidence of financial and administrative capability sufficient to ensure that the school food authority or institution has the ability and resources to operate the Program.

(iii) If the State agency approving the application for the Program is not responsible for the administration of the National School Lunch Program or the Child and Adult Care Food Program, the State agency must develop a process for sharing information with the agency responsible for approving these programs in order to receive documentation of the applicant sponsor's financial and administrative capability.

* * * * *

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site, including a site supervisor, and adequate personnel to conduct the visits and reviews required in § 225.15(d)(2) and (3), as demonstrated in the management plan submitted with the program application described under § 225.6(e);

* * * * *

■ 18. In § 225.15:

■ a. Amend paragraphs (b)(2) and (3) by removing the term ''§ 225.6(d)(2)'' and adding in its place the term ''§ 225.6(h)(2)'';

■ b. Revise paragraphs (d), (e), and (f)(1); and

■ c. Amend paragraph (m)(2) by removing the term ''§ 225.6(h)(3)'' and adding in its place the term ''§ 225.6(l)(3)''.

The revisions read as follows:

§ 225.15 Management responsibilities of sponsors.

* * * * *

(d) *Training and monitoring.* (1) Each sponsor must hold Program training sessions for its administrative and site personnel and must not allow a site to operate until personnel have attended at least one of these training sessions. The State agency may waive these training requirements for operation of the Program during unanticipated school closures. Training of site personnel must, at a minimum, include: the purpose of the Program; site eligibility; recordkeeping; site operations; meal pattern requirements; and the duties of a monitor. Each sponsor must ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors must provide training throughout the summer to ensure that administrative personnel are

thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site must have present at each meal service at least one person who has received this training.

(2) Sponsors must visit each of their sites, as specified below, at least once during the first two weeks of program operations and must promptly take such actions as are necessary to correct any deficiencies. In cases where the site operates for seven calendar days or fewer, the visit must be conducted during the period of operation. Sponsors must conduct these visits for:

(i) All new sites;

(ii) All sites that have been determined by the sponsor to need a visit based on criteria established by the State agency pertaining to operational problems noted in the prior year, as set forth in § 225.7(o); and

(iii) Any other sites that the State agency has determined need a visit.

(3) Sponsors must conduct a full review of food service operations at each site at least once during the first four weeks of Program operations, and thereafter must maintain a reasonable level of site monitoring. Sponsors must complete a monitoring form developed by the State agency during the conduct of these reviews. Sponsors may conduct a full review of food service operations at the same time they are conducting a site visit required under (d)(2) in this section.

(e) *Notification to the community.* Each sponsor must annually announce in the media serving the area from which it draws its attendance the availability of free meals. Sponsors of camps and closed enrolled sites must notify participants of the availability of free meals and if a free meal application is needed, as outlined in paragraph (f) of this section. For sites that use free meal applications to determine individual eligibility, notification to enrolled children must include: the Secretary's family-size and income standards for reduced price school meals labeled ''SFSP Income Eligibility Standards;'' a statement that a foster child and children who are members of households receiving SNAP, FDPIR, or TANF benefits are automatically eligible to receive free meal benefits at eligible program sites; and a statement that meals are available without regard to race, color, national origin, sex, age, or disability. State agencies may issue a media release for all sponsors operating SFSP sites in the State as long as the notification meets the requirements in this section.

(f) *Application for free Program* meals—(1) *Purpose of application form.* The application is used to determine the eligibility of children attending camps and the eligibility of sites that do not meet the requirements in paragraphs (1) through (3) of the definition of ''areas in which poor economic conditions exist'' in § 225.2.

* * * * *

■ 19. In § 225.16, revise paragraphs (b) introductory text, (c), (d), and (f)(1)(ii) and add paragraphs (g) and (h) to read as follows.

§ 225.16 Meal service requirements.

* * * * *

(b) *Meal services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplements, referred to from this point as ''snacks.'' No sponsor may be approved to provide more than two snacks per day. A sponsor may claim reimbursement only for the types of meals for which it is approved under its agreement with the State agency. A sponsor may only be reimbursed for meals served in accordance with this section.

* * * * *

(c) *Meal service times.* (1) Meal service times must be:

(i) Established by sponsors for each site;

(ii) Included in the sponsor's application; and

(iii) Approved by the State agency.

(2) Breakfast meals must be served at or close to the beginning of a child's day. Three component meals served after a lunch or supper meal service are not eligible for reimbursement as a breakfast.

(3) At all sites except residential camps, meal services must start at least one hour after the end of the previous meal or snack.

(4) Meals served outside the approved meal service time:

(i) Are not eligible for reimbursement; and

(ii) May be approved for reimbursement by the State agency only if an unanticipated event, outside of the sponsor's control, occurs. The State agency may request documentation to support approval of meals claimed when an unanticipated event occurs.

(5) The State agency must approve any permanent or planned changes in meal service time.

(6) If meals are not prepared on site:

(i) Meal deliveries must arrive before the approved meal service time; and

(ii) Meals must be delivered within one hour of the start of the meal service if the site does not have adequate storage to hold hot or cold meals at the temperatures required by State or local health regulations.

(d) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors must ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program. Children age 12 and up may be served larger portions based on the greater food needs of older children.

* * * * *

(f) * * *

(1) * * *

(ii) *Offer versus serve.* School food authorities that are Program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The reimbursements to school food authorities for Program meals served under this ''offer versus serve'' option must not be reduced because children choose not to take all components of the meals that are offered. The school food authority may elect to use the following options:

(A) Provide meal service consistent with the National School Lunch Program, as described in part 210 of this chapter.

(B) Provide breakfast meals by offering four items from all three components specified in the meal pattern in paragraph (d)(1) of this section. Children may be permitted to decline one item.

(C) Provide lunch or supper meals by offering five food items from all four components specified in the meal pattern in paragraph (d)(2) of this section. Children may be permitted to decline two components.

* * * * *

(g) *Meals served away from approved locations.* (1) Sponsors may be reimbursed for meals served away from the approved site location when the following conditions are met:

(i) The sponsor notifies the State agency in advance that meals will be served away from the approved site;

(ii) The State agency has determined that all Program requirements in this part will be met, including applicable State and local health, safety, and sanitation standards;

(iii) The meals are served at the approved meal service time, unless a change is approved by the State agency, as required under paragraph (c) of this section; and

(iv) Sponsors of open sites continue operating at the approved location. If

not possible, the State agency may permit an open site to close, in which case the sponsor must notify the community of the change in meal service and provide information about alternative open sites.

(2) The State agency may determine that meals served away from the approved site location are not reimbursable if the sponsor did not provide notification in advance of the meal service. The State agency may establish guidelines for the amount of advance notice needed.

(h) *Off-site consumption of food items.* Sponsors may allow a child to take one fruit, vegetable, or grain item off-site for later consumption without prior State agency approval provided that all applicable State and local health, safety, and sanitation standards will be met. Sponsors should only allow an item to be taken off-site if the site has adequate staffing to properly administer and monitor the site. A State agency may prohibit individual sponsors on a case-by-case basis from using this option if the State agency determines that the sponsor's ability to provide adequate oversight is in question. The State agency's decision to prohibit a sponsor from utilizing this option is not an appealable action.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 20. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 21. In § 226.3, add paragraph (e) to read as follows:

§ 226.3 Administration.

* * * * *

(e)(1) As authorized under section 12(l) of the Richard B. Russell National School Lunch Act, FNS may waive provisions of such Act or the Child Nutrition Act of 1966, as amended, and the provisions of this part with respect to a State agency or eligible service provider. The provisions of this part required by other statutes may not be waived under this authority. FNS may only approve requests for a waiver that are submitted by a State agency and comply with the requirements at section 12(l)(1) and the limitations at section 12(l)(4), including that FNS may not grant a waiver that increases Federal costs.

(2)(i) A State agency may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l)(2) and the provisions of this part.

(ii) A State agency may submit a request to waive specific statutory or regulatory requirements on behalf of eligible service providers that operate in the State. Any waiver where the State concurs must be submitted to the appropriate FNSRO.

(3)(i) An eligible service provider may submit a request for a waiver under paragraph (e)(1) of this section in accordance with section 12(l) and the provisions of this part. Any waiver request submitted by an eligible service provider must be submitted to the State agency for review. A State agency must act promptly on such a waiver request and must deny or concur with a request submitted by an eligible service provider.

(ii) If a State agency concurs with a request from an eligible service provider, the State agency must promptly forward to the appropriate FNSRO the request and a rationale, consistent with section 12(l)(2), supporting the request. By forwarding the request to the FNSRO, the State agency affirms:

(A) The request meets all requirements for waiver submissions; and,

(B) The State agency will conduct all monitoring requirements related to regular Program operations and the implementation of the waiver.

(iii) If the State agency denies the request, the State agency must notify the requesting eligible service provider and state the reason for denying the request in writing within 30 calendar days of the State agency's receipt of the request. The State agency response is final and may not be appealed to FNS.

* * * * *

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–20084 Filed 9–16–22; 8:45 am]

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